

WALTHAM FOREST CONTINUING HEALTH CARE POLICY

2015 - CURRENT

AS AGREED BY WALTHAM FOREST CCG and LONDON BOROUGH OF WALTHAM FOREST

Version 16 (Final)

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Introduction

- 1.1 The Policy for NHS Continuing Health Care (CHC) and Funded Nursing Care (FNC) details the process within Waltham Forest for referring, assessing and agreeing eligibility for NHS Continuing Health Care and for providing appropriate ongoing care arrangements. This policy ensures that the model and processes are consistent, robust and are timely in their response across the partnership of Waltham Forest CCG and London Borough of Waltham Forest. This policy sets out the external stakeholder issues that also need to be addressed when considering continuing healthcare eligibility and for when an individual is considered to be no longer eligible for CHC.
- 1.2 The Policy has been developed by a CHC commissioning task and finish group including representatives from the CCG and LWBF and experts from the NELCSU with whom the CCG contract for technical support and management of the continuing healthcare pathway.
- 1.3 Initially the task and finish group was set up to support the on-going work within the health and social care teams within Waltham Forest to manage delayed transfers of care from Whipps Cross Hospital. The Group has been chaired jointly by the CCG's Director of Strategic Commissioning and the Local Authorities' Director of Strategic Commissioning – Families Directorate. This policy represents the discussions between the CCG and the Local Authority focussed on improving the Continuing Health Care pathways and management of the market for this area.

Purpose and Values behind this Policy

- 2.1 Continuing Care is defined by national guidance as being care provided over an extended period to a person 18 or over to meet the physical and mental health needs which have arisen as a result of disability, accident or illness. An individual who needs continuing care may require services from NHS bodies and or Local Authorities. Within Continuing Care there are two various streams these are:

NHS Continuing Healthcare

This is a complete package of on-going care arranged and funded solely by the NHS, where it has been assessed that the individual's primary needs is a health need. It can be provided in any setting, where clinically appropriate.

NHS Funded Nursing Care

This refers to the assessment and funding, provided to nursing homes, by the NHS. The funding is to support the provision of nursing care by registered nurses for those assessed as eligible. The formulae for deciding funding is a national set rate per patient per bed per week.

- 2.2 The eligibility for NHS Continuing Health Care is based on an individual's assessed health needs and is not disease specific, nor determined by either the setting where the care is provided, or who delivers the care. Access to consideration and assessment is non-discriminatory, it is not based on age, condition or type of health need diagnosed. Throughout the assessment and recommendation process applied by the multi-disciplinary team they must ensure that all the individual's needs are considered, whether the need is currently being met or not. A well-managed need is still a need and it is only where the successful management of a healthcare need has permanently reduced or removed an ongoing need, such that active management of the need is reduced or no longer required, will this have a bearing on NHS continuing healthcare eligibility.
- 2.3 The National Guidance for NHS Continuing Healthcare details the tools to be used to establish eligibility, all of which are used within Waltham Forest. These are:

Continuing Care Checklist – The purpose of the checklist is to support NHS Trust staff to identify those cases where a full MDT assessment might not be necessary. If it isn't intended to complete a full DST assessment then the CCG or NELCSU must ensure that the checklist is completed by an appropriate health or social care professional, inform the patient in writing of the outcome of the assessment and record the outcome on the patient's notes. It may also help to identify if a client needs a full assessment for Continuing Care, where a full assessment is required the assessment must take place using the Decision Support Tool (described below). As detailed within the National Guidance for NHS Continuing Healthcare a nurse, doctor, other qualified healthcare professional or social care professional could apply the Checklist to refer individuals for a full assessment of eligibility for NHS continuing healthcare from either a community or a hospital setting. Whoever applies the checklist should be familiar with, and have regard to, the content and principles of this guidance and the Decision Support Tool.

Fast Track – The purpose of the Fast Track tool is to ensure that Continuing Health Care can be implemented quickly to ensure that people receive appropriate end of life care. The tool must be used where an appropriate clinician decides that a patient has a primary health need arising from a rapidly deteriorating condition and the condition may be entering a terminal phase the majority for those deemed to have less than 12 weeks to live. On receipt of the Fast Track Pathway Tool the CCG must accept the appropriate clinician's recommendation that the patient is eligible for continuing healthcare, that decision should only be reviewed following a full MDT assessment using the Decision Support Tool.

