NHS Frimley Integrated Care Board (ICB)
East Berkshire Adult Shared Care Policy

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

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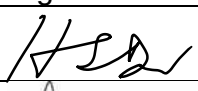
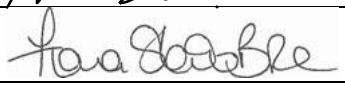
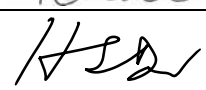
Helen Sargeant Dar	Director of Statutory Services, Optalis		15/06/2022
Fiona Slevin-Brown	Managing Director		20/06/2022
Helen Sargeant Dar	Director of Statutory Services and Deputy DASS, RBWM		13/07/2022
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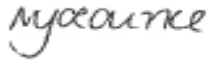
Melanie O'Rourke	Assistant Director Adult Social Care BFC		08/09/2022

Version control sheet

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1.0	March 2022	EBCHC Associate Director of All Age Continuing Healthcare & Complex Care LA CHC Leads; Bracknell, RBWM, Slough EBCHC Deputy Head of CHC, CCC and Complex Care EBCHC Business Manager, Frimley ICB	Draft	
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5.0		EBCHC Business Manager, Frimley ICB	Final	Added approval signature from BFC

Equality Statement

NHS Frimley Integrated Care Board (ICB) 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 those 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.

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1. Introduction

This policy relates to adults who are not eligible for NHS Continuing Health Care funding but who have identified and agreed specific health needs that are beyond the powers of the Local Authority to meet on its own.

This policy is agreed between Frimley ICB, Bracknell Forest Council, Royal Borough of Windsor & Maidenhead and Slough Borough Council. Amendments to this policy require mutual agreement between all parties involved. Where Frimley ICB is working with a Local Authority other than the above, this remains the policy that is expected to be applied.

The Health and Social Care Act 2012 sets out specific obligations for the health system and its relationship with care and support services. It gives a duty to the NHS to make it easier for health and social care services to work together to improve outcomes for people. Section 3 of the Care Act 2014 places a corresponding duty on Local Authorities to carry out their care and support functions with the aim of integrating services with those provided by the NHS or other health-related services, such as housing.

2. Legislation and Policy Context

Introduction and Background

The National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care (revised 2022) provides that where an individual has been assessed to have a 'primary health need' they are eligible for NHS Continuing Healthcare (CHC).

CHC is a package of ongoing care that is arranged and funded solely by the NHS to meet the individual's assessed health and associated social care needs, including accommodation if that is part of the overall need.

Whilst a Local Authority may assist in meeting some health needs, in so far as that is consistent with the Care Act 2014 eligibility criteria, section 22 of the Care Act 2014 puts a limitation on the extent to which the Local Authority can do so:

> A local authority may not meet needs under sections 18 to 20 by providing or arranging for the provision of a service or facility that is required to be provided under the National Health Service Act 2006 unless—
> (a) doing so would be merely incidental or ancillary to doing something else to meet needs under those sections, and
> (b) the service or facility in question would be of a nature that the local authority could be expected to provide.

There will be some individuals who, although they are not entitled to CHC (because taken as a whole their needs are not beyond the powers of a Local Authority to meet) nonetheless have some specific health needs that are beyond the powers of a Local Authority to meet. In other words,

a) because the specific needs are not of a nature that a Local Authority could be expected to meet, or
b) because meeting the needs would not be incidental or ancillary to something which the Local Authority would be doing to meet needs under sections 18-20 of the Care Act 2014.

In practice this means that if the Local Authority is providing a care package that meets social care needs, they can, as an aside, support in meeting health needs where meeting the health need is only 'incidental and ancillary' to the care package that meets the social care needs. 'Incidental and ancillary' is taken to mean that the task of meeting the health need is 'low level in quantity' (quick and simple to do) and 'low level in quality' (does not require specialist training or oversight). In such a case the health need can be met in addition to the social care needs that is the primary purpose of the care package.

