Bedfordshire, Luton and Milton Keynes Integrated Care Board

Continuing Healthcare Operational Policy

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Draft v1	1 July 2022		The Board of the Integrated Care Board adopted the policy as approved.

Implementation Plan

Development and Consultation:	The following individuals were consulted and involved in the development of this document: ▪ Associate Director Individualised Care & System Flow ▪ Interim CHC Transformation Lead ▪ Head of CHC ▪ CHC Development Practitioners ▪ CHC Operational Leads
Dissemination:	Staff can access this document via the website and will be notified of new / revised versions via the staff briefing. This document will be included in the organisation's Publication Scheme in compliance with the Freedom of Information Act 2000.
Training:	The following training will be provided to make sure compliance with this document is understood: ▪ Dissemination training to Local Authorities, Community Services and Acute Hospital staff
Monitoring:	Monitoring and compliance of this document will be carried out via: ▪ See Section 6.13
Review:	The Document Owner will ensure this document is reviewed in accordance with the review date on page 2.
Equality, Diversity and Privacy:	Appendix 1 - Equality Impact Assessment Appendix 2 - Data Protection Impact Assessment
Associated Documents:	The following documents must be read in conjunction with this document: ▪ National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care October 2018 (Revised) ▪ Care Act 2014 ▪ Mental Capacity Act 2005 ▪ The Department of Health & Social Care Hospital Discharge and Community Support: Policy and Operating model July 2021
References:	The following articles were accessed and used to inform the development of this document: ▪ 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 is for the delivery of the NHS Continuing Healthcare (NHS CHC) service across BLMK. The service will be delivered by BLMK ICB in line with the National Framework for NHS Continuing Healthcare (October 2018), the Framework.

1.5 The Framework sets out the principles and processes for the implementation of NHS CHC & NHS Funded Nursing Care (FNC) and it provides national tools to be used in assessment applications and for Fast Track cases. It outlines the roles and responsibilities of all statutory bodies, in order that individuals who may have a primary health need have a 'whole system' approach to assess and manage social and health care needs.

1.6 The revised framework outlines the specific requirements for local authorities to cooperate and work in partnership with ICBs. This policy describes how BLMK ICB will ensure a clear process for assessment, addressed in a professional and timely manner within defined responsibilities, working in conjunction with Bedford Borough Council (BBC), Central Bedfordshire Council (CBC), Luton Borough Council (LBC) and Milton Keynes Council (MKC).

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 purpose of this policy is to ensure adherence to the Framework, and to assure the ICB complies with its legal responsibilities to ensure the NHS CHC process is appropriate, fair and equitable across Bedfordshire, Luton and Milton Keynes.

2.3 The responsibilities between the ICB and Local Authorities, LAs, described within this policy give clear guidance to professionals on their duties in supporting appropriate assessments within the defined timeframes.

2.4 The ICB will commission and provide care in a manner that reflects the preferences of individuals whilst balancing the need to commission safe and effective care that makes the best use of available resources. The ICB will work towards value-based commissioning of care to ensure the best possible care at the best possible price in accordance with the Secretary of State for Health & Social Care's direction on the use of public funds.

2.5 To achieve this, the implementation of the criteria and local application for NHS CHC, in conjunction with the LAs, provider trusts and other agencies, should meet the following principles:

- Needs led
- Equitable
- Culturally sensitive
- Person centred
- Robust and transparent
- Easily understood
- Adheres to guidance and best practice

2.6 There are cohorts of the population who are excluded:

- Persons detained under the Mental Health Act aftercare orders such as Section 117, where all needs are being met
- Children and young people under 18 years of age (apart from the transition process of children to adulthood)
- Active treatment – Individuals will be expected to have completed any active treatment and/or reached their optimum potential for any rehabilitation
- Individuals who are either prisoners, or serving military personnel and their families (whose Commissioning responsibility sits with NHS England

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.

3.3 *NHS Funded Nursing Care* - is the funding provided by the NHS to care homes with nursing to support the provision of nursing care by a registered nurse. Since 2007 NHS FNC has been based on a single band rate. In all cases individuals should be considered for eligibility for NHS CHC before a decision is reached about the need for NHS FNC.

