

**NHS North East London
Continuing Healthcare Dispute Resolution Policy and
Protocol**

FINAL DRAFT for publication

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1 Aims and Values

- 1.1 The North East London Integrated Care Board (NHS NEL) has a vision to create a simpler more joined up health and social care system; one where the people of North East London have a consistently high-quality experience of Continuing healthcare (CHC) and do not see organisational boundaries. Instead, they experience CHC where they see familiar faces that are clearly connected to each other regardless of where people are seen; be that in hospital, the community or at home.
- 1.2 NHS NEL will achieve this vision by working collaboratively and in partnership with their local authority (LA) and health colleagues to ensure that they are providing the people of north east London with fair access to CHC which ensures better outcomes, better experiences, and better use of resources.
- 1.3 **The National Framework for NHS Continuing Healthcare and NHS funded-nursing care July 2022 (Revised)** (Paragraph 231) states that all Integrated Care Boards (ICBs) must cooperate with the other organisations within their footprint. ICBs are encouraged to establish joint working arrangements with these organisations which embed collaboration, to meet the health needs of the local population, including CHC. This includes collaborative working with relevant local authorities with statutory social care responsibility whose area falls wholly or partly within the area of the ICB (see also Practice Guidance 48).
- 1.4 In order to standardise the delivery of CHC and improve the quality of its delivery to its population, NHS NEL, with its partner organisations, have developed a single standard operating procedure (SOP) for CHC to ensure that all organisations and staff involved in the CHC process understand and agree to put the individual at the centre of the process and deliver CHC consistently and fairly.

The SOP has been designed to support NHS NEL, and its partners to ensure that all parties are.

- Following the guidance set out in the National Framework.

- Agreeing and following local protocols and/or processes which make clear how the NHS NEL (the local Integrated Care Board (ICB)) discharges its duty to consult with the LA (refer to paragraph 22) and how the LA fulfils its role as an important partner in the CHC process. (Refer to paragraphs 26-31).
- Developing a culture of genuine partnership working in all aspects of CHC.
- Ensuring that eligibility decisions are based on thorough, accurate and evidence-based assessments of the individuals' needs.
- always keeping the individual at the centre of the process and ensuring a person-centred approach to decision-making.
- always attempting to resolve inter-agency disagreements at an early and preferably informal stage.
- dealing with genuine disagreements between practitioners in a professional manner without drawing the individual concerned into the debate in order to gain support for one professional's position or the other.
- ensuring practitioners in health and social care receive high-quality joint training (i.e., health and social care) which gives consistent messages about the correct application of the National Framework.

1.5 The ICB will achieve this while ensuring that Individuals are never left without appropriate support while inter-agency disputes between statutory bodies about funding responsibilities are resolved.

National Framework (Paragraph 232)

1.6 It is intended that the SOP will support the delivery of CHC as 'business as usual' and therefore minimise the need to invoke any inter-agency dispute procedures. there may however be rare occasions where there may be a disagreement which cannot be resolved in this way.

- 1.7 This protocol sets out the principles and process by which NEL ICB will resolve any dispute which cannot be resolved through our inter-agency partnership relating to:
- eligibility of an individual for CHC
 - joint funding arrangements
 - operation of refunds guidance
- 1.8 This agreement is between NHS North East London and its LA partners, London Boroughs of Barking and Dagenham, Hackney, Havering, Newham, Redbridge, Tower Hamlets, Waltham Forest, and the City of London Corporation.
- 1.9 This policy does not apply to disputes between the NHS North East London and individuals or their representatives applying for CHC funding. These are dealt with through local resolution (See SOP) and the Individual's Requests for a Review of Eligibility process as outlined in paragraph 179-181 of the National Framework (Revised July 2022).

2 Relevant Legislation

- 2.1 The following legislation that is relevant to this policy and protocol is:

The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2020

<https://www.legislation.gov.uk/uksi/2020/469/contents/made>

The Care Act (2014)

<https://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

This policy will be reviewed whenever there is a legislative change that might affect its implementation or operation.

3 Relevant Policy

3.1 The following national policy that is relevant is:

National Framework for NHS Continuing Healthcare and NHS funded-nursing care July 2022 (Revised).

<https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care>

This policy will be reviewed whenever there is a policy change that might affect its implementation or operation.

4 Introduction

4.1 The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (2022) (National Framework) is a statutory document that sets out the principles, legal basis, policy, and statutory duties that Integrated Care Boards (ICBs) and Local Authorities (LAs) must follow in the administration and delivery of Continuing Healthcare (CHC).

