NHS FRIMLEY INTEGRATED CARE BOARD

NHS Frimley Integrated Care Board (ICB) East Berkshire Continuing Healthcare Joint Operational Policy

Agreed by
Frimley ICB
Bracknell Forest Council
Royal Borough of Windsor & Maidenhead
Slough Borough Council

For implementation from September 2020
Updated 28 June 2021

Policy Number	EBCHC001
Version	1.0
Approved by	Fiona Slevin-Brown, Executive Place Managing Director, Bracknell Forest
Document Author	Head of EBCHC & Placement Governance, Frimley CCG LA CHC Leads; Bracknell, RBWM, Slough EBCHC Operational Manager, Frimley CCG EBCHC Business Manager, Frimley CCG
Date of Approval	28 June 2021
Next Review Date	28 December 2021

Version control sheet

Version	Date	Author	Status	Comment
1.0	June 2021	Head of EBCHC & Placement Governance, Frimley CCG LA CHC Leads; Bracknell, RBWM, Slough EBCHC Operational Manager, Frimley CCG EBCHC Business Manager, Frimley CCG	Final	

Equality Statement

Frimley Commissioning Group aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

Throughout the development of the policies and processes cited in this document, we have:

- Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who have shared a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it;

- Given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way where this might reduce health inequalities.

Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the member of staff has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

We embrace the four staff pledges in the NHS Constitution. This policy is consistent with these pledges.

CONTENTS

INTRODUCTION

This Operational Policy is intended to set out the way in which national legislation, directions and guidance for NHS Continuing Healthcare and Funded Nursing Care for adults are implemented by Frimley ICB and LAs. The National Framework for NHS Continuing Healthcare and Funded Nursing Care (revised 2018) sets out the principles and processes for the implementation of NHS Continuing Healthcare (CHC) and NHS-Funded Nursing Care (FNC). It provides national tools to be used for completion of the Checklist, full Continuing Healthcare assessments using the Decision Support Tool (DST) and for Fast Track cases using the Fast Track Pathway Tool.

The determination of eligibility for FNC has been integrated into the National Framework so that the same framework for eligibility determination and care planning for CHC also applies for FNC. It uses the same assessment and DSTs to reach the determination for the funding stream.

This policy does not apply to children and young people under the age of 18, for whom there is a separate National Framework, and a separate local policy.

Frimley ICB operates across the Local Authority areas of Windsor and Maidenhead, Bracknell Forest and Slough Borough Councils. Amendments to this Operational Policy require mutual agreement between Frimley ICB, the Royal Borough of Windsor and Maidenhead, Bracknell Forest Council and Slough Borough Council.

This policy sets out the roles and responsibilities for health and social care staff for implementing the CHC National Framework in Frimley. The policy sets out responsibilities of the ICB and LAs in situations where eligibility for CHC has not been agreed, and the management of situations that may arise as a result of CHC decisions. This policy focuses on areas where there is interaction between Frimley ICB and LAs. Separate policies cover areas that are unrelated to the Local Authorities.

KEY LEGISLATION AND NATIONAL DOCUMENTS

The National Framework, paragraphs 33 – 53, summarises key legislation governing NHS Continuing Healthcare, principally from the NHS Act 2006 and the Care Act 2014. Other legislation which may well be relevant to individuals who are being assessed in relation to CHC includes the Mental Health Act 1983 and the Mental Capacity Act 2005.

Frimley ICB, the Royal Borough of Windsor and Maidenhead, Bracknell Forest Council and Slough Borough Council recognise their duties as set out in the relevant legislation.

This policy should be read in conjunction with the key documents relating to the National Framework:

- The National Health Service Commissioning Board and Integrated Care Boards (Responsibilities and Standing Rules) Regulations 2012 (Standing Rules Regulations)
- The National Framework for NHS Continuing Healthcare and NHS-Funded Nursing Care November 2018 (Revised)
  Incorporating:
  - *NHS Continuing Healthcare Practice Guidance*
  - *NHS Continuing Healthcare Refunds Guidance*
- NHS Continuing Healthcare Checklist October 2018
- The Decision Support Tool October 2018
- The Fast Track Pathway Tool for NHS Continuing Healthcare October 2018
- The NHS-Funded Nursing Care Practice Guide - December 2018
- The Delayed Discharges (Continuing Care) (Amendment) Directions 2018
- Who Pays? Determining Responsibility for Payments to Providers 2013

Frimley ICB and the Local Authorities recognise their roles and responsibilities as set out in the National Framework at paragraph 21 and paragraphs 25 - 30.

KEY DEFINITIONS

As per the National Framework page 7:

NHS Continuing Healthcare means a package of ongoing care that is arranged and funded solely by the National Health Service (NHS) where the individual has been assessed and found to have a 'primary health need' as set out in this National Framework. Such care is provided to an individual aged 18 or over, to meet health and associated social care needs that have arisen as a result of disability, accident or illness. The actual services provided as part of the package should be seen in the wider context of best practice and service development for each client group. Eligibility for NHS Continuing Healthcare is not determined by the setting in which the package of support can be offered or by the type of service delivery.