3.4 *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

3.5 *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.

3.6 *Fast Track Tool* – Should be used for individuals who need an urgent package of care, due to a rapidly deteriorating condition that may be entering the terminal phase.

3.7 *Care Packages* – suite of services (nursing, therapies, home care etc.) that are designed to match the assessed needs of an individual.

3.8 *Care Plan* – A personalised plan drawn up by a CHC Assessor to meet the needs of an individual, centred on the Decision Support Tool (DST) which establishes the health needs.

3.9 *Screening Checklist Tool* – is designed to help practitioners determine the appropriateness of an individual to go forward for consideration for a full assessment for NHS CHC funding.

3.10 *Retrospective review* - a look back at eligibility for NHS funded CHC for a period of time not previously considered or prior to the current eligibility decision. An individual

can request a retrospective review if they feel they have never been considered for NHS CHC or feel they have been wrongly denied NHS funding

3.11 *PUPoC* – Previously Unassessed Periods of Care which predate 1 April 2012.

3.12 *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.

3.13 *Case Manager* – CHC Assessor responsible for; drawing up a care and support plan; monitoring the needs of the individual receiving a care package and assessing the suitability of the package.

4.0 Policy Statement

4.1 An individual who needs care may require services from NHS bodies and/or from Local Authorities. Integrated Care Boards have responsibility to ensure that the assessment of eligibility for NHS CHC takes place within 28 days from receipt of the Continuing Healthcare Checklist or referral and in a timely and consistent manner to ensure that individuals receive the care they require in the appropriate environment and without unreasonable delays. BLMK ICB is committed to achieve these timeframes, together with stakeholders.

4.2 The principles underlying this policy are that the residents of BLMK have fair and equitable access to NHS CHC. These principles are:

- The individual's informed consent will be obtained before starting the process to determine eligibility for NHS CHC and engagement in the Continuing Healthcare / Funded Nursing Care Review Process.
- If the individual lacks the mental capacity either to refuse or consent, a 'best interests' decision should be taken and recorded in line with the Mental Capacity Act 2005 as to whether to proceed with assessment for eligibility for NHS CHC. A third party cannot give or refuse consent for an assessment of eligibility for NHS CHC on behalf of a person who lacks capacity unless they have valid and applicable Lasting Power of Attorney for Health and Welfare or have been appointed as a Deputy by the Court of Protection for Welfare. BLMK ICB will act in the best interest of the individual and convene best interest meeting if there is a dispute and no one has power of attorney.
- Health and social care professionals will work in partnership with individual's and their families throughout the process
- All individual's and their family's representatives will be provided with information to allow them to participate in the process
- BLMK ICB will support the use of advocacy for individuals through the process of application for NHS CHC.
- The process for decisions about eligibility for NHS CHC will be transparent for individual and their families and for partner agencies
- Once an individual has been referred for a full assessment for NHS CHC, following the completion of a Checklist, all assessments will be undertaken by the multi-disciplinary team (MDT) involved in that individual's care ensuring a

comprehensive multi-disciplinary assessment of an individual's health and social care needs, following the procedure for completion of the Decision Support Tool (DST).

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 Accountable Officer

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. As Chief Executive for BLMK ICB the Accountable Officer has overall responsibility to ensure suitable governance arrangements are in place.

5.4 Director of Commissioning & Contracting

The Director of Commissioning & Contracting 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 Individualised Care & System Flow

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

5.6 Health & Social Care Professionals including CHC Department Staff

It is the duty of health and social care professionals to identify individuals who may have a primary health need in a person-centred approach. It is the responsibility of the professionals to attend CHC training and to adhere to the Framework.

BLMK ICB will commit to delivering an annual programme of training across professionals, including providers as necessary.

