NHS Continuing Healthcare

Policy for the provision of NHS Continuing Healthcare: Choice, Cost and Equity for patients of Lambeth CCG
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<th>Status: Draft</th>
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<tr>
<td>Version No: 1.0</td>
<td>Date of issue: October 2013</td>
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<td>Sponsor: Director of Integrated Commissioning</td>
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<tr>
<td>Author: Assistant Director Older People and Client Groups</td>
<td>Pages: 15</td>
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<td>Document history</td>
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<td>This document is based on the policy already in place in Southwark CCG. Comments received from:- Commissioning Manager and CHC Lead Chief Financial Officer Senior Management Accountant. Discussed at Lambeth CCG QIPP and Finance meetings on:- 22nd May 24th July 2013 – recommended that policy now go to the Integrated Governance Committee meeting on 23rd October 2013 Legal advice sought – September 2013. Declared legally sound October 2013 IGC ratified</td>
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1. Background

This policy describes the way in which Lambeth Clinical Commissioning Group (LCCG) will commission packages of care for those patients for whom it is the responsible commissioner under the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002 (as amended) where such patients have been assessed as eligible for fully-funded NHS Continuing Healthcare (CHC) in accordance with the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (2009) (the National Framework).

2. Ratification

TBC following discussion at the Integrated Governance Committee meeting on 23rd October 2013

3. Links to Other Local and National Polices and Frameworks

This Policy should be read in conjunction with:

- NHS Continuing Healthcare (Responsibilities) Directions 2009
- Decision Support Tool for NHS Continuing Care (2009) (DST)
- NHS Continuing Healthcare Practice Guidance, March 2010
- NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing rules) Regulations 2112
- Lambeth CCG Guidance on Personal Health Budgets

4. Purpose

4.1 The overriding purpose of this policy is to ensure that quality of care is delivered within the CCG’s available financial resources, and to support consistency and equity of access to services for all new and existing NHS CHC patients for whom the CCG is responsible.

4.2 Where clinically indicated, a capacity assessment will have been conducted, prior to the CHC assessment being undertaken, in accordance with the Mental Capacity Act 2005 and the associated Code of Practice. Where an individual lacks capacity to consent to the process, decisions will be taken that accord with their best interests, following consultation with their family and/or friends or an Independent Mental Capacity Advocate (IMCA) or...
Welfare Attorney / Deputy, if appropriate. Regardless of whether the patient lacks capacity, they have the right to be supported by an advocate of their choice throughout the process and the CCG will do its best to facilitate this and to signpost patients to the appropriate support services.

4.3 For the purpose of this document the term 'patient' will also cover NOK/family/carer/advocate where necessary with the relevant consent in the form of a signed consent form or other Court appointed authorisation for people who lack capacity.

5. Context

5.1 ‘NHS continuing healthcare’ means specifically:

‘… a package of continuing care that is arranged and funded solely by the NHS. The actual services provided as part of that package should be seen in the wider context of best practice and service development for each client group. Eligibility for NHS continuing healthcare places no limits on the settings in which the package of support can be offered or on the type of service delivery’.

5.2 Fully-funded NHS Continuing Healthcare (referred to in this policy as ‘CHC’) therefore describes a package of ongoing care arranged and funded solely by the NHS. This includes all aspects of a package of care, including clinical, nursing and social care.

5.3 The CCG will commission CHC packages for individuals registered with a General Practitioner whose practice holds a contract with the CCG, and for individuals without GP registration who are usually resident in the area of the CCG.

5.4 The CCG will only commission a package of CHC for patients where either a Decision Support Tool has been completed and the relevant Joint Health & Social Care Panel has found the patient to be eligible, or where a Fast Track Pathway Tool has been appropriately completed. The use of these tools is supported by the National Framework (pp. 21-27)

5.5 The multi-disciplinary assessment will be completed in accordance with the National Framework.

6 The Provision of CHC

6.1 Patients eligible for CHC will be in receipt of a package of care delivered either in a specialist environment (e.g. Care Home with Nursing) or as a domiciliary care package.
6.2 The setting and cost of care, though variable, are limited in that there are a limited number of providers able to offer a safe and sufficiently high-quality placement or package of care for eligible patients, particularly for people with complex disabilities.

