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Clinical Commissioning Group

OPERATIONAL POLICY FOR NHS CONTINUING HEALTHCARE AND FUNDED NURSING CARE

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SOMERSET CCG AND
SOMERSET COUNTY COUNCIL

OPERATIONAL POLICY FOR NHS FUNDED CONTINUING HEALTH CARE

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DOCUMENT CHANGE HISTORY		
Version	**Date**	**Comments**
2.0	26.04.2010	Revised operational policy presented to CHC service delivery group
2.1	29.07.2010	Changes made following comments by Bevan Brittan LLP
2.2	07.08.2010	Revised policy presented to the CHC service delivery group, following comments from stakeholders
2.3	01.02.2011	Changes made following the approval of the CHC Procurement Strategy, and further legal advice on retrospective claims
2.4	30.01.2017	Changes made following the TUPE of the CHC team to CCG 1st December 2015 and the TUPE of Assessment Teams to CCG on 1st March 2017. Reviewed by the Patient Safety and Quality Assurance Committee
2.5	23.04.2018	Addition of process to manage split MDT recommendation
2.6	September 2018	Revised following joint working with SCC on content and revised NHS Framework 2018
2.7	16.10.18	Revised following feedback from SCC
2.8	16.11.18	Revised following further feedback from SCC
2.9	23.11.18	Small amendments from SCC feedback
3.0	24.1.19	Small amendments from SCC feedback
3.1	30.4.19	Amendment re assessment process for patients from acute sector whose needs are

		unstable as agreed with SCC at CHC MSG
3.2	01.10.19	Date of eligibility in line with NF as date of decision or 29th day from Checklist 5.13. Addition of legal detail around CCG duty to commission care 17.4. Clarification on MDT members 5.5. Assessment during appeal/dispute 5.16

Sponsor Director:	Sandra Corry, Director of Quality and Safety
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SOMERSET CCG
CONFIRMATION OF EQUALITY IMPACT ASSESSMENT FOR
OPERATIONAL POLICY FOR NHS FUNDED CONTINUING HEALTH CARE

Main aim of the document:

To provide operational framework for NHS Somerset Clinical Commissioning Group and Somerset County Council (and other Local Authorities) for process and decision making in delivering the outcomes of the National Framework for Continuing Health Care and NHS-funded Nursing Care 2018 Revised

Outcome of the Equality Impact Assessment Process:

Neutral Impact

Actions taken and planned as a result of the equality impact assessment, with details of action plan with timescales / review dates as applicable:

Training for all individuals involved in the CHC process will be ongoing

Groups / individuals consulted with as part of the impact assessment:

National consultation Taunton and Somerset NHS Foundation Trust Yeovil District Hospital NHS Foundation Trust Somerset County Council Somerset Partnership NHS Foundation Trust Somerset CCG Engagement and Advisory Group Somerset CHC Multiagency Steering Group

SOMERSET CCG

OPERATIONAL POLICY FOR NHS FUNDED CONTINUING HEALTH CARE AND FUNDED NURSING CARE

1 INTRODUCTION

1.1 This policy describes the way in which Somerset Clinical Commissioning Group ('The CCG') and Somerset County Council (SCC) and other partner Local Authorities will implement their responsibilities under the NHS Framework for Continuing Healthcare and NHS Funded Nursing Care 2018 (revised) (The Framework) (NF)as well as meet their respective responsibilities in relation to Standing Rules and Care Act legislation. The policy sets out our joint arrangements with local authorities in how we undertake our duties of assessment, decision making and subsequent provision for those people assessed as eligible for NHS Funded Nursing Care (FNC), NHS Continuing Healthcare (CHC) and joint funded care.

1.2 This policy will focus on Somerset's agreed delivery model and as such is aligned to the principles laid down within The Framework which should be read in conjunction with this policy. As a consequence this policy will be framework compliant but will not restate the content of The Framework

1.3 This policy also sets out the responsibilities of Somerset CCG in those situations where eligibility for CHC has not been agreed, and for the management of Appeals that may arise as a result of CHC funding decisions. This policy will not address the management of interagency disputes, choice and equity or the provision of Personal Health Budgets (PHBs), these arrangements are laid down in the NHS Somerset's Dispute Resolution Policy, Choice and Equity Policy and PHB Policy.

1.4 CHC funding supports a package of ongoing care provided by solely by the NHS to a person aged 18 or over to meet health and associated social care needs that have arisen as the result of disability, accident or illness. These individuals have been assessed as having a primary health need. The limits of the Local Authority provision and the concept of primary health need arise from the interaction between duties and limitations placed on Local Authorities under the Care Act 2014 and the duties placed on CCGs and NHS England under the NHS Act. The Framework requires both NHS bodies and Local Authorities to ensure that the assessment of eligibility for and provision of, continuing care takes place where possible within 28 working days from the completion of the CHC checklist and in a timely and consistent fashion. The CCG and SCC are committed to working in partnership to achieve this

2 PURPOSE AND PRINCIPLES

2.1 This policy ensures that individuals who are eligible for health funding receive timely assessment and review and receive care in line with the

principles detailed in paragraphs 67 to 71 of the Framework as listed below:

2.2 All individuals will have access to fair and consistent assessment and decision making through the CHC process. The process of assessment and eligibility decision making will be person centred and undertaken in a consistent way by trained and competent staff. The assessors will support understanding of the CHC process and documentary tools to maximise individuals and their families and/or representatives ability to take part in the process in an informed way

2.3 That individual's are informed and, where possible, written consent obtained at the point of referral. Where this is not evidenced, consent will be obtained at the commencement of assessment. For those who lack capacity to consent the principles of the Mental Capacity Act (MCA) 2005 will be adhered to.

2.4 CHC assessors, where possible, will aim to work in partnership with social care professionals, patients / clients and their families, and their representatives throughout the process. Where this has not been possible, CHC assessors will demonstrate that reasonable efforts have been made to support partnership working.

2.5 Patients and their families' representatives and advocates will be provided with information to enable them to participate in the process.

2.6 The CCG will support the provision of advocacy where this is required and/or requested, to individuals through the process of application for CHC.

2.7 CHC process and eligibility decisions will be evidenced based and transparent for individual patients /clients and their families and for partner agencies and staff.

2.8 Once an individual has been referred for a full assessment for CHC (following use of the Checklist); CHC assessors will co-ordinate the assessment and arrange to collate all relevant information to populate the DST. Information will be gathered from a range of sources including professional assessments, applicants and/or their representatives and care providers. Assessments will, where possible, be undertaken jointly with the relevant agencies to support a comprehensive multidisciplinary assessment of an individual's health and social care needs. Where Local Authorities have not been available to support and reasonable efforts by the CCG to engage can be demonstrated, the process to decision by the CCG based on the available evidence will not be delayed.