4.2 The National Framework notes that disputes may arise between agencies and sets out the requirement that ICBs and LAs in each local area must agree a local disputes resolution process to resolve cases where there is a dispute between them about:

- A decision as to eligibility for CHC.
- Where an individual is not eligible for NHS Continuing Healthcare, the awarding of NHS-Funded Nursing Care (FNC), or the contribution of a ICB or LA to a joint package of care for that person.
- The operation of refunds guidance. (National Framework Annex E).

4.3 This process has been developed jointly between NEL ICB and the LAs, and demonstrates the commitment to work in partnership, and in a person-centred way, and to have a clear and agreed process in the event of a dispute arising between those agencies.

- 4.4 This policy relates only to disputes between the LAs and NHS NEL. Where an assessed individual, or a representative on behalf of an assessed individual, raises a disagreement on eligibility this is an Individual Review of Eligibility (IRE) and covered in the National Framework paragraph (212 – 227).
- 4.5 It is an important point to remember that a dispute may arise at the same time as an Individual Review of Eligibility (IRE) in respect of an eligibility decision – in such cases they should be managed concurrently with neither being delayed in order for the other to proceed.
- 4.6 The policy sets out the joint principles that underpins the process, alongside a number of operating elements and processes.

5 Roles of the NHS NEL and Local Authorities

- 5.1 The roles of the NHS NEL and the LA are clearly outlined in the National Framework in paragraphs 22 – 32.
- 5.2 The ICB has responsibility and accountability for CHC in several areas including:
- Ensuring delivery of, and compliance with, the National Framework for CHC.
 - Ensuring that assessment mechanisms are in place for CHC across relevant care pathways, in partnership with the local authority as appropriate.
 - The Standing Rules require ICBs to consult, so far as is reasonably practicable, with the relevant social services authority before making a decision on a person's eligibility for CHC (the Care and support statutory guidance should be used to identify the relevant social services authority).
 - Making decisions on eligibility for CHC.
 - Implementing and maintaining good practice.
 - Ensuring that quality standards are met and sustained.
 - Ensuring training and development opportunities are available for practitioners, in partnership with the local authority.

5.3 The LA role in relation to CHC includes: -

- Refer a person to NHS NEL when it appears that the person may be eligible for CHC.
- As far as reasonably practicable, provide advice and assistance when consulted by NHS NEL in relation to an assessment of eligibility for CHC – regardless of whether an assessment under the Care Act is required.
- When requested by the ICB, provide a person or persons to assist in a Multi Disciplinary Team (MDT).
- Respond within a reasonable time frame when consulted by the ICB prior to an eligibility decision being made.
- Respond within a reasonable timeframe to a request for information when the ICB has received a referral.

6 Inter-Agency Dispute Policy Joint Principles

6.1 This policy reflects the principles laid out in the National Framework, that are required to minimise the need to invoke a formal dispute resolution process.

These are:

- Keep the needs of the individual at the heart of the process, ensuring a person-centred approach to decision making.
- NHS NEL and LAs will work together to minimise the need to invoke any formal dispute resolution and seek to resolve any disputes at an early, and preferably informal stage.
- NHS NEL and LAs must develop a genuine culture of partnership in relationship to CHC.
- All parties follow the guidance set out in the National Framework.
- Disagreement between practitioners is managed in a professional manner.
- Ensure that health and social care colleagues receive high quality joint training which gives consistent messages about the correct application of the framework.

- NHS NEL and the LAs have discharged their responsibilities in line with the requirements of the National Framework for the ICB duty to consult with the LA, and the LA's duty to co-operate (see above Roles of ICB and LA).
- 6.2 When a dispute exists, and the individual (or their legal representative) has asked for an IRE, the processes must run concurrently. There is no justification for delaying either process in favour of the other. Should a decision on eligibility be overturned in either process then this must be reflected in the other. NHS NEL will never hold separate positions on eligibility where there are concurrent IRE and Dispute processes.

7 Failure to Follow Policy

- 7.1 This policy is a joint policy and is based on genuine partnerships between NHS NEL and the LAs as outlined in paragraph 1.7.
- 7.2 Failure of an individual representing NHS NEL or the LA to follow this policy will be escalated in the first instance to their respective line manager.
- 7.3 Repeated failure by NHS NEL and or the LA to follow this policy will be escalated to the ICB Chief Nurse and the LA Corporate Director of Adult Social Care.
- 7.4 It is expected that the Executive will discuss with their counterpart to ensure appropriate actions are taken to ensure that the policy is followed, and support is given for individuals who fail to follow the policy.
- 7.5 Repeated failures may need to be managed in line with NHS NEL and LA workforce policies.