NHS-funded Nursing Care is the funding provided by the NHS to care homes with nursing to support the provision of nursing care by a registered nurse. Since 2007 NHS-funded Nursing Care has been based on a single band rate. In all cases individuals should be considered for eligibility for NHS Continuing Healthcare before a decision is reached about the need for NHS-funded Nursing Care.

Primary Health Need is a concept developed by the Secretary of State for Health to assist in deciding when an individual's primary need is for healthcare (which it is appropriate for the NHS to provide under the 2006 Act) rather than social care (which the Local Authority may provide under the Care Act 2014). To determine whether an individual has a primary health need, there is an assessment process, which is detailed in this National Framework. Where an individual has a primary health need and is therefore eligible for NHS Continuing Healthcare, the NHS is responsible for providing for all of that individual's assessed health and associated social care needs, including accommodation, if that is part of the overall need.

KEY PRINCIPLES

The core values and principles for assessing eligibility and care planning for CHC are set out in the National Framework paragraphs 67 – 71. Frimley ICB, The Royal Borough of Windsor & Maidenhead, Slough Borough Council and Bracknell Forest Council agree to abide by these principles.

Assessment and care planning will be undertaken in a way that is person-centred, non-discriminatory and transparent for individuals, families and partner agencies.

Health and Social Care professionals involved in the process of assessment and decision making for CHC are present to apply the principles and eligibility criteria of the National Framework. They are not involved for the purpose of representing the interests, financial or otherwise, of their employing organisation or as advocates for the individual being assessed. Social Care professionals are present to ensure the 'incidental and ancillary* and 'nature' tests are applied.

Save in the case of the Fast Track cases, ICB and LA staff involved in any stage of the CHC referral, assessment and eligibility process should have undertaken the Frimley NHS Continuing Healthcare Training, equivalent training by another ICB or LA, or the NHS e-learning for Continuing Healthcare (https://www.e-lfh.org.uk/programmes/continuing-healthcare/).

PRIMARY HEALTH NEED AND LOCAL AUTHORITY LIMITS

Frimley ICB, the Royal Borough of Windsor and Maidenhead, Bracknell Forest Council and Slough Borough Council adhere to the definition of Primary Health Need as set out in the National Framework at paragraphs 54 – 66.

An individual has a primary health need if, having taken account of all their needs (following completion of the Decision Support Tool), it can be said that the main aspects or majority part of the care they require is focused on addressing and/or preventing health needs. Having a primary health need is not about the reason why an individual requires care or support, nor is it based on their

diagnosis; it is about the level and type of their overall actual day-to-day care needs taken in their totality.

The 'Primary Health Need' test means that a decision of ineligibility for CHC is only possible where, taken as a whole, the nursing or other health services required by the individual:

a) are no more than incidental or ancillary to the provision of accommodation which local authority social services are, or would be but for a person's means, under a duty to provide; and
b) are not of a nature beyond which a local authority whose primary responsibility it is to provide social services could be expected to provide.

As there should be no gap in the provision of care, ICBs should consider this test when determining eligibility. Eligibility is the same for all individuals, whether their needs are being met in their own home or in care home accommodation.

Certain characteristics of need, (Nature, Intensity, Complexity and Unpredictability) and their impact on the care required to manage them, may help determine whether the 'quality' or 'quantity' of care required exceeds the legal limits and powers of LAs' responsibilities. Each of these characteristics may, alone or in combination, demonstrate a primary health need, considered when completing the DST.

This is consistent with Section 22(1) of the Care Act 2014 and the limit on the care and support that can lawfully be provided to individuals by Local Authorities.

Referral For CHC Assessment – Completion Of The Checklist

When to Complete a Checklist

NHS ICBs are required to take reasonable steps to ensure that individuals are assessed for NHS continuing healthcare in all cases where it appears to them that there may be a need for such care, and the Checklist is the only screening tool that can be used.

In a community setting or a care setting other than hospital it may be appropriate to complete a Checklist:

- as part of a social services Care Act assessment
- at a review of a support package or placement
- when a clinician such as a community nurse, GP or therapist is reviewing a patient's needs
- where there has been a reported change in an individual's care needs
- before any NHS-funded Nursing Care assessment (FNC), and at each FNC review
- When an individual is to be discharged from hospital (acute, community or mental health) and requires an ongoing placement or significant level of care
- in any circumstance that would suggest potential eligibility for NHS continuing healthcare.

At this stage appropriate checks should be carried out to identify the Responsible NHS Commissioner in accordance with the Standing Rules Regulations. In situations where there is a dispute between ICBs regarding responsibility for an individual, then the underlying principle is that there should be no gaps in responsibility as a result. No treatment should be refused or delayed due to uncertainty or ambiguity as to which ICB is responsible for funding an individual's healthcare provision.

The ICB does have the power to agree for an to individual to be referred directly for full assessment of eligibility for NHS Continuing Healthcare, without completion of a Checklist (NF 91)

Hospital Discharge Planning

Where the individual is in an acute hospital and involved professionals believe assessment for CHC is needed, agreed Frimley discharge procedures will be followed, in accordance with CHC National Framework paragraphs 109 – 117.