2.9 Assessments and decision making about eligibility for NHS funded CHC where possible will be undertaken within 28 working days of the notification date to the CCG (receipt of a valid checklist). Where there are unavoidable delays, individuals, their representatives and Local Authorities will not be disadvantaged and funding for CHC eligible

individuals will be backdated to date of notification for CHC assessment to the CCG. In the interim the Responsible Commissioner should ensure that care provision is not delayed as a consequence.

2.10 A practical approach to eligibility for CHC is required, which considers certain characteristics of an individual's need and the impact on the care required to manage those characteristics. Consideration of these may help determine whether the 'quality' or 'quantity' of care required by the individual is greater than the limits of a Local Authority's responsibility. As such the CCG will ensure that its assessing staff understand and apply the Coughlan test to all eligibility recommendations and decisions.

3 CONSENT AND ADVOCACY

3.1 The Mental Capacity Act (2005) created a statutory service; the Independent Advocacy service. The role of an Advocate is to help vulnerable people who lack capacity and need support in making important decisions. NHS Somerset CCG and the Local Authority have a duty under the act to instruct and consult with an Advocate if the person lacks capacity in relation to the decision and has no family, friends or representative available (or appropriate) for consultation on their behalf.

3.2 If an individual has capacity and does not consent to assessment of eligibility for CHC, the potential effect this will have on the ability of the NHS and the Local Authority (LA) to provide care will be explained to them. If an individual does not consent this does not mean the LA acquires additional responsibility to meet their needs, over and above the limit of the LA responsibility. Where there are concerns that an individual may have care needs and the level of appropriate support could be affected by their decision not to give consent then the appropriate way forward will be jointly considered by the CCG and the LA in conjunction with the individual.

3.3 Should the individual lack the mental capacity either to refuse or consent, a 'best interests' decision will be taken and recorded in line with the MCA 2005 as to whether or not to proceed with assessment of eligibility for CHC. A third party cannot give or refuse consent for an assessment of eligibility for CHC on behalf of a person who lacks capacity to consent to the process unless they have a valid and applicable Lasting Power of Attorney (for health and welfare), or have been appointed as a Deputy by the Court of Protection (for personal welfare).

3.4 Even if an individual does not meet the criteria for the Advocacy service, and regardless of whether they lack capacity they may wish to be supported by an advocate, or meet the criteria for the provision of an advocate in accordance with the Care Act (2014). This includes the person choosing a family member or other person to act on their behalf. Where required the CCG will ensure that individuals are made aware of local advocacy services.

4 CHECKLIST

4.1 The CHC Checklist is a screening tool, set deliberately low to be inclusive. The purpose of the checklist is to encourage proportionate assessments, so that resources are directed towards those people whose level of need indicate that they are most likely to be eligible for CHC. Checklists outcomes may be positive or negative, only positive checklists may proceed to full assessment

4.2 Checklists should where possible be undertaken with the involvement of individual and their representatives. A copy of the checklist should be provided and the outcome and what this means should be explained. The following practices should be observed:

- Checklists may only be undertaken by those practitioners who have been trained by the CCG and who are recorded on the CCGs register of assessors
- Assessors should ensure that they have consent to checklist or follow best interests process for those who lack capacity to consent
- Checklists must be fully populated with clear rationale and evidenced referenced. Good practice is to provide the underpinning health and social care assessments that support.
- Checklists should not be undertaken as part of routine but should be undertaken as part of professional judgement because it is considered that an individual may be in need of continuing health care and has needs that may be eligible.
- Individuals and their representative should be informed that the checklist does not indicate eligibility, only entitlement for consideration of eligibility– most people with a positive checklist will not be eligible for CHC as the threshold is set deliberately low.
- Where an individual has a positive checklist but in the professionals view has no likelihood of eligibility this should be explained to the individual and or their representative so that a discussion can be had about not proceeding to full assessment. The professional must ensure that individual and or their representative are fully aware of any implications and what the reasons are for this decision. In such instances, Quality Assurances processes will apply. Should the individual or their representative wish to proceed regardless of the professional view this will be supported.
- Checklists should not be repeated when one has already been submitted to the CCG and the process has yet to be completed.
- Checklists should not be repeated annually if the individuals needs have been assessed previously and found not eligible and where needs have not altered significantly.
- All decisions around checklisting must be communicated and clearly documented for audit and signed by the assessor

4.3 It is not necessary to carry out a checklist if:

- It is clear to professionals that there is no need for CHC at this point in time, this should be clearly documented and if there is doubt between professionals a checklist should be completed
- The individual has short term health needs and is recovering and have not yet reached their optimum potential

- The individual needs to be considered for fast track due to a rapidly deteriorating condition that may be entering a terminal phase
- An individual is receiving care under Section 117 that are meeting their mental health needs
- It has previously been decided that an individual is not eligible for CHC and there has been no significant change in needs

4.4 NHS Somerset CCG does not support the routine checklisting of individuals when they are not in their place of residence such as acute and community hospitals. Needs in hospital may not present as they would normally and may be artificially inflated. However there may be instances where a checklist is required. This may be because an individual or their representative has requested it or because in the professionals view an individual maybe in need of continuing health care and may be eligible; then the checklist should be done when needs are stable and as close to discharge as possible. Regardless of the checklist date in all cases checklists should only be **submitted** to the CCG at the point of discharge so that the 28 day time frame from **date of notification** can be supported.

4.5 Where an individual has been discharged from the acute sector with a positive checklist and their needs are unstable due to a change in care environment then the CCG will discount this checklist as it is not appropriate to undertake an assessment whilst care needs are unstable for this reason. The CCG will arrange a visit within 4 to 8 weeks of discharge and undertake a new checklist when an individual has settled, funding for individuals found eligible will be backdated to the original date of discharge. This process will support an accurate assessment of need and that no individual is disadvantaged.

4.6 Where individuals or their representatives are in disagreement with the outcome of a checklist then the reasons for this should be submitted to the CCG in writing. The CCG will consider these reasons and decide if another checklist should be undertaken. The CCG is not obliged to repeat checklists but is obliged to review the original Checklist and any new information available, and as a consequence may authorise the completion of a second Checklist. If the individual or their representative remains dissatisfied they can pursue the matter through the normal NHS complaints process.

5 ASSESSMENT AND DECISION

5.1 Prior to carrying out any assessment the CCG will undertake routine responsible commissioner checks as well as ensure that there are no current appeals or disputes with other CCGs. Where checks indicate another commissioner is responsible the CCG will direct the applicant or their representative and Local Authority to that Commissioner. Where there is a current appeal or dispute in progress the CCG will be unable to progress any assessment until such appeals or disputes have reached full resolution. In addition, CHC assessments cannot be progressed in situations where the individual's needs are unclear because care

provision is of concern or is inadequate and the individual may be considered to be in “crisis”. In such instances the assessment will not be completed and appropriate liaison will be undertaken to support the required interventions by health and social care. Once these interventions have been made and the individual is no longer considered to be in “crisis”, a new checklist will be undertaken.