Decision Support Tool – The decision support tool is the main tool used and is designed to incorporate all health and social care assessments into one single document establishing the person's needs against the twelve domains:

- Behaviour,
- Cognition,
- Psychological and Emotional Needs,
- Communication,

- Mobility,
- Nutrition,
- Continence,
- Skin,
- Breathing Drug Therapies/ Medication
- Altered States of Consciousness

2.4 The aim is to implement the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care in order to provide appropriate care to patients. The CCG, North East London Commissioning Support Unit NELCSU and Local Authority agree to apply the following principles when conducting assessments and in their decision making:

- Needs led
- Equitable
- Culturally sensitive
- Person centred
- Robust and transparent
- Easily understood
- Adheres to guidance and best practice, and is fully compliant with the NHS Continuing Healthcare National Framework (revised) 2012

2.5 Where the decision is that the individual is not eligible for NHS Continuing Healthcare, the CCG will consider whether there is a need, on an exceptional basis, for additional support to be provided, by way of a joint care package, to meet health needs over those considered ancillary or incidental to the provision of social care, or not of a nature that social care would provide. Where ancillary and incidental health needs are identified consideration will be given to the need for care from a registered nurse. The CCG and Local Authority will deliver joint packages via a personal budget, which the system will be developed during quarter one in 2015/16.

2.6 Responsibility for informing an individual of the decision regarding eligibility for NHS continuing healthcare and the right to request a review of any decision lies with the CCG with which the individual is a patient for the purposes of CHC as set out in current Department of Health 'responsible commissioner' guidance. There should be no delay in the completion of an assessment for NHS Continuing Healthcare or the provision of treatment where there is a dispute regarding the responsible commissioner. Where disputes cannot be resolved locally then the area teams of NHS England will be consulted for the purpose of arbitration.

The current Continuing Care Team and CCG organisational arrangements for this policy

3.1 Waltham Forest Clinical Commissioning Group commission North and East London Foundation Trust to provide a clinical case management team:

3.2 Aims and objectives

- To provide on-going case management to patients deemed as meeting the NHS Continuing Health Criteria.
- To lead on all clinical aspects of care for those patients meeting the Continuing Care criteria, making recommendations to commissioners of suitable placements/ care packages based on need.
- Undertake CHC eligibility assessments for people in a community setting
- Developing individual person centred care plans and risk assessments for patients receiving care in both care homes and at home through **domiciliary** care agencies. Ensuring that quality of care provision is at a suitable standard to meet individual's on-going needs.
- To undertake reviews of Continuing Care patients for their eligibility for Continuing Healthcare funding, in line with National Guidance, irrespective of placement location.
- To lead on safeguarding alerts for Waltham Forest funded Continuing Care patients, including reviews, clinical advice and investigations.
- To oversee and maintain the NHS Funded Nursing Care process within Waltham Forest ensuring that all reviews are completed in line with National Guidance and invoices processed within NHS Guidelines.
- To promote and provide training to health and social care staff on the process/documentation for NHS Continuing Healthcare
- Ensure Safeguarding issues identified during assessment are progressed using the Waltham Forest local Safeguarding Policies and Pan London Safeguarding Adult Guidelines(2011).
- All referrals for new eligibility assessments to be completed are sent to the clinical team to progress.

3.3 The clinical team will operate to the following principles:

- Take into account an individual's preference and wishes where possible whilst giving consideration to any risks posed as to how and where the care will be delivered. In all cases the assessment process should involve and take into consideration an individual's capacity to make decisions, where the individual is unable to make decisions, has not made an advanced decision or appointed someone to make decisions regarding their welfare under the MCA and informal carers/ are unable to support the assessment team must ensure that a IMCA has been appointed to advocate on their behalf.
- Ensure there is fair access to meet an expressed wish or preference taking into account the development of a preferred provider network for residential care. Where it is not possible the team will provide clear reasons
- Financial issues must not be considered as part of the decision on an individual's eligibility for NHS Continuing Healthcare
- All decision-making must be informed by an appropriate multi-disciplinary team (MDT) assessment which is an accurate reflection of the patient's needs at the date of the assessment. The multi-disciplinary team must consist of at least two professionals who are from different healthcare professional or one professional who is from a healthcare profession and one person who is responsible for assessing persons for community care services under s47 NHSCCA 1990. The standing rules require CCGs to consult, so far as reasonably practicable, with the relevant Social Services Department within Local Authority (i.e. that authority where the patient is ordinarily a resident). The Local Authority agrees to provide advice and assistance to a CCG over individual cases as far as reasonably practicable in line with the duties set out in the NHS Continuing Healthcare (Responsibilities of Social Services Authorities) Directions 2013.

3.4 The CCG has agreed that there will be no change in funding levels or withdrawal of CHC support until a full MDT reassessment has been completed on the Decision Support Tool (DST) in line with the National Framework and the patient (or their representative) has been consulted on the recommendation. The CCG and London Borough of Waltham Forest agrees to:

- Work in honest and open partnership with all stakeholders
- Be accountable for their actions both organisationally and professionally.
- Develop and maintain collaborative and integrated working with Local Authorities, Provider Trust and other agencies.
- Be accessible and respond in a timely and effective manner. The national framework sets out expected response times to deal with referrals of 28 days for general CHC referrals and 24 hours for "fast track" referrals for needs such as palliative care etc.
- Ensure any identified deficits are rectified: this will be achieved by a commitment to clinical and managerial supervision, reflective practice, training and adherence to risk management procedures.