Consent, Capacity and Best Interests

Consent or Best Interests authority to assess must be obtained in line with CHC National Framework paragraphs 72 – 74 using the National CHC Consent Form

If an individual with capacity does not consent to being assessed for NHS Continuing Healthcare or to sharing information which is essential for carrying out this assessment, the potential consequences of this should be carefully explained. This might affect the ability of the NHS and the Local Authority to provide appropriate services to them. See National Framework paragraph 73

Completion of The Checklist

The first step in the process for the majority of people will be the screening process using the NHS Continuing Healthcare Checklist.

Before applying the Checklist, it is necessary to ensure that the individual and their representative, where appropriate, understand that the Checklist does not indicate the likelihood that the individual will be found eligible for NHS Continuing Healthcare, only that they are entitled to consideration for eligibility. At this stage, the threshold is set deliberately low to ensure that all those who require a full consideration of their needs get the opportunity.

A nurse, doctor or other qualified healthcare professional or social care practitioner can apply the Checklist to refer individuals for a full consideration of eligibility from within the community or hospital setting.

The Checklist should be completed by professionals who are familiar with, and have regard to, the Framework and the DST. This can include professionals from provider organisations. Professionals should have undertaken the Frimley NHS Continuing Healthcare Training, equivalent training by another ICB or LA, or the NHS e-learning for Continuing Healthcare (https://www.e-lfh.org.uk/programmes/continuing-healthcare/). Where a Checklist has been completed by a professional who has not undertaken CHC training, the Checklist can be signed off as appropriate in terms of content and scoring by a professional who has completed CHC training.

Completion of the Checklist is intended to be relatively quick and straightforward. It is not necessary to provide detailed evidence along with the completed Checklist. However, it is good practice for the practitioner to provide a copy of their most recent review or assessment of the person's needs, together with any further evidence that is available. This will enable evidence to be readily brought together for completion of a Decision Support Tool.

Practitioners should compare the domain descriptors in the 11 domains to the needs of the individual and select level A, B or C, as appropriate, choosing whichever most closely matches the individual. If the needs of the individual are the same or greater than anything in the A column, then 'A' should be selected. Practitioners should briefly summarise the individual's needs which support the level chosen, recording references to evidence as appropriate.

The principles in relation to 'well-managed need' (outlined in the Assessment of Eligibility section of the National Framework, paragraphs 142-146) apply equally to the completion of the Checklist as they do to the Decision Support Tool.

Referrers will ensure that their appropriate contact information is supplied with the Checklist.

All completed NHS Continuing Healthcare Checklists should be sent to the East Berkshire CHC Service:

- frimleyicb.bechc@nhs.net , or;
- East Berkshire CHC Service, King Edward VII Hospital, St Leonard's Rd, Windsor, SL4 3DP

There are two potential outcomes following completion of the Checklist:

A 'Positive' Checklist means an individual now requires a full assessment of eligibility for NHS Continuing Healthcare. This is achieved if there are

- two or more domains selected in column A;
- five or more domains selected in column B, or one selected in A and four in B; or
- one domain selected in column A in one of the boxes marked with an asterisk (i.e those domains that carry a Priority level in the Decision Support Tool), with any number of selections in the other two columns.

A 'Positive' Checklist does not necessarily mean the individual is eligible for NHS Continuing Healthcare. If, at the time of referral for an NHS Continuing Healthcare assessment, the individual is already receiving an ongoing care package (however funded) then those arrangements should continue until the ICB makes its decision on eligibility for NHS Continuing Healthcare, subject to any urgent adjustments needed to meet the changed needs of the individual.

The ICB has responsibility for coordinating the process of assessing eligibility for CHC until the decision on funding has been made. Frimley ICB will allocate a Nurse Assessor to gather evidence and engage with professionals to complete the Decision Support Tool.

A 'Negative' Checklist, meaning the levels of need on the Checklist do not meet the threshold set out above. This indicates the individual does not require a full assessment of eligibility and they are not eligible for NHS Continuing Healthcare.
The individual may ask the ICB to reconsider a 'Negative' Checklist outcome. The ICB should give this request due consideration, taking account of all the information available, and/or including additional information from the individual or carer. A clear and written response should be given including the individual's (and, where appropriate, their representative's) rights under the NHS complaints procedure if they remain dissatisfied with the position.

When Frimley ICB receive the Checklist and Consent form, these will be quality-checked to ensure that:

- necessary personal information and referrer contact details are provided,
- Frimley is the relevant ICB
- Consent obtained or capacity and best interests established
- Levels of need match information provided

The service will contact the referrer to clarify Checklist information as needed.

Frimley ICB will write to the individual or their representative, the referrer and the relevant Local Authority within 14 calendar days of receipt of the Checklist to confirm the Checklist outcome.

It is anticipated that Checklists will not be rejected by the ICB, but further discussion with Referrers may lead to agreement that a Checklist is not in fact required.

Assessment Of Eligibility Using The Decision Support Tool

Once an individual has been referred for a full assessment of eligibility for NHS Continuing Healthcare (following use of the Checklist or, if a Checklist is not used in an individual case, following direct referral for full consideration), then, a multidisciplinary team must assess whether the individual has a primary health need using the Decision Support Tool.

The ICB will coordinate this process and be responsible for organising and chairing the MDT. All evidence will be gathered relevant to the period considered which will normally be 6 weeks' worth of records. Evidence with an earlier date can be used where this is pertinent to establish current needs, for example to indicate what challenging behaviour occurred prior to an increase in levels of support.