8 Legal obligations, rights, and duties

- 8.1 Nothing in this Agreement shall limit or constrain the legal obligations, rights or duties of either of the parties to Individuals or service users or as between themselves.
- 8.2 In the event that any dispute between the parties cannot be resolved using the procedures set out in this Agreement, the parties' legal rights shall not be affected, nor shall the parties be prevented from asserting those rights in any court of law or other forum.

9 Review

This policy will be reviewed whenever there is a legislative or organisational change that might affect its implementation or operation. In any event this policy will be reviewed annually.

Section 1

10 Managing disputes on CHC eligibility

- 10.1 It is expected that in the vast majority of cases, the MDT will agree on a recommendation of eligibility of CHC by undertaking a comprehensive multidisciplinary assessment. They will use all the available evidence of the individual's needs and apply professional judgment to make and support a recommendation of eligibility.
- 10.2 Not all disagreements between MDT members should be treated as grounds for invoking the inter-agency dispute resolution process. Under the current regulations (2022) and the National Framework, the MDT can account for contrasting views between MDT panel members and record these on the Decision Support Tool (DST).
- 10.3 The National Framework has clear guidance on the management of disagreements within an MDT noted within Practice Guidance 32 in that if practitioners are unable to reach agreements, then the higher score should be accepted, noted on the DST along with clear reasoned evidence to support it.
- 10.4 The ICB should accept the recommendation of the MDT unless there are exceptional circumstances.
- 10.5 Where NHS NEL is unable to accept or verify a recommendation by the MDT, the DST should be returned to the MDT to review with clear reasons why the ICB is unable to accept the decision based on para 10.4.
- 10.6 A dispute can only be raised once NHS NEL has made the eligibility decision and only on the following grounds: -
- Where the DST was not fully completed.
 - Where there were significant gaps in the evidence provided.
 - Where the MDT was not framework compliant.
 - Where the lack of consultation with the LA resulted in the LA not being able to provide advice and support prior to a decision being made.

- Where there is an obvious mismatch between the evidence provided and the recommendation.
- where the recommendation would result in either authority acting unlawfully.

The acid test is, given the same evidence, would another MDT have made a different recommendation.

10.7 A dispute cannot be raised simply that the LA disagrees with an MDT recommendation.

The Dispute Process

The Inter-Agency Dispute Process is a three-stage process that aims to deliver a rapid conclusion where disputes occur.

11 Notification

11.1 To raise a dispute, the LA must complete the '*Dispute Proforma*' and send to the NHS NEL (CHC Head of Service) within 5 working days of the receipt of a formal outcome on eligibility. NHS NEL will have no obligation to accept a dispute raised after that time.

11.2 The dispute must be clear on the rationale for disputing the decision based on para 10.5 above.

11.3 The CHC Manager must acknowledge the dispute and arrange to discuss the case with the appropriate LA manager within 5 working days.

12 Informal

12.1 The CHC and LA managers, will each agree a representative to peer review the case. This peer review focuses on the process, the interpretation of the National Framework and whether the evidence seen by the MDT was sufficient to support the MDT recommendation. It is expected that this meeting will occur within 10 working days of the acknowledgment of a dispute. The outcome from this meeting is either that the original decision of NHS NEL is upheld. or that

the MDT is asked to reconsider the recommendation based on clear feedback from the CHC and LA manager.

- 12.2 If this meeting upholds the original decision of NHS NEL, then the dispute is closed and notification of this should be sent to the LA within 2 days of the meeting.
- 12.3 If there is significant and relevant information/evidence available and identified as part of the dispute as not having been included in the original assessment and recommendation process, it is essential that this is provided without delay. This should be sent to the CHC Manager and to the MDT who made the original recommendation so that they may consider that evidence. The MDT must meet with 5 days *of the receipt of the evidence*, to consider this evidence and make a recommendation.
- 12.4 If the recommendation of the MDT changes after considering the evidence, then the case must return through NHS NELs verification process and the dispute is closed. This does not prevent a further dispute being raised once the case has been verified by NHS NEL.
- 12.5 If their recommendation remains unchanged the MDT must inform the CHC Manager, who will record this on the *Dispute Resolution Form* and discuss the outcome with the LA to decide the next steps including escalation to formal stage if required.
- 12.6 Following informal discussions, the LA may choose to withdraw the Dispute. In such circumstances they should write to NHS NEL (CHC Manager) within 2 working days (by email) and advise that the dispute is closed.
- 12.7 A case may only go through the informal stage once to avoid getting stuck at this stage and not progressing.
- 12.8 Escalation to Formal Stage must be done within 5 days of the LA receiving an agreed decision from the informal stage.

