



Walsall Council



Walsall Clinical Commissioning Group

NHS CONTINUING HEALTH CARE OPERATIONAL POLICY FOR LOCAL APPEALS

**(Disputes in respect of NHS Continuing Health Care decisions initiated by individuals
or authorised carers on their behalf)**

April 2014



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1. INTRODUCTION

1.1 Purpose of this document

All Clinical Commissioning Groups (CCGs) are required to establish arrangements to consider appeals against decisions on eligibility for NHS continuing healthcare (CHC) and NHS Funded Nursing Care (FNC). The right to request an appeal rests with the patient or their representative. This document sets out the operational policy to be adopted by the CCG when individuals exercise their right to appeal and the arrangements for setting up Local Appeal Panels.

1.2 Partners to this policy

The CCG has agreed this operational policy with the Local Authority.

1.3 Background

The Department of Health first established a National Framework for NHS continuing healthcare and NHS Funded Nursing Care in October 2007. The framework set out a common process to be adopted by the NHS and Local Authorities when considering whether a patient had a primary health need and therefore was considered for fully funded NHS CHC. The Framework was subsequently revised in October 2009.

The framework has recently been subject to review and a revised National framework for NHS CHC and supporting tools was introduced with effect from November 2012.

The establishment of a national process has not been matched by a national agreement on how CCGs should operate their local appeals procedures. However, the CCG has taken into account the procedures developed by the former Strategic Health Authorities (SHAs) and has mirrored many of the principles and processes which are now adopted within this policy. It is understood that NHS England has arranged for the former regional SHA policies to be revised but this is not yet available.

1.4 The role of CCGs as determined by national guidance

This operational policy takes account of the role of CCGs when an appeal against a decision on eligibility is sought by a patient and/or their representative. That role is set out in the following national guidance:

- National Health Services Act 2006
- Local Authority Social Services Act 1970

- The NHS Continuing Health Care (Responsibilities) Directions 2007
- The National Framework for NHS Continuing Health Care and NHS Funded Nursing Care – Nov 2012 (Revised)
- The NHS Continuing Health Care (Responsibilities) Directions 2009

This operational policy will be reviewed when further directions on guidance are issued. It may also be necessary to modify the policy particularly where this helps to further clarify processes and practices in the light of experience.

1.5 The relationship between the Complaints Policy and the Appeals Policy

NHS Walsall's Customer Care (Concerns and Complaints) Policy enables people to make complaints about Walsall CCG in respect of its activities as a commissioner of NHS care.

Complaints about provider services involved in continuing care processes can be directed to the service itself, although the NHS Walsall Customer Care Team can help to facilitate access to the complaints procedure on the complainant's behalf if they prefer.

The Appeals Policy for NHS Continuing Health Care (CHC) enables people who are not happy with the outcome of the determination of eligibility for CHC to appeal against the decision, with a subsequent right to ask for an independent review by NHS England (West Midlands). There is a further right to refer the matter to the Parliamentary and Health Service Ombudsman (PHSO) if the appellant does not agree with the SHA's decision.

The appeals process requires the appeal panel to ensure that due process has been followed and as such it is expected that any concerns about process would be examined as the case progresses through the appeal panel and on to NHS England and PHSO if progression is requested by the appellant. The complaints process cannot be used as an alternative means to challenge either the outcome of the decision on CHC eligibility or the process followed. Rather, once an appeal has been made, such concerns should be highlighted via onward progression of the appeals process.

The complaints process can however be used where the issue complained about has no material involvement or relationship to the appeals process (which would affect or influence the decision making on eligibility) but is incidental to it (e.g. the manner and attitude of staff). It

is the role of the Local Appeal Panel to determine whether the assessment process has been followed and correctly applied to the eligibility criteria set out in the national framework.

Where the individual complains to the PHSO about the outcome of the Independent Review Panel on the grounds of process, the PHSO might request or require the CCG to consider the matter via the CCG's complaints process before deciding whether to investigate the complaint further. Although, the PHSO cannot make a decision on eligibility the PHSO can investigate complaints where the assessment process and the local appeal process has not been followed or where full and proper explanation of the rationale for the decision has not been provided to the patient or their representatives.

To be clear, disagreements about the assessment process and rationale for decision making is the remit of this appeals process and cannot be pursued separately in parallel or alternatively via the complaints process.

2. THE LOCAL APPEALS PROCESS

2.1 Requests for a review of eligibility

The CCG may need to make a distinction between requests for review of care needs (eligibility) and requests to appeal against a decision that an individual is ineligible. Where this distinction is unclear there should be a discussion with the individual or their representative to agree the course of action to be followed. This must be confirmed in writing so that there is no ambiguity about whether the request is for a review of care needs or a formal appeal. An example of this would be when the individual's care needs have not been reviewed for some time (or not previously assessed) and a current assessment using a DST would be helpful to establish a baseline. This also avoids funding delays for those who are deemed to be eligible based on an up-to-date assessment rather than delay until a more protracted review can take place for retrospective periods of care.

Requests for a review of care needs should not be registered as an appeal until the outcome of the fresh review is communicated in writing and this is then followed by a written request to appeal against a decision on eligibility.

2.2 Involvement in the assessment process

Every effort should be made to engage individuals or their representatives in discussions about eligibility for NHS continuing healthcare and assessments should ideally be discussed with them by the CHC assessor or one or more representatives of the Multi-Disciplinary Team (MDT). This process will ensure that all significant care factors are taken into account and will help to develop a better understanding of the criteria for eligibility. This may not always be possible to achieve and the absence of involvement or participation does not invalidate the assessment. However, an important prelude to the setting up of a Local Appeal Panel is to discuss and explain the assessment with the patient or their representative if, for any reason, they were not present or have had no dialogue or discussion about the content of the Decision Support Tool

Individuals or their representatives¹ have a right to be informed about the outcome of an assessment for eligibility for NHS continuing healthcare. This includes the outcome of applying the Checklist (the initial screening tool) and the outcome following the use of the Decision Support Tool (full assessment tool)

Individuals should be given clear information stating whether they meet the criteria and explaining the reasons for the decision reached. Disputes frequently occur because people are not made aware of the criteria and are not able to understand why they do not qualify.

2.3 Authority to make an appeal

On some occasions, CCGs may receive requests for an appeal from a close relative, friend or other representative who does not have Power of Attorney or deputy status. Where the individual has capacity, the CCG should ask the individual whether this request is in accordance with their instructions, and where they do not have capacity, a best interests process should be used to consider whether to proceed with the request to make an appeal.

Where requests are received from a close relative, friend or other representative for an individual who is deceased, the CCG should only processed with the appeal once it is satisfied that the person making the request have the authority to act on the deceased's behalf (e.g. Grant of Probate, Letter of Administration)

¹ This applies where patients are not able to make decisions themselves and there is a designated carer or advocate (who is independent of the Local Authority and CCG) to act on their behalf.