The remit of Adult Social Care and Care Act 2014 Eligibility Criteria

The Care Act 2014 introduced National Eligibility Criteria for care and support to determine when an individual or their carer has eligible needs which the Local Authority must address, subject to means where appropriate. These criteria set out that an individual has eligible needs under the Care Act 2014 where these needs arise from (or relate to) a physical or mental impairment or illness which results in them being unable to achieve two or more of the following outcomes which is, or is likely to have, a significant impact on their wellbeing:

- managing and maintaining nutrition;
- maintaining personal hygiene;
- managing toilet needs;
- being appropriately clothed;
- being able to make use of the home safely;
- maintaining a habitable home environment;
- developing and maintaining family or other personal relationships;
- accessing and engaging in work, training, education or volunteering;
- making use of necessary facilities or services in the local community, including public transport and recreational facilities or services; and
- carrying out any caring responsibilities the adult has for a child.

It follows that more specialist health needs that do not fit into the above outcomes are the responsibility of health services and beyond what a Local Authority can be expected to provide. It may be that there are needs that are identified that fall outside these outcomes

Shared Funding

If, following an assessment for NHS CHC, a person is not found to be eligible for NHS CHC, the ICB and Local Authority may still have a shared responsibility to contribute to that person's health and care needs – either by directly commissioning services or by part-funding the package of support. See CHC Framework paras 270 – 293, Practice Guidance 51, and the Care & Support Statutory Guidance para 6.82.

Where a package of support is commissioned or funded by both Local Authority and a ICB, this is known as a joint package of care. A joint package of care could include NHS-funded nursing care and other NHS services that are beyond the powers of a Local Authority to meet. The joint package could also involve the ICB and the Local Authority both contributing to the cost of the care package, or the ICB commissioning part of the package.

These health needs may be met through existing NHS-commissioned services such as primary healthcare or other community health services. However, the ICB may also commission specific care packages.

Shared care packages can be provided in any setting such as in a nursing or care home or in a person's own home and could be by way of shared Personal Budget. The ICB and the Local Authority can each contribute to the package by any 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

Interface with other NHS-funded care

This policy does not apply to individuals who are entitled to aftercare services under section 117 of the Mental Health Act 1983. In these circumstances the individual's care may be jointly funded in line with local s117 Policy.

This policy should be considered alongside local policy for those identified as eligible for Funded Nursing Care, as in exceptional circumstances the ICB may provide funding towards an element of the person's care in addition to FNC.

Duty to cooperate

Under s6 of the Care Act Local Authorities and ICBs have a reciprocal duty to co-operate in order to meet the needs of individuals with care and support needs.

Shared Aims

Shared funding decisions will:

- Be evidence-based and compliant with current eligibility criteria
- Be informed by good multi-disciplinary/agency assessments
- Be outcome-focussed
- Facilitate choice
- Be responsive to need
- Be transparent, jointly arrived at and agreed

Delegated Health Tasks and trained paid carers to deliver health needs

Standard 11 of the Nursing & Midwifery Code of Conduct requires a nurse to retain responsibility for delegated tasks and duties. This means that if a nurse delegates a health care task to a paid support worker (by training them) they must ensure the worker is 'adequately supervised and supported' and 'confirm the outcome of any task (they) have delegated to someone else meets the required standard.'

If an NHS professional trains a paid care worker or arranges for a paid care worker to be trained to deliver a health care task as above, this is deemed to be beyond the nature of what a Local Authority can be expected to provide, and it would therefore be unlawful for the Local Authority to provide that health care.

If there are 'incidental and ancillary' tasks relating to a health need that would pose a health risk if unmet, (at a time where social care providers are not required to be in attendance) then health professionals might respond directly or delegate the task (e.g. contract a domiciliary care provider) in order to meet their duty of care.

Alternatively, the NHS may assess and decide not to undertake a health-related task if it is judged that the task is without sufficient health risk for NHS staff to undertake. Consequently, the individual may be advised to organise a low level service by private arrangement or for an informal carer or family member to meet the need, sometimes with the NHS staff offering training to the carer or family member.