The allocated nurse assessor will complete the evidence gathering for the DST.

Where the individual is in an acute hospital and involved professionals believe assessment for CHC is needed, agreed Frimley discharge procedures will be followed, in accordance with CHC National Framework paragraphs 109 - 117

The Decision Support Tool.

The DST is not an assessment in itself and cannot directly determine eligibility. Rather it is a way of bringing together and applying evidence in a single practical format, to facilitate consistent, evidence-based decision-making regarding CHC eligibility. The DST should not be completed without a multidisciplinary assessment of needs. Completion of the tool should result in a comprehensive picture of the individual's needs that captures their nature, and their complexity, intensity and/or unpredictability.

The Multidisciplinary Team (MDT)

The core purpose of the MDT is to make a recommendation on eligibility for NHS Continuing Healthcare drawing on the multidisciplinary assessment of needs and following the processes set out in this National Framework.

In accordance with regulations an MDT in this context means a team consisting of at least:

- Two professionals who are from different healthcare professions, or
- One professional who is from a healthcare profession and one person who is responsible for assessing persons who may have needs for care and support under part 1 of the Care Act 2014.

It is recognised that it is best practice to have a social care professional as part of the MDT.
The views of all MDT members should be recorded for the levels of need in the DST Domains and for the Recommendation.

Evidence gathering & setting the MDT date.

Prior to the MDT assessment meeting the Co-ordinator will populate and complete a draft DST from all the reports, information and evidence received to date. The MDT should be enabled to make use of all available and appropriate evidence, whether written or oral, including from the GP, hospital staff, relevant professionals, community nursing, care home provider, Local Authority records, previous CHC Checklists and DSTs, information submitted by the individual (cf PG 21.5)

The Co-ordinator may identify that further information is required from MDT members, e.g., an updated physiotherapy assessment, 72-hour chart, and will request professionals involved provide this as needed (PG 20.1).

Evidence gathered by the ICB for the DST will be made available for MDT members who request to view this in advance of the MDT meeting.

MDT members will provide any additional evidence to the Co-ordinator in advance of the MDT meeting, or advise the Co-ordinator of any inaccuracies.

The National Framework notes that there may be valid and unavoidable reasons for the assessment process taking longer than 28 calendar days, e.g., where additional work is required to ensure that the DST and supporting evidence reflect the individual's needs (NF para 164). If the individual, their representative or a professional advise the Co-ordinator of further relevant evidence, it may be necessary to defer the date of the MDT meeting whilst this evidence is gathered. In these circumstances timescales should be clearly communicated to the person and/or their representative.

The ICB will contact the MDT members, the individual and/or their representative to arrange a suitable date, time and venue for the MDT meeting. This will be set bearing in mind that the assessment process should be person-centred, (NF para 67), and therefore considers travel, accessibility and number of attendees.

When arranging a meeting date the Co-ordinator will consider that the MDT should include health and social care professionals who are knowledgeable about the individual's needs and, where possible, have recently been involved in the assessment, treatment or care of the individual; and that, as far as is reasonably practicable, the ICB must consult with the relevant Local Authority before making an eligibility decision (NF 121). It may therefore be appropriate to defer a meeting date in order to ensure attendance by relevant health and social care professionals.

Consent, Capacity & Best Interests

If appropriate consent has not been completed a best interest decision regarding this process will be made prior to the completion of the DST.

MDT meeting: Domains & Recommendation

The MDT assessment meeting will be chaired by the co-ordinator, whose role is set out in Practice Guidance 20.1:

- Explain the CHC process to the MDT, individual and/or representatives and confirm that consent to CHC process has not been withdrawn.
- Act as an impartial resource to the MDT and individual on any policy and procedure questions that arise
- Contribute to decision-making on the correct recommendation so long as they encourage debate within the MDT and so long as they record a recommendation which genuinely reflects the view of the whole MDT, not just their own view.
- Methodically lead the attendees in review of the DST Domains, and for each Domain document any further verbal reports or statements from MDT members, the individual and/or their representative
- Record for each Domain the recommended level of need for each MDT member, the individual and/or their representative, and their rationale for that level.

Domains

The MDT should recommend a level of need for each Domain in the DST. The descriptors in the DST are examples of the types of need that may be present. They should be carefully considered but may not always accurately describe every individual's circumstances (DST user note 21).

If there is difficulty in placing the individual's needs in one or other of the levels, the MDT should use professional judgement based on consideration of all the evidence and careful examination of the wording of the relevant DST levels to see if this provides further clarity. Additional evidence may be sought, although this should not prolong the process unduly (PG32.1)

If this does not resolve the situation, the disagreement about the level should be recorded on the DST along with the reasons for choosing each level and by which practitioner. This information should also be summarised within the recommendation so that the ICB can note this when verifying recommendations. (PG 32.1)

The practice of moving to the higher level where there is disagreement should not be used by practitioners to artificially steer individuals towards a decision that they have a primary health need where this is not justified. (PG 32.2)

Although they are not members of the MDT, the views of the individual and/or their representative on the level of need for each domain should be recorded in the DST. (PG33)

Recommendation

The core purpose of the MDT is to make a recommendation on eligibility for NHS Continuing Healthcare drawing on the multidisciplinary assessment of needs and following the processes set out in this National Framework.