- Provide thorough and effective mechanisms for responding to and managing appeals, complaints and disputes.

Agreed Referral Process for Continuing Care in Waltham Forest

4.1 Type of Referral

Where an individual is in an inpatient facility provided by the NHS at the time of a CHC assessment the ward will take responsibility for co-ordinating the Multi-Disciplinary Team, which and must include Local Authority involvement. The inpatient facility will complete all appropriate paperwork and submit to the CSU for consideration at panel.

Where an individual is in a community setting, including care homes, NELFT are commissioned by the CCG to undertake eligibility assessments.

4.2 NELFT Referral Process

Referrals from members of the public can be received by telephone, letter, fax or e-mail to the NELFT Team. As per the National Continuing Healthcare guidance patients and families have the right to request an assessment for NHS Continuing Healthcare. Upon receipt of the request for a CHC assessment from a member of the public NELFT will co-ordinate a NHS Continuing Healthcare Checklist to be undertaken and if triggered a Decision Support Tool, the process will be completed within 28 days, unless in exceptional circumstances. London Borough of Waltham Forest will ensure that they support this process and the 28 day timescale.

4.3 Where referrals for an assessment are made by professionals such as Community Nurses, GPs, Social Workers or nursing homes a NHS Continuing Healthcare checklist is completed, with any available evidence that the person requires a full assessment. A full DST assessment should only be refused if the nurse assessor has satisfied themselves that the individual doesn't require an assessment. A consent form from the patient or suitable appointed representative should also be provided, though there should be no delay in completing an assessment where the individual lacks capacity to consent and it is in their best interest to proceed with a full assessment. Referrals are made to NELFT who will:

1. Screen the referral, including contacting the referring agency to obtain more information as to eligibility for a full assessment and to ensure criteria for a full assessment has been triggered and a consent form has been completed correctly and appropriately. Confirm receipt to refer.
2. Add the patient to their waiting list and contact relevant local authority and other relevant professional bodies who will make up MDT.
3. Provide copies of paperwork to the CSU to load onto the database system
4. Allocate to nurse assessor within 5 working days for assessment

4.4 **Assessment**

The nurse assessor will liaise with the MDT to ensure the co-ordination and collation of the Continuing NHS Health Care assessment .The nurse assessor is responsible for ensuring MDT, Local Authority and family/ carer involvement in the assessment process.

The time period for assessment will be agreed at allocation based on the priority of need. This must be no more than 28 days.

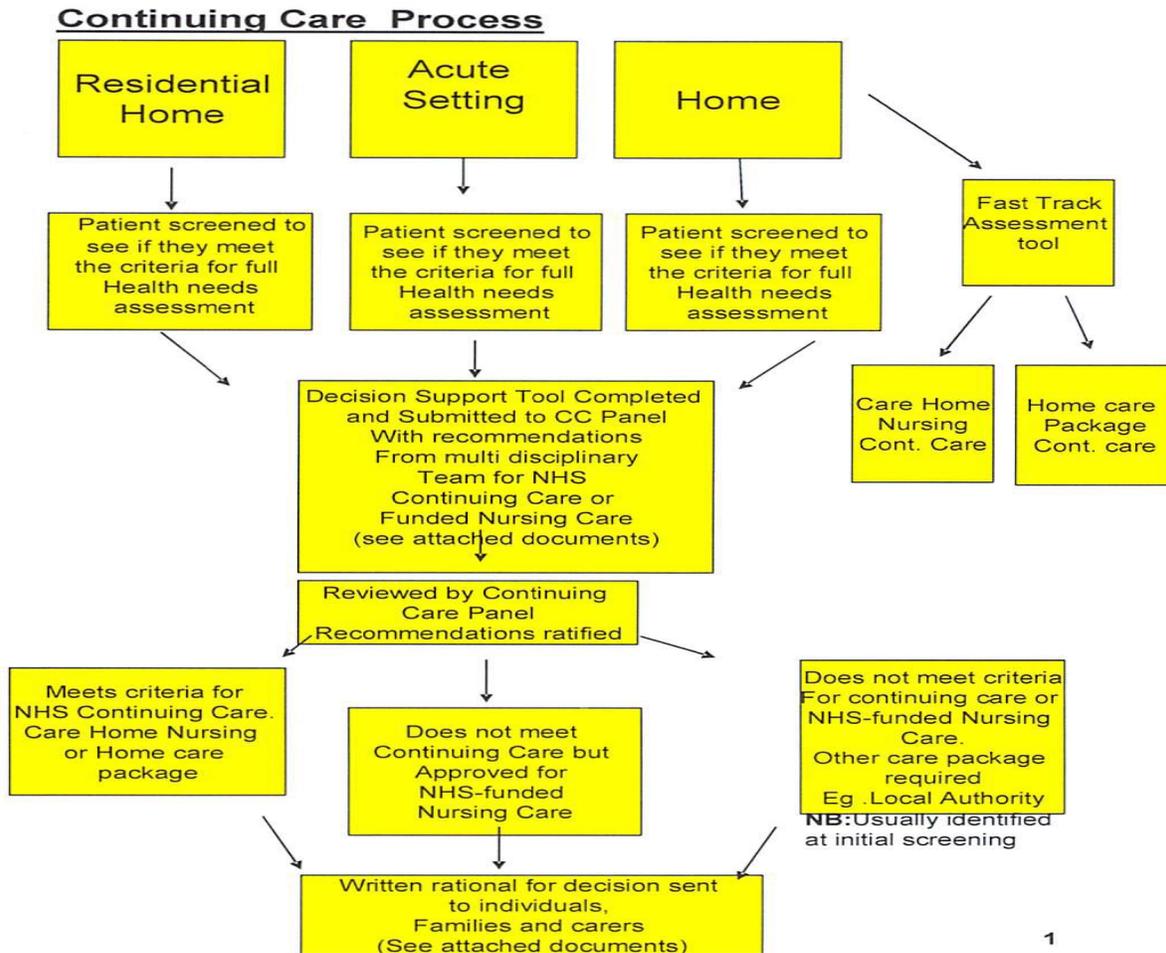
The nurse assessor is responsible for ensuring that an agreed assessment of need is recorded within the decision support tool and that this contains an agreed recommendation for consideration by the CCG.