Party	Key Responsibilities
Health & Social Care professionals referring individuals for consideration of CHC eligibility	• Assess at a time that the individual has reached their optimum, is not acutely unwell or requiring further treatment/rehabilitation and is being managed by an appropriate care provision • Identify if the individual needs to be considered for CHC at this time, if not document that there has

	been consideration for CHC however they are not currently considered to meet the criteria, discuss with individual/representative. • Gain informed consent (Lasting Power of Attorney consent or complete Mental Capacity Assessment) to access and share records relating to the CHC assessment process, directing the individual/representative to relevant information. • Complete the CHC Checklist (2018), submit both negative and positive checklists within 48 hours to blmkicb.chc@nhs.net • LAs to make reasonable effort for attendance and participation of social care staff in multi-disciplinary team (MDT) meetings organised for the completion of CHC Decision Support Tools, when invited by CHC team, within 14-21 days of submission of a positive CHC Checklist to the CHC Department. • As part of the MDT, make a recommendation of either non-eligibility or eligibility for CHC • Supply evidence as required to support the recommendation; this should include a social services assessment and specialist health professional report where available.
CHC Department	• Verification of a positive checklist within 48 hours of submission to the department • Where Consent (MCA/BI) or the Checklist is incomplete urgent contact will be made with the referrer to resolve • Proceed to book MDT to complete DST within 3 weeks of positive Checklist submission. • Make every effort to include the LA in the MDT recommendation process, this will include providing copy of DST for review and discussion of the Primary Health Needs test by Social Care prior to decision making. • CHC Co-ordinator to ensure evidence is compiled within the DST, recommendation is signed by all members of the MDT and submit for verification within 3 weeks of positive Checklist submission to the CHC Department • Verify the MDT recommendation within 28 days of Checklist submission and advising the individual/representative and members of the MDT of the outcome • Implement CHC care package for individuals who are eligible for CHC ensuring the individual does not have a break in care • Completion of care plan for all individuals ensuring personal health budget (PHB) are completed for domiciliary care packages

	• Ensure case management for the care provision arrangements are in place. • Ensure care reviews are undertaken in line with national policy and at other times as required. • Undertake regular audit to ensure service is meeting agreed Key Performance Indicators (KPIs) including patient, staff and customer feedback. • Ensure BLMK ICB quality and safeguarding professionals are alerted to issues with Care providers which may compromise quality of care. • Where the individual is no longer eligible the ICB will make arrangements to hand over the case to the appropriate Local Authority.

6.0 Processes and Procedures

6.1 Eligibility for NHS Continuing Healthcare (CHC)

6.1.1 The Framework provides a consistent approach to establishing eligibility for NHS CHC. This is achieved through the use of the revised National Tools and Guidance developed to assist in making decisions about eligibility for NHS CHC. For further information regarding this process, refer to https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care

BLMK ICB's processes and procedures for establishing eligibility for NHS CHC adhere to the guidance provided by the Framework.

Eligibility for NHS CHC is based on an individual's assessed health and social care needs. The Decision Support Tool (DST) provides the basis for decisions on eligibility for NHS CHC funding. The DST will be completed by a multi-disciplinary team, which as a minimum should include a health professional and a social care practitioner. Where possible Specialist staff will be involved dependent on the individual's needs or written evidence obtained from appropriate professionals.

The 'primary health need' test will be applied, so that a decision of ineligibility for NHS CHC is only possible where, taken as a whole, the nursing or other health services required by the individual:

a) are no more than incidental or ancillary to the provision of accommodation which local authority social services are, or would be but for a person's means, under a duty to provide

and

b) are not of a nature beyond which a local authority whose primary responsibility it is to provide social services could be expected to provide

The multi-disciplinary team will make recommendations on eligibility of the individuals for NHS CHC funding by BLMK ICB. The ICB will consider the MDT recommendation and can make the following decisions about eligibility:

- Verify the recommendations of the multi-disciplinary team
- Where the evidence provided does not support the level of need indicated in the DST the case will be referred back to the coordinator advising that the recommendation cannot be upheld by the ICB, and request further evidence to support recommendation and consequently decision on eligibility

An individual only becomes eligible for NHS CHC once verification of the recommendation has been completed by BLMK ICB, informed by the completed DST or Fast Track Tool. Prior to that decision being made, any existing arrangements for the provision and funding of care should continue, unless there is an urgent need for adjustment.