2.4 Minimum requirements before an appeal can proceed

Before proceeding with a Local Appeals Panel the senior commissioner for CHC will ensure that the following key elements of the process have been complied with:-

- i. There must have been a full assessment using the national Decision Support Tool (DST)
- ii. The DST must have been completed by a trained CHC Assessor with involvement of other MDT members (as defined in the operational policy for the assessment process)
- iii. The decision on eligibility has been confirmed in writing by the Lead Commissioner for Continuing Healthcare to the individual or their representative
- iv. A copy of the DST has been provided to the individual or their representative
- v. If it was not possible for family members to be involved and participate in the assessment, for whatever the reason, arrangements should be made for the CHC Assessor (or other person designated by the senior commissioner) to discuss the DST with them

Failures in the key elements of process are not grounds for appeal alone. Where such failures are identified in the preparation for the appeal, the Senior Commissioning Manager may instruct the assessment to be re-done in order to ensure that the key components have been followed. The important principle to understand is that no one will be eligible for CHC simply on the grounds of 'failure of process'

2.5 Time limits for appeals

Time limits for appeals against assessment outcomes will follow the guidelines issued by the Department of Health in March 2012. This is 6 months from the date of written notification by the CCG informing the individual that they are not eligible or no-longer eligible for CHC. The time limit is 6 months commenced from 1 April 2012 and this is made known to individuals in the letter confirming the decision.

For appeals against assessed periods of eligibility prior to 1 April 2012 the CCG will only consider a retrospective period of no more than 12 months prior to this (i.e. 1 April 2011)

2.6 Request for reviews of previously un-assessed periods of care

On 15 March 2012, the Department of Health announced the introduction of deadlines for individuals to request an assessment of eligibility for NHS Continuing Healthcare funding for cases during the period 1 April 2004 to 31 March 2012.

Individuals or their representatives were asked to notify NHS Walsall in respect of previously un-assessed periods of time where there is evidence that they should have been assessed for eligibility for NHS Continuing Healthcare funding.

The time periods and the deadlines for notifying NHS Walsall have now passed. For completeness, these deadlines are set out below:

Period	Deadline
1 April 2004 – 30 September 2007	30 September 2012
1 October 2007 – 31 March 2011	30 September 2012
1 April 2011 – 31 March 2012	31 March 2013

The Department of Health introduced separate guidelines setting out the process for considering requests for reviews for previously un-assessed periods of care for the above periods. This process is being followed by Walsall CCG

In cases where there is evidence using the national framework checklist for CHC that a full assessment should have taken place, a DST will be completed and considered in line with the normal process. Individuals will then have the right to appeal the outcome of the DST via the CCGs local appeals process

2.7 Stages for Dispute Resolution

The stages of the process are summarised as follows:-

Stage 1: Informal procedure

Discussion with individual or their representatives with one or more members of the MDT or separate discussion with the CHC Assessment Co-ordinator and /or Lead Nurse, if appropriate. If the individual is not satisfied, then an appeal can be made by the individual or their representative in writing to CCG.

- Stage 2:** **Local Appeal Panel Hearing**
Individual or their representative has the right to make a case for eligibility to a Local Appeal Panel.
Written communication with explanation to individual or their representative within a maximum of 6 weeks unless there are exceptional circumstances which must be communicated to the appellant
- Stage 3:** **Appeal to NHS England (West Midlands)**
If the individual or their representative does not accept the decision of the Local Appeal Panel they can ask NHS England (West Midlands) to convene an Independent Review Panel (IRP) to consider the case.
- Stage 4:** **Appeal to the Parliamentary and Health Service Ombudsman**

If the individual is dissatisfied with the outcome of the Independent Review Panel they have the right to appeal to the Parliamentary and Health Service Ombudsman. The PHSO cannot make a decision on eligibility but can examine the process by which the decision has been reviewed by the CCG and NHS England at Stages 2 and 3 above.

This document sets out in more detail the procedures to be followed at local (CCG) level for Stages 1 and 2 of the overall appeals process.

3. STAGE 1 - INFORMAL PROCEDURE

3.1 Prior to proceeding to the formal appeal stage

If the individual or carer does not agree with the outcome of the CHC assessment they can ask for the case to be reviewed. However this sometimes happens because the eligibility criteria is not understood or because the reason for the decision has not been properly explained to them.

This informal stage is an essential pre-requisite to the formal appeals process at Stage 2 and Stage 3. Ideally, carers should already have had the opportunity to participate in the completion of the Decision Support Tool. They will therefore have been able to contribute to the assessment and also gain a better understanding of how the level of care needs was determined for each of the care domains.

If, for any reason, the carer was not able to participate in the assessment, the opportunity to comment on the accuracy of the assessment can still be provided to them at this informal stage. During the assessment stage, the CHC assessor is empowered to make adjustments to the DST and the recommended outcome if information or evidence is provided which had not previously been taken into account.

This stage will also include an explanation of rationale for the decision including how the assessed care needs have been applied to the eligibility criteria set out in the National Framework for NHS Continuing Health Care.

Stage 1 may be unnecessary where the individual or their representative have already been fully involved in the assessment and have had the rationale for the recommendation fully and properly explained to them by the CHC Assessment Co-ordinator

If the Lead Commissioner for NHS continuing healthcare is satisfied that the discussions described above have already taken place as part of the assessment process, this stage can be waived.

4. STAGE 2 - LOCAL APPEAL PANEL HEARINGS

4.1 The right to make an appeal

If the informal procedure fails to achieve resolution, the individual has the right to make a formal appeal. Appeals must be in writing and signed by the individual or a representative who is authorised to act on their behalf.

Individuals or their representatives have the right to advocacy. If this is required, they may request support to find an advocate via the CCG. Advocates should be independent of the CCG and the Local Authority.

It is not appropriate for legal representatives to represent individuals or carers at Local Appeal Panels. This is not a legal process but one which looks at care needs with professional / clinical judgements being used to apply these to the eligibility criteria. Solicitors can attend Local Appeal Panels to represent the views of individuals but must not act in a legal capacity or make legal challenges about the national framework.

4.2 The role of the Local Appeal Panel

The role of the Local Appeal Panel is to ensure that:

- i. the assessment process has been followed (see section on 'minimum requirements before an appeal can proceed')
- ii. the assessment is an accurate reflection of the individual's care needs
- iii. that these have been properly applied to the eligibility criteria set out in the National Framework for NHS CHC (i.e. that the individual has a primary health need)

The Local Appeals Panel cannot:-

Consider challenges to, or make rulings against, the National Framework for NHS Continuing Health Care and NHS Funded Nursing Care (applicable to claim periods after 1 October 2007) or to consider challenges to the Birmingham and Black Country SHA criteria in use prior to this date.