3. Practice Guidance

Continuing Healthcare decision prior to shared funding decision.
In line with legislation and the National Framework, eligibility for CHC must always be considered prior to any consideration of eligibility for shared funding packages of care.

Where completion of a CHC Checklist is not necessary (see CHC Framework para 121) or a completed CHC Checklist is 'negative', i.e. indicates that the individual does not require a full assessment of eligibility for CHC, it is anticipated that any health needs will be met by existing community NHS services such as District Nursing.

If it appears to the LA that there is health need that cannot be met by existing community NHS services, this should in the first instance be discussed between the allocated social care worker and the LA CHC lead. If necessary the matter will be discussed with the CHC service for support to identify a relevant community NHS service, or in exceptional circumstances for a necessary service to be commissioned.

Where the Checklist is 'positive', i.e. indicates that the individual does require a full assessment of eligibility for CHC, a full CHC assessment will take place following normal processes.

The MDT should only consider whether the individual has specific needs that are beyond the powers of the Local Authority to meet **after** the MDT has completed a recommendation on whether the individual has a primary health need.

If the agreed MDT recommendation is that the individual is not eligible for CHC, the MDT should then consider whether the individual has specific health needs that cannot be met through existing NHS-commissioned services. If this is the case, the MDT should make a recommendation for shared funding, specifying what elements of the care package they recommend should be funded by the ICB.

Consideration should always be given as to whether the identified health care needs could be provided by any existing NHS resources/services

Apportionment of shared funding responsibility will depend on the circumstances of the individual case. Sometimes the appropriate approach will be for the ICB to fund a particular element of the care where it is clearly identifiable as being beyond the legal limit of the Local Authority.

In circumstances where it is not possible to clearly identify specific health tasks and support hours required (for instance in relation to behaviour management or epilepsy management, where needs fluctuate), the Local Authority and ICB members of the

MDT will jointly complete the East Berkshire Shared Care Matrix Calculator to provide an indicative percentage-based funding split.

Where the shared funding proposal requires a new or amended package of care from the Local Authority, the social care worker will present the proposed care package and shared funding split for Local Authority management approval in line with the Local Authority's normal processes.

Completion of the Shared Funding Application Form (Appendix 2) is a shared responsibility of the Local Authority and ICB members of the MDT. The completed form (and matrix, if completed) should be submitted at the same time as the completed DST, so that in most cases a decision can be completed within 28 calendar days from date of Checklist submission. Paperwork is submitted for ratification to: frimleyicb.bechc@nhs.net

Shared funding limit

As a primary health need occurs where the main aspects or majority part of required care is focused on addressing and/or preventing health needs, the ICB's contribution to a shared funding arrangement will usually be 49% or less of the total cost of the care. If the MDT are considering a shared funding proposal in which the ICB commission more than half the care, or the funding matrix indicates a ICB contribution of more than 49%, this may suggest that the individual may in fact have a primary health need and be entitled to Continuing Healthcare funding. A review of the MDT assessment and eligibility decision should therefore be considered.

Shared funding decision making and start date

Once the Shared Funding Application Form has been signed off by a member of the CHC management team, the completed form will be shared with the relevant Local Authority as confirmation of the arrangement, including invoicing details where required. The Form will be uploaded to the Local Authority and ICB electronic records system.

The start date will be agreed jointly by the ICB and Local Authority. Usually, the start date will be from day 29 after the Checklist has been received, or from the date that the shared funding arrangement is agreed by the ICB and LA, whichever is soonest. The ICB will provide an outcome letter to the individual to inform them of the agreed shared funding arrangement.

Commissioning

There will be an emphasis on person-centred care planning, commissioning and procurement arrangements that maximise personalisation and individual control and reflect the individual's preferences as far as possible. Unnecessary changes of provider or care package should be avoided.