Escalation must be made in writing, using the Dispute Resolution Form to NHS NEL (Head of CHC) stating the reason for the escalation. It must state why after the informal stage the dispute still exists.

13 Formal Stage

13.1 The formal stage requires senior managers (at a minimum of Head of Service level – to be agreed by NHS NEL/LA) to meet to consider the case.

13.2 The managers will meet within 5 working days of notification of escalation to formal stage and will address the dispute considering the following: -

- Whether the decision-making process was appropriately followed.
- The quality and quantity of the evidence supplied to the MDT and whether it was sufficient to support the decision made.
- Whether the evidence considered supports the identification of a Primary Health Need.
- Whether the recommendation was compliant with the National Framework.

13.3 It is not appropriate or permitted at formal stage to introduce new evidence or information. New information must be addressed at Informal Stage as there is a responsibility to allow the MDT to review any relevant and additional information.

13.4 The outcome of this meeting will be either that the original decision was upheld or overturned. This will be documented on the attached Dispute Resolution Form and signed by both managers.

13.5 Where the outcome is agreed, which may include that the original decision is upheld or overturned, this is considered agreed and binding on both the LA and the ICB as the final outcome on eligibility. This outcome will be recorded on the Dispute Resolution Form and actioned by both agencies accordingly. The Dispute is then closed.

13.6 Where the decision of the original MDT is overturned, this is recorded on the *Dispute Resolution Form*. This would then go through the NHS NEL verification process. The rationale for overturning the MDT's recommendation must be written up within 5 working days and fed back to the original MDT to ensure continuous learning.

13.7 In the event that the outcome of the meeting is not agreed the Dispute Resolution Form must clearly demonstrate the areas of outstanding disagreement and a clear rationale for the viewpoints of the respective agencies. The dispute is then automatically escalated to the Deferred Assessment Panel/External Review stage.

13.8 A case may only go through a formal stage once to avoid repeated reviews.

14 External Review Stage

14.1 It is expected that all disputes will be managed through the informal and formal routes. An external review is expected to be used rarely, if at all.

14.2 NHS NEL will arrange for a meeting to be convened with senior representation from the ICB and LA to jointly agree an external review from a neighbouring ICB or a CHC specialist consultant.

14.3 It is expected that this external review would occur within a minimum of 10 working days and maximum of 30 working days from the date of the decision to escalate.

14.4 NHS NEL and the LA will each independently produce an evidence bundle in relation to the case that focuses on the dispute. It must clearly state reasons why an agreement could not be reached at Informal and Formal stage. The Dispute Resolution Form should be used. The evidence used for this meeting should be the same evidence used at the formal stage. No new evidence can be submitted at this stage.

- 14.5 The evidence pack will be submitted to the external reviewer 5 working days prior to the meeting so that they will have sufficient opportunity to review the case prior to chairing the meeting.
- 14.6 The meeting will give an opportunity to both NHS NEL and the LA to present the case and for the external reviewer to ask any questions for clarification. The external reviewer role is in the first instance to facilitate an agreement - however when this is not possible, they will be required to give a decision.
- 14.7 The external reviewers' decision is considered final and both agencies will agree to abide by that outcome.
- 14.8 The external reviewer will provide a written report of their decision within 5 working days of the meeting. *The outcome of this review will be recorded on the Dispute Resolution Form.*
- 14.9 It is important to note that the view of the external reviewer does not impact in any way the right of the individual to request a IRE.

15 Governance and Reporting

- 15.1 NHS NEL and LA will monitor all cases through the disputes policy and will report regularly through existing governance arrangements on the number of cases where original decisions were either upheld or overturned and the rationale for this, to support continuous learning and improvement.

Section 2 Joint Package of Care

16 Contribution to Joint Packages of Care

- 16.1 The National Framework states that “If a person is not eligible for CHC, they may potentially receive a joint package of health and social care”. This is where an individual’s care or support package is funded by both the NHS NEL and the LA. This may apply where specific needs have been identified through the Decision Support Tool (DST) that are beyond the powers of the LA to provide services to meet these needs on its own. (See also sections 18-20 of the Care Act 2014)
- 16.2 The NHS NEL contribution to a care and support package may be through existing services such as Primary/Community services and specialist services, as well as through additional commissioned services.
- 16.3 NHS NEL and the LAs will develop a set of agreed principles and processes that ensure that decisions in relation to the contribution are open, transparent and consistent to effectively remove the requirement for using the dispute management process.
- 16.4 Until this is available the following process will be operational.