5.2 Local Authorities must, as far as it is reasonably practicable, provide advice and assistance when consulted by the CCG in relation to an assessment of eligibility for NHS Continuing Healthcare. This duty applies regardless of whether an assessment of needs for care and support under section 9 of the Care Act 2014 is required. Where the Local Authority has carried out an assessment under the Care Act it must (as far as it is relevant) use information from this assessment to assist the CCG in carrying out its responsibilities. Local Authorities must respond to CCGs in a reasonable time frame by providing assistance to support Multidisciplinary Team assessments as well as respond to requests by CCGs for information. For the sake of clarity it should be understood that such requests by the CCG do not trigger a duty to assess under the Care Act but rather that Local Authorities should consider what is needed in terms of relevant up to date information that can inform assessment, therefore a needs assessment will not always be required.

5.3 To support effective partnership working the CCG will request involvement from the Local Authority using the agreed request form and provide 10 working day notice. The Local Authority will respond in 48 hours to support these assessments or direct the CCG to use its internal Social Workers to support.

5.4 The CHC assessment process is subject to routine and bespoke quality assurance by the CCG. All assessors will be trained to carry out their role competently and quality assurance is supported at individual application level overseen by a Senior Team Leader

5.5 The CHC assessment is multidisciplinary, usually consisting of a Social Worker and a Health Professional (Nurse/OT/etc.) however can consist of at a minimum 2 registered health professionals on different parts of the register, all should have expertise in CHC. The CCG aims to ensure that where possible, all assessments are multidisciplinary. The Decision Support Tool (DST) will be completed following the completion of the multidisciplinary assessment process by the CHC Assessor. The DST is a document that collates all available information into specific health domains and provides the overall picture of need, interaction between needs and totality of needs which, together with supporting evidence, supports the process of determining eligibility. Students or Support Workers can contribute to the MDT process are not able to make eligibility recommendations as this accountability sits with registered professionals. The MDT will work collectively to make a professional judgement on eligibility and this will be reflected in the recommendation. Ideally supporting evidence should be within 3 months of the checklist notification date.

5.6 A comprehensive assessment of the individual's health and social care needs is undertaken by the CHC Assessor in partnership with the Local Authority. Assessors will aim to come together to meet with the individual and or their representative however capacity demands may mean that these assessments are carried out separately by the Local Authority and CCG with the individual and or their representative and then collated into the DST by the CHC Assessor. Where current assessments exist, these will be utilised to support completion of the DST. In some instances where the Local Authority have been unable to provide an assessor to provide an assessment and or be part of the Multidisciplinary Team (MDT) within the required time frame and the CCG can demonstrate reasonable efforts to source this support, the CCG will utilise its own Social Worker assessors to constitute a MDT. In addition with agreement from SCC some applications will be supported directly by a CCG Social Worker.

5.7 The CHC Assessor is responsible for coordination and completion of the Decision Support Tool. The CHC Assessor is also responsible for ensuring that the assessment process and DST includes all relevant multi-disciplinary assessments (MDT) of the individual's care needs. This may involve specialist services where needs are significant such as speech and language or occupational therapy. This may involve obtaining records from the community nursing team, social worker, General Practitioner, care home and the broader MDT. Some discretion is required as not every professional will be required and the focus will be to include those who can support understanding of care needs rather than diagnosis or disease.

5.8 The MDT are responsible for levelling the needs in each domain, drawing up the 4 key characteristics to describe the totality of need and applying the primary health need test (paragraph 58 NF)to support a recommendation on eligibility for the CCG to review. Where both the MDT have competed the DST, this will be submitted by the CHC Assessor for verification by the CCG

5.9 Professional judgement should applied in all cases and although indicative guidance within The Framework details when eligibility should e expected in relation to levelling this in itself is not a directive.

5.10 In some instances professionals will not be able to agree on the levels of need within the domains or in some circumstances will not be able to agree on a recommendation. In such cases where there is a split recommendation and the application cannot be deferred for further information to inform perspectives; the views of each professional should be clearly documented on the DST along with their rationale. The CCG will then make a decision on eligibility based on the evidence provided.

5.11 A person only becomes eligible for NHS CHC once a decision on eligibility has been made by Somerset CCG, informed by a completed Decision Support Tool or Fast Track Pathway Tool. Prior to that decision being

made, any existing arrangements for the provision and funding of care will continue, unless there is an urgent need for adjustment.

5.12 The CCG takes a Chair approach to ratification and will only use panels in circumstances where an application has been unusually complex, the arrangements for which are described in appendix 1. For standard ratification the CCG will review supporting documents, DST and the MDT recommendation and can make the following decisions:

- Where evidence is poor or omitted, defer the application pending more information to support a decision
- not validate the recommendations of the MDT where the evidence is contrary to the recommendation. In such instances DST will be returned to MDT for further consideration and analysis of the available evidence
- validate the recommendations of the multidisciplinary team
- where a primary need for health is not found but where some health needs are evident, approve funding for the specific health element of care
- determine eligibility where the MDT cannot agree consensus on eligibility recommendation (split recommendation)and there are no grounds for deferment

5.13 Where individuals are found to be eligible for CHC, individuals and their representatives will be advised that funding will be agreed from the date of decision if verified within 28 days or 29 days after the date of checklist if application and verification is delayed.

5.14 Where individuals are residing in a care home with nursing and are found not to be eligible for CHC consideration should be made by the CCG as to whether they require the oversight and care of a registered nurse and be awarded FNC contribution to the cost of their care.

5.15 All funding decisions will be communicated in writing along with their rationale in two weeks from decision. Copies will be provided to Local Authority and Care Homes were appropriate. Decisions will not be disclosed by any authority or party prior to the individual and their representatives receiving formal written notification.

5.16 Where an application is subject to appeal or dispute no new assessment will be progressed without evidence of substantial change in need.

6 JOINT PACKAGES OF HEALTH AND SOCIAL CARE

6.1 As detailed in 5.12 joint funding may be an outcome of the CHC process. Jointly funded provision may be delivered through NHS services such as district nursing, physiotherapy, speech and language and other NHS commissioned services. A joint package of care with the Local Authority may be also be agreed if there is a particular identified health requirement which cannot be met through commissioned care. In such cases these needs will be identified within an assessment, be part of a plan of care

and described clearly on the DST. The CCG should be advised of any recommendation for joint funding so that it can make a decision based on the evidence provided to it by the MDT. Joint funding will be from date of decision. It is likely this funding will be time limited once specific needs are addressed and may no longer present.