Single provider

When the shared package of care will be provided by a single care provider, invoicing arrangements will be separated so that the care provider directly contracts with and invoices the Local Authority for the social care element of the package, and directly contracts with and invoices the ICB for the health care element of the package.

For existing arrangements where there is a recharge from Local Authority to ICB, any annual uplift in costs will need to be agreed between the ICB and the Local Authority before confirmation with the care provider.

Multiple providers

Where the health element and social care element of the shared package of care will be provided by separate providers, the Local Authority and the ICB will directly contract with the relevant provider for their respective element of the package.

Direct payments

Where the individual wishes to receive the shared package of care via a Direct Payment, the Local Authority will usually take the lead in arranging and paying this and then invoice the ICB for the agreed contribution.

In these circumstances the Direct Payment will be subject to the relevant Local Authority's operating processes and monitoring arrangements. Any annual uplift in costs will be agreed between the ICB and the Local Authority before amendment to the Direct Payment.

Dispute resolution and individual complaints

Any disputes between the ICB and the Local Authority about shared funding will be resolved in accordance with the jointly agreed East Berkshire CHC Dispute Resolution Policy.

If an individual or their representative does not agree with the proposed shared funding arrangement, they should be referred to the complaint's procedure for the ICB and/or the Local Authority. This would not be addressed through CHC appeal which considers the eligibility for NHS Continuing Healthcare decision and the procedures related to CHC eligibility.

Case Management and Review
Case management of the social care contribution to the care package will be undertaken by the relevant Local Authority team. Case management of the NHS contribution to the care package will be undertaken by East Berkshire CHC service.

Reviews should take place annually (unless it is apparent that needs have changed and a review of need and the level of support provided is required sooner). This review will be instigated by the Local Authority, seeking input from the CHC team. It is best practice for any review to be jointly coordinated and to involve ICB and Local Authority input to maximise effective care and support for the individual.

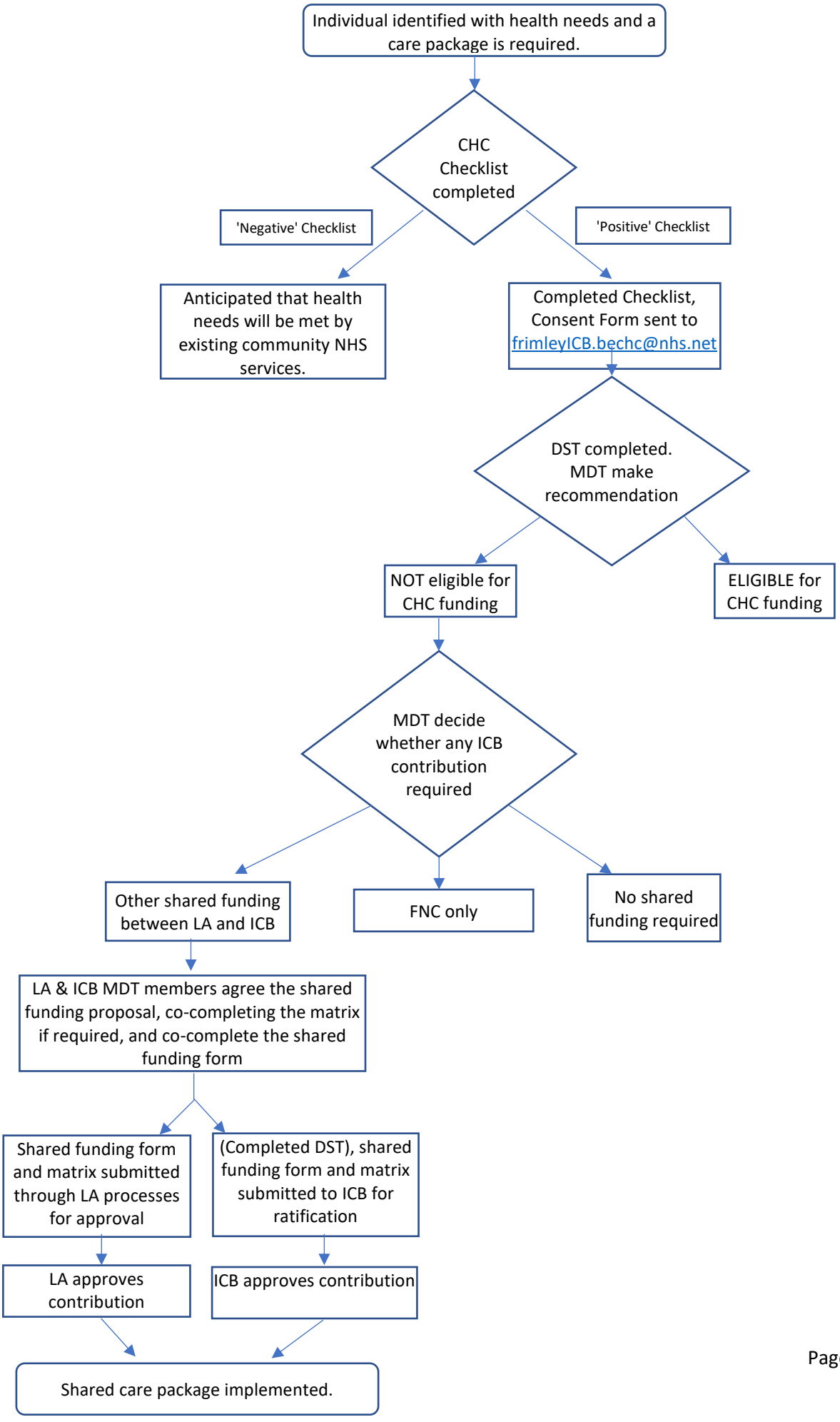
Should it be identified that needs have significantly increased then a new Checklist will be undertaken by the CHC service to ensure that the NHS CHC screening and assessment process is undertaken.