Where individuals are found to be eligible for NHS CHC, funding will be agreed from the date of the decision of verification on eligibility, unless there has been a delay beyond 28 days where payment will be back dated to day 29. Fast Track applications will be funded from the introduction of the agreed package of care.

6.1.2 Application for eligibility process

Screening for NHS CHC should be at the right time and location for the individual and when the individual's ongoing needs are known.

A nurse, doctor or other qualified healthcare professional or social care practitioner who has received training in completing Checklists, can apply the Checklist to refer individuals for a full consideration of eligibility. Whoever applies the Checklist will have to be familiar with, and have regard to, the Framework and the DST.

All appropriately completed NHS CHC Checklist with a consent or Mental Capacity Assessment and best interest assessment, must be sent to the CHC Department at: blmkicb.chc@nhs.net within 48 hours.

Receipt of the completed Checklist and consent is the start of the 28-day target for eligibility decisions and will ensure that monitoring of timelines and activity takes place.

If completion of the screening Checklist indicates that the individual patient is entitled to an assessment to determine their eligibility for NHS CHC, the DST must be completed.

The Framework makes clear situations where it is not appropriate to complete a Checklist. These include where:

- The individual has short-term health care needs or is recovering from a temporary condition and has not yet reached their optimum potential (if there is doubt between practitioners about the short-term nature of the needs it may be necessary to complete a Checklist).
- An individual is receiving services under Section 117 of the Mental Health Act that are meeting all of their assessed needs.
- It has previously been decided that the individual is not eligible for NHS CHC and it is clear that there has been no change in needs

If any of these situations apply to a received Checklist, BLMK ICB will return to the referrer with a clear explanation as to why it has not been accepted.

BLMK ICB reviews the applications they receive to ensure consistency and quality of decision-making processes and to ensure governance of the decision making on eligibility. This process ensures equity of access to NHS CHC and consistent decision making for all applications.

6.1.3 Negative Screening Outcome process

If the Checklist indicates that the individual does not reach the threshold for full consideration, BLMK ICB will communicate in writing to the individual /representative. BLMK ICB will not accept an appeal on the basis of a negative Checklist. Any challenge will be via the complaints process of BLMK ICB (See Section 6.10)

6.1.4 Fast-Track Applications

The Fast-Track application is there to ensure that individuals who have **a "rapidly deteriorating condition, which may be entering a terminal phase"** get the care they require in the right place, as quickly as possible, funded by the NHS. No other test is required.

The Framework provides the Fast-Track Tool for use in these circumstances. The Fast-Track Tool needs to be completed by an 'appropriate clinician' described in the Framework.
https://www.gov.uk/government/publications/nhs-continuing-healthcare-fast-track-pathway-tool

The completed Fast-Track Tool should clearly state the patient's diagnosis, prognosis and rapid deterioration of condition, as this will enable approval to take place immediately upon receipt of the document.

Others involved in supporting those with end of live needs, including those in the voluntary and independent sector organisations may identify the fact that the individual has needs for which use of the Fast-Track Tool would be appropriate. They should contact the appropriate clinician.

BLMK ICB 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.

The BLMK CHC Service operates Monday to Friday 09:00 – 17:00

BLMK ICB will ensure timely decisions, within 48 hours (2 business days) about eligibility for NHS CHC can be made, to support the preferred priorities of the individual for their end-of-life care. Fast-Track applications received after 13:00 on Friday's will be processed on the following Monday. For patients discharged from hospital over the weekend under the Fast-Track guidance BLMK ICB will require the fully completed Fast-Track Tool on the following Monday

Use of Fast-Track applications will be closely monitored by BLMK ICB and action taken where improper use of the process is felt to have occurred.

6.2 Discharge to Assess

6.2.1 The Framework, and The Department of Health & Social Care Hospital Discharge and Community Support: Policy and Operating model (July 2021) state that NHS CHC assessments of eligibility of finances and discussions about care planning and options should be made in a community setting. They should not take place during the acute or community hospital inpatient stay. NHS CHC assessments should be undertaken when an individual's longer-term needs are clearer, following a period of recovery.