6.2 The Somerset CCG do not provide joint funding where care home fees are higher than those supported by the Local Authority as financial reasons are not part of CHC decision making.

6.3 Joint funding may also be met under the provision of NHS Funded Nursing Care (FNC). The decision may be made that an individual meets the criteria for FNC following an assessment of need and the generation of a checklist or as an outcome of the CHC assessment process where an individual is found not eligible for CHC but has needs that require the oversight and input of a registered nurse within a care home. In cases where individuals are awaiting the outcome of the CHC process the Somerset CCG may decide to pay FNC prior to a CHC decision being reached if the process has become protracted and this decision supports the ongoing stability of the care arrangements in the interim.

6.4 In most cases of joint funding, the relevant Local Authority will remain the responsible commissioner and as such be required to initiate and lead on all reviews in partnership with the CCG. The exception to this is where the CCG funds the majority percentage of the care package, in such cases the CCG will be the responsible commissioner.

7 DISCHARGE AND INTERIM FUNDING

7.1 The CCG is committed to:

- reducing the number of individuals who are delayed in hospital when they are fit to be discharged
- working in partnership to ensure that individuals receive the care they need, when and where they need it, in accordance with the Care & Support (Discharge of Hospital Patients) Regulations 2014

7.2 Checklists should not be carried out as part of routine discharge arrangements and professionals must consider likely eligibility for NHS CHC prior to the use of the NHS CHC Checklist to support proportionate assessment and appropriate use of resources. Consideration of these needs will be undertaken before an assessment notification under the provisions of Care & Support Regulations 2014 is sent to Social Services. A CHC Checklist may be carried out after an assessment notification and only when an individual's needs are known and they no longer require acute care.

7.3 NHS Somerset CCG does not support full assessment for CHC in the acute or community hospital setting. To ensure that unnecessary stays on acute hospital wards are avoided, the CCG will provide interim funded care where an individual is likely to be CHC eligible and has a positive

checklist. The CCG will not fund individuals who have a positive checklist and are not likely to be eligible, in such cases the Local Authority will fund. This determination will be made by the CCG in consultation with the Local Authority. The CCG will also provide interim funding for those self-funding individuals who have a positive checklist, are unlikely to be eligible but for whom funding is causing a barrier to discharge. The interim care package or placement will continue until the determination of eligibility for NHS CHC has been made following a full application using the Decision Support Tool. Interim funding is not indicative of eligibility and this must be clearly explained to individuals and their families by discharging teams.

7.4 The Somerset CCG recommend that full assessments to determine eligibility will take place approximately 4 -6 weeks after discharge when a patients needs are better understood and can be more accurately reflected within the assessment process.

7.5 Safe discharge from hospital remains the responsibility of the discharging hospital in partnership with the funding authority. Hospital staff must be sure that appropriate provision will be available to meet the person's needs after discharge, including:

- care provision
- a safe environment
- moving and handling equipment
- medication; continence supplies
- advance notice to the District Nurse and GP

7.6 For those patients who present a challenge to discharge teams and are interim funded, the CHC team will work in partnership to help source placements and providers. All other patient discharges which are interim funded will be managed by hospital discharge teams. All patients who are interim funded must not be placed into a care home or have a package of care agreed without CHC approval, this is necessary to support CHC governance and contracting arrangements.

7.7 This approach ensures that only those likely to be CHC eligible and who may have need of continuing healthcare proceed to full DST and as a consequence, that resources are not inappropriately deployed from those who need them. This approach also ensures that the Local Authority is able to control commissioning arrangements and access to contributions for those not likely to be eligible at point of discharge.

7.8 Intermediate Care including Discharge to Assess in Somerset are supported through wider CCG commissioning and not through a CHC arrangements

8. FAST TRACK

8.1 There may be circumstances where an individual not already in receipt of CHC Funding has end of life care needs, is presenting with a rapidly deteriorating condition and may be entering a terminal phase. They may

need fast track funding to enable their needs to be urgently met. In these circumstances the application for NHS funded CHC will require 'fast tracking' for immediate provision of NHS funded care. Not all individuals at end of life will need fast track funding and many will have their needs met through other pathways. These pathways may include the provision of community nursing services, Marie Curie, Funded Nursing Care in care homes, Hospice or hospital care.

8.2 The fast track tool must be applied by an appropriate clinician. Appropriate clinicians are those responsible for an individual's diagnosis, treatment or care such as a registered medical practitioner and or registered nurse. These can include senior clinicians employed in the voluntary and independent sectors that have a specialist role in end of life needs where the organisation's services are commissioned by the NHS. Others involved in supporting those with end of life needs, including those in voluntary and independent sector organisations may identify the fact that the individual has needs for which use of the Fast Track Pathway Tool would be appropriate. In such cases these individuals must contact the appropriate clinician. The Fast Track Pathway Tool will be used to outline the reasons for the fast track decision. Somerset CCG supports the direct involvement of hospital staff in this process to ensure the timely discharge for these patients, supporting end of life care decisions and providing clear accountability for decision making.

8.3 Fast track applications will have same day decisions about eligibility made where possible to support the preferred priorities of the individual for their end of life care.

8.4 When the fast track tool is successfully applied then all care costs including accommodation within care homes should be supported as they would under normal CHC funding criteria. There is no application of this funding where parts of the costs are met by the individual or the Local Authority. Individuals will be supported wherever possible to reside in a place of their choice so that their wishes are respected in line with End of Life Care Choice Commitment.

8.5 A review of individuals and their care needs should take place no sooner than 6 weeks following funding decision. This review may indicate that an individual continues to deteriorate and fast track funding is still required or that their needs have changed and/or stabilised and that a full review of eligibility utilising the DST is required.

9 CASE MANAGEMENT & RE-ASSESSMENT OF NEEDS

9.1 Somerset CCG will ensure that all individuals in receipt of CHC funding will have a commissioner care plan detailing their needs and how they should be met by any provider. This care plan will be informed by current assessments including those under the Care Act 2014 as well as the individual preferences, where possible, on how their assessed needs can be met. These plans will be informed and agreed by the individual or their representative. As part of its commissioning arrangements the CCG sets

out in its contract with providers that they must draw up a detailed plan of care that meets the assessed needs of the individuals whom the CCG funds. If the NHS is commissioning, funding or providing any part of an individual's care, a case review will be undertaken to reassess that their care needs are being met and to the standard expected by the NHS.