6.3 The CCG has a responsibility to promote a comprehensive health service and also to operate within its financial allocation. It also has a responsibility to offer patients choice, but within the constraints of the resources available to it.

6.4 With reference to the balance between cost and patient choice outlined in 6.3, this should be determined consistently and equitably in respect of patients eligible for CHC. As such, this policy sets out the following principles, which will be applied to all cases.

7 CHC: Residential Placements

7.1 Residential CHC is most commonly provided in a range of nursing homes, hospices or independent hospital settings. These facilities are equipped to deliver multi-disciplinary interventions in an environment designed to support patient safety and dignity. In this, such facilities are able to offer complex packages of care delivered by specialist staff.

7.2 Once an agreement on a patient’s eligibility for CHC has been made by the CCG, the care coordinator/referring clinician/assessor (referred to in this policy as the ‘Care Coordinator’) will work with the patient and their carer, family, advocate, Welfare Attorney / Deputy or IMCA (referred to in this policy as ‘the patient/individual’) to identify residential facilities able to meet the patient’s clinical needs. This will be achieved through collaboration with the CCG Continuing Healthcare Team.

7.3 Wherever possible, the facilities identified will be limited to those providers included in the approved Any Qualified Provider (AQP) list of nursing homes. These facilities have completed a tendering and pre-qualifying process to ensure that minimum standards of care are provided at the agreed AQP cost.

7.4 The Care Coordinator will be supported by the CCG Continuing Healthcare Team to provide information on the choice of all AQP accredited providers, each of which would be suitable to meet the patient’s assessed clinical needs. If the placement is not an AQP provider, the CCG will offer a choice of up to four suitable providers to meet the patient’s assessed needs. The patient will then be able to choose their preferred placement from the options offered.

7.5 If the patient wishes to be placed in a facility which is not included in either the AQP list or the list of four suitable non AQP identified placements offered by the Care Coordinator/CCG Continuing Healthcare Team, the patient may request any other suitable nursing home placement at a cost
that does not exceed by more than 10% the average cost of the four placements offered. The Care Coordinator/CCG Continuing Healthcare Team will provide the patient with information as to the AQP cost and the average cost of the four non-AQP placements offered in order to inform the patient’s decision.

7.6 Where a patient requests a residential package of care other than those offered by the Care Coordinator/CCG Continuing Healthcare Team (i.e. a request for a placement outside the choice of facilities offered and/or at a cost of more than 10% above average placement cost), the patient/individual may submit a written rationale requesting to be treated as an ‘exceptional case’. Appendix 1 sets out what constitutes an ‘exceptional case’ in this context. A pro-forma will be made available to support this request – this should reflect issues like proximity to family; friends/relatives in or previously in same placement, etc.

7.7 Requests to be treated as an exceptional case will be referred to the Commissioning Manager (CHC Lead) who will forward them to the Lambeth CCG Exceptional Funding Panel for consideration for funding as an exceptional case.

7.8 All requests for exceptional funding received by the CCG will be heard at the Lambeth CCG Exceptional Funding Panel. Terms of Reference for this Panel and the Appeals Panel can be found at Appendix 2.

8. CHC: Domiciliary Packages of Care (Home Care Packages)

8.1 The CCG will only consider commissioning domiciliary care packages where all the following conditions are satisfied:

i. Care can be delivered safely to the individual without undue risk. Safety will be determined by professional assessment including the availability of equipment, the care environment and the availability of appropriately trained carers.

ii. Home care is the individual’s informed and preferred choice or, if the patient lacks capacity, a domiciliary package is deemed to be consistent with their best interests.

iii. The organisation with responsibility for providing the care agrees to accept the risk to their staff of providing the care in a domiciliary setting.

iv. The patient and their family must agree to support the care plan and not undertake any action that will increase to an unacceptable level the risk to the patient or individual the care package.

v. Care is provided by an organisation or individual under a formal contractual agreement and to standards acceptable to the CCG.