The MDT consists as a minimum of two professionals. Where the MDT consists of more than two professionals, all MDT members should be included for discussion of the Recommendation.

As it is a core principle of CHC that the individual and/or their representative is fully and directly involved in the assessment process, they may choose to remain for the part of the meeting where the MDT agrees the recommendation regarding primary health need

If the MDT have identified that additional evidence needs to be sought in order to clarify what level of need is appropriate in a domain/domains, this may mean that it is not appropriate for the MDT to make a recommendation until after this evidence is obtained.

A clear recommendation (and decision) of eligibility for CHC is expected where there is:
- A level of Priority needs in any one of the four domains that carry this level.
- A total of two or more incidences of identified Severe needs across all care domains. (DST user note 31)

Where there is either
- A severe level need combined with needs in a number of other domains or
- A number of domains with high and/or moderate needs

This may also, depending on the combination of needs, indicate a primary health need and therefore careful consideration needs to be given to the eligibility decision and clear reasons recorded if the decision is that the person does not have a primary health need (DST user note 32)

The MDT's recommendation should:
- Summarise the individual's needs and include the individual's own view of their needs.
- provide statements about the Nature, Intensity, Complexity and Unpredictability of the individual's needs,
- Explain how the needs in any one domain may interrelate with another to create additional complexity, intensity or unpredictability.
- in the light of the above, give a recommendation as to whether or not the individual has a Primary Health Need.
- Whilst the recommendation should make reference to all four characteristics of nature, intensity, complexity and unpredictability, any one of these could on their own or in combination with others be sufficient to indicate a primary health need.
- indicate any particular factors to be considered when commissioning/securing the placement or care/support package required to meet the individual's needs (whether or not the individual has a primary health need).

If MDT members are unable to reach agreement on a Recommendation, then the recommendation of each MDT member and their reasoning for this should be fully documented on the DST. Only MDT members present at the meeting can make the recommendation.

MDT members will complete a Recommendation & Signature sheet at the MDT meeting, recording any non-agreed domains and their recommendation and reasoning.

The completed DST needs to be submitted to the Verifier in the ICB within 2 working days.
If there are circumstances that delay submission of the DST, the ICB will update professionals and the individual/their representative, advising of likely timeframes.

Proportionate evidence and oral evidence

East Berkshire CHC service and Local Authorities will adhere to guidance provided in the National Framework Practice Guidance 31 regarding proportionate evidence and oral evidence

Well-managed needs

East Berks CHC service and the LAs will adhere to guidance provided in the National Framework regarding well-managed needs, including:

- National Framework, paragraphs 142 – 146, *Well-managed needs.*
- National Framework, paragraph 188, *Well-managed needs and reviews.*
- Practice Guidance 23, *How should the well-managed need principle be applied?*
- Decision Support Tool, User Notes 27 – 28, relating to well-managed needs.

Where psychological or similar interventions are successfully addressing behavioural issues, MDTs must consider the present-day need if that support were withdrawn or no longer available and reflect this in the Behaviour domain.

Verification Of MDT Recommendations

Please refer to the separate Verification and Dispute Resolution Policy

Commissioning Of Care Packages, Contracting Arrangements

Frimley ICB is responsible for commissioning and contracting for services to meet the needs of individuals who are eligible for CHC and for the healthcare elements of any joint packages of care shared with the relevant Local Authority.

Where appropriate Frimley ICB and the Local Authorities will share information regarding provider quality and patient experience to enable cost-effective and quality commissioning.

Case Management, Reviews And Safeguarding

Frimley ICB will provide case management for individuals who are eligible for CHC. This includes monitoring the care the person receives and arranging regular reviews. See CHC National Framework paragraphs 165 – 173.

Please refer to the separate Reviews and Reassessments Policy for guidance on annual care reviews and process for reassessment of eligibility where the ICB believes the person's needs have changed.

Where the individual is receiving a joint package of care, the ICB and the Local Authority will jointly provide case management. It is best practice that reviews of the person's needs and care are completed jointly by staff from the ICB and social services.

Where an individual who is eligible for CHC becomes the subject of a safeguarding concern, Frimley ICB will address this in partnership with the relevant Local Authority, in line with each organisations' duties under the Care Act 2014. This will include ensuring, where appropriate, that the individual subject to a safeguarding enquiry has access to independent advocacy.

Challenges By Or On Behalf Of An Individual – Appeals

Please refer to the separate Individual Appeals Policy

Challenges By The Local Authority – Disputes

Local Authorities may dispute a decision that is made by the Frimley ICB, in respect of an application for CHC made on behalf of an individual, for whom they have responsibility for funding care. It is anticipated that LAs will not dispute decisions for individuals who will be responsible for self-funding their care.

In these circumstances, please refer to the separate Verification and Dispute Resolution Policy.

COMPLAINTS

If an individual and / or their representative is dissatisfied with the manner in which

- the process has been undertaken through the process of assessment,
- their involvement in the process, or
- the manner in which decisions have been made,

they may make a complaint to Frimley ICB through the NHS Complaints process. This is not a complaint against the CHC decision, which will be managed through the appeal process but a complaint about the manner in which the CHC process has been managed by Frimley ICB.