The London Borough of Waltham Forest supports people with complex health and social care needs and long term conditions. Where the patient is supported in the community and deteriorates and the Checklist indicates that the NHS Decision Support Tool should be completed then the CHC team will ensure that the health care assessment component of the MDT assessment is completed within 28 days. In situations where the outcome on eligibility for CHC funding is not agreed then the CHC assessment should be reviewed at the CHC decision panel with all relevant partners providing their view. A joint assessment in such cases is agreed as the best practice. This should be part of the process not just considered best practice

4.5 Process

The following flow chart provides an overview of the process:

Table 1. Continuing Care Process



NB - By way of clarification, the fast track tool can be used in any care location, and not just the patient's home as above. In reality most fast track applications are generated by the acute trusts

Overview NHS Continuing Health Care Panel

- 5.1 The purpose of Continuing Healthcare panel is to assess whether an individual meets the eligibility criteria for NHS-funded Continuing Healthcare or FNC in accordance with the National Framework for NHS-funded Continuing Healthcare (DH 2012). The panel will upon reviewing the documentation ratify the recommendation or defer for further information by examining the evidence presented in the multi-disciplinary Decision Support Tool, and determining, based on evidence provided, whether or not an individual's primary need is for health.
- 5.2 Panel's role is not to make the decision of eligibility but upon review of the evidence provided within the decision support tool to ratify or query the recommendation. Panel will in some cases request further information to support a weighting on the decision support tool or the final recommendation be clear on this to the multi-disciplinary team.
- 5.3 The panel is able to ratify two decisions:
- the individual meets eligibility criteria for Continuing Healthcare funding
 - the individual does not meet eligibility criteria for Continuing Healthcare funding but NHS Funded Nursing Care
- 5.4 In cases where the paperwork is insufficiently completed a decision can be made to:
- case deferred for more information
- 5.5 The panel process should not delay discharge from an acute setting and has been designed to accommodate standard discharge pathways, however the process will only work well if there is a robust discharge process in place within an acute setting and good quality paperwork is submitted to panel. On occasions where the panel process is causing a delay, rather than acute processes, an initial funding decision should be reached between the local authority and the CCG for interim funding; in this case the dispute procedure will be followed.

Composition of Panel

- 6.1 The panel will consist of the following health and social care professionals:

Role	Organisation
CSU CHC Manager (on behalf of WFCCG)	North and East London Commissioning Support Unit
Defined by organisation	Barts Health
Continuing Care Team	North East London Foundation Trust
Clinical lead for Learning	North East London Foundation

Disabilities (As required)	Trust
Designated Social Care Manager	London Borough of Waltham Forest

- 6.2 The panel will be chaired by a commissioner from North and East London Commissioning Support Unit. The chair will not have a vote on any cases and will be bound by the decisions made by the panel members. The role of the commissioner is to ensure that decisions are made they are fair, consistent and to facilitate discussion between panel members..
- 6.3 Core membership – For the panel to proceed the following representatives must be in attendance:
- Commissioner from North and East London Commissioning Support Unit (Chair)
 - Member of North East London Foundation Trust or Barts Health
 - Adult Social Care from London Borough of Waltham Forest
- 6.4 Panel will be held twice a week, on a Tuesday and Thursday. In some cases the panel may have to schedule a special one off, on these occasions they will be scheduled with the core membership