4.3 Timescales for Local Appeals Panel Hearings

A review by a Local Appeal Panel should not proceed where the individual concerned has not undergone a full assessment using the Decision Support Tool or has not had the opportunity of an informal discussion. Stage 1 should be completed before a Local Appeal Panel is convened

Local Appeal Panel hearings should be convened without undue delay. However, it has become impossible to give a fixed timescale because there are so many variable factors. These include:

- (i) The receipt of the completed pro-forma which incorporates consent to obtain hospital, social work, care home and GP records etc.
- (ii) The receipt of evidence of 'authority to act' in the case of deceased patients
- (iii) The volume of records to be considered across the timespan of the period from which the clinical assessor must then compile a 'needs portrait'
- (iv) The volume of other appeals under consideration at the time
- (v) Finding suitable dates for family and panel members for the LAP to be held

When the records have been received the Appeals Administrator will communicate with the individual or their representative to inform them and to give an estimate of the likely timescale for the appeal to be heard. Similar communications should take place in circumstances where there are delays or difficulties in obtaining copies of records

Written confirmation that a Local Appeal Panel will be convened should be forwarded to the individual or carer with an explanation of the process.

4.4 Membership of the Local Appeal Panel

The Local Appeal Panel will normally consist of:

- A panel chair (an individual who is not an employee of the CCG)
- A representative nominated by the Local Authority
- A senior manager from the CCG (not involved in CHC)

In attendance will be a clinical advisor to the panel (who will be a nurse who is experienced in CHC assessments and can advise the panel on the application of the assessment to the eligibility criteria) and, if required, the CHC Manager who can advise on policy and process

The panel may invite other health professionals to give advice to the panel as they consider appropriate (e.g. a mental health professional).

4.5 Role of the Clinical Advisor

Most panels will have a clinical advisor present. Their role is to:

- Advise the Local Appeal Panel on the original clinical judgements and how they relate to the National Framework. They should not provide a second opinion on the clinical diagnosis, management or prognosis of the individual.
- Examine the information provided in the case file and produce a needs portrait which summarises the care needs and input to the individual's care over the time period
- Panels may also wish to seek the advice of a Clinical Advisor to help understand the wider nature of conditions and how different needs may interact.
- Ensure that no significant clinical issues have been overlooked by the panel during their deliberations.
- Provide any other observation on the holistic clinical care needs associated with the condition.
- Advise the panel on whether any information provided by the person making the appeal could have a bearing on the outcome on eligibility.

- Advise the panel on whether any important information or evidence is missing which could influence the outcome of the decision (this could include seeking advice from other clinical specialists if appropriate).

4.6 Local Appeal Panel Decision

The Local Appeal Panel will carefully consider all of the arguments put forward by the family and weight this against the recommendation made by the MDT. The panel must consider each care domain and reach a view on which kind of care is appropriate.

Taking into account the individual's care needs as a whole, the panel must base its decision on whether it considers that the individual has a primary health need using the four key indicators defined in the national framework (i.e. Nature, Complexity, Intensity and Unpredictability)

The panel chair should encourage the panel to meet a unanimous decision wherever possible. They must take into account the view of the clinical advisor. If this cannot be achieved then a majority decision must be made.

4.7 Communicating the outcome of the Local Appeal Panel Hearing

The outcome of the Local Appeal Panel's decision should be communicated in writing to the appellant within a maximum of 6 weeks of the decision being made unless there are exceptional circumstances which prevent this. In such circumstances the appellant will be informed in writing, the reason for this giving an anticipated timescale of when the report can be expected.

If the outcome is that the individual is not eligible, a full written explanation must be provided giving clear reasons why they do not meet the eligibility criteria. The letter should also inform the individual or carer of the right to ask NHS England to convene an Independent Review Panel.

The decision made by the Local Appeal Panel will stand even if there is a further appeal to NHS England and be implemented from the date of the letter signed by the Head of Commissioning for NHS Continuing Healthcare

4.8 Moving a patient during an appeal

Individuals have the right to continue with their existing care arrangements pending the outcome of an appeal. However, they do not have the right to deprive other patients of specialist NHS care which can only be provided in that setting (e.g. acute stroke ward, medical assessment ward, mental health assessment ward). It might also be that appropriate on-going care cannot be safely provided in an acute hospital setting and to continue to do so would put the individual or others at risk. It may therefore be necessary for the patient to move to a more appropriate care setting at this point (e.g. a nursing home) and this will be arranged by the CCG pending the outcome of the appeal to the Local Appeal Panel.

Discussion will take place prior to any move between representatives of the NHS Hospital Trust and the individual or their authorised representative to explain the reasons why a move to another care setting is necessary. The reasons for such a move must then be communicated in writing to the individual or their representative by the hospital trust.

4.9 Requests to reconsider negative Checklists

If an individual has been screened out from full consideration following use of the checklist, they may ask the CCG to reconsider its decision and agree to a full assessment of eligibility (i.e. arrange for the Decision Support Tool to be completed and a decision made on eligibility). The CCG should give this request due consideration taking account all the information available, including additional information from the individual or carer. A clear and written response should be given including the individual's (and, where appropriate, their representative's) rights under the NHS complaints procedure if they remain dissatisfied with the position.

4.10 Continuation of funding pending an appeal

When an individual is assessed as not eligible for CHC funding by the CCG this decision is effective as soon as it is made. The CCG has no obligation to fund on-going care pending the outcome of an appeal although this decision could be revised by the local appeals process or by successful appeal to an Independent Review Panel.

Where an individual who has previously been eligible for CHC funding is considered to be no longer eligible, funding will continue for a period of 28 days from the date of the letter to the individual giving notice that they are no longer eligible

4.11 Unjustified Appeals

The CCG has the discretion not to convene a Local Appeal Panel in exceptional circumstances. This could apply, for example, in the event of an appeal based on a decision supplied where its completion was unjustified after the checklist stage but was nevertheless completed because this was requested by the individual or their representative. It is expected that the exercise of such discretion would be confined to cases where an individual, their family or carer wishes to challenge an assessment decision, but the patient clearly falls well outside the eligibility criteria because the DST indicates such low or no level of health care need to make an appeal unjustifiable. To identify cases of this nature, the following steps should be followed:

- There must be clear written evidence that the assessment was undertaken in accordance with the National Framework and supporting tools.
- The individual must fall clearly outside of the criteria for Continuing Health Care or, as appropriate, NHS Funded Nursing Care
- The Lead Nurse for NHS Funded Care must have reviewed the paperwork and provided the CCG with his/her professional advice in writing; and
- The matter should be discussed with the NHS Continuing Care Lead at NHS England (West Midlands) in order to seek agreement that the need to convene an appeals panel under the circumstances is unreasonable.

Before making such a decision, a Director or other designated Senior CCG Manager should be notified and agree with this decision. In such cases, a full written explanation should be provided to the individual or their representative together with a reminder of their rights under the NHS Complaints Procedure.

4.12 Legal involvement and legal costs

There is no role for legal professionals in the Local Appeals Process. Individuals or their representatives who attend Local Appeal Panels should restrict their comments to statements about the individual's condition and care needs and descriptions of the process followed by the CCG. The Local Appeals Panel will not consider any legal challenges to either the eligibility criteria or the responsibilities of the NHS. If individuals choose to instruct lawyers to challenge the decision on eligibility they should be advised that any legal costs incurred will not

be reimbursed by the NHS.