RETROSPECTIVE REVIEWS OF CARE AND FINANCIAL REDRESS

There may be circumstances where an individual not previously awarded CHC believes that they were wrongly denied NHS funding. The individual and/or their representative can request Frimley ICB complete a retrospective review of the individual's care needs and eligibility for CHC. Retrospective reviews can be requested for periods dating from 1st April 2012.

If the person is assessed as eligible for CHC for a whole or part of the reviewed period, appropriate arrangements will be made for financial recompense in accordance with the NHS Continuing Healthcare Refreshed Redress Guidance 2015.

Please refer to the Retrospective Reviews of Care and Financial Redress policy.

FAST TRACK APPLICATIONS

Individuals with a rapidly deteriorating condition that may be entering a terminal phase, may require 'fast tracking' for immediate provision of NHS Continuing Healthcare.

Completion of the Fast Track Pathway Tool

The Fast Track application must be completed by an '" appropriate clinician', as defined in CHC National Framework paragraphs 220 – 222. Other professionals may request the appropriate clinician to consider whether a Fast Track Tool is required. The Fast Track Tool can be applied in any setting, including where the individual already has a package of care in place.

The completed Fast Track Tool, with clear reasons why the individual fulfils the criteria, and which clearly evidences that an individual is both rapidly deteriorating and may be entering terminal phase, is in itself sufficient to establish eligibility. The Fast Track Tool should be accompanied by a completed consent or capacity/best interests form. Applications should be sent to:
frimleyicb.bechc@nhs.net

In Fast Track applications, the 'appropriate clinician' determines that the individual has a primary health need. Frimley ICB will therefore accept that the individual is eligible for CHC and respond, usually within 48 hours, to ensure that the appropriate funding and care arrangements are in place.

If Frimley ICB receive a Fast Track Tool which does not show that the individual's condition is related to the above criteria, the ICB will urgently contact the referring clinician to clarify the nature of the person's needs and the reason for the use of the Fast Track Tool. The person's Fast Track eligibility remains the referring clinician's decision; if the clinician accepts that the use of the Fast Track Tool was not appropriate, the clinician should be asked to submit a standard Checklist.

It is best practice for the referring clinician to provide a prognosis and indicative care plan which describes the immediate needs to be met and the individual's preferred support arrangements.

Once the Fast Track Tool has been received, it is Frimley ICB's responsibility to determine what care package and care plan is required and to commission this, usually within 48 hours. It is not appropriate for individuals to experience delay in the delivery of their care package while concerns over the use of the Fast Track Tool are resolved (NF 238)

Frimley ICB will carefully monitor use of the Tool and raise any specific concerns with clinicians, teams and organisations.

Review of individuals receiving care through Fast Track

Frimley ICB are responsible for reviewing the care needs and care arrangements of individuals who are eligible for CHC as a result of a Fast Track application.

A care review will take place within three months of the FT application. There may be certain situations where the care review indicates that it is appropriate to reassess eligibility for CHC. However, Frimley ICB is mindful that decisions about reviewing eligibility in Fast Track cases must be made with sensitivity. Where it is apparent that the individual is nearing the end of their life it is unlikely that a reassessment of eligibility will be necessary.

Reassessment of eligibility is through the completion of a DST by a multidisciplinary team, in accordance with the Reviews and Reassessments Policy, with the MDT making a recommendation on eligibility for NHS Continuing Healthcare.

The individual affected should be notified in writing of any proposed change in funding responsibility. They should be given details of their right to request a review of the decision. Such communications will be conducted in a sensitive, timely and person-centred manner.

JOINT PACKAGES OF CARE

If a person is not eligible for NHS Continuing Healthcare, they may potentially receive a joint package funded by both the ICB and the relevant Local Authority. This may apply where specific needs have been identified through the DST that are beyond the powers of Local Authorities to meet. This could be because the specific needs are not of a nature that a Local Authority could be expected to meet, or because they are not incidental or ancillary to something which the Local Authority does to meet needs under the Care Act. A joint package of care can be provided in any setting.

A decision on full eligibility for CHC must be made before any decision is made on a joint package funded by health and social care. The completed DST will help to indicate the nature and levels of need of an individual, but it does not attribute responsibility for individual elements of a care package.

In a joint package of care the ICB and the Local Authority can each contribute to the package by any one, or more, of the following:

a) delivering direct services to the individual
b) commissioning care/services to support the care package
c) transferring funding between their respective organisations
d) contributing to an integrated personal budget

A Frimley Joint Funding Protocol is in development, intended to provide clearer guidance on funding decisions for those individuals whose needs require a multi-agency funding solution, including children and young people with Education, Health and Care Plans, adults with additional health needs, adults with section 117 funding. Until this Protocol is agreed, the split in cost of a jointly funded support package is a matter of negotiation between the ICB and the Local Authority based on the assessed needs of the person and the limits of what a Local Authority can fund.

NHS FUNDED NURSING CARE

Where an individual is not eligible for CHC and resides in a registered nursing home, funding for their nursing care costs, known as FNC, is paid to the nursing home at a rate set by the DH&SC.

Frimley ICB and Local Authorities recognise that a person's eligibility for CHC must be considered, and a decision made and recorded (either at the Checklist or DST stage), prior to any decision on the person's eligibility for Funded Nursing Care.

Please refer to the Frimley Funded Nursing Care Policy.

