

**North East London Integrated Care Board
Continuing Healthcare Placement Policy**

FINAL DRAFT for publication

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1 Aims and Values

- 1.1 The North East London Integrated Care Board (NEL ICB) have 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 The ICB 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) (National Framework) (paragraph 231) states that all 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 (this is reinforced in the Practice Guidance 48).
- 1.4 In order to ensure good practice by putting the individual at the heart of the process NEL ICB, with its partner organisations have developed a single standard operating procedure (SOP) for CHC.

2 Introduction

- 2.1 This policy sets out the principles that NEL ICB will work to when commissioning individual packages of care for individuals eligible for NHS Continuing Healthcare (CHC) as determined by the National Framework
- 2.2 This policy will explain how NEL ICB and its LA Partners will commission care in accordance with the National Framework ensuring that equity and choice are central to the delivery of care.
- 2.3 This policy applies to all new individuals when they have been confirmed eligible for CHC. It will also include existing individuals where their care needs have changed significantly since their last review and require a different care package.
- 2.4 It does not apply to:
 - Children under the age of 18.
 - Individuals who are assessed as needing 'fast-track' CHC.
 - Individuals subject to Section 117 aftercare under the Mental Health Act.

2.5 The policy has been developed to ensure that:

- NEL ICB maintain the ICBs vision on the delivery of CHC as set out in Section 1 - Aims and Values.
- A person-centred approach is taken by NEL ICB in making decisions about a care package and that the individual or their representative is at the centre of all discussions, ensuring that their care preferences and wishes are at the heart of the placement process.
- All CHC packages of care which are offered to an CHC eligible individual are sufficient to meet the individual's needs.
- Decisions about placements are made in a way that is fair, balancing NEL ICB's duties to the individual and to all the other patients for whom NEL ICB has financial responsibility.

3 National Policy Context

The strategic, legal, and operational responsibilities of this placements policy is set out in the following document's:

- The National Framework for NHS Continuing Healthcare & NHS Funded Nursing Care (July 2022)
- Care Act (2022).

4 Key Principles

- 4.1 Where an individual is eligible for CHC, NEL ICB has a duty to provide a package of care to meet the individual's assessed needs.
- 4.2 NEL ICB and their LA partners will work with the individual and/or their family/representative/advocate to identify a range of potential locations and care options which are appropriate to meet the individual's assessed needs. NEL ICB will share and discuss the potential options with the individual and their representative.
- 4.3 In selecting a provider NEL ICB will firstly assess home care, care or nursing home providers that are on the Any Qualified Provider (AQP) Framework, which is the NEL ICB preferred provider list.
- 4.4 On the occasion that an AQP Framework provider cannot be found that meets the needs of an individual, an alternate provider will be sought.
- 4.5 When looking at the suitability of a care option, information that was recorded in the Decision Support Tool (DST) alongside the individuals and representative's care preferences and wishes will be considered.

4.6 For all placements, NEL ICB will need to satisfy itself that any packages of care that are to be commissioned for an individual will be provided by a provider who are:

- Able to provide an appropriate package of care which meets the needs of the individual through a skilled and trained workforce.
- Able to provide a safe and sustainable package of care.
- Offer value for money.

4.7 At all times NEL ICB will ensure:

- That the decision-making process for selecting the placement will always include the individual and their representative.
- The placement meets the individual's needs.
- Where they do not have capacity to make decisions about their care, NEL ICB will always act in the individuals' best interests.
- Where a deprivation of liberty may result in a care package NEL ICB will provide a Deprivation of Liberty Safeguards (DoLS) assessment and ensure that this is part of the commissioning agreement.
- That the process is robust, fair, consistent, and transparent.

5 Commissioning Arrangements

5.1 How we decide on the most appropriate type of accommodation.

- The CHC team will take the following factors and guidance from the National Framework into account when considering the type of care package. (An individual's home or a care or nursing home)

5.2 For those who wish to have care at home.

'Where an individual is eligible for NHS Continuing Healthcare and chooses to live in their own home, the ICB is financially responsible for meeting all assessed health and associated social care needs.

