

Bedfordshire, Luton & Milton Keynes Integrated Care Board

NHS Continuing Healthcare Dispute Policy

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Draft v2.0	16-07-2025	All Age Continuing Care Quality & Assurance Manager	Minor changes to reflect organisation restructure
Final v2.0	04-08-2025	BLMK ICB Operational Group	Biennial review changes approved by BLMK ICB Operational Group

Implementation Plan

Development and Consultation:	<p>The following individuals were consulted and involved in the development of this document:</p> <ul style="list-style-type: none"> ▪ Associate Director All Age Continuing Care ▪ Head of All Age Continuing Care ▪ All Age Continuing Care Quality & Assurance Manager ▪ CHC Operational Leads ▪ Head of Service, Community Assessment Services, Central Bedfordshire Council ▪ Head of Access, Hospital & Older People's Social Work, Milton Keynes Council ▪ Head of ASC Operations & integration, Luton Borough Council ▪ Head of Older People & Physical Disability services, Bedford Borough Council
Dissemination:	<p>Staff can access this document via the website and will be notified of new / revised versions via the staff briefing.</p> <p>This document will be included in the organisation's Publication Scheme in compliance with the Freedom of Information Act 2000.</p>
Training:	<p>The following training will be provided to make sure compliance with this document is understood:</p> <ul style="list-style-type: none"> ▪ Dissemination training to all CHC staff & relevant Local Authority Staff
Monitoring:	<p>Monitoring and compliance of this document will be carried out via:</p> <ul style="list-style-type: none"> ▪ See Section 6.7
Review:	<p>The Document Owner will ensure this document is reviewed in accordance with the review date on page 2.</p>
Equality, Diversity and Privacy:	<p>Appendix 1 - Equality Impact Assessment Appendix 2 - Data Protection Impact Assessment</p>
Associated Documents:	<p>The following documents must be read in conjunction with this document:</p> <ul style="list-style-type: none"> ▪ National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care July 2022 (Revised) ▪ Care Act 2014 ▪ BLMKICB Continuing Healthcare Operational Policy 2025 ▪ BLMKICB Health Consideration Policy 2022

References:	<p>The following articles were accessed and used to inform the development of this document:</p> <ul style="list-style-type: none">▪ As above

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1.0 Introduction

- 1.1 NHS Bedfordshire, Luton and Milton Keynes Integrated Care Board (ICB) aims to ensure robust governance through its formal written procedural documents, such as this document, which communicate standard organisational ways of working. These documents help clarify operational requirements and consistency within day-to-day practice. They can improve the quality of work, increase the successful achievement of objectives and support patient safety, quality and experience. The ICB aims to ensure its procedural documents are user friendly, up-to-date and easily accessible.
- 1.2 The ICB must design and implement procedural documents that meet the diverse needs of our service and workforce, ensuring that none is placed at a disadvantage over others, in accordance with the Equality Act 2010. The Equality Impact Assessment initial screening, which was used to determine the potential impact this policy might have with respect to the individual protected characteristics is incorporated at Appendix 1.
- 1.3 A Data Protection Impact Assessment is a process which helps assess privacy risks to individuals in the collection, use and disclosure of personal information. The Data Protection Impact Assessment initial screening, which was used to determine the potential impact this policy might have with respect to an individual's privacy is incorporated at Appendix 2.
- 1.4 This policy sets out the agreed process for dispute resolution regarding decisions of eligibility for NHS Continuing Healthcare (NHS CHC) or following health consideration for Health & Social Care funded care package (Joint funding). A dispute arises where the ICB and the Local Authority (LA) do not agree who is the responsible body for the provision of care services for an individual. Where the ICB has decided that a person is not eligible for NHS CHC or Joint funding the LA can raise a dispute if they believe the ICB has misinterpreted the NHS CHC criteria and/or misapplied it to the facts of a case.

The grounds for dispute are laid out in The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care 2022 (the Framework), which is available from the Department of Health at the following:

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

2.0 Scope

- 2.1 This policy applies to all ICB staff members, including Ordinary Members of the Board of the ICB, involved in policy-making processes, whether permanent, temporary or contracted-in under a contract for service (either as an individual or through a third-party supplier).