Individual Choice

Please refer to the separate Individual Choice and Equity policy.

Personal Health Budgets & Direct Payments

A Personal Health Budget is the amount of money agreed between the person and the CHC team to be used to support the person's health and wellbeing needs.

People may receive a Personal Health Budget through one of three routes:

1) Notional Budget – The ICB commissions and manages the services for the person.
2) Direct Payment – The ICB transfers money to the individual or their representative in order for them to directly arrange and manage their care provider or employ a Personal Assistant to deliver their care.
3) Third Party Managed Budget – a third party managed account services organisation is engaged by the ICB to manage the Direct Payment on the individual's behalf.

Where the individual wishes to receive a Direct Payment, it may be appropriate for this to be managed through the relevant Local Authority's DP systems. For example, where the person has an established support package funded by a social care Direct Payment, and they become eligible for CHC, the DP funds can continue to be paid by the LA, and the cost recharged by the Local Authority to Frimley ICB. Such arrangements will require agreement from the individual, Frimley ICB and the relevant Local Authority. Where this agreement is reached, the Direct Payment will be subject to the relevant Local Authority's operating processes and monitoring arrangements.

Please refer to the separate Personal Health Budgets for CHC policy.

Advocacy

Frimley ICB and LAs will provide information on relevant local advocacy services to ensure that people who are being assessed for eligibility for CHC have access to appropriate support. This will include advising people of the free and independent Information and Advice Service for CHC provided by Beacon, commissioned by NHS England (www.beaconchc.co.uk).

Frimley ICB will ensure that individuals who are eligible for CHC are made aware of local advocacy and other services that can help make sure the person's views and wishes are taken into account in relation to care planning and delivery. This includes instructing an Independent Mental Capacity Advocate where the person lacks mental capacity to make important decisions including serious medical treatment or change of residence and has no family or friends to be consulted regarding their best interests.

People in receipt of CHC funding will also be entitled to independent advocacy in relation to safeguarding enquiries.

Section 117 After Care

Under section 117 of the Mental Health Act 1983 ('section 117'), ICBs and Local Authorities have a joint duty to provide after-care services to individuals who have been detained under certain provisions of the Mental Health Act 1983. See CHC National Framework paragraphs 309 – 319.

As services provided under section 117 are free to the individual, it is not necessary to assess eligibility for NHS Continuing Healthcare if all the services that the person requires are provided as after-care services under section 117. CHC funding must not be used to meet section 117 needs.

However, a person in receipt of after-care services under section 117 may also have ongoing needs that do not arise from, or are not related to, their mental disorder. A CHC assessment may be required in relation to these needs.

Also, a person may be receiving services under section 117 and then develop separate physical health needs (e.g. through a stroke) which may then trigger the need for a CHC assessment or a Fast Track application, but only in relation to these separate needs

Where the person is entitled to section 117 services, the needs or Domains that will be considered under the CHC application will be agreed on a case-by-case basis between Frimley ICB and the relevant Local Authority.

CARERS

Frimley ICB and LAs recognise a joint responsibility to work in partnership with carers (unpaid friends or family members who provide extra support due to the cared-for person's needs).

Carer involvement in CHC eligibility assessment

During CHC eligibility assessment, carers are likely to act as the person's representative, at the individuals' request or where the individual lacks capacity to engage in the assessment. Frimley ICB and LAs recognise that carers are likely to have unique insight into the needs of the person they support and will provide carers with advice and information that maximises their ability to participate in all stages of the assessment process, and will be transparent regarding eligibility decisions and rationales.

Carer involvement in care planning

Where the person is eligible for CHC, Frimley ICB will consider the views and needs of carers when determining the appropriate care package for the person.

Where the eligible person is supported in their own home, Frimley ICB is responsible for meeting all assessed health and associated social care needs. This includes additional support for the individual whilst their carer has a break. This could be through additional services in the person's own home or through the person spending a period of time away from their home (e.g., at a care home). Frimley ICB will agree with the carer the level of support the carer can provide and consider the appropriateness and sustainability of the arrangement. Frimley ICB will also consider any training required for the carer to carry out their role.

Where the commissioned support is provided to the person eligible for CHC, albeit to support the carer in their role, this is the responsibility of Frimley ICB.

Carer's Assessment and support

Under the Care Act 2014, carers are also entitled to a separate assessment of their own needs and may be entitled to support provided directly to them, and not provided to the person they care for. This remains a responsibility of the East Berkshire Local Authorities.

Frimley ICB will establish whether it appears the carer may have needs for support, and accordingly refer the carer to the relevant Local Authority for a Carer's Assessment. This may be particularly relevant where the carer has needs in relation to education, leisure or work (unrelated to their caring role) as these fall outside the scope CHC but can be addressed through Care Act 2014 provisions.

Frimley ICB and LAs will also consider responsibilities to carers, young carers and parent carers under the Children and Families Act 2014 and *An Integrated Approach to Identifying and Assessing Carer Health and Wellbeing* (NHSE 2016).

TRANSITION FROM CHILD TO ADULT SERVICES

Children's Continuing Care is an NHS funding stream for care packages for children and young people under 18 with complex health needs, where those needs cannot be met by routinely available NHS services. Eligibility for children's Continuing Care does not entail eligibility for adult Continuing Healthcare, although the Haringey case indicates that the Coughlan criteria is also applicable when determining eligibility for children's Continuing Care.