5. STAGE 3 – APPEAL TO NHS ENGLAND

5.1 The right to ask for an independent review

The NHS Continuing Health Care (Responsibilities) Directions 2009 require NHS England to establish independent review procedures. The procedures are in place so that individuals or their nominated representatives can challenge a CCG's decision about their eligibility for NHS Continuing Health Care.

The CCG will advise individuals of their right to appeal to NHS England if they are unhappy with the Outcome of the Local Appeal Panel.

The Operational Policy for Independent Review Panels (IRPs) produced by Strategic Health Authorities (November 2009) provides detailed guidance to CCGs about the case files / documentation required by IRPs and the role of the CCG representatives in presenting the CCG's case. This guidance is being revised by NHS England but remains in place until such time as it has been finalised

Unless there are exceptional circumstances, the CCG will comply with the outcome of the IRP on the recommendation of NHS England. Any challenge by the CCG to NHS England's recommendation must only be made following discussion with the Chief Executive.

6. STAGE 4 – APPEAL TO THE PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN

6.1 The right of further appeal about the process

Individuals or their representatives have the right of further appeal to the Parliamentary and Health Service Ombudsman (PHSO) if they remain unhappy with the outcome of the Independent Review Panel. The PHSO cannot determine eligibility for NHS Continuing Health Care. The role of the PHSO is to consider whether due process has been followed and to ensure that full and clear explanation has been given to the appellant about the reasons why they were not eligible.

Dependent upon the nature of the concern raised with them, the PHSO may advise the individual to pursue the matter via the CCG's complaints procedure before deciding whether to investigate the matter further.

7. ADMINISTRATIVE PROCESS FOR APPEALS

7.1 Initial appeal request

Once the Senior Commissioning Manager for Complex Care has determined that the written request represents an appeal against a decision on eligibility, the appeals administrator will:

- Give the case a unique reference number and enter it on to a database
- Create a file and attach a tracking sheet (**Appendix 1**)
- Acknowledge the request for review (**Appendix 2**) and ask the individual to complete a review questionnaire if they have not already done so (**Appendix 3**)
- Enclose a copy of the CCG's information pack, entitled 'Information about CHC Eligibility and the Appeals Process' including a copy of the national information leaflet explaining CHC and FNC (**Appendix 4**)
- Inform the senior commissioning manager of the request

7.2 Obtaining the clinical / case records

The appeals administrator will obtain the following records after discussion and advice from the Lead Nurse about which records are essential:-

- hospital records
- general practitioner records
- social care records
- records from community nurses or therapists involved with the individual's
- care home records

Records will be requested using the standard format (**Appendix 5**)

The appeals administrator will inform the senior commissioning manager if any of these records cannot be obtained in a timely manner so that a decision can be made about how to proceed. If records are said to be missing or have been destroyed, a written statement to this effect must be obtained from the care home or agency concerned.

Once the records have been received, these will be passed to the clinical practitioner responsible for completing the "needs portrayal" which summarises the key facts about the individual's care needs. The needs portrayal will include a summary of the medical/clinical history and a chronology of significant events. It will highlight when previous assessments have been undertaken.

7.3 Arranging the Local Appeal Panel

The appeals administrator will make sure that the Local Appeal Panel membership accords with that determined by the CCG.

Depending upon the complexity of the case, it is for the Chair, in discussion with the Senior Commissioning Manager, to decide whether an independent clinical advisor be appointed to advise the panel during the proceedings.

2 weeks prior to the panel hearing, the individual who requested the appeal will be sent an invitation letter (**Appendix 6**). This will confirm the date and venue of the panel, names of panel members and brief description of what happens on the day. The supporting pack will include information about who can accompany the individual on the day and what sort of information would be helpful to the panel.

Any person may have a family member or other person (who should operate independently of Local Authorities and NHS bodies) to advocate on their behalf. The CCG will make individuals aware of local advocacy or other services which may be able to offer advice and support if requested. In considering if there is a need for advocacy where the individual does not have an appropriate representative or advocate, the CCG will consider whether input from the Independent Mental Capacity Advocate (IMCA) service is needed. This is to help vulnerable people who lack capacity. Even where an individual has not elected for a family member to advocate for them, the views and knowledge of family members may be taken into account, where consent has been given to seek these views or where they lack the mental capacity to give their consent and a best interest decision needs to be made.

Upon completion of the above steps, the appeals administrator will send the core set of documents to the panel members and clinical advisor to allow time for reading and preparation for the panel. The case file will contain the documents set out in the minimum data set*. A copy of the case file will be sent to the individual who requested the review, minus any third party information as appropriate. The full clinical records will be available for scrutiny on the day of the panel meeting.

7.4 Papers to be circulated in advance of the panel hearing

The appeals administrator will prepare a pack of case papers to be sent to the appeal panel members and advisors in advance of the panel hearing. The same set of papers will also be sent to the individual or their representative at the same time. The documents circulated will be accommodated by a numbered list of each document stating what it is and its date.

A minimum data set will include:-

- A copy of the Decision Support Tool (DST) against which the appeal has been lodged
- A copy of all other DSTs covering the whole of the appeal period
- A copy of all RNCC assessments used to determine the FNC funding level
- A copy of the letter of appeal
- A copy of any statements produced by the appellant which outlines their reasons for appeal (including the pro-forma completed by the appellant)
- A needs portrait which summarises the individuals care needs from the various care records

7.5 Independent expert reports

The Local Appeal Panel may consider any reports produced on the individual's behalf by independent experts and the author may attend the panel to outline their findings provided their attendance is notified to the appeals administrator beforehand.

The CCG is not prepared to delay or defer the date of the Local Appeal Panel in order to give more time for independent experts to produce reports. This is particularly relevant in circumstances where the CCG is continuing to fund the care pending the outcome of the local appeal.

7.6 Local Appeal Panel – proceedings on the day

The Chair of the panel will explain the panel process, the remit of the panel and will seek to allay any concerns or anxieties appellants may have about what to expect

The Chair will introduce the panel members and clinical advisor to all present and set out how the meeting will be structured.

The individual/family representatives will then be invited to make their representations and discuss the decision support tool and the needs portrayal in open forum. The Chair will make sure that everyone has had an opportunity to contribute to the discussions and clarify any outstanding issues prior to asking the family to leave.

In closing the open forum element of the meeting, the Chair will make sure that the family understand when they can expect a copy of the report from the CCG.

The panel and clinical advisor will then deliberate in private and comment on any differences of view between the family representatives and the MDT view and the needs portrayal. The Appeal Administrator

will remain for this part of the panel.

7.7 Records of appeal panel proceedings

The Appeal Administrator will take notes of the discussion and these will be developed into a report which summarises the important factors which inform the decision making. This will include a domain comparison page so that the views of the family can be compared with the MDT's view and the conclusion on each domain reached by the Local Appeal Panel. The drafting of the report will be the responsibility of all panel members, led by the Chair. The report will be circulated to panel members in order to ask them to confirm that the report is an accurate account of the deliberations and decisions reached. A verbatim transcript or separate minutes will not be produced as the format of the report will capture the proceedings of the Local Appeals Panel, the substance of key points of deliberation and the decision reached. Local Appeal Panel meetings will not be recorded to ensure that the deliberations of the panel are free-flowing and uninhibited.