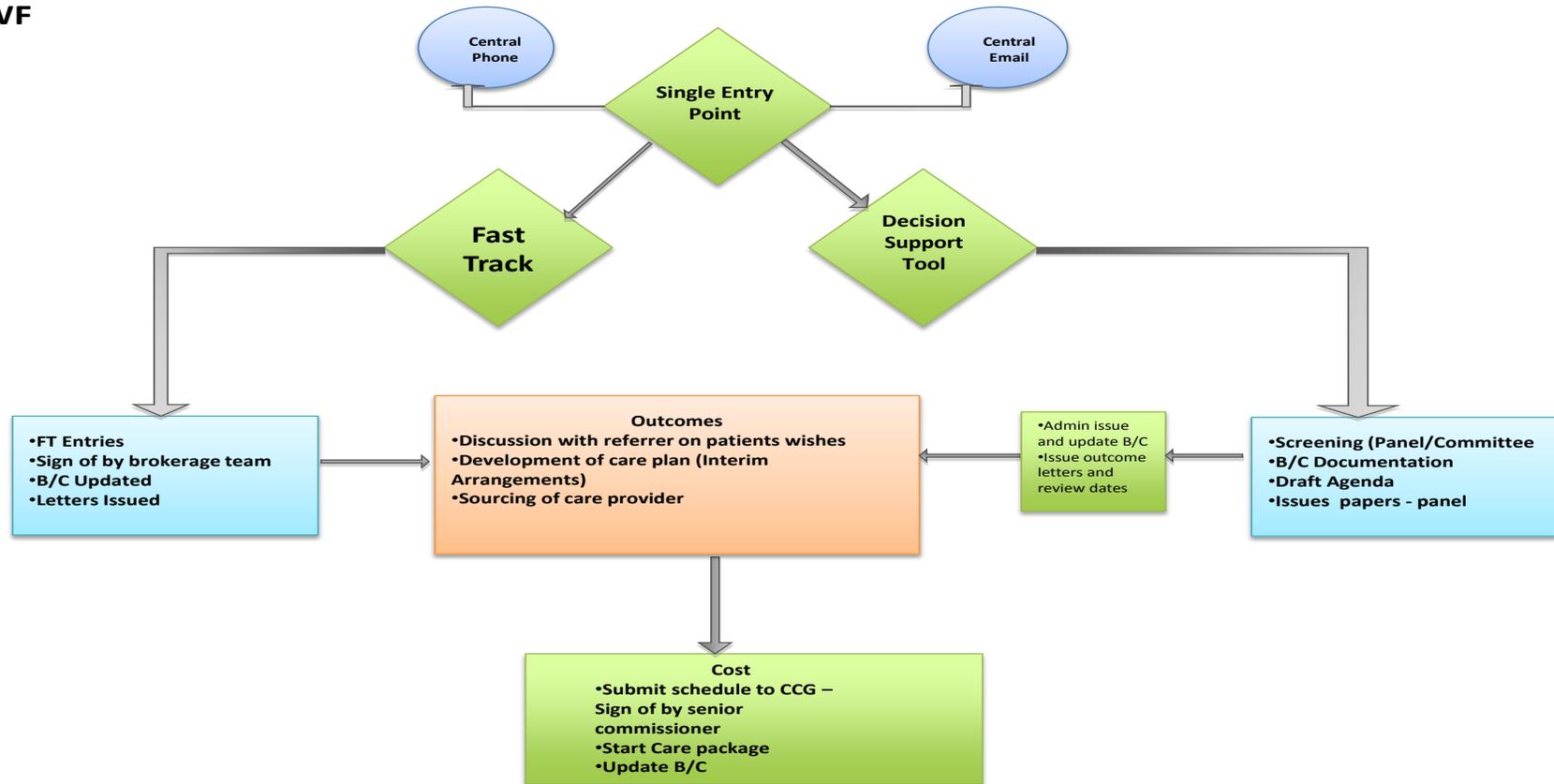
Process applied at panel

- 7.1 The agenda and papers will be issued to panel members 24hours before the start of panel. Members are expected to bring copies of their own papers.
- 7.2 During panel the following process will be applied:
1. The panel Chair will introduce the panel members and state the process for decision making.
 2. Panel members will review each case ensuring that the assessed health needs in each of the care domains within the Decision Support Tool and review the level of need with reference to the evidence presented.
 3. Panel members will consider whether there is evidence of complexity, intensity, unpredictability and nature of the health care needs presented in the Decision Support Tool, and the supporting information.
 4. The Chair will ask the panel members to consider whether the sum total of the needs presented indicates a primary need for health or for social care, and whether the evidence supplied supports the Multi-Disciplinary Team recommendations in the Decision Support Tool.
- 7.3 **Deferred cases**
- When paperwork is incomplete or requires further information a case may be deferred, on these occasions the case will not be heard until panel the following week.