9.2 Somerset CCG expects such reviews for individuals in receipt of both NHS funded CHC and NHS Funded Nursing Care. In cases where joint funding applies the Local Authority will lead on reviews and invite CCGs to attend however the CCG will be responsible for reviewing any specific provision of care that they are responsible for funding

9.3 Care reviews for individuals in receipt of NHS CHC funded care will be undertaken for individuals three months following the initial assessment and then as a minimum standard on an annual basis. The main aim of the review to ensure that needs are understood and that individual is receiving the care that they need. Checklists may form part of any review if there is a significant change in needs

9.4 The NHS has a responsibility to provide or commission care based on the needs of the individual being primarily for healthcare and, therefore, this may not be indefinite. In some circumstances an individual's needs might change and therefore so might their eligibility for NHS CHC. It is the Somerset CCG's responsibility to ensure that this is made clear to the individual and their family. Some cases will require more frequent review in line with clinical judgement and changing needs.

9.5 Should a care review result in a review of eligibility for either CHC or joint funding, neither the CCG or the Local Authority should unilaterally withdraw funding without allowing for assessment and alternative arrangements to be made within a reasonable timeframe. The CCG will provide 28 day notice in writing to support the Local Authority to undertake its assessments.

10 RETROSPECTIVE REVIEWS OF CARE AND CONTINUING HEALTHCARE REDRESS

10.1 There may be circumstances where an individual not previously awarded NHS CHC believes that they were wrongly denied NHS funding. In these circumstances the individual or their representative can request a retrospective review of the individual's care needs and eligibility for NHS CHC for cases after 2012. The time frame in which these claim periods can be addressed is subject to change and NHS Somerset will abide by guidance provided by NHS England that may supersede the content of this policy

10.2 Case involving retrospective claims prior to 1 April 2012 will not be accepted, except where the applicant can demonstrate that there are exceptional mitigating circumstances.

10.3 Retrospective reviews will be carried out as soon as practicably possible and applications for living residents will take priority. Retrospectives are not subject to the 28 day from notification and Somerset CCG can only consider requests for retrospective reviews where it is satisfied that one or more of the following grounds for the review exist:

- Somerset CCG failed to carry out an assessment of the claimants' eligibility for CHC funding when requested to do so.
- it appears to the Somerset CCG that the claimant has or had a primary health need.
- the period for review relates to a time after1 April 2012, reviews previous to this date are now closed under Previously Unassessed Periods of Care.

10.4 In the absence of evidence of any of the above, Somerset CCG is not obliged to undertake a retrospective review of the claimant's eligibility.

10.5 Where a retrospective review of eligibility for NHS funded CHC is approved, appropriate arrangements will be made for financial recompense in accordance with the Department of Health Guidance for Continuing Care Redress 2015. Reimbursement of all care fees for the period of care that has been approved will be made together with interest payments. Interest payments will be calculated using the retail price index and will be payable for care fees for any previous years that are not within the current calendar years fees, that have been paid prior to the date of approval for eligibility for NHS funded CHC in accordance with the Continuing Health Care Redress Guidance, April 2015.

11. MANAGEMENT OF APPEALS

11.1 Where eligibility for CHC funding is not met, individual patients or their representative are supported to appeal against this decision within 6 months of receipt of the decision. When an appeal is received this is acknowledged, a phone discussion to share and understand views will be held and the offer of an informal local resolution meeting made, where this refused this will be documented. Notes from the meeting will be sent to the appellant within 15 working days. Should the informal meeting not provide a resolution then this will proceed to a panel resolution meeting. NHS Somerset aims to resolve these appeals within 3 months of an appeal being lodged. Where both an appeal and a dispute with the local authority have been received, the dispute will be progressed before the management of any appeal.

11.2 Individuals will be requested to provide any additional information they may have relevant to the time period. Individuals will be offered a choice of dates for the resolution meetings and will be able to attend in person or via telephone conference. Where individuals are unable to commit to dates and the CCG has made reasonable efforts to accommodate the resolution meeting where appropriate will be progress without attendance and will consider all available additional information relevant the period.

11.3 All resolution meetings will be informal and all will have decision making power to overturn any original decision. The panel resolution meeting will be Chaired by a CHC Manager and be supported by a Senior Clinician, presenting CHC Assessor and were possible Local Authority Social Worker. Local Authorities have a responsibility to nominate representatives to support independent review however where Somerset Local Authority are unable to support attendance the CCG will use its own Social Worker to support.

11.4 The meetings will provide an opportunity for individuals and their representatives to discuss care needs in detail as well as provide an opportunity to explore the rationale of the eligibility decision. The meeting will focus on areas of disagreement in care needs of the applicant as this alone has direct bearing on eligibility decisions. Process issues are dealt with as detailed in section 12.

11.5 Once all the information has been shared and understood the Chair will invite the family to leave and make its decision based on the discussions and evidence provided by individuals and their representatives.

11.6 The decision of the panel resolution meeting will be sent out in writing and if an individual or their representative remains dissatisfied they may make an application to NHS England for an Independent Review within 6 months of CCG's decision.

11.7 Further information including terms of reference for panel resolution meetings are detailed in Appendix 2

12 COMPLAINTS

12.1 If an individual patient or their representative is dissatisfied with the manner in which the overall process has been conducted rather than the eligibility decision, they may make a complaint to Somerset CCG through the Trust Complaint's process clearly detailing their reasons.

13 DISPUTES

13.1 In circumstances of interagency dispute, Somerset CCG Dispute Resolution Policy will be followed.

14 EXTERNAL LOCAL AUTHORITES PLACING INTO SOMERSET

14.1 Where external Local Authorities place individuals into Somerset and a checklist is submitted to Somerset CCG for full assessment the CCG will require the following information before progressing an application:

- The Local Authority provide 6 weeks of care records prior to the individual moving to Somerset if the move was within the last year
- All previous checklists via the originating CCG or Local Authority

- Outcome of routine Responsible Commissioner checks including detail on current disputes/appeals

14.2 If no previous checklists have been carried out the CCG will checklist the care records for the individual prior to their move and if the outcome is a positive checklist will refer the Local Authority to the originating CCG.

14.3 Once checks have been satisfied the CCG will progress the application in line with this policy

15 EXTERNAL CCGs PLACING INTO SOMERSET

15.1 When CCGs place any individual who is NHS CHC funded in a residential establishment in the area of another CCG, the placing CCG is required to inform the receiving CCG about this placement.

15.2 Where CCG's, choose to move CHC funded individuals permanently into a Somerset nursing home or a residential care home and permanently register with a Somerset GP then they remain the responsibility of the placing CCG.

15.3 Where **individuals** are CHC funded and chose to move to a residential address requiring a domiciliary package of care then NHS Somerset will become the responsible commissioner. In such cases the CCG will aim to carry out a review within 4 weeks of notification to ensure that needs are being met and determine if a review of eligibility is required.