The Chair of the panel will send a signed copy of the panel report **(Appendix 7)** to the senior commissioning manager who will in turn send the report to the individual/family representative. The covering letter **(Appendix 8)** will set out the CCG's decision as a result of the Local Appeals Panel and will also advise on the fact that the individual, or their representative, that they can ask NHS England to convene an Independent Review Panel (IRP).

The Local Appeal Panel process will be considered complete at the point at which the decision letter is sent to the family. All papers relating to the appeal will be retained in the NHS England is known.

Documentation relating to individual cases will be retained for a period of time in keeping with the Department of Health's guidance on retention of records.

It is the responsibility of the Lead Commissioner for Continuing Healthcare to make sure that the decision made by the Local Appeal Panel is implemented. Any restitution/reimbursement of funds will be made in accordance with separate guidelines produced by the Department of Health.

For appeals made after 1 October 2009, the decision of the Local Appeal Panel will stand and any CHC funding which has continued to this point because an appeal was lodged will cease even if the individual or their representative makes a further appeal to NHS England.

Appendix 1

JRS Draft1 – January 2014

CHC Appeal Tracking Sheet

LAP Ref No.	
NAME	
D.O.B	
D.O.D. (if applicable)	
Current Funding Status e.g. CHC / FNC / Self-funder	
GP Registration details	
Person Making Appeal	
Relationship with patient	
Claim Period	
Date Appeal Received	
Acknowledgement sent with consent form	
Consent form received	

Records requested:-	Date requested	Date received
Social care <input type="checkbox"/>		
Hospital <input type="checkbox"/>		
Care Home <input type="checkbox"/>		
GP <input type="checkbox"/>		
Community Nurses or therapists if applicable <input type="checkbox"/>		
Needs Portrait completed		
LAP Membership (Names)		
LAP Panel date agreed		
Letter to appellant sent confirming LAP arrangements		
LAP OUTCOME	Appeal upheld <input type="checkbox"/>	Appeal rejected <input type="checkbox"/>
LAP outcome letter sent to appellant		

Local Authority notified (if appropriate)	
--	--

Request made for IRP		
Case folder sent to SHA		
IRP date		
IRP outcome	Appeal upheld <input type="checkbox"/>	Appeal rejected <input type="checkbox"/>
Further appeal to HSO		
File Closed		
Period of eligibility agreed by LAP or IRP		
Letter sent to appellant asking for financial details		
Invoices or evidence of care costs received		
Details of benefits obtained from DWP or relatives		
Retrospective payment agreed	<p style="text-align: center;">£</p> <p>Amount</p> <p>Interest (if applicable) _____</p> <p>TOTAL</p>	

--	--

Appendix 2

Ref:

Insert date

Insert name

Insert address

Dear *[Insert name]*

INSERT PATIENTS NAME (DOB Insert)

I write to acknowledge receipt of your letter of *[insert date]* asking the CCG to review the eligibility of the above named for NHS Continuing Healthcare.

In order to progress this matter, I would be pleased if you could complete the enclosed form which also incorporates the consent of the individual or authorised others on their behalf, to access the various care records.

Please also find enclosed a copy of a public information leaflet published by the Department of Health which give s brief explanation of NHS Continuinghealth Care. I also enclose an information leaflet produced by the CCG which provides more detail on the criteria for eligibility and the appeals process

Yours sincerely

[Insert name]

Appeals Administrator

Encs.

Appendix 3

APPEAL FOR NHS CONTINUING HEALTH CARE

1. PATIENT DETAILS	
1.1 Full Name	
1.2 Last home address	
1.3 Previous address if a care home	
1.4 Date of birth	
1.5. Date of death (if applicable)	
1.6 Name and address of GP	
2. PERSON MAKING APPEAL	
2.1 Name	
2.2 Address	
2.3 E-mail address	
2.4 Telephone number	Home: Mobile number:
2.5 Relationship to patient	

2.6 Who is the next of kin? (name and address)	
2.7 Does the individual have the capacity to request the appeal?	YES ↑ NO ↑
2.8 If yes, have they agreed that you can act for them?	YES ↑ NO ↑
2.9 If deceased, has Grant of Probate been applied for and by whom?	
2.10 Has Power of Attorney been given by the Individual for you or anyone to act on their behalf? (Please indicate name of person(s) and the authority held) Please attach copy of Power of Attorney.	
2.11 What period of time do you wish the appeal/review to cover? i.e. At what point in time do you consider that the patient met the criteria for NHS Continuing Health Care (please give start and end dates)	
2.12 Please set out briefly the reasons why you wish to request a review / appeal	

3. AUTHORITY TO DISCLOSE PERSONAL INFORMATION BY PATIENT

I provide authority for a representative of NHS Walsall Commissioning Department to access my health records and relevant documentation in order to assist in the Continuing Care Review Panel process.

I understand that consideration of the request for funding will necessitate

discussion between Walsall CCG, my GP, the hospital, care home/care agency and the Local Authority (Social Care), for which I give consent.

I am also happy for officers at Walsall CCG to contact me by telephone or in writing about this matter.

Telephone:

Address:

4. SIGNATURE OF PATIENT

4.1 Signature

4.2 Date

5. AUTHORITY TO DISCLOSE PERSONAL INFORMATION BY ATTORNEY

I being the holder of a valid power of attorney – attached - provide authority for a representative of NHS Walsall Commissioning Department to access the health records and relevant documentation of in order to assist in the Continuing Care Review Panel process.

I understand that consideration of the request for funding will necessitate discussion between Walsall CCG, my GP, the hospital, care home/care agency and the Local Authority (Social Care), for which I give consent.

I am also happy for officers at Walsall CCG to contact me by telephone or in writing about this matter.

Telephone:

Address:

6. SIGNATURE BY POWER OF ATTORNEY

6.1 Signature

6.2 Date

PLEASE RETURN TO:

Tracey Everitt
Lead Commissioner for Continuing Healthcare – Complex Care
NHS Walsall NHS
Goscote House
Goscote Lane
Walsall
WS3 1SJ

Tel: 01922 602467
Fax: 01922 602420

Appendix 4



**NHS Continuing Health Care
Public Information about CHC Eligibility and the Appeals Process**

July 2013

JRS Draft1 – January 2014



BACKGROUND

The Department of Health established a National Framework for NHS Continuing Health Care and NHS Funded Nursing Care in October 2007. The framework set out a common process to be adopted by the NHS and Local Authorities when considering whether a patient had a primary health need and therefore was considered for fully funded NHS CHC. The framework has recently been subject to review and a revised National framework for NHS CHC and supporting tools was introduced with effect from 1 October 2009.