17 Formal Stage 1

- 17.1 Where NHS NEL and the LA meet and cannot agree the share of a joint package of care based on the Joint Care Package Protocols (**Currently being developed**) (or the principles laid out above) then this must be escalated as a dispute, in writing within 5 working days of the meeting.
- 17.2 The dispute is escalated to either NHS NEL in the case of the LA disputing the contribution or the LA in the case of the NHS NEL disputing. The disputer will copy the other party into the dispute.
- 17.3 Dispute will be escalated to a Senior manager (head of service level) who will, within 5 working days of the dispute, bring together ICB and LA representatives.

17.4 This meeting will review the evidence from both sides in relation to the contribution. They will consider as a minimum.

- The statutory responsibilities of the NHS and LA
- The care needs from the DST that are beyond the powers of the LA to meet on its own.
- Access to pre-existing services from the NHS (to ensure that this is an unmet need rather than non-accessed/non-commissioned service).
- Any other information.

17.5 It is important to remember that this meeting is not an MDT and therefore should not be discussing the merits of an eligibility decision previously made.

17.6 It is expected that this meeting will be able to manage the vast majority of disputes.

17.7 If this meeting cannot reach a decision, then this is immediately escalated to formal stage 2. The point for disagreement will be captured on the Inter-Agency Joint Care Package Dispute Form (to be developed).

18 Formal Stage 2

18.1 Where NHS NEL and LA have completed the informal stage and cannot agree the share of the joint package of care, based on the Joint Care Package Protocols (Currently being developed), (or the principles laid out above) then this must be escalated to formal stage, in writing within 10 working days of the meeting.

The senior managers involved in formal stage will present the case to the formal stage officers for resolution.

18.2 As this dispute is about the contribution to a joint package of care rather than the care package itself there is no requirement for further clinical or professional involvement.

18.3 It is beholden of the ICB Chief Nurse and the LA Corporate Director of Adult Social Care to make the final decision on the split. Their decision is binding on

both parties. Where nominated deputies are used the organisation must ensure that these deputies have the appropriate level of delegated authority to make financial decisions.

Section 3 Management of refunds

19 Management of refunds

19.1 A decision on eligibility remains in place until such time that NHS NEL revises that decision.

19.2 It is explicit in the framework that people in receipt of care cannot go without care during the dispute process.

19.3 The general principle is that whichever agency had been funding the care provision prior to the assessment and dispute process will continue to fund the care provision during the dispute process.

19.4 The National Framework set out three scenarios in relation to the management of care costs and refunds which are: -

- A. Where there is a need for health or care and support to be provided to an individual during the period in which a decision on eligibility for CHC is awaited.
- B. Where an ICB has unjustifiably taken longer than 28 calendar days to reach a decision on eligibility for CHC.
- C. Where, as a result of a Local Authority or an individual disputing a CHC eligibility decision, the ICB has revised its decision.

A

Where there is a need for health or care and support to be provided to an individual during the period in which a decision on eligibility for CHC is awaited.

19.5 When a case is in dispute then the decision on eligibility is awaiting. In these cases, the agency which is paying for the care at the time will continue to fund the care until the outcome of the dispute is known.

19.6 At the point where a decision is made, the effective date of eligibility for CHC is either day 29 (from receipt of checklist) or the original MDT date – whichever is earlier.

19.7 Where this has resulted in the LA or the individual paying for care that they should not have been, NHS NEL agrees to reimburse any the care costs incurred as per above para.

19.8 Where the individual is to be reimbursed, NHS NEL will make an ex-gratia payment to the individual following the guidance set out within Managing Public Money¹ especially in relation to an individual who may have suffered hardship or injustice.

19.9 Where this has resulted in NHS NEL paying for care that should have been the responsibility of the LA then the LA agrees to reimburse care costs incurred.

19.10 Where this has resulted in the NHS NEL paying for care costs that are outside the responsibility of the LA (i.e., self-funders) NHS NEL will take no action to recover costs.

¹ <https://www.gov.uk/government/publications/managing-public-money>

B

Where an ICB has unjustifiably taken longer than 28 calendar days to reach a decision on eligibility for CHC.

19.11 The National Framework places a clear expectation on the ICB that in most cases, it should take no longer than 28 calendar days from the ICB being notified of the need for assessment of eligibility for CHC to making an eligibility decision.