vi. The patient agrees that the CCG is required by the National Framework (paragraph 138) to undertake a case review of their needs regularly, i.e. within three months of the original decision of eligibility for CHC and then at no more than 12 monthly intervals.
infinitum, and that the CCG may also review the patient’s needs at other times as required, e.g. in the event of any change in those needs, whether that change constitutes an increase or a reduction in the patients’ needs. The patient/advocate and any other party involved in the provision of their package of care (including any family member) will be made aware that the suitability of a home care package may change with the patient’s condition.

vii. All of the above will also apply to those patients requesting a Personal Health Budget (PHB). The CCG’s Operational Guidance for the provision of PHBs will need to be followed alongside this guidance.

8.2 To ensure equity of provision and to meet its financial obligations, the CCG will place an upper limit on the cost of a domiciliary care package. Such packages will only be funded if the cost does not exceed the average cost of a residential care placement (as defined in section 7) by more than 15%. The comparable residential care placement is a placement that would, in the CCG’s opinion, reasonably meet the patient’s assessed needs. This threshold has been determined as a fair balance between the wishes of the individual, the CCG’s duties to its other patients and the CCG’s obligations to achieve financial balance.

8.3 Should a patient fulfil the criteria set out in section 8.1, the CCG’s Continuing Healthcare Team will offer a package of care delivered by one of the care agencies commissioned by the CCG, subject to availability.

8.4 Subject to the conditions set out in section 8.1 (i) – (vi) being satisfied, a patient may request an alternative care provider agency to those referred to in section 8.3, but only where the cost of the agreed care package is no more than the cost of the care package commissioned by the CCG and the provider is CQC registered.

8.5 Where a patient requests a domiciliary package of care other than one of those offered or agreed by the CCG Continuing Healthcare Team, the patient may submit a written rationale requesting to be treated as an ‘exceptional case’. Appendix 1 sets out what constitutes an ‘exceptional case’. A pro-forma will be made available to support the request.

8.6 Requests to be treated as an exceptional case (including those falling within section 8.4/8.5) will be referred to the CCG Commissioning Manager (CHC Lead), who will forward it to the Lambeth CCG Exceptional Funding Panel for consideration as an exceptional case.

8.7 All requests for exceptional funding that are received by the CCG will be heard at the CCG Exceptional Funding Panel as outlined in section 7.8 and 7.9
8 Implementation of policy and application to existing packages of care

9.1 The CCG recognises that there may be existing packages of CHC that are funded in a way that they would not be, had this policy been applied when those packages were established. All 'new' cases will be arranged in accordance with this policy however the CCG is keen to phase in the application of this policy to existing cases, so as to eliminate inequalities between access to resources between 'new' and 'old' CHC patients.

9.2 Where a patient is already in receipt of CHC their package will be reviewed, at least annually, in accordance with the National Framework. If the patient is deemed to still be eligible for CHC, the CCG will consider the extent to which their existing package of care is compliant with this policy. The CCG will generally seek to bring existing packages of care in line with this policy at the time of any review and so existing CHC patients should be aware that they will receive proposals to adjust their care package (where necessary) to bring their care package into line with this policy from the date of their review.

9.3 The CCG recognises that bringing existing packages into line with this policy may cause distress to individuals as it may involve altering established routines and arrangements. Therefore, in the case of existing packages of domiciliary care support, the CCG will continue to commission such packages (as long as they remain clinically appropriate) where the cost is not more than 15% above the estimated cost of a comparable care home placement for the patient.

Where the existing package is more than 15% more expensive than the comparable care home placement cost the CCG will, unless an exceptional case, commission a care home placement

9.4 In the case of existing care home placements the CCG will continue to commissions such placements where the cost is no more than 10% above the cost of the care home the CCG would commission to meet the individuals’ needs bringing it in line with the approach taken for new patients outlined in section 7.

9.5 Where the existing placement is more than 10% then then CCG will commission a placement which meets the patients’ needs which will result in the patient moving to an alternative provider.