ELIGIBILITY FOR CONTINUING HEALTH CARE

Eligibility for NHS Continuing Health Care is not dependent on a particular disease, diagnosis or condition, nor does it depend on who provides the care or where the person lives. It can be provided in a care home, a care home with nursing or in the person's own home.

NHS Continuing Health Care is fully funded by the NHS because NHS care is free. On this basis, eligibility is determined by whether or not a person has a **primary need for health care** as opposed to personal social care and the need for a safe environment which a local authority could be expected to provide. However, it does not a person's care needs for nursing care does not make them eligible for full NHS funding; this is often only one element of a person's care package and the panel needs to look at the full picture of the person's needs in order to determine whether they have a primary need for health care.

The primary need is assessed by looking at all of a person's care needs in detail and relating them to four key indicators:

- Nature:** the type of condition or treatment required and it's quality and quantity.
- Complexity:** symptoms which interact, making them difficult to manage or control.
- Intensity:** one or more needs which are so severe that they require regular interventions
- Unpredictability:** unexpected changes in condition which are difficult to manage and present a risk to the individual or others.

MINIMUM PROCESS REQUIREMENTS BEFORE AN APPEAL CAN PROCEED

Before proceeding with a Local Appeals Panel the Lead Commissioner for CHC will ensure that the following key elements of the process have been complied with:-

- vi. There must have been a full assessment using the national Decision Support Tool (DST)
- vii. The DST must have been completed by a trained CHC Assessor with involvement of other MDT members (as defined in the operational policy for the assessment process)
- viii. The decision on eligibility has been confirmed in writing by the Lead Commissioner to the individual or their representative
- ix. A copy of the DST has been provided to the individual or their representative

- x. If it was not possible for family members to be involved and participate in the assessment, for whatever reason, arrangements should be made for the CHC Assessor (or other person designated by the senior commissioner) to discuss the DST with them

STAGES FOR APPEALS PROCESS

The stages of the appeals process are summarised as follows:-

Stage 1: Informal procedure

Discussion with individual or their representatives with one or more members of the MDT or separate discussion with the CHC Assessment Co-ordinator and /or Lead Nurse, if appropriate. If the individual is not satisfied, then an appeal can be made by the individual or their representative in writing to the CCG.

Stage 2: Local Appeal Panel Hearing

Individual or their representative has the right to make a case for eligibility to a Local Appeal Panel.
Written communication with explanation to individual or their representative within 15 working days

Stage 3: Appeal to the Strategic Health Authority

If the individual or their representative does not accept the decision of the Local Appeal Panel they can ask the Strategic Health Authority to convene an Independent Review Panel (IRP) to consider the case

Stage 4: Appeal to the Parliamentary and Health Service Ombudsman

If the individual is dissatisfied with the outcome of the Independent Review Panel they have the right to appeal to the Parliamentary and Health Service Ombudsman. The PHSO cannot make a decision on eligibility but can examine the process by which the decision has been reviewed by the CCG and the SHA at Stages 2 and 3 above

ROLE OF THE LOCAL APPEAL PANEL:

The role of the Local Appeal Panel is to ensure that:

- iv. the assessment process has been followed (see minimum requirements)
- v. the assessment is an accurate reflection of the individual's care needs
- vi. that these have been properly applied to the eligibility criteria set out in the National Framework for NHS CHC (i.e. that the individual has a primary health need)

YOU SHOULD BE AWARE THAT THE PANEL CANNOT:

- Consider challenges to, or make rulings against, the lawfulness of the National Framework for NHS Continuing Health Care or NHS Funded Nursing Care (applicable to claim periods after 1 October 2007) – these would need to be sent to the Department of Health who would respond within their complaints procedures
- Consider challenges to, or make rulings against, the lawfulness of former SHA eligibility criteria (these would apply to cases for the period 1 April 1996 to 1 October 2007) these should be sent to the Strategic Health Authority to respond within NHS complaints procedures
- Review challenges to decisions relating to claims for funding prior to 1st April 1996 because there was no requirement for NHS organisations to have eligibility criteria in place prior to that date
- Review challenges to decisions relating to claims for funding up to 1st April 2004 as the period for such claims expired in November 2007 unless exceptional circumstances apply
- Deal with complaints regarding decisions made by the local authority/ social services departments, e.g.: policies for means testing; quality of information about care homes; policies regarding the sale of assets in order to fund care – these should be sent to the relevant local authority who will respond within their complaints procedures.
- Deal with complaints about the length of time taken to process your claim for NHS Continuing Health Care – these will be dealt with within the NHS complaints procedures.
- Deal with complaints about the type and location of any offer of NHS Funded Continuing Care services – these should be sent to the Senior Commissioning Manager who will respond within NHS complaints procedures
- Deal with complaints about the content of any alternative care packages which have been offered – these should be sent to the Senior Commissioning Manager who will respond within NHS complaints procedures
- Deal with complaints about the treatment or services a patient may be receiving or has received – these should be sent to the relevant organisation providing the service, who will respond within NHS complaints procedures.

SHARING OF PATIENT INFORMATION:

CCGs have to comply with all the legal rules that govern when we can share patient information. We want to be sure that we are able to fully consider all relevant information and share this with families who may be seeking a review, whilst taking care that we do not share patient information inappropriately. CCGs have adopted the following policy for sharing of patient information in relation to NHS continuing healthcare.

For individuals lacking capacity and therefore unable to take their own decisions:

If you are acting on behalf of the patient and hold an Enduring Power of Attorney registered with the Court of Protection (prior to 1st October 2007); or hold a Lasting Power of Attorney (post 1st October 2007) you may in general exercise the patient's right of access under the Data Protection Act 1998 on behalf of the patient.

The CCG will need to have a copy of this documentation before records are shared.

Where there is no right of access to patient records, the CCG may disclose some information on a voluntary basis. Any such disclosure must, however, take into account the duty of confidence owed to the patient.

Any information disclosed on a voluntary basis will be limited to the minimum information necessary for you to contribute usefully to the review procedure.

1. For Deceased Patients:

Where you are the personal representative of the deceased or another person with a claim arising out of the patient's death, you have a right of access to information relevant to your claim under the Access to Health Records Act 1990.

The CCG will need to have a copy of your authorisation to act on behalf of the patient and disclosure of any information will be subject to the following limitations:

The CCG must take into account the duty of confidence owed to the patient - this exists even if the patient has died. Therefore registered Power of Attorney must be provided with your application,

The CCG must also consider whether the patient would have wanted or expected information to be disclosed to any other persons. This safeguard forms part of the Access to Health Records Act 1990.

In all cases, the CCG will seek the opinion of one of its senior clinical governance staff members to ensure that any records disclosed comply with the Data Protection Act 1998 and the Access to Health Records Act 1990.

1. For Individuals with Capacity

Where an individual has capacity to make their own decisions, they have the right to be consulted about what information they want shared with relatives/advocates who may be supporting them. The individual can specify they do not want all information shared.

2. Third Party

The panel will have access to all relevant documentation relating to the case under review and this may include information provided by third parties. Please note that the CCG and panel may not be in a position to share the totality of this documentation where third party information is held. This can include care home records, GP notes and records from the local authority (social services).