- 2.2 The policy was developed by the ICB in conjunction with Bedford Borough Council (BBC), Central Bedfordshire Council (CBC), Luton Borough Council (LBC) and Milton Keynes Council (MKC) (BLMK LA's). Accordingly this policy applies to all LA staff members involved in the process of determining an individual's eligibility for NHS CHC or Joint funding.
- 2.3 Where disputes relate to LAs in different geographical areas, the Framework makes clear that the responsible ICB's dispute resolution process should be adopted.
- 2.4 This policy does not apply to individuals or their representatives who wish to appeal against a decision on eligibility for NHS CHC. The appeal process is outlined in the ICB Operational policy (2025) and Appeals policy (2025).
- 2.5 A dispute cannot be raised by the LA where the MDT have agreed a recommendation that the individual is not eligible for NHS CHC which is upheld by the ICB.

3.0 Definitions

- 3.1 This section provides an explanation of terms used within this policy.
- 3.2 *NHS Continuing Healthcare* - means a package of ongoing care that is arranged and funded solely by the National Health Service (NHS) where the individual has been assessed and found to have a 'primary health need'. Such care is provided to an individual aged 18 or over, to meet health and associated social care needs that have arisen as a result of disability, accident or illness. The actual services provided as part of the package should be seen in the wider context of best practice and service development for each client group. Eligibility for NHS CHC is not determined by the setting in which the package of support can be offered or by the type of service delivery.

Social Care Needs – There is not a legal definition of the term 'social care need' in the context of NHS CHC. However, the Care Act 2014 introduced National Eligibility Criteria for care and support to determine when an individual or their carer has eligible needs which the local authority must address, subject to means where appropriate. These criteria set out that an individual has eligible needs under the Care Act 2014 where these needs arise from (or relate to) a physical or mental impairment or illness which results in them being unable to achieve two or more of the following outcomes which is:

- managing and maintaining nutrition
- maintaining personal hygiene
- managing toilet needs
- being appropriately clothed
- being able to make use of the home safely
- maintaining a habitable home environment
- developing and maintaining family or other personal relationships
- accessing and engaging in work, training, education or volunteering
- making use of necessary facilities or services in the local community, including public transport and recreational facilities or services
- carrying out any caring responsibilities the adult has for a child

Healthcare Needs – are related to the treatment, control, or prevention of a disease, illness, injury or disability and the care or aftercare, by a professional, of a person with these needs.

Decision Support Tool – a tool providing a framework used by clinicians to collate the multidisciplinary assessment of needs of an individual and apply the evidence in a single practical format in order to facilitate consistent, evidence-based decision-making regarding NHS CHC eligibility. The DST is not an assessment in itself.

4.0 Policy Statement

4.1 The ICB and LAs agree to stay focused on the key objective, which is to ensure that an individual's potential eligibility for NHS CHC or Joint funding is correctly determined. Resources should be directed at that aim rather than being directed into the management of disputes, thus a culture of genuine partnership must be developed to minimise the need to invoke formal inter-agency dispute resolution procedures.

4.2 Decisions on eligibility are agreed based on the assessed level of need provided by the evidence from the DST. Partners must ensure there is a robust and comprehensive assessment process in place and that this is adequately resourced to enable a timely and proportionate assessment to be undertaken. Partners 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 according to criteria which are either nationally or locally agreed.

4.3 BLMK LA's and BLMK ICB agree to work towards the following principles:

- Always keep the individual at the heart of the process and ensuring a person-centred approach to decision-making.
- To develop a culture of problem solving and partnership within the national guidance for NHS CHC
- To use formal dispute as a last resort
- The individual should not be involved in the dispute, and should always be cared for in an appropriate environment throughout the process
- To follow the agreed process within the timescales identified
- Ensure practitioners in health and social care receive high-quality joint training (i.e. health and social care) which gives consistent messages about the correct application of the Framework
- Front line staff should be empowered to resolve issues wherever possible, within agreed policies and procedures
- When they are unable to reach agreement, staff should have timely and ready access to senior managers who would be expected to negotiate a resolution of the issue between both parties
- Evidence must be from the relevant time period, if needs change following the DST then a new assessment is required to assess the needs of the individual.

4.4 The ICB and LAs subscribe to the principle that there should be no delay in the provision of services due to disagreements or disputes on the assessment recommendation or outcome of eligibility.

4.5 Decisions regarding eligibility for NHS CHC or a contribution under a health consideration agreement are the responsibility of the ICB.

4.6 The dispute resolution process will be transparent, equitably applied and will keep individuals central to the process.

5.0 Roles and Responsibilities

5.1 The following have specific responsibilities in relation to this policy.

5.2 The Board

The ICB's Board has a responsibility to scrutinise, review and approve this policy in conjunction with the overall aims of the ICB and its statutory obligations under the NHS Act (2006).

5.3 Chief Executive

The ICB has legal responsibilities under the NHS Act and Standing Rules Regulations (2012) to have regard to the Framework and exercise its functions in regard to NHS CHC. The Chief Executive for BLMK ICB has overall responsibility to ensure suitable governance arrangements are in place.