9.6 If the patient is unhappy with this decision they may submit a written rational requesting to be treated as an ‘exceptional’ case as outlined in sections 7.6, 7.7 and 7.8.
Patient is assessed as eligible for full NHS funded Continuing Healthcare and requires a residential placement

CCG provides AQP list to Care Coordinator/patient/family

If placement criteria non AQP the CCG will offer up to 4 suitable providers who have been assessed as meeting the patient’s needs

Request made for alternative placement

Placement agreed if the home can meet the patients’ needs and is no more than 10% above the average cost of the identified non AQP providers

Request is made for alternative placement which is more than 10% above the cost of the average cost of the identified non AQP providers

Patient/family puts request to Lambeth CCG Exceptional Funding Panel
Patient is assessed as eligible for full NHS funded Continuing Healthcare and requires a home care package

Care co-ordinator submits care plan to CCG

CCG costs care plan

Care plan put in place with CCG approved provider if costs no more than 15% above the cost of a residential placement

Patient/Family requests a home care package with an alternative care provider

CCG will approve if the requirement set out in section 8.1 are met

Patient/Family rejects the home care package offered by the CCG i.e. they request a care package costing more than 15% above the cost of a residential placement

Patient/family puts request to Lambeth CCG Exceptional Funding Panel
Appendix 1

Exception Funding Requests

The following pro-forma should be used to set out the rationale for requests for exceptional funding. Exceptional funding requests may be where a client or client’s family/carer wishes:

- To request a care home placement that is more than 10% above the average placement costs
- To request a home care package that exceeds the ceiling of 15% above the equivalent cost of a care home placement.

The Exceptional Funding Request Pro-forma may also be used by the client or client’s family/carers to set out the rationale for exception funding in the situation where the CCG, in line with this policy, are proposing changes to existing packages of home care or care home placement.

Examples of reasons for exceptional funding requests may include: proximity to family/main carer, previous home care provision from a particular provider, previous placement in a particular care home, religious reasons and homes which provide placements for retired army, navy or air force service men or woman. This is a non-exhaustive list which merely seeks to illustrate the type of situations which may lead to exceptional funding requests. Individuals should also be aware that falling within one of the categories / scenarios cited here will not necessarily lead to a conclusion that the patient is eligible for exceptional funding.

The Exceptional Funding Request Pro-forma on page 11 should be used request to be treated as an ‘exceptional case’ and will need to set out clearly the rationale for the request. All requests should be sent to the Commissioning Manager (CHC Lead). All requests for Exceptional Funding will be heard by the Lambeth CCG Exceptional Funding Request Panel.
**Lambeth Clinical Commissioning Group - Exceptional Funding Request Pro-forma**

Please complete and return to Richard Croydon, Commissioning Manager (Continuing Healthcare Lead) – Lambeth CCG, 1 Lower Marsh, Waterloo, London SE1 7NT, richard.croydon@nhs.net

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<td><strong>Client Name</strong></td>
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<td><strong>Client Address</strong></td>
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<tr>
<td><strong>GP Name and Address</strong></td>
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<tr>
<td><strong>Name of Person Submitting Request</strong></td>
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<td><strong>Relationship to Client</strong></td>
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<td><strong>Address of Placement</strong></td>
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**Rationale**

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**Rationale**

**LCCG Use Only**

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<td><strong>Date Heard at Exceptional Funding Panel</strong></td>
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<th><strong>Panel Members</strong></th>
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<td><strong>Chair</strong></td>
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Appendix 2

LAMBETH CCG EXCEPTIONAL FUNDING REQUESTS PANEL
(Minimum standard)

Purpose

The Lambeth CCG Exceptional Funding Requests Panel (EFRP) is in place to consider individual funding requests that are exceptions to the current internal commissioning policies or procedures or pan London commissioning arrangements.

The Lambeth CCG EFRP will only consider exceptional funding requests that would not be reviewed by the NHS South East London Individual Funding Request Panel.

Organisational Arrangements

The Lambeth CCG EFRP will delegate preliminary assessment and action of all requests received by the CCG to a nominated Clinical Advisor and Commissioning Lead.