The NHS has a duty to protect the privacy of the individuals named in the records but also has a duty, as the data controller, to consider whether it is reasonable to disclose the records. Any such disclosure will be the minimum information necessary to satisfy the purposes of the disclosure e.g. to enable someone representing an applicant to contribute usefully to the review process for NHS Continuing Health care.

If the CCG considers it inappropriate to release certain third party records as part of the review process, the individual is entitled to request copies from the originating organisation.

3. Additional Information produced on the day

If any additional information that you have not shared with the CCG is presented to the Chair on the day of the panel hearing, this may result in the Local Appeal Panel being postponed to a later date while the panel consider the evidence. Therefore, it is in your best interest to send all relevant information you feel could influence the outcome of the case to the CCG at least seven days before the Local Appeal Panel is due to take place.

LOCAL APPEAL PANEL PROCEDURE – what you can expect

It is expected that the local appeal panel will follow a set format:-

CCG and family representatives will be invited into the meeting and introduced to all those in the room. The panel will consist of:-

- * The Panel Chair
- * A representative from the Local Authority
- * A Senior Manager from the CCG
- * A Clinical Advisor (if appropriate)

The chair will invite the patient and/or family representatives to set out the reason for their

request of a review of the MDT's recommendation and to make any opening remarks they feel appropriate.

The chair will invite the CCG (usually the Clinical Advisor) to give a brief overview of the case, including a summary of the individual's care needs, from the Needs Portrait.

The chair will then ask the patient/family to give their view on their relative's health needs, concentrating on the decision support tool and domains.

The chair and panel members may then choose to question both the family member and the clinical advisor so that they have clarification on any points that may be of concern to them.

The individual/family may ask questions at any time to clarify their understanding of any point which has been made.

At conclusion of the above process, the chair will thank the family representatives for attending, set out the timescale for issue of the panel report and ask the family / representatives to leave the room.

INVOLVEMENT OF SOLICITORS

Some families appoint a solicitor to act as an advocate for them at the Local Appeal Panel hearing. It is important to note that the local appeal panel meetings are not a legal process, or quasi judicial hearing. Chairs of panels will not allow proceedings to be drawn into discussions on points of law.

The appeal process is not a legal process and is based on the judgement of clinical / professional staff about care needs.

People making appeals are therefore advised that the CCG will not meet any legal costs incurred, even if the appeal is successful.

ROLE OF THE CLINICAL ADVISOR

Most panels will have a clinical advisor present. Their role is to:

- Advise the Local Appeal Panel on the original clinical judgements and how they relate to the National Framework. They should not provide a second opinion on the clinical diagnosis, management or prognosis of the individual.
- Examine the information provided in the case file.
- Panels may also wish to seek the advice of a Clinical Advisor to help understand the wider nature of conditions and how different needs may interact.

- Ensure that no significant clinical issues have been overlooked by the panel during their deliberations.
- Provide any other observation on the holistic clinical care needs associated with the condition.
- Advise the panel on whether any information provided by the person making the appeal could have a bearing on the outcome on eligibility.
- Advise the panel on whether any important information or evidence is missing which could influence the outcome of the decision (this could include seeking advice from other clinical specialists if appropriate).

RECORD OF APPEAL PANEL PROCEEDINGS

The notes of the Local Appeal Panel will be produced in the form of a report which summarises the important factors which inform the decision making. This will include a care domain comparison page so that the views of the family can be compared with the MDT's view and the conclusion reached on each domain by the Local Appeals Panel.

The notes will record the way in which the appeal panel considered each of the four key factors which help determine a 'primary health need' (i.e. nature, complexity, unpredictability and intensity).

Appendix 5

NHS CONTINUING HEALTH CARE - REQUEST FOR COPY RECORDS

From: Tracey Everitt – Lead Commissioner for Continuing Healthcare

Fax number:

Telephone contact number:

To:

For the attention of:

Fax number:

Date:

Number of pages:

Name of patient: [Insert name]

Date of birth: [Insert date]

NHS Walsall has been asked to conduct a review of the eligibility of the above named patient to NHS Continuing Health Care (i.e. full funding by the NHS for ongoing health care) I would be grateful if you would send **ALL** documentation that you have concerning this person for the period **[Insert dates from and to]** as soon as possible; please send photocopies of notes (NOT ORIGINALS).

- a) I attach the consent of the patient
- b) I attach consent from a valid representative – with copy of evidence of authority
- c) The patient does not have capacity to give consent and does not have a valid representative. I therefore request copies of these records in order to make a decision regarding NHS Continuing Health Care eligibility and I believe that such access is in the best interests of the patient.

If you do not hold any records for this patient, I would need confirmation of this in writing, so that I am able to verify that records are not available from this source. If you have any questions or concerns about this request please do not hesitate to contact me at the above telephone number.

I would appreciate an early reply because, in some cases, funding must continue until the review has taken place.

Tracey Everitt
Lead Commissioner for CHC – Complex Care

This facsimile transmission is strictly confidential and is intended solely for the person or organisation to whom it is addressed. It may contain privileged and confidential information and if you are not the intended recipient, you must not copy, distribute or take any action in reliance on it. If you have received this facsimile in error, please notify us on the above number as soon as possible and return the transmission to us by post.

Appendix 6

Ref:

Insert date

Insert name

Insert Address

Dear [Insert name]

Local Appeal Panel for [INSERT PATIENT'S NAME]

I refer to my letter of [insert date] and write to confirm the arrangements to consider your appeal relating to the eligibility of the above named for NHS Continuing Health Care.

Date: [INSERT DETAILS]

Time:

Venue:

The role of the Local Appeal Panel is to ensure that:-

- (i) the assessment process has been followed
- (ii) the assessment is an accurate reflection of the individual's care needs
- (iii) the assessment of care needs have been properly applied to the eligibility criteria set out in the National Framework for NHS Continuing Health Care

You may wish to submit a written statement for consideration by the panel, even if you are planning to attend the meeting. If you are able to send this to me in advance of the panel, this would be most helpful in order to give the panel an opportunity to consider it properly. If you are unable to attend, it would be in your interests to make a written statement setting out your views so that the panel is clear about the reasons why you disagree with the decision.

Please find enclosed a copy of the papers circulated to the panel:-

[INSERT NUMBERED LIST OF DOCUMENTS e.g.1. Decision Support Tool dated 1.4.09]

The outcome of the Local Appeal Panel will normally be communicated to you within 15 working days. If this is not possible because further information or evidence is required, we

will let you know. A detailed report setting out the panel's findings will be sent to you within a further 10 working days unless there are exceptional circumstances.

If you do not agree with the outcome of the Local Appeal Panel you have the right to ask the Strategic Health Authority to convene an Independent Review Panel.

Please do not hesitate to contact me if you require any further information or assistance.