This could include equipment provision (refer to Practice Guidance note 56), routine and incontinence laundry, daily domestic tasks such as food preparation, shopping, washing up, bed-making and support to access community facilities, etc. (including additional support needs for the individual whilst the carer has a break). However, the NHS is not responsible for funding rent, food, and normal utility bills. '

(National Framework 315).

5.3 NEL ICB will consider the following factors when looking at a care package in the persons own home:

- The individual's views and those of their family or representative will be at the centre of the assessment and decision.

- Consideration of the individual remaining or returning to home.
- If an individual was in receipt of a care package from the LA is it appropriate to continue in this living situation and build the care package around them, avoiding a move to a new facility.
- Whether there be a significant impact in moving the individual?
- The extent to which care can be delivered safely at home and without undue risk to the person, the staff, or other members of the household (including children).
- The availability of contingency or replacement services if the care package at home breaks down.
- Is the current or new living situation close to family members who will have an active role in the individual's care.
- The cultural or linguistic needs of the individual.
- The suitability of accommodation.
- The individual's GP's ability to provide primary care medical support.
- The ability to provide the services within a best value context. I.e., the cost of care at home compared to a care home.

5.4 When a care home may be more appropriate than care at home.

There are a number of factors that NEL ICB will include when considering the type of accommodation that is most relevant for the individual.

There will be circumstances where an individual care needs would not be able to be delivered in their own home and a care home may be the most appropriate option.

These include:

- A care or nursing home may be more appropriate for people who have complex and high levels of need because they benefit from direct oversight by registered professionals and the 24-hour monitoring of people
- If there is the need for a registered nurse to directly provide supervision or care then the care would be expected to be provided within a care or nursing home.
- There may be specific conditions or interventions that it would not generally be appropriate to manage in a person's home. Eg. challenging and/or unpredictable behaviour.
- The need for waking night care may indicate a high level of support. It may also be difficult to provide waking night staff in the individual's home.
- If there is a preference for care at home then these would be carefully considered on a case-by-case basis and based on the availability of trained staff in the home care providers.

5.5 A detailed consideration and costing of the person's needs and how those needs can be met in different settings will be considered and a cost-benefit analysis will be conducted.

6 Capacity

- 6.1 If a person is assessed as lacking capacity, as defined in the Mental Capacity Act 2005, to decide about the location of their CHC package, the CHC team will commission the most cost effective and safest care available based on an assessment of the person's best interests. This will be carried out in consultation with the following:
- Any appointed advocate.
 - Any attorney under a Lasting Power of Attorney, which does not authorise the attorney to decide by themselves as to where the person should live.
 - A Court Appointed Deputy whose terms of appointment do not authorise them to decide by themselves as to where the person should live.
 - Family members.
 - Any other person who should be consulted under the terms of the Mental Capacity Act 2005 Code of Practice.
- 6.2 If there is a significant dispute between NEL ICB and the individual and their family/representative about where the person should live, NEL ICB will take advice about whether the matter is referred to the Court of Protection.
- 6.3 Alternatively, if the terms of a Lasting Power of Attorney or Deputyship grants authority for the Attorney or Deputy to make decisions about where an individual lives, NEL ICB will advise the Attorney or Deputy on what they consider to be the most appropriate placement. The Attorney or Deputy will then decide whether to accept that placement as being in the person's best interests.
- 6.4 Appropriate processes will be followed regarding a DoLS, which may be the result of a placement. The National Framework states what is required when a package of care or a placement will deprive someone of their liberty. (paragraph 344 and 345). This will be updated when the Liberty Protection Safeguards (LPS) process becomes live.