19.12 When a ICB has taken longer than 28 days to make a decision and where an individual is eligible for CHC, it will refund directly to the individual or the LA, the costs of the services from day 29.

19.13 Where the individual is to be reimbursed, the ICB will make an ex-gratia payment to the individual as set out in the Managing Public Money² guidance especially in relation to an individual who may have suffered hardship or injustice.

19.14 The refund should be made unless the ICB can demonstrate that the delay is reasonable as it is due to circumstances beyond the ICB's control which include:

- Evidence (such as assessments or care records) essential for reaching a decision on eligibility has been requested from a third party and there has been delay in receiving the records from them.
- The individual or their representatives have been asked for essential information or evidence or for participation in the process and there has been a delay in receiving a response from them.
- There has been a delay in convening a multidisciplinary team due to the lack of availability of a non-ICB practitioner whose attendance is key to determining eligibility and it is not practicable for them to give their input by alternative means such as written communication or by telephone.

² <https://www.gov.uk/government/publications/managing-public-money>

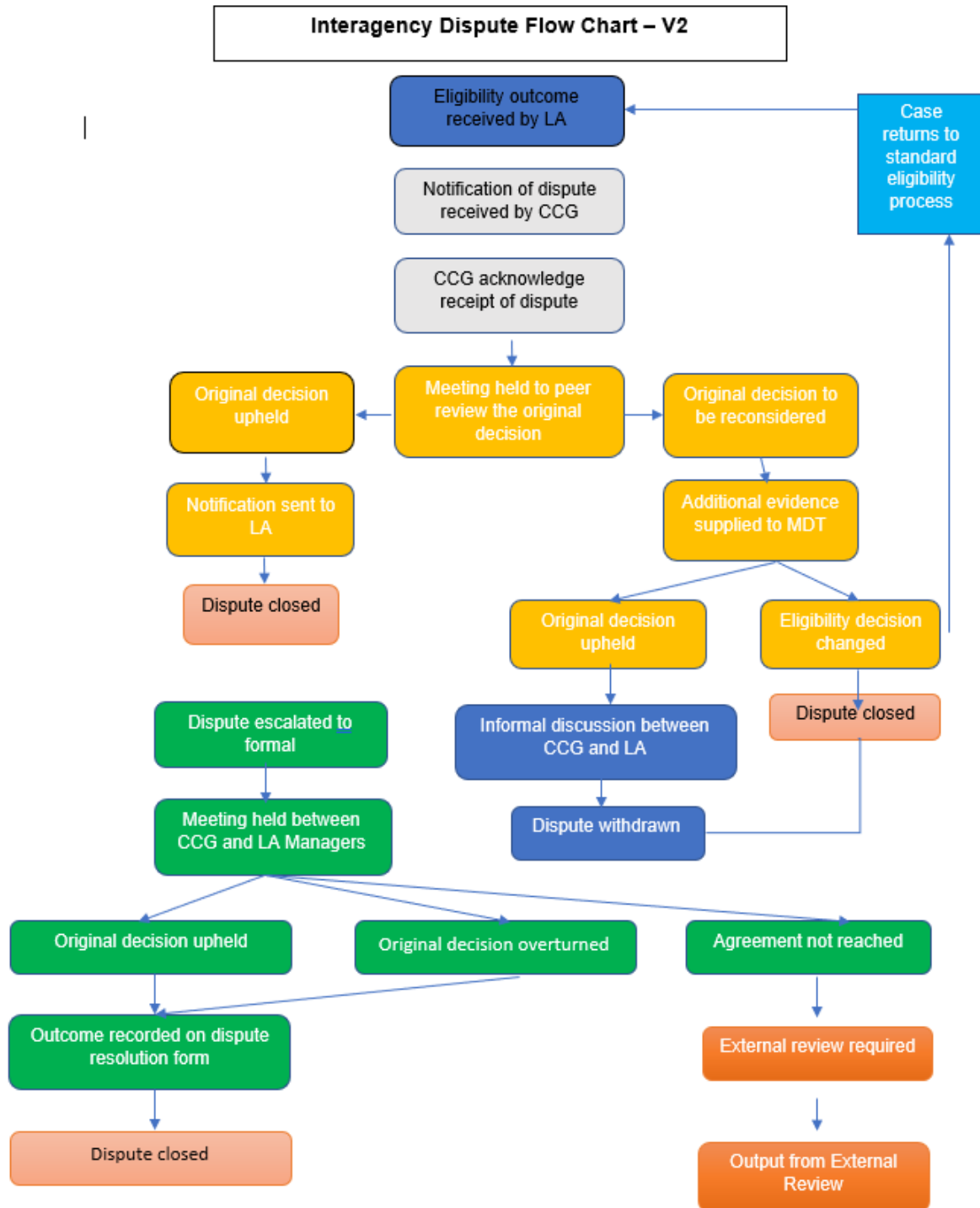
C

Where, as a result of an individual disputing an CHC *eligibility decision*, the ICB has revised its decision.