The Lambeth CCG EFRP will follow and be guided by the principles set out in the South East London Individual Funding Request Policy April 2010 (Appendix 1), and will only consider cases that fall outside the remit of this panel.

Lambeth CCG Exceptional Request for Funding Panel - Terms of Reference

1. Constitution

The Exceptional Funding Requests Panel (EFRP) is a sub-committee of the Integrated Governance Group. To agree accountability arrangements

2. Membership

GP Clinical Lead
Non Executive Director
Senior Finance Manager
Director of Integrated Commissioning
AD Commissioner
Nurse Clinical Lead/Senior Nurse within BSU
Public Health Consultant
Additional representation as required at Chair’s discretion (non-voting member)

In attendance

Commissioning Manager (CHC Lead) (non-voting)
Panel Administrator (non voting)
Chair will be either a NHS Lambeth CCG Director or GP Clinical Lead

It is recommended that the Panel appoints a Deputy Chair.

3. Attendance

For the Panel to be quorate five members (tbc) must be present, including at least two clinical, one commissioning or finance, one Public Health representative and one lay representative.

4. Frequency

The Panel will meet as required in order to respond to an urgent request but certainly within 4 weeks of receiving a request.

5. Authority

The Panel is authorised by the CCG to consider Exceptional Funding Requests, which represent exceptions to the CCG Commissioning Policies and Procedures or Pan London Commissioning arrangements.

6. Duties

In a timely manner, to consider requests for individual funding for treatment referred to the Panel by the Commissioning Manager (CHC Lead) or the Assistant Director Older People and Client Groups, the Commissioning Manager (CHC Lead) will be responsible for notifying the patient and referring clinician about the decision of the Group.

7. Review

A review of the panel’s Terms of Reference will be undertaken yearly.
TERMS OF REFERENCE OF
THE EXCEPTIONAL FUNDING REQUESTS APPEALS PANEL
(Minimum standard)

1. Constitution

The Panel will be a sub-committee of the CCG Integrated Governance Committee.

2. Membership

Non Executive Director/Lay person
Managing Director - Chair
Finance Director
GP Clinical Lead
Director of Public Health
Any other person co-opted by the Chair (non-voting member)

Additional representation, relevant to the issue under consideration will be seconded onto the Panel, when required.

Individuals on the appeals panel should not be the same individuals as on the IFRP.

It is recommended that the Panel appoints a Deputy Chair.

3. Attendance

In addition to the members of the Panel listed under 2 (above), any other person may also attend with the specific agreement of the Chairman of the Panel

The Panel may not proceed with business unless at least two members including the Chair are present.

4. Frequency

Meetings shall be held on an as required basis when cases arise but usually within four weeks of an appeal being lodged.

5. Authority
The Panel is authorised by the Lambeth CCG to review the processes used to deny requests for individual funding for placements and packages of care.

6. Duties

The Chair of the Panel will review each appeal against a decision made by the Exceptional Funding Requests Panel and convene the Appeals Panel, in a timely manner, when the grounds of appeal have been demonstrated.

The Panel will consider whether there have been any shortcomings in the application of the EFR policy and the process of consideration of the request and determine whether the process was in line with all relevant Policies and Procedures of the CCG based on information provided in the case pack.

The Panel can:
- uphold the decision of the EFRP
- refer case back to the EFRP for further consideration

The Panel can have the authority to overturn the decision made by the EFRP only if it is constituted to have the same level of knowledge and expertise as the EFRP.

The Administrator of the Exceptional Funding Request Appeal Panel will communicate the decision of the Appeals Panel in writing to:-

- The appellant
- Patients GP/Consultant
- The Chair of the Individual Funding Requests Panel

The Administrator of the Appeals Panel will also communicate to the Chair of the Exceptional Funding Requests Panel any concerns about the relevant Policies and Procedures arising from the hearing and consideration of the appeal.

7. Reporting Procedures

The Appeals Panel will present an Annual Report to the Integrated Governance Group. (To be agreed following agreement on governance arrangements)

8. Review

A review of the Panel’s Terms of Reference will be undertaken on a yearly basis.