16 OUT OF AREA PLACEMENTS BY SOMERSET

16.1 Somerset CCG, prior to making an out of area placement will review the recent, and previous CQC inspections, and will consult with the receiving CCG and LA as to whether there are any quality concerns in relation to the provider that may impact the quality of care that the individual receives. Where the individual may require on-going specialist health input, Somerset CCG will have a discussion with the receiving CCG to ensure the proposed placement is able to meet the specialist need and necessary specialist support is available in the receiving area (e.g. diabetic nurse specialist, respiratory consultant for ventilated patients). Robust arrangements need to be agreed and in place to ensure monitoring of the provider and information regarding safeguarding alerts are communicated to the placing CCG.

16.2 Where a CHC funded individual choses to move from Somerset to a residential address in another CCG area and requires a domiciliary package of care to support. Somerset CCG will write to the CCG informing them of this move and 28 days on removal of funding.

17 CONTRACTS AND COMMISSIONING

17.1 NHS CHC can be provided in any setting this includes peoples own homes and residential care homes. The CCG takes both a strategic and

personalised approach to commissioning. Strategically the CCG contracts directly with the care homes in Somerset and beyond and pays the full fees for the individual's accommodation, board and care, this is based on an agreed rate. The CCG may not support placement in some care homes or the use of some providers due to concerns with safety and or quality of provision or where providers are not under contract, in such cases the fullest possible explanation will be provided.

17.2 For individuals living in their own homes the CCG contracts with a wide range of domiciliary care providers. The CCG actively supports the uptake of Personal Health Budgets (PHB) for all CHC funded individuals living in their own home, for further information please review the CCG PHB Policy. Whilst the CCG supports personalisation and choice through its contracting and access to PHBs it also needs to exercise cost effectiveness and value for money in its commissioning arrangements, more detail for how Somerset sets out these arrangements can be accessed in the CCG Choice and Equity Policy.

17.3 Where individuals have expressed a preference in relation to their care delivery and care environment then the CCG will refer to the Additional Private Care Guidance paragraph 270 (NF) and the CCG Choice and Equity Policy to review and support a decision. The CCG may as an outcome determine that the individual should have their assessed needs met in alternative arrangements to their preference, including delivery and accommodation.

17.4 The CCG will ensure it has taken all reasonable steps to commission a package of care to meet an individual's needs. Where the CCG is unable to identify an appropriate provider to meet the needs of an individual, it will ensure it has:

- *Considered offering a Personal Health Budget if the individual considers they would be able to effectively make their own arrangements to meet their assessed needs.*
- *Considered whether a procurement process to identify providers is reasonably required and in any event ensure that a through process has been followed to contact both local and providers from further afield with a view to arranging a safe and sustainable package of care.*
- *Considered other mechanisms to attract providers.*
- Considered residential care options.

The CCG will endeavour to work with the individual and their representative/family with a view to securing a package of care

18 DE-COMMISSIONING OF CARE PACKAGES

18.1 Neither the CCG nor the Local Authority will unilaterally withdraw from an existing funding arrangement without a joint assessment and without informing the individual. Should there be reasonable efforts demonstrated to undertake a joint assessment and where this has not been possible, the

CCG will inform the local authority that an assessment will be undertaken without their input so as decision making is not unreasonably delayed. It is essential that time frames for any withdrawal of funds support the arrangement of alternative funding to ensure continuity of care.

18.2 The CHC service will notify the Local Authority that the patient is no longer eligible for NHS funding and may require a community care needs assessment. When it is agreed following assessment by the MDT that a patient is no longer eligible for NHS CHC, NHS funding will cease 28 days from the date the CCG verifies the MDT recommendation of "no longer eligible".

18.3 The CCG will invoice the Local Authority for any additional funding greater than the 28 days in circumstances such as unavoidable delays in setting up the care package.

18.4 If the individual declines a community care assessment or following a community care assessment is not eligible for local authority funding e.g. because they are responsible for funding their own care, the CCG will continue to fund care costs pending a new care package being put in place by the individual/carer who will then be charged the care costs paid by the CCG from the date of the no eligible decision. The CCG will fund for a maximum of four weeks.

19 RESPONSIBLE COMMISSIONER

19.1 Where there is uncertainty around responsible commissioner responsibility the CCG will clarify with reference to the *'Who Pays? Determining responsibility for payments to Providers'* (2016). This guidance sets out a framework for establishing responsibility for commissioning an individual's care within the NHS, helping to determine which CCG should pay for the individual's care.

20 SECTION 117 AFTER CARE

20.1 A patient detained under Section 3 of the Mental Health Act has a **right** to Section 117 after care and these arrangements are separate and different from NHS funded CHC. An individual remains on S117 until reviewed by a consultant psychiatrist, and will only be removed if all parties are in agreement that their condition has changed from being a mental disorder. Section 117 after care will cover all aspects of care arising from and related to their mental disorder. This includes those mental health needs which may be different to those needs for which a patient was originally detained. Section 117 also provides care related to, reducing the risk of a deterioration of the persons mental condition (and accordingly, reducing the risk of the person requiring admission to a hospital again for the treatment for mental disorder).

20.2 Any individual can be considered for either Care Act funding or NHS funded CHC if they present with an additional physical need that is not related to their mental disorder covered under Section 117 after care.

NHS funding will apply only if that need cannot be met through existing NHS commissioned services. In such circumstances NHS funded or part funded care may be appropriate to ensure that that specific health need can be met.

21 SAFEGUARDING ADULTS

21.1 Safeguarding Adults means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including having regard to their views, wishes, feelings and beliefs in deciding on any action.

21.2 Safeguarding adults is everyone's business. The Care Act (2014) puts in place a framework and duties for adult safeguarding. The safeguarding duties apply to an adult who:

- has needs for care and support (whether or not the local authority or CCG is meeting any of those needs); and
- is experiencing, or at risk of, abuse or neglect; and
- as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

21.3 The CCG follows the Somerset Multi Agency Safeguarding Adults Policy. There may be individuals who are eligible for CHC or Funded Nursing Care for whom safeguarding concerns have been identified and for whom a statutory (Section 42) enquiry is required to support their safety and wellbeing.

21.4 When staff identify safeguarding concerns relating to an individual, the CCG will follow the information sharing protocol as agreed by the members of the Somerset Safeguarding Adults board and in line with the Caldicott Principles. When the person has capacity to consent to information being sought, the CCG will endeavour to seek the consent of the person to share this information. There may be circumstances when information may be shared without the consent of the person if the information is in public interest. The revised Caldicott Principles state the duty to share information can be as important as the duty to protect confidentiality.