- 19.15 The process for the management of an individual review of eligibility is set out in NHS NEL's CHC Standard Operating Procedures as reflected in the National Framework
- 19.16 Where NHS NEL is required to reimburse the individual, this will be done via an ex-gratia payment to the individual following the guidance set out within *Managing Public Money*³ especially in relation to an individual who may have suffered hardship or injustice.
- 19.17 Where this has resulted in the LA or the individual paying for care that they should not have been, the ICB agrees to reimburse any the care costs incurred as per 19.16 above.

³ <https://www.gov.uk/government/publications/managing-public-money>

20 Appendix A - Inter-Agency Dispute Flow Chart



21 Appendix B - Inter-Agency Dispute Time Line

Inter-Agency Disputes Resolution Policy Time Line				
Stage	Policy paragraph		Time	
Notification	11.1	Local Authority raises a dispute after formal notification of CCG eligibility decision	5 days	
		<i>CCG to acknowledge dispute</i>	2 days	
Informal Stage	12.1	Peer review meeting	10 days	
		12.2	<i>If peer review meeting upholds decision notice of outcome and closure of dispute</i>	2 days
		12.3	If peer review is asking MDT to review their decision to hold further MDT	5 Days
		12.6	<i>Once case has been back to MDT Local authority to decide to close case or escalate</i>	2 Days
Formal Stage	12.8	Escalation to formal stage to be undertaken after agreed outcome from informal stage	5 days	
		13.2	Managers meet either accept decision or overturn	5 days
		13.6	<i>If referred back to MDT managers write up rational for overturning decision</i>	5 days
External Review	14.3	External Review meeting	10-30 days	
		14.5	If still in dispute referral for external review and pack compiled	5 days
		14.8	External Reviewer report sent to CCG	5 days

22 Appendix C – Inter-Agency Dispute Form (Informal Stage)

Continuing Healthcare Inter-Agency Dispute Form (Informal Stage)			
Individual's Name			
Address			
NHS Number		CHC Reference Number	
Date of NHS NEL Decision letter		Date decision Letter received	
<p>Please note: - Disputes must be received by NHS NEL within 5 working days of receipt of the decision letter by the Local Authority. The date of receipt will be classed as two working days after the date of the decision letter.</p>			
Reason for the Dispute (please select the one that applies)			
<p>The ICB has failed to follow proper procedure and/or that the decision was not compliant with the National Framework.</p> <p><i>(i.e., The DST is not fully completed, The MDT was not properly constituted, there was a failure by the CCG to consult with the LA, where the recommendation would result in either authority acting unlawfully)</i></p>		<input type="checkbox"/>	
<p>The ICB reached a decision that, given the same evidence, another MDT would have made a different recommendation.</p> <p><i>(i.e., Where there are significant gaps in the evidence to support the recommendation, where there is an obvious mismatch between the evidence provided and the recommendation.)</i></p>		<input type="checkbox"/>	
Rationale for Dispute			
<p>The following are the details as to why we are raising this dispute providing a clear rationale based on the areas identified above.</p>			
Authorisation by the Local Authority			
Name of Local Authority			
Officers Name		Job Title	
Phone		Email	

For ICB Use:				
Date Request Received				
Is the dispute accepted	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
An informal discussion has been set with the LA rep for:	Date		Time	
Outcome of Informal Discussion				
Agreed that the original CHC eligibility decision was correct				<input type="checkbox"/>
Agreed to refer to MDT for a review of recommendation				<input type="checkbox"/>
If referred back to the MDT what are the areas for them to review or consider?				
Was an agreement reached to resolve the dispute?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Proceed to formal stage.	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Reasons for not being able to resolve the issues at informal stage.				
Date Referred to Formal Dispute				
It should be noted that failure to successfully resolve dispute at the informal stage is monitored at Executive level of both CCG and Local Authority.				
Signatures				
NHS NEL				
Name:		Signature:		Date:
Local Authority				
Name:		Signature:		Date:

23 Appendix D – Inter-Agency Dispute Outcomes Form (Informal Stage)

Continuing Healthcare Inter-Agency Dispute Outcomes Form (Informal Stage)				
Individual's Name				
Address				
NHS Number		CHC Reference Number		
Following the informal review discussion of this case held on the (date)				By NHS
NEL and		(LA)		
Outcome of Discussion (please select the one that applies)				
The reviewers agreed the eligibility Decision and the case was closed.				<input type="checkbox"/>
The reviewers agreed to refer back to MDT				<input type="checkbox"/>
Reasons referred back to MDT				
No agreement was reached so will proceed to formal stage				<input type="checkbox"/>
Reasons for not being able to resolve issues at informal stage				
Rationale for Dispute				
The following are the details as to why we are raising this dispute providing a clear rationale based on the areas identified above.				
Signatures				
NHS NEL				
Name:		Signature:		Date:
Local Authority				
Name:		Signature:		Date:

24 Appendix E – Inter-Agency Dispute Form (Formal Stage)

Continuing Healthcare Inter-Agency Dispute Form (Formal Stage)			
Individual's Name			
Address			
NHS Number		CHC Reference Number	
Date of NHS NEL Decision letter		Date decision Letter received	
<p>Please note: - Request for formal disputes must be received by the CCG within 5 working days of receipt of the Notice of the outcome of Informal disputes by the Local Authority. The date of receipt will be classed as two working days after the date of the notice.</p>			
Reason for the Dispute (please select the one that applies)			
<p>The ICB has failed to follow proper procedure and/or that the decision was not compliant with the National Framework.</p> <p><i>(i.e., The DST is not fully completed, The MDT was not properly constituted, there was a failure by the CCG to consult with the LA, where the recommendation would result in either authority acting unlawfully)</i></p>		<input type="checkbox"/>	
<p>The ICB reached a decision that, given the same evidence, another MDT would have made a different recommendation.</p> <p><i>(i.e., Where there are significant gaps in the evidence to support the recommendation, where there is an obvious mismatch between the evidence provided and the recommendation.)</i></p>		<input type="checkbox"/>	
Rationale for Dispute			
<p>The following are the details as to why we are raising this dispute providing a clear rationale based on the areas identified above.</p>			
Authorisation by the Local Authority			
Name of Local Authority			
Officers Name		Job Title	
Phone		Email	

For ICB Use:				
Date Request Received				
Is the dispute accepted	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
An informal discussion has been set with the LA rep for:	Date		Time	
Outcome of Informal Discussion				
Agreed that the original CHC eligibility decision was correct and upheld				<input type="checkbox"/>
Agreed that the original CHC eligibility decision is overturned				<input type="checkbox"/>
Reason for the outcome decision				
Was an agreement reached to resolve the dispute?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Proceed to External Review.	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Reasons for not being able to resolve the issues at formal stage.				
Date Referred to External Review				
It should be noted that failure to successfully resolve dispute at the informal stage is monitored at Executive level of both CCG and Local Authority.				
Signatures				
NHS NEL				
Name:		Signature:		Date:
Local Authority				
Name:		Signature:		Date:

25 Appendix F – Inter-agency Dispute Outcomes Form (Formal Stage)

Continuing Healthcare Inter-Agency Dispute Outcomes Form (Formal Stage)					
Individual's Name					
Address					
NHS Number		CHC Reference Number			
Following the informal review discussion of this case held on the (date)			By NHS		
NEL and (LA)					
Outcome of Discussion (please select the one that applies)					
The reviewers agreed the eligibility decision and the case was closed.				<input type="checkbox"/>	
The reviewers did not agree and could not resolve the dispute				<input type="checkbox"/>	
Reasons for not being able to resolve the dispute at formal stage					
No agreement was reached so will proceed to External Review				<input type="checkbox"/>	
Reasons for referring to External Review					
Rationale for Dispute					
The following are the details as to why we are raising this dispute providing a clear rationale based on the areas identified above.					
Signatures					
NHS NEL					
Name:		Signature:		Date:	
Local Authority					
Name:		Signature:		Date:	

26 Appendix G – Inter-Agency Dispute Outcomes Form (External Review)

Continuing Healthcare Inter-Agency Dispute Outcomes Form (External Review)					
Individual's Name					
Address					
NHS Number		CHC Reference Number			
Independent Reviewers Decision					
ICB decision upheld			<input type="checkbox"/>		
ICB decision overturned					
Reasons for the decision					
Additional Comments and recommendations					
Reasons for referring to External Review					
Rationale for Dispute					
The following are the details as to why we are raising this dispute providing a clear rationale based on the areas identified above.					
Signature					
Reviewer Organisation					
Name:		Signature:		Date:	