6.2.2 BKMK CHC team will work closely with community health and social care staff in supporting people who are on discharge pathways 1, 2 and 3, to ensure appropriate discussions and planning concerning a person's long-term care options happen at the appropriate time.

6.2.3 Only a small number of individuals on the discharge to assess pathways will have needs that require assessment for NHS CHC. To reduce delays in system flow, BLMK ICB has a 'Gateway' process which works with community health and social care staff to ensure consideration of NHS CHC is applied at the appropriate time, and assessments are arranged only when the need is indicated.

6.2.4 It is expected that, in straightforward cases, an assessment for ongoing health and care needs takes place within 3 weeks of discharge and that a decision is made about how ongoing care will be funded by this point.

6.3 Commissioning & Decommissioning of Care Packages

6.3.1 It is the responsibility of BLMK ICB to:

- Plan strategically
- Specify outcomes
- Procure services
- Manage demand
- Manage provider performance for all services that are required to meet the needs of all individuals who qualify for NHS CHC
- Manage provider performance for the healthcare component of joint packages of care.
- Manage the use of public funds in a fair, equitable and consistent way.

6.3.2 The services commissioned will include on-going case management for all those entitled to NHS CHC, as well as for the NHS elements of joint packages of care, including the assessment and review of individual patient needs.

6.3.3 As well as service contracts, BLMK ICB as commissioners responsible for monitoring quality, access and patient experience within the context of provider performance.

6.3.4 BLMK ICB takes a strategic as well as an individual approach to fulfilling its NHS CHC commissioning responsibilities within the context of quality, innovation, prevention and productivity agendas.

6.3.5 Care packages will be commissioned from care homes, domiciliary care providers and from nursing agencies, where a BLMK contract is in place for CHC provision. When a

care package is commissioned by BLMK ICB, where there is no agreement in place, a spot contract purchasing arrangement will be agreed in order to ensure that there are quality standards in place to meet the requirements of the provision of NHS services.

6.3.6 Care will not be commissioned from those care providers where there are concerns raised about the quality of the care provided or where they are known not to meet the Care Quality Commission minimum standards for care homes. BLMK ICB will work in partnership with BLMK (Luton, Bedford Borough, Central Bedfordshire and Milton Keynes) Councils and other out of area LAs as required, to ensure the quality of care in care homes meets the required standards.

6.3.7 Where concerns about standards are raised, the owners of the care home provision will be informed that commissioning arrangements for NHS CHC funding will be suspended until improvements have been made to achieve the Care Quality Commission minimum standards of care and the quality standards within the NHS CHC spot purchasing contract. Where care is already commissioned for individuals in a care setting, a risk assessment currently called 'care review' will be undertaken in partnership with the individual and their family to ensure appropriate controls are in place to assure the individual's safety and the quality of care provided.

6.3.8 The Framework, states: -

'Where a person qualifies for NHS CHC, the package to be provided is that which the ICB assesses is appropriate to meet all of the individual's assessed health and associated care and support needs. The ICB has responsibility for ensuring this is the case and determining what the appropriate package should be. In doing so, the ICB should have due regard to the individual's wishes and preferred outcomes.'

BLMK ICB will commission the provision of NHS CHC funding in a manner which reflects the choice and preferences of individuals as far as is reasonably possible, balancing their preference alongside safety, quality of care, making best use of resources and value for money. Individuals will have a choice from providers that have a contract with BLMK ICB and have agreed BLMK ICB's quality and pricing structure. This applies equally to Home Care packages of care.

6.3.9 Patient safety will always be paramount in planning a care package and will not be compromised. Therefore, in circumstances where there are concerns about the quality of care in a care home and BLMK ICB cannot commission care in that home at that time, BLMK ICB will work with individuals and their families to commission an alternative package of care elsewhere.

6.3.10 Neither the NHS nor an LA should unilaterally withdraw from an existing funding arrangement without a joint reassessment of the individual, and without first consulting one another and the individual about the proposed change of arrangement. It is essential that alternative funding arrangements are agreed and put into effect before any withdrawal of existing funding, in order to ensure continuity of care and NHS CHC and FNC Framework compliance. Any proposed