7 Funding CHC Placements

- 7.1 NEL ICB has a statutory duty to provide value for money when making decisions about commissioning services. NEL ICB must balance a range of factors including individual choice and preferences, quality, safety, and value for money.
- 7.2 Throughout the placement process, NEL ICB will recognise the need to achieve best value in its use of financial resources in order that it can share the finite NHS resources equitably across all individuals for whom it has commissioning responsibility.
- 7.3 NEL ICB will consider the services from a variety of care settings, which may include an individual's own home or a residential or nursing home. NEL ICB

has a duty to make a reasonable offer of care to the individual that will meet their assessed care needs.

- 7.4 NEL ICB will consider the comparative costs and value for money when determining the model of support to be provided to an individual.

They will not however set arbitrary limits on care packages based purely on the notional costs of caring for an individual in a home.

Such arbitrary limits are incompatible with the National Framework and personal health budgets which have been developed to enable people to live independently and work or participate in society. For more detail, please see below and Practice Guidance note 45. (National Framework 317).

- 7.5 Where more than one suitable care option is available (such as a residential or nursing home package and a home care package) the total cost of each package will be identified and assessed against the best outcomes for the individual.

While there is no set upper limit on the cost of care, each case will be considered on its own merits with the expectation being that the most cost-effective option that meets the individual's assessed needs will be commissioned.

- 7.6 NEL ICB will consider the views of the individual and their family or representative regarding the preferred placement and will ensure that the process is inclusive and transparent.

- 7.7 NEL ICB will make the final decision regarding the individual CHC care package.

- 7.8 NEL ICB recognises that some individuals who are eligible for CHC and who choose to live in their own home may be entitled to other services provided by the LA. This will be for the LA to address subject to the Care Act 2014.

These services include assistance and advice regarding property adaptation (refer to Practice Guidance note 56), support with essential parenting activities, deputyship or appointeeship services, safeguarding concerns, carer support or services required to enable the carer to maintain his/her caring responsibilities.

In these circumstances NEL ICB and its LA partners may have potentially overlapping powers and responsibilities. When this occurs NEL ICB and the LA will discuss these areas of needs and agree how these needs will be met on a case-by-case basis.

8 Exceptions

- 8.1 Where an individual has been assessed as needing a placement in a residential or nursing home, NEL ICB use the London-wide Any Qualified Provider (AQP) list. This is a list of providers who have met the commissioning requirements of NEL ICB.
- 8.2 The expectation is that all residential and nursing placements will have their needs met in one of these preferred provider homes.
- 8.3 However, some individuals who are eligible for CHC may have a complexity, intensity, frequency, and unpredictability in their needs which cannot be met by the providers on the AQP list.
- 8.4 In these situations, NEL ICB will consider, on a case-by-case basis, and in consultation with the individual and/or their families, the needs of the individual and commission the most appropriate care option available that provide the safe delivery of care.

The expectation is that when there is more than one option the placement that provides best value for money for NEL ICB will be the one that is commissioned.

- 8.5 An individual or their family / representative has the right to request that an individual's care is provided in a residential or nursing home that is not on NEL ICB's preferred provider list.

NEL ICB will consider all requests on a case-by-case basis and take into account the needs of the individual and the benefits this placement would have on them.

When these situations occur, NEL ICB will expect to review the provider to ensure it complies with its commissioning requirements and is able to meet the patient's assessed needs.

- 8.6 In some circumstances there may be no available placements on the preferred provider list that meets the individual's needs.

In these circumstances NEL ICB can offer a placement outside of the AQP list. When these situations occur NEL ICB will ensure that the preferred placement provides best value for money and is able to meet the needs of the individual.

9 Personal Health Budgets

- 9.1 NEL ICB can offer individuals the opportunity to have their own Personal Health Budget (PHB). A PHB is an amount of money to support someone's health and wellbeing needs, which is planned and agreed between the individual or their representative, and NEL ICB.