Agreeing the care packages

8.1 The CSU are commissioned to provide a brokerage function to Waltham Forest CCG for patients who meet the criteria for NHS Continuing Healthcare who need long term placement. (please see table 2)

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- 8.2 The procurement of placements or care packages will be undertaken in line with the developing preferred provider agreement. Where the same providers are used by the CCG and Local Authority e.g. nursing homes and home care agencies, a joint commissioning approach will be adopted. For example, where CHC eligibility ceases the LA will not pay costs above its usual cost. When the eligibility for CHC ceases the LA will set up a new contract between the provider and the LA, with clear duties and conditions. It has been agreed that during 2014/5 the CCG and Local Authority will share business intelligence and work together on placement procurement with providers to ensure the best value for the residents of the London borough of Waltham Forest.
- 8.3 The CSU is responsible for ensuring that the details and associated costs of the agreed packages are recorded on the database. The CCG will fund from the date the panel ratified the MDT recommendation, provided the assessment was completed within the 28 days. Where there has been delay in completing assessment by either responsible organisation then consideration will be given to retrospective awards of to either responsible organisation for retrospective care costs incurred over and above 28 days. If agreement cannot be reached between the Local Authority and CCG then the matter will be discussed and subject to the Agreed Dispute Resolution policy.
- 8.4 The CHC Team in the CSU or with support and advice from the CCG / LBWF is responsible for ensuring that all new residential care providers and care agencies receive a Service Level Agreement on completion of the financial negotiations

Monitoring and reviewing

- 9.1 All NHS funded placements and care packages will initially be reviewed 3 months following the commencement of the placement/package of care and thereafter yearly or earlier if required. North and East London Foundation Trust undertake this
- 9.2 The National Framework for CHC states 'neither the NHS nor a LA should unilaterally withdraw from an existing funding arrangement without a joint re-assessment of the individual, and without first consulting one another and the individual about the proposed change of arrangement'. This principle will be followed within this agreed joint policy.
- 9.3 Where the review process results in the CCG view that the person is no longer eligible for full CHC or the joint element of the care package, the LA will have up to 28 days notice in order to undertake an assessment for eligibility for social care. Any changes to eligibility must be made by a new Decision Support Tool presented to the Waltham Forest CHC panel following normal MDT principles.
- 9.4 The CSU on behalf of the CCG is responsible for ensuring that the database is updated, which includes when reviews are due. It is also the CSUs responsibility for ensuring that the professionals involved in the patient's care who will form part of the MDT undertaking the reviews are monitored of the reviews due time and for following up on any outstanding reviews.
- 9.5 Where potential safeguarding issues are identified in any care package, either in a care home or domiciliary care the matter is immediately escalated to the Local Authority's safeguarding team and a referral is made to the Local Authority social services department where the

patient resides and immediate efforts are made to ensure the patients safety. This is in line with the Waltham Forest Safeguarding Adult Policy and Pan London Safeguarding Adult Guidance (2011)

- 9.6 The CSU take an overview on all safeguarding investigations for CHC patients, where a safeguarding investigation has a clinical component NELFT are the clinical lead and advise the CSU and Local authority's safeguarding team on actions to be taken and safety of patients.

Placement in Care Homes

- 10.1 For patients with agreed CHC eligibility being placed in care homes, Waltham Forest CCG is committed to, where possible, meeting the patients' choice agenda in enabling them and their families to choose the homes within which they are to be placed. However, there are considerations that need to be given to the placement of patients within block contracted care home bed provision and Any Qualified Provider (AQP) Framework and the CCG must balance choice with the need to have cost effective care. The CCG and LWBF has contracts with care home providers and are signed up to the AQP for care home provision based upon the delivery of a certain level of service quality, and cost effectiveness of placement, and these beds should be offered as a first option for patients and their families to consider. There are a number of homes that fall within this contract type, and the patient will be encouraged to choose initially from this range of providers.
- 10.2 If a patient chooses not to be placed in a home with this contract in place the case will need to be referred to the CCG Director of Commissioning and Delivery to ensure that every effort has been made to place the patient in a block contracted or AQP bed. .

Appeals process

- 11.1 The CCG via its contract with NELSCU operates an appeals procedure for all cases, and the patient's right to appeal is outlined in the letter that they receive informing them of the CHC panel's decision around their eligibility.
- 11.2 In addition to the local appeals process, there is the Independent Review Panel process that is managed by NHS London.

Requests for 'Fast-track' funding

- 12.1 Requests for fast-track funding are emailed to the CSU Brokerage Team who reviews to ensure reasons have been given by the appropriate clinicians who are evidenced based. The CSU will advise the referrer of the decision and discuss placement options with the refer and contact the patient or representative. For clients who need placement, the Brokerage Team will work with the patient/ carers/ representatives and refer to source and commission an appropriate care provider. Confirmation of funding and placement will be advised to the referrer by the Brokerage Team in order that discharge can take place. The CHC Database will be updated with the finance and contracting information. A confirmation letter of placement acceptance and agreed costings is sent to the provider.