Yours sincerely

[INSERT NAME]
Appeals Administrator

Copy: file

Appendix 7

Walsall CCG Local Appeals Panel			
Meeting held on		<i>[Insert date, time and venue]</i>	
<p>The role of the Local Appeals Panel is to ensure that:</p> <ol style="list-style-type: none"> 1. the assessment process has been followed (i.e. that the minimum requirements, as defined in the appeals policy, have been satisfied) 2. the assessment is an accurate reflection of the individual's care needs 3. the assessed needs have been properly applied to the eligibility criteria set out in the National Framework for NHS CHC (i.e. that the individual has a primary health need) 			
Panel Members			
<i>[Insert name]</i>		Panel Chair	
<i>[Insert name]</i>		<i>[Insert title]</i>	
<i>[Insert name]</i>		<i>[Insert title]</i>	
In Attendance / Advisors to Panel			
		Clinical advisor to the panel	
		Appeals Administrator	
Person about whom the appeal is being made:			
Surname	<i>[INSERT NAME]</i>	Forename	<i>[INSERT NAME]</i>
Address		GP name and Address	
Date of Birth		Date of Death	-
HOSPITAL INFORMATION			
Ward			
Consultant			
Social Worker			
PAPERS CIRCULATED FOR CONSIDERATION			

Report	Name	Date	Report considered in review
Needs Portrait			Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>)
DST			Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>)
DST			Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>)
RNCC(s)			Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>)
Statement from family			Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>)

Medical Assessment			
Diagnosis			
Prognosis:			
Assessment against NHS Continuing Health Care criteria			
Name of Assessor(s)	Designation	Date of Assessment	Outcome
Assessments for RNCC			
Name of assessor	Designation	Date of Assessment	Outcome
CONSENT			
Has the patient's consent been obtained for this referral and assessment process? YES (<input checked="" type="checkbox"/>) subject to confirmation/consultation with family and carers (* yes)			
Please ensure that the contact details are completed with this information			
CONTACT DETAILS for person making the appeal (may be the person themselves			

or their representative)	
Name	<i>[Insert name]</i>
Address	<i>[Insert address]</i>
E-mail	
Telephone	
Relationship	
Power of Attorney	Yes (<input checked="" type="checkbox"/>) No (<input type="checkbox"/>)

Local Review Panel Summary and Discussion

Introduction

Walsall CCG has been asked by the family of *[Insert name]*, to review eligibility for NHS Continuing Health Care (CHC) funding. The CCG has carried out a review assessment using the national Decision Support Tool which had been considered by a multi-disciplinary / multi-agency panel on *[Insert date]*. The recommendation of the panel to the CCG was that *[Insert name]* was not eligible for NHS Continuing Health Care funding on the basis that *[Insert name]* does not have a primary need for health care, taking into account the nature, intensity, complexity and unpredictability of her care needs.

Present at Review Panel Hearing

[This section should indicate whether the family were present, their names and the relationship with the patient about whom the appeal is to be considered. If the family were not present, it should be recorded here whether they were given the opportunity to be present or not. It should also be recorded here whether the family have submitted a written statement of case which was circulated to the panel to consider beforehand]

Documents Received

[List here all documents which were circulated or tabled at the hearing]

Background

[This section should be a summary of the background to the case and which paints a clear and succinct picture of how the patients care has changed over time culminating with the assessment for CHC eligibility]

LOCAL APPEAL PANEL HEARING

Introduction

The Panel Chair advised that the role of the Local Appeal Panel was to establish an accurate and clear understanding of *[insert name]* health care needs and to ensure that the eligibility criteria for NHS Continuing Health Care had been applied correctly. This hearing was, therefore, an opportunity for the family to express their views on whether the Decision Support Tool (DST) completed on *[insert date]* was in their view, an accurate reflection of *[insert name]* care needs.

Views expressed on behalf of the family

[It is essential to summarise here all of the views expressed by the family and to incorporate a summary of the main points which are contained in written statements. The

purpose of this is to ensure that the panel considers each point made and records whether they consider they have a material effect on the outcome]

[The panel chair will invite the family to comment on the accuracy of each of the care domains of the DST and invite them to comment on the level accorded to each care domain. The family's comments must be recorded under each of the heading below:-]

Behaviour

Cognition

Psychological and Emotional Needs

Communication

Mobility

Nutrition (food and drink)

Continence

Skin

Breathing

Drug Therapies

Altered State of Consciousness

NEEDS PORTRAIT

[With the family present, the panel should go through the needs portrait and record here any specific points which the family make including those points which the family consider are not accurate]

SUMMARY OF PANEL DECISION

The panel noted the findings of the Decision Support Tool. For completeness, these are reproduced below:-

Care Domain	Assessed Level of Need	Description in DST
Behaviour	<i>[Include in this column the exact wording used by the CHC assessor]</i>	<i>[Include here the exact wording from the DST]</i>
Cognition		
Psychological & Emotional		
Communication		
Mobility		
Nutrition		
Continence		
Skin		
Breathing		
Drug Therapies		
ASC		

Comparison of Assessed Levels of Need

[Record here as fully as possible the discussion of the panel on each of the care domains which the family disagree with, recording the reasons why the panel accept or reject the arguments put forward]

Care Domain	DST <i>[insert date]</i>	Family's view	Panel's view
Behaviour			
Cognition			
Psychological & Emotional			
Communication			
Mobility			
Nutrition			
Continence			
Skin			
Breathing			
Drug Therapies			
ASC			
Other			

[The panel should record here any comments about the process and confirm that the minimum requirements have been met]

CONCLUSION

[The panel must consider the question of eligibility against the 4 key indicators of PRIMARY HEALTH NEED:-

Nature

Complexity

Intensity

Unpredictability

*The panel should also consider the **quantity** and **quality** of care]*

[If eligibility for CHC is agreed for any period, the start date (and end date if applicable) must be included in this section]

Signed

Name

Panel Chair

Date

[Record here that the panel notes have been circulated to all panel members and agreed by them as a correct record of their deliberations and of the conclusion reached]

Appendix 8

Ref:

Insert date

Insert name

Insert address

Dear [insert name]

Local Appeal Panel – [insert name]

I have now received the report of the local appeal panel held on [] relating to [insert name]. Please find enclosed a copy of this report.

Having given very careful consideration to all of the views and evidence presented the decision of the local appeal panel is that [insert name] does not meet the eligibility criteria for NHS Continuing Health Care. In making this decision the panel has concluded that [insert name] does not have a primary health need taking into account the nature, complexity, intensity and unpredictability of their care needs.

OPTIONAL PARAGRAPH

In the light of this decision I have to advise you that the CCG will cease to fund [insert name] with effect from 28 days of the date of this letter i.e. [insert date]. I am sending a copy of this letter to the Local Authority so that they can arrange to support you in alternative funding arrangements if required

You have the right to appeal against this decision by asking NHS England to convene an Independent Review Panel. If you wish to exercise this right you should write to:

Appeals Administrator
NHS England (West Midlands)
St Chad's Court
213 Hagley Road
Edgbaston
Birmingham
B16 9RG

Please let me know if you require any further information or clarification

Yours sincerely

[Insert name]

[Insert Title]