Should it be identified that needs have significantly reduced, such that reductions to either or both the ICB or Local Authority contribution may be required, reassessment and recommissioning will take place jointly. This is to ensure that neither the ICB nor the Local Authority unilaterally withdraw from funding of an existing package until there has been appropriate reassessment and agreement between the ICB and Local Authority on future funding responsibilities and alternative funding arrangements have been put into effect.

Any disputes regarding changes to shared funding arrangements should be resolved in accordance with the jointly agreed East Berkshire CHC Dispute Resolution Policy.

Monitoring And Policy Review
Monitoring and policy review will take place in accordance with the East Berkshire CHC Joint Operational Policy.

Appendix 1: Shared Care Flowchart



Appendix 2: Shared Funding Application Form

Adults Shared Funding Application Form

SECTION A: DEMOGRAPHICS		
Name	DOB:	Age:
Date of Checklist:	Date of DST (if completed):	
Date of shared funding application:	Broadcare ID:	NHS number:
Local authority:	Address:	Social Care ID:
Name and address of GP:	Name & contact details of referrer(s): LA: ICB:	

SECTION B: FUNDING REQUEST	
Summary/Pen Portrait of individual:	
Proposed Care Package, including proposed split for LA to fund and for ICB to fund: (including details of any existing care package and care provider)	
Proposed start date for shared funding:	Proposed review date:

Appendix 3: Specific health interventions that are appropriate for the ICB to commission

The following list is intended as examples of specific health interventions that it would be appropriate for the ICB to commission where these cannot be provided by existing NHS services. It is not intended as an exhaustive or prescriptive list.

- insulin and other injections
- PEG interventions and risk feeding
- care calls solely for the administration of medication
- manual evacuation, enemas, complex continence management
- rectal insertion/ suppositories
- syringe pump medication
- tracheotomy care, suctioning, care & support with ventilator
- transdermal medication
- care of central venous lines including site care and flushing of dormant lumens
- complex wound management
- administration of BIPAP/CPAP/NIPPY
- completion of physiotherapy or other therapeutic programmes