Appendix 1

Waltham Forest Clinical Commissioning Group

And

The London Borough of Waltham Forest Council

**NHS CONTINUING HEALTHCARE and
NHS-FUNDED NURSING CARE**

DISPUTE RESOLUTION PROCEDURE

THIS AGREEMENT IS MADE on 1st April 2014

BETWEEN:

- (1) **Waltham Forest Clinical Commissioning Group**, of Kirkdale House, 7 Kirkdale Road, Leytonstone. London.
- (2) **London Borough of Waltham Forest Council** of Waltham Forest Town Hall Forest Road, Walthamstow. E17 4JF

(Each a “party” and together “parties”) who agree as follows:

1. Background

- 1.1 The parties recognise that each have statutory responsibilities which are distinct from each other and each have a duty under those responsibilities to carry out their own assessments of need according to criteria which are either nationally or locally agreed, as the case may be. Accordingly both parties recognise that a “dispute” can only be raised where one party believes that the other has misinterpreted the applicable criteria and/or misapplied them to the facts of a case.
- 1.2 Thus, in assessing whether a client is entitled to NHS Continuing Healthcare, the parties are agreed that this should be considered against the ‘primary health need’ test as set out in the **National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care** and that, in determining the package of services that the CCG is able to offer patients eligible for NHS Continuing Healthcare and/or jointly funded patients, the CCG’s policies on allocation of resources will determine the services that the CCG is able to offer to meet the patient’s reasonable needs.
- 1.3 Equally, issues about the allocation of social care services should be assessed against the **“Prioritising Need in the context of putting people first” guidance** and the Council’s policies concerning the allocation of social care services.
- 1.4. This Dispute Resolution Procedure has been established to facilitate the resolution of disputes around the parties’ respective operation of the policies adopted by them and the application of the National Framework for CHC 2012.
 - 1.5 The Dispute Resolution Procedure set out below applies to disputes between the parties as to:
 - 1.5.1 Funding responsibility for services provided to any patient or service user who is the responsibility of either or both of the parties under the “ordinary residence” rules or equivalent rules on funding responsibility as they apply to the NHS; or
 - 1.5.2 The outcome of an assessment of needs or eligibility for services to be provided by the CCG under the National Framework for CHC or The Council; or
 - 1.5.3 The package of services including possibly funded packages, to be offered to a patient following an assessment in each case a “dispute” for the purposes of this Agreement.

1.5.4 The procedure will also cover disagreements between partners over jointly funded care packages.

2. Stage 1 – Escalation to Clinical Care Commissioner

- 2.1 Where any dispute cannot be resolved by the decision-making practitioners, either party may request that the [team leaders in the parties’ respective decision-making teams] will meet within 14 days of being notified of the existence of a dispute to review the decision and/or the process by which the decision was made, with a view to reaching a consensus decision as to the correct outcome of the decision-making process.
- 2.2 In the case of disputed eligibility for NHS Continuing Healthcare, either party may request that the CCG refers the case, if it has not already been considered by that panel, for consideration at the next meeting of its Continuing Healthcare panel (“CHC panel”) or, if the case has already been considered by the CHC panel, for reconsideration at the next meeting of the CCG’s Continuing Healthcare Review Panel. The Local Authority will always be invited to represent when the case is discussed at the Continuing Care Panel.

3. Stage 2 – Escalation to Director of Nursing, Quality and Governance in the CCG

- 3.1 Where the procedures set out in Stage 1 do not result in a consensus decision being reached as to the correct outcome of the decision-making process, the matter will be referred to [senior managers/Directors/Assistant Directors] within each body responsible for the decision-making teams referred to in Stage 1 [and to whom the managers of those teams report].
- 3.2 Within 14 days of being notified by either party of a dispute which has not been resolved at Stage 1 of this procedure, the respective [senior managers / Directors / Assistant Directors or equivalent grade] of the parties shall hold a meeting to try and resolve the dispute by reaching a consensus decision.
- 3.3 The senior managers/Directors/Assistant Directors may involve other professionals in the meeting to provide guidance/advice in specialist areas.