21.5 When there are safeguarding concerns with regards to an individual who is in receipt of full or joint CHC funding, the CCG will take steps to review the individual as part of a multi-agency process in relation to the concerns identified. The CCG will provide support through its commissioning arrangements and formulate a risk management plan that reflects the principles of the Care Act in relation to the care needs the CCG funds. The CCG will aim to achieve an appropriate balance between protecting the individual, and ensuring that the wellbeing wishes and choices of the adult is at heart of decision making.

21.6 In circumstances where the relevant Local Authority commences a section 42 enquiry as a result of safeguarding concerns of an individual who is CHC funded, the CCG will lead on and/or support the enquiry when the CCG is the appropriate agency to do so.

21.7 In the Somerset CCG area, where there are safeguarding concerns relating to organisational abuse, information will be shared between the providers and/or commissioners involved in the person's care. The information will also be shared with Somerset County Council's safeguarding team via the safeguarding referral number, professional referral form or email address stated in The Somerset Safeguarding Adults Multi Agency Policy. When the responsible local authority is one outside of Somerset, the responsible Local Authority will be approached by the provider/commissioner to determine the route for information sharing.

22 SAFEGUARDING CHILDREN

22.1 Although this policy relates to adults, staff in the course of their duties to implement this policy will have contact with children and young people. Somerset Clinical Commissioning Group is fully committed to promote and safeguard the wellbeing of children, in accordance with our duty under Section 11 of the Children Act 2004.

22.2 Somerset CCG has a separate policy – Operational Policy for Children's and young People's Continuing Care and Complex Needs- which describes how the CCG supports the wellbeing of children for whom the CCG commission care.

22.3 As part of their work with adults, staff may have contact with children where there are concerns about the child's welfare. Staff must work in accordance with the CCG's Safeguarding Children's policy which is available on the CCG's website.

22.4 Somerset CCG has signed up to the South West Child Safeguarding Procedures which must be used in conjunction with the CCG's Safeguarding Children's policy.

23 SERIOUS INCIDENTS

23.1 Responding appropriately when things go wrong in healthcare is a key part of the way that the NHS can continually improve the safety of the services we provide to our patients.

23.2 Serious Incidents in health care are adverse events, where the consequences to patients, families and carers, staff or organisations are so significant or the potential for learning is so great, that a heightened level of response is justified.

23.3 The needs of those affected must be the primary concern of those involved in the response to and the investigation of Serious Incidents. Patients and their families/carers and victims' families must be involved and supported throughout the investigation process.

23.4 Providers are responsible for the safety of their patients, visitors and others using their services, and must ensure robust systems are in place for recognising, reporting, investigating and responding to Serious Incidents and for arranging and resourcing investigations. Commissioners are accountable for quality assuring the robustness of their providers' Serious Incident investigations and the development and implementation of effective actions, by the provider, to prevent recurrence of similar incidents.

23.5 When there is a Serious Incident with regards to an individual who is eligible for CHC funding, the Somerset CCG will follow and expects its provider to follow the National Serious Incident Framework and the agreed Somerset Local Policy.

24 DEPRIVATION OF LIBERTY SAFEGUARDS

24.1 Article 5 of the Human Rights Act states that 'everyone has the right to liberty and security of person. No one shall be deprived of his or her liberty [unless] in accordance with a procedure prescribed in law'. The Deprivation of Liberty Safeguards is the procedure prescribed in law when it is necessary to deprive of their liberty a resident or patient who lacks capacity to consent to their care and treatment because this has been assessed as being in their best interest. The Deprivation of Liberty Safeguards is an amendment to the Mental Capacity Act (2005).
It is expected that both staff and commissioned services act in a way that is compliant with the Mental Capacity Act and Deprivation of Liberty Safeguards. It is also expected that staff and commissioned services are compliant with current and future case law and legislative changes relating to this subject. Where legislation or case law dictates a case must be referred to the Court of Protection, it is expected that staff and commissioned services are also compliant with these requirements.

24.2 The CCG has a duty to ensure that any commissioned packages of care are compliant with the Mental Capacity Act and the Deprivation of Liberty Safeguards, that statutory guidance is adhered to and case law considered. The CCG will review the packages of care and the care plan for CHC individuals to seek assurance that the least restrictive option from the commissioning options available for that person is in place. It is expected that commissioned services will provide the CCG with any documentation generated as a result of any Deprivation of Liberty Process in order that the CCG can seek this assurance.

24.3 Where there is disagreement between interested parties about whether someone is deprived of their liberty or whether the deprivation is the least restrictive option, the CCG will work with the individual, the family and all other interested parties through a best interest process in line with the

Mental Capacity Act (2005) and the associated code of practice. The fact that a person needs to be deprived of his/her liberty in these circumstances does not affect the consideration of whether that person is eligible for NHS CHC.

25 CARERS

25.1 Caring for a person at home who requires a significant amount of health care intervention can be disruptive to the household and the following considerations and actions will need to be supported:

- the NHS will inform carers of their rights to have a carer's assessment which will help identify their needs and how best to support them.
- having strangers in the house for long periods of time can place considerable pressure on carers and family members as well as the care workers themselves, and communication between carers, family and care workers is essential to maintain good relationships. However, there may be situations when it is not safe for commissioned care workers to communicate information to family/carers, such as when a vulnerable adult alert is made.

25.2 Carers and family members will be expected to:

- Continue to be involved in the care of the individual if safe to do so, in accordance with the care plan
- Provide support to care workers in undertaking some tasks, as some interventions will require two people and this is particularly important should an emergency arise
- Take part in training in the specific care of the person so that this support is provided safely
- Ensure access for care workers to areas of the household other than the immediate care area. This will include toilet and bathroom areas and access to the kitchen to make refreshments
- Ensure adequate supplies of clean linen, clothing, towels etc. are available
- Ensure the environment temperature must be maintained at an adequate level and there must also be suitable ventilation as required. Appropriate seating arrangements will also need to be available

26 TRANSITIONING FROM CHILD TO ADULT SERVICES

26.1 Legislation and respective organisational responsibilities are different in child and adult services. Eligibility for Continuing Care under the Children and Young People's Framework does not mean automatic eligibility under the adult Framework and families should be supported to understand this. CCGs and Local Authorities should work together to ensure planning and appropriate referrals are made to support the transition of children to adult services. Children's Services should make known to CCGs those children whom they believe may have need of CHC from the age of 14. This

should be followed up by the Local Authority with a formal referral for screening to the CHC Team when the child or young person is 16.

26.2 Somerset CCG actively supports the assessment for eligibility for adult CHC following a young person's 17th birthday so that funding streams for adult provision can be confirmed before the young person's 18th birthday. The health plans and other plans and assessments developed as part of the transition process will provide key evidence to be considered in the decision making process. Any entitlement that is identified will come into effect on their 18 birthday, subject to changes in need. In all cases where there are overlapping responsibilities and regardless of eligibility the CCG and Local Authority will work together to support the transition from child to adult services. The CCGs will in most cases discharge this duty through existing children and adult services.