5.4 Chief Nursing Officer

The Chief Nursing Officer holds the Executive position for oversight of NHS CHC performance, strategic planning using NHS CHC intelligence for wider commissioning, contracting & procurement and financial authority.

5.5 Associate Director All Age Continuing Care

Responsible for the direct oversight of this policy's implementation and operation, including governance. Provides financial scrutiny and authority.

5.6 CHC Department & Adult Social Care staff

It is the duty of health and social care professionals to, work in partnership, to identify individuals who are eligible for NHS CHC or who may have an unmet health need in a person-centred approach and in a timely and consistent manner to ensure that individuals receive the care they require without unreasonable delays.

It is the responsibility of health and social care professionals to ensure the process for dispute resolution will be transparent, fair and equitable for the residents of BLMK.

It is the responsibility of health and social care professionals to adhere to the NHS Act & Care Act in agreeing which services can be legally provided by each authority and

ensure the best use of public funds with value-based commissioning of care, in accordance with the Secretary of State for Health & Social Care's direction.

6.0 Processes and Procedures

6.1 Stage 1 - Informal

- 6.1.1 The DST must be submitted to the ICB for verification with a recommendation regarding eligibility of NHS CHC. MDT members are obliged to make every effort to agree a recommendation based on the evidence available. It is the CHC Assessor's responsibility to ensure all evidence is considered and help the MDT members to understand how the evidence bears upon the Primary Health Needs test.
- 6.1.2 Contradictory views should be supported by evidence. If further evidence needs to be obtained to assist with making recommendation, an action plan must be made who will source this and when to reconvene the MDT.
- 6.1.3 If the MDT members are unable to agree on the recommendation, the DST will be submitted to the ICB for verification with the CHC Assessor's recommendation but must contain the documented views of each MDT member.
- 6.1.4 Following the verification process, the ICB will make a decision as to the individual's eligibility for NHS CHC. This decision will be communicated to all relevant stakeholders, including the individual and LA. If the individual has been receiving NHS CHC funding but is now no longer eligible, they will be informed of the intention to discontinue funding 28 days from date of verification.
- 6.1.5 The ICB should be notified by the LA via email of their intention to dispute, within 1 week of the verification communication. Email to contain written explanation on the areas that are being disputed with any additional supporting documents or evidence of the time period. LA to identify the LA Team Manager who will be the initial officer responsible for resolving the dispute.
- 6.1.6 ICB Verifier will arrange an informal meeting with the LA Team manager, within 1 week of the intention to dispute email being received. Areas of dispute will be discussed, and any additional evidence reviewed, with the aim to resolve any misinterpretation of the evidence by the MDT. MDT members may be invited to the meeting if required.

6.2 Stage 2 - Formal

- 6.2.1 If the dispute is not resolved at the informal stage a Dispute Panel will be arranged by the ICB consisting of the CHC Operational Lead and the relevant LA Lead.
- 6.2.2 This panel should be arranged within 1 week of the informal meeting to reduce the risk of confusion for the individual or need for remuneration.
- 6.2.3 The DST and all evidence will be reviewed and critiqued. A Dispute Panel report will be produced detailing the points raised and outcome decision.

6.3 Stage 3 - Formal

- 6.3.1 If the dispute is not resolved at stage 2 a second Dispute Panel will be arranged by the ICB consisting of the CHC Head of Service and the relevant LA Head of Service. This will follow the same format as stage 2 and should be held within 1 week of the former.

6.4 Stage 4 - Arbitration

- 6.4.1 If the dispute remains unresolved following stage 3 the ICB will request arbitration from a neighbouring ICB. The ICB and LA agree to abide by the decision made by the arbitrating ICB.

6.5 Health Consideration Dispute

- 6.5.1 Requests for Health Consideration funding received from the LA must follow the process detailed in the ICB's Health Consideration Policy (2022)
- 6.5.2 Should a dispute arise following the outcome of the Health Consideration Panel, Stage 3 of the Dispute Policy process will be implemented.