4. Stage 3 – Referral to mediation

- 4.1 If any dispute is not resolved through the procedures outlined in Stages 1 and 2 above, or there is any failure by either party to acknowledge the existence of a dispute or to deal with it in accordance with the procedures outlined above, the parties will attempt to settle the dispute by mediation using the services of a dispute resolution service such as CEDR Solve or Littleton Dispute Resolution Services or such other respected mediation service as the parties may agree upon. To initiate mediation, a party must give notice in writing (“Mediation Notice”) to the other party.
- 4.2 The Mediation Notice should specify
 - 4.2.1 The dispute resolution service proposed; and

4.2.2 The name of the organisation to be approached to appoint a Mediator.

- 4.3 The party receiving the Mediation Notice must indicate within seven days whether it agrees to the approach to the named Mediator to seek to resolve the dispute. If no such notice is served the party shall be deemed to have agreed to the mediation.
- 4.4 In the event that either the service or none of the nominated mediators proposed are unacceptable to the party receiving the Mediation Notice, that party must make its own proposals within seven days. If, after a further seven days, no agreement has been reached, either party may refer the matter to CEDR Solve to mediate the dispute and/or to nominate a mediator. Where no agreement has been reached as to the dispute resolution service to be used, the parties will accept the CEDR Solve mediation procedure, and/or where no agreement has been reached as to the mediator to be appointed, the parties will accept a mediator nominated by CEDR Solve.
- 4.5 The costs of any such mediation are to be met by the parties at the discretion of the mediator, as advised by NHS England.
- 4.6 Where a mediator is appointed each party agrees to participate fully in the mediation process and to use all reasonable endeavours to seek to use the process to achieve a just resolution of the dispute.
- 4.7 If either party refuses at any time to participate in the mediation procedure and in any event if the dispute is not resolved within 60 days of the service of the Mediation Notice then either Party may thereafter commence legal proceedings.

5. Funding individual cases during the Dispute Resolution Procedure

- 5.1 The parties agree that unless otherwise agreed between them in any individual case:
- 5.1.1 Where the funding of the care of any individual patient or service user becomes the subject of a dispute to which this Dispute Resolution Procedure applies, the party that was funding the care of that individual prior to the dispute arising will continue to fund that care until such time as the dispute is resolved; and
- 5.1.2 Where the parties had each been funding a proportion of the care of any individual patient or service user prior to the dispute arising, the parties will continue to fund that care in the same proportions as they were funding it prior to the dispute arising until such time as the dispute is resolved
- 5.1.3 Provided that, in each case, the parties shall have regard to the limitations of each of their respective statutory powers.
- 5.1.4 At the completion of the process the responsible authority will retrospectively fund and reimburse the other party for any costs that have occurred.
- 5.2 The parties expressly agree that no dispute between them as to the funding of the care of any individual should prevent or delay the provision of an appropriate care package to the individual patient or service user concerned.

6. Transfer of responsibility for funding

- 6.1 When a dispute between the parties is resolved, whether as a result of this Dispute Resolution Procedure or otherwise, the parties agree that responsibility for the funding of the patient or service user's care shall pass from the party or parties previously funding that care to the party or parties agreed to be responsible for the funding of that care with effect from the CHC panel date

7. Retrospective reimbursements of care costs

- 7.1 In the event that either party has been funding the care of an individual for any period of time and it is established that statutory responsibility for funding falls or has fallen to the other party in respect of all or any part of that period, the party that has been funding the care previously shall be entitled to be reimbursed for the care costs incurred in supporting that patient or service user during any period when statutory responsibility rested with the other party.
- 7.2 For the avoidance of doubt, in the event that the individual is agreed to be eligible for NHS Continuing Healthcare funding and has been funded by the Council during the period of the dispute, the CCG shall reimburse the Council for the care costs incurred from the CHC panel date. For the avoidance of doubt, in the event that the individual is agreed to be eligible for LA funding and has been funded by the CCG during the period of the dispute, the LA shall reimburse the CCG for the care costs incurred from the CHC panel date.
- 7.3 If the parties cannot reach agreement on the sums to be paid pursuant to the claim, the amount of any reimbursement to be made shall be referred to mediation under Stage 3 of the procedure set out above.
- 7.4 Interest shall be payable on all sums which become liable to be so paid at the rate payable on debts in the High Court.

8. Legal obligations, rights and duties

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

Signed by duly authorised representatives on behalf of the parties:

Signed by On behalf of Waltham Forest CCG

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Signed by on behalf of London Borough of Waltham
Forest **COUNCIL**

.....

Appendix 2

Waltham Forest Adult Safeguarding Policy

The Waltham Forest Adult Safeguarding policy -

<http://www.walthamforestccg.nhs.uk/Downloads/news%20and%20publications/Policies%20and%20Procedures/Safeguarding%20Adults%20Policy%20FINAL.pdf>

Appendix 3

As part of the development of this document the following colleagues have helped to shape the Continuing Healthcare protocol.

Name	Organisation
Jane Mehta	Waltham Forest Clinical Commissioning Group
Chris Soltysiak	Waltham Forest Clinical Commissioning Group
Kelvin Hankins	NELCSU / Waltham Forest Clinical Commissioning Group
Mary Marcus	NELCSU
Senal Arkut	London Borough of Waltham Forest
Pratima Solanki	London Borough of Waltham Forest
Phillip Northcott	London Borough of Waltham Forest
Helen Sargeant–Dar	London Borough of Waltham Forest