Transition from children's to adult's health and social care services must be well managed to ensure that a young person's needs continue to be met. Therefore, the needs of a young person, and any future entitlement to adult CHC should be clarified as early as possible in the transition planning process, especially if the young person's needs are likely to remain at a similar level until adulthood.

As part of broader duties to ensure smooth transition from children's to adult's health and social care services, the Local Authorities will maintain a database of young people that identifies those young people for whom CHC assessment is likely to be required. LA children's services will notify the relevant ICBs when the young person turns 14.

A Checklist referral for adult CHC will be completed by the most appropriate professional when the young person is 16.

Where a young person's care is partly or wholly funded by children's Continuing Care, Frimley ICB will progress to full assessment of eligibility for adult CHC without requirement for a Checklist to be completed (see NF para 91 on ICB power to assess for CHC without Checklist).

As soon as practicable after the young person's 17th birthday, Frimley ICB will complete a Decision Support Tool to determine the young person's eligibility in principle for adult CHC, following Frimley ICB's adult CHC decision-making processes (although the usual 28 calendar day timescale between Checklist and decision does not apply).

Where the young person will be eligible for adult CHC when they turn 18, Frimley ICB is responsible for commissioning the package of care that will be required from the date of the person's 18th birthday.

Delays in transition assessments

If a young person has been referred to Frimley ICB for an adult CHC assessment prior to their 18th birthday, but the assessment and eligibility decision has not been completed by the date of their 18th birthday, existing commissioning responsibilities and funding splits will remain in place until an adult CHC assessment and decision has been completed.

Where Frimley ICB have continued to wholly or partly fund the young person's post-18 care until adult CHC assessment is completed, and the agreed outcome of the post-18 adult CHC assessment is that the young person is not eligible, there is no recharge of costs by Frimley ICB to the Local Authority. Frimley ICB will provide 28 days' notice from the date of outcome letter, in line with standard practice.

Where the young person's under-18 care was solely funded by the Local Authority, and the referral for adult CHC assessment was completed prior to their 18th birthday, and the post-18 agreed outcome of the adult CHC assessment is that the young person is eligible for adult CHC or entitled to a joint package of care, Frimley ICB will reimburse the full cost or agreed contribution to the package back to the date of the young person's 18th birthday.

In some circumstances, an adult CHC assessment may be required and not yet undertaken, but changes will be needed to the young person's care package. It is best practice for the current commissioning body to consult with a potential commissioning body on the potential care package.

Example: a young person at residential school, funded by the Local Authority, requires transition from school to a residential placement. An adult CHC assessment has been requested, but the assessment is unlikely to be completed until after the end of the academic year. The Local Authority consult with Frimley ICB on the residential provider options, and Frimley ICB advise the Local Authority of their preferred provider.

Training

Joint health and social care CHC training will be offered to all professionals who as part of their role will be involved in any stage of CHC referral, assessment and decision making. Training will cover the concept of Primary Health Need, consent, completion of Checklist and national Tools.

ICB and LA staff involved in any stage of the CHC referral, assessment and eligibility process should have undertaken the East Berkshire Continuing Healthcare Training, equivalent training by another ICB or LA, or the NHS e-learning for Continuing Healthcare (https://www.e-lfh.org.uk/programmes/continuing-healthcare/).

Monitoring and Policy Review

Implementation of the National Framework will be monitored through the Department of Health & Social Care quarterly returns and through performance reports to Frimley ICB 's Board.

Frimley ICB and LAs will share performance reports from their respective organisations in order to agree any actions required to improve their shared approach and practice in relation to CHC.

CHC reports will be provided to the audit committee as required. Regular audit benchmarking sessions will be undertaken with other NHS Trusts and Local Authorities to ensure assessments, panels and care plans are in line with other areas.

Jointly agreed policies will be reviewed annually by Frimley ICB and LAs.

Addendum – May 2020 - Covid-19 Arrangements

Due to the impact of the current Covid-19 pandemic, in line with guidance in COVID-19 Hospital Discharge Service Requirements (DHSC 2020), ICBs will not be held to account on the NHS CHC Assurance Standards or timeframes. CHC assessments may need to be deferred until after the end of the COVID-19 emergency period. No Checklists or DSTs will be completed in acute hospitals.

Outside of acute hospitals, Checklists will still be completed by practitioners where this is appropriate. Outside of acute hospitals there may be some circumstances whereby mutual agreement a CHC assessment is completed, where there is an urgent need to identify the responsible commissioner, e.g. for a young person in transition from child to adult services. Any assessments completed will be conducted in a way that complies with relevant Covid-19 health & safety guidance.

If completion of the CHC assessment is deferred, Frimley ICB will maintain a database of individuals who will need CHC assessment after the end of the Covid-19 emergency period. Frimley ICB will write to the individual or their representative to inform them of this.

Frimley ICB's Needs and Outcomes reviews will focus on ensuring that the individual's care package is meeting their needs and to ensure that any concerns raised are addressed as appropriate.

Individuals can continue to request review of a CHC eligibility decision via Local Resolution and NHSE Independent Review. However, Frimley ICB responses may exceed standard timeframes.