6.6 Funding & Reimbursement

- 6.6.1 It is the aim for all disputes to be resolved within the 28-day notice period following verification, however if the ICB has been funding the care package and the dispute resolution is delayed, to adhere to the Framework the ICB will continue funding arrangements until the process is complete. This will be communicated to the provider in advance to reduce confusion or lapse in care.
- 6.6.2 If the ICB have continued to fund beyond the 28-day notice period and the ICB's original decision is maintained, the LA agree to reimburse the ICB from day 29 following verification. Sufficient time will be negotiated to allow the LA to takeover funding responsibility and will be agreed at the discretion of the CHC Head of Service.
- 6.6.3 If a dispute is effectual and the ICB decides the individual is eligible for NHS CHC, funding will be agreed from the original date of verification
- 6.6.4 Appropriate arrangements will be made for financial recompense in accordance with the NHS CHC: Refreshed Redress Guidance (NHSE 2015). Identification documents and relevant supporting paperwork will be requested.

6.7 Monitoring

- 6.7.1 Regular audit of dispute outcomes will be undertaken by the ICB. Data will be provided to the Governing Body and appropriate learning developed.

Appendix 1 - Equality Impact Assessment Initial Screening

Name of Policy:	Continuing Healthcare Dispute Policy
Date of assessment:	16/07/2025
Screening undertaken by:	AACC Quality & Assurance Manager

Protected characteristic and inclusion health groups. Find out more about the Equality Act 2010, which provides the legal framework to tackle disadvantage and discrimination: https://www.equalityhumanrights.com/en/equality-act/protected-characteristics	Could the policy create a disadvantage for some groups in application or access? (Give brief summary)	If Yes - are there any mechanisms already in place to mitigate the potential adverse impacts identified? If not, please detail additional actions that could help. If this is not possible, please explain why
Age A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).	No	
Disability A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.	No	
Gender reassignment The process of transitioning from one gender to another.	No	
Marriage and civil partnership Marriage is a union between a man and a woman or between a same-sex couple. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'.	No	
Pregnancy and maternity Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the employment context. In the non-work context, protection against	No	

maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.		
Race Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour and nationality (including citizenship) ethnic or national origins.	No	
Religion or belief Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.	No	
Sex A man or a woman.	No	
Sexual orientation Whether a person's sexual attraction is towards their own sex, the opposite sex, to both sexes or none.	No	
Carers Individuals within the ICB which may have carer responsibilities.	No	
Please summarise the improvements which this policy offers compared to the previous version or position.		
This is not a new policy and has been updated to reflect organisational restructure. This policy sets out the agreed process for dispute resolution regarding decisions of eligibility for NHS Continuing Healthcare (NHS CHC) or following health consideration for Health & Social Care funded care package (Joint funding).		
Has potential disadvantage for some groups been identified which require mitigation?		
Yes / No – (If there are significant impacts and issues identified a full Equality / Quality Impact Assessment (EQIA) must be undertaken.)		

Appendix 2 - Data Protection Impact Assessment Initial Screening

Name of Policy:	Continuing Healthcare Dispute Policy
Date of assessment:	16/07/2025
Screening undertaken by:	AACC Quality & Assurance Manager

Stage 1 – DPIA form

please answer 'Yes' or 'No'

1. Will the policy result in the processing of personal identifiable information / data? This includes information about living or deceased individuals, including their name, address postcode, email address, telephone number, payroll number etc.	Yes / No
2. Will the policy result in the processing of sensitive information / data? This includes for living or deceased individuals, including their physical health, mental health, sexuality, sexual orientation, religious belief, National Insurance No., political interest etc.	Yes / No
3. Will the policy involve the sharing of identifiers which are unique to an individual or household? e.g., Hospital Number, NHS Number, National Insurance Number, Payroll Number etc.	Yes / No
4. Will the policy result in the processing of pseudonymised information by organisations who have the key / ability to reidentify the information? Pseudonymised data - where all identifiers have been removed and replaced with alternative identifiers that do not identify any individual. Re-identification can only be achieved with knowledge of the re-identification key. Anonymised data - data where all identifiers have been removed and data left does not identify any patients. Re-identification is remotely possible, but very unlikely.	Yes / No
5. Will the policy result in organisations or people having access to information they do not currently have access to?	Yes / No
6. Will the policy result in an organisation using information it already holds or has access to, but for a different purpose?	Yes / No
7. Does the policy result in the use of technology which might be perceived as being privacy intruding? e.g., biometrics, facial recognition, CCTV, audio recording etc.	Yes / No
8. Will the policy result in decisions being made or action being taken against individuals in ways which could have a significant impact on them? Including profiling and automated decision making. (This is automated processing of personal data to evaluate certain things about an individual i.e., diagnosis and then making a decision solely by automated means - without any human involvement)	Yes / No
9. Will the policy result in the collection of additional information about individuals in addition to what is already collected / held?	Yes / No
10. Will the policy require individuals to be contacted in ways which they may not be aware of and may find intrusive? e.g., personal email, text message etc.	Yes / No