Individuals eligible for NHS CHC have the right to request a PHB if their care is to be provided in a community setting, including in their home.

Individuals placed in a care or nursing home will receive a PHB but this will be notional and be held within NEL ICB.

10 Paying for care and for additional private services

- 10.1 The principle that NHS services remain free at the point of delivery has not changed and remains the statutory position under the NHS Act 2006. This includes CHC packages of care.
- 10.2 Access to NHS services depends upon an individual's clinical need and not their ability to pay. NEL ICB will not charge a fee or require a co-payment from any NHS patient in relation to their assessed needs.
- 10.3 The NHS does not allow personal top-up payments to an NHS funded CHC package, where the additional payment relates to services assessed as meeting the needs of the individual and covered by the fee negotiated with the service provider.
- 10.4 The level of care for CHC care packages is determined by a comprehensive, multi-disciplinary assessment of an individual's health and social care needs. An individual or their family or representative cannot make a financial contribution to the cost of the care identified by NEL ICB when it is part of the CHC assessment process, and the care package meets the individuals assessed care needs.
- 10.5 However, an individual has the right to decline NHS services and make their own private arrangements.
- 10.6 Where providers offer additional services which are unrelated to the individual's CHC assessed needs, the person may choose to pay for these additional services themselves. Examples of services that are likely to fall outside NHS provision include hairdressing, aromatherapy, beauty treatments and entertainment services.

If an individual wishes to pay for additional private, the individual will be advised by NEL ICB about the options available to voluntarily enter into a separate agreement with the care provider for the provision of the services.

If the patient enters into a voluntary agreement for the private provision of additional services, the provider will invoice the client separately for these.

If the provider refuses to invoice separately it could be considered unfair under Consumer Law and NEL ICB will not be able to purchase care at this home.

The Individual or their family or representative will be advised that they need to consider other homes, including those on NEL ICB preferred provider list.

- 10.7 In all cases the authorisation for the commissioning and funding of packages of care lies with NEL ICB. Packages of care which have not been authorised will not be paid for.

11 Reviews

- 11.1 The care package will be reviewed after the first three months of its commencement and then annually as a minimum thereafter to ensure that it continues to meet the person's needs.

The purpose of the review is not to reassess eligibility for CHC.

Where there is clear evidence of a change in needs to such an extent that it may impact on the individual's eligibility for NHS Continuing Healthcare, then the ICB will arrange a full reassessment of eligibility for NHS Continuing Healthcare

- 11.2 Where care is being provided at home, Individuals and their family or representative should be aware that there may be times where it is no longer appropriate to continue to provide care at home. This will be part of the review process for those having care at home.

For example, where deterioration in the person's condition may result in the need for clinical oversight and 24-hour monitoring that can only be provided in a care or nursing home. Or of the individual presents an increased risk that would prevent them from remaining at home.

- 11.3 If the review identifies that the individual's needs have changed to an extent that their care package may need a significant adjustment, the care package will be reviewed and all options will be explored.

This will not apply to increases in need or cost during a single period of up to two weeks that are required to cover either an acute episode of ill health or for end-of-life care to prevent a hospital admission

- 11.4 If the change in need requires a change to the location of care this will be discussed with the individual and their family or representative and the

principles set out in this policy will be followed, including the consideration of exceptional circumstances.

12 Disagreements and Disputes

- 12.1 If an individual, family member or representative disagrees with the package of care which has been offered and wishes to raise a complaint, they should make this in writing and submit any supporting evidence within 28 days of receiving the decision.

The process should follow the NEL ICB Complaints procedure.

- 12.2 When a dispute is received, it will be formally acknowledged by a letter that explains the dispute process and timescales.
- 12.3 Disputes will be heard by a panel consisting of clinicians and lay members of NEL ICB joint committee or relevant committees.
- 12.4 The Disputes Panel will only consider whether NEL ICB's offer was not reasonable considering all the circumstances including the individual's wishes and preferences.