27 TRAINING

27.1 Training is provided to all hospital and community staff, adult social care staff in the implementation of The Framework. Training will be provided in the use of the national tools, the identification of primary health need and the application process for NHS CHC.

28 EQUIPMENT

28.1 Where an individual in receipt of NHS CHC requires equipment to meet their assessed needs, this may be provided:

- if the individual is or will be supported in a care home setting, the care home will be required to provide certain standard equipment as part of the regulatory standards
- in accordance with the principles of eligibility, individuals who are entitled to NHS CHC have an entitlement, on the same basis as other patients to home loan community equipment service
- some individuals may require specialist equipment not available through the above to be purchased in order to meet specific assessed health needs e.g. Specialist supported seating. In such instances a full assessment and cost must be provided for a full funding decision

29 GOVERNANCE

29.1 Implementation of the National Framework for NHS Funded CHC and NHS-funded Nursing Care (revised) will be monitored through reports to Somerset CCG CHC Quarterly Meeting and through performance reports to the CCG Leadership Teams. These reports will be informed through the outcomes from the CHC Multiagency Steering Group.

29.2 Service providers will be audited through the criteria identified within the NHS Contract and the criteria detailed within Service Specifications.

30 REFERENCES

30.1 This policy should be read in conjunction with:

- National Framework for Continuing Healthcare and NHS- funded Nursing Care 2018 (revised)
- NHS Continuing Healthcare Checklist 2018 (revised)
- Decision Support Tool for NHS Continuing Healthcare 2018 (revised)
- Fast Track Pathway Tool for NHS Continuing Healthcare 2018 (revised)
- NHS Operating Model for NHS Continuing Healthcare 2015
- Guidance on Direct Payments for Healthcare: Understanding the Regulations 2013
- 'Who pays? Determining Responsibility for Payments to Providers 2016
- NHS Somerset Choice and Equity Policy
- NHS Somerset PHB Policy
- NHS Somerset Dispute Resolution Policy

MDT PANEL **APPENDIX 1**
TERMS OF REFERENCE

1.1 The purpose of the MDT Panel is to review the evidence in the DST and any supporting documentation to reach a recommendation on eligibility where applications are particularly challenging or complex and a panel has been requested by the assessing MDT to support the CHC process.

Composition of MDT Panel

1.2 The panel will consist of the following professionals:

- Senior CCG CHC Manager as Chair
- CHC Assessor to present application
- Somerset Local Authority representative where possible or CCG Social Worker

Panel Process

1.3 MDT members will review the file to assess whether all the appropriate information is available.

1.4 Discussions will focus primarily on care needs as this directly impacts eligibility decisions. The meeting will afford a full exploration of the areas of need and the detail of the 4 key characteristics inviting and supporting detailed discussion from all professionals contributing.

1.5 Throughout the process CHC assessor will provide information and answer any questions panel members may have about the application so that a recommendation can be made.

1.6 The panel will determine one of the following outcomes:

- the individual is recommended as meeting the eligibility criteria for CHC funding
- the individual is recommended as not meeting the eligibility criteria for CHC funding
- the individual is recommended as not meeting the eligibility for CHC funding but may have some health needs that health are responsible for funding through a joint funded package of care (in all cases these must be assessed needs, identified within a plan of care and clearly described in the DST)
- There is insufficient evidence or analysis to support a recommendation and the application is deferred for further work by the MDT assessors
- All possible evidence has been considered but the MDT cannot agree and a split recommendation is recorded

1.7 Where the panel have been able to make a clear recommendation the CCG will ratify this and provide a written outcome within 14 days. Where a split recommendation has been recorded a senior CHC Manager will review and make a decision on eligibility. The rationale for this decision will be recorded and a written outcome provided within 14 days.

APPENDIX 2

(PANEL) RESOLUTION MEETING TERMS OF REFERENCE

1.1 Once the CCG has made a decision on eligibility by Chair or Panel, if the claimant disagrees with the decision they have the right of appeal. Applicants must make their appeal in writing to the CCG setting out their reasons within 6 months from the date of notification. The CCG will aim to complete resolution within 3 months of receipt of appeal.

1.2 The CCG must offer the opportunity to the individual or their representatives to inform the CCG personally of their appeal and present any relevant additional information at the Resolution Meeting.

Resolution Meetings will be independent of original decision makers and may support one of three decisions:

- the individual meets eligibility criteria for CHC funding and therefore the original decision is overturned
- the individual does not meet eligibility criteria for CHC funding and therefore the original decision is upheld
- the individual does not meet eligibility for CHC funding but does have some health needs that health are responsible for funding through a joint funded package of care (in all cases these must be assessed needs, identified within a plan of care and clearly described in the DST

Composition of the Resolution Meeting

1.3 The decision making members will be independent of the initial Somerset CCG CHC Chair/Panel. The panel will consist of the following professionals:

- Senior CCG CHC Manager as Chair
- Senior Clinician
- CHC Assessor to present application
- Somerset Local Authority representative where possible or CCG Social Worker

Resolution Process

1.4 Following receipt of notice from the applicant that they wish to appeal the decision and the requirement to proceed to panel, a CHC manager will review the file to assess whether all the appropriate information is available.

1.5 The applicant will be requested to submit any additional information relevant to the time period in advance and with enough time to ensure that the decision makers can review in full prior to the resolution meeting. The CCG will provide the applicant with a choice of meeting dates which they

may attend in person or by telephone conference so their views can be considered.

1.6 These discussions will focus primarily on care needs as this directly impacts eligibility decisions. The meeting will afford a full exploration of the areas of need and the detail of the 4 key characteristics in which there is disagreement

1.7 Once individuals or their families have had the opportunity to fully discuss the evidence and their views in relation to care needs, they will be asked to leave. The CCG will then consider the application in light of the discussion and any new evidence relevant to the claim period and come to a determination on eligibility.

1.8 Where the CCG is unable to come to a consensus on eligibility in the light of new evidence then the case will be referred to Head of CHC or nominated deputy for a CCG decision. The Head of CHC will review the application with a senior clinician; both will be independent from all previous decision makers.

1.9 The appellant will be informed in writing of the decision within 15 working days. This letter will include the following information:

- the decision on eligibility for NHS Funded CHC
- the evidence that was presented to the panel
- the rationale for the decision based on the evidence presented
- copies of summary notes of Resolution Meeting/Chair
- information on how to appeal against the decision to NHS England for an Independent Review of the Case

1.10 Throughout the process CHC assessors will provide advice and information to the applicants ensuring where appropriate that they have access to independent advisory or advocacy services available to assist them with the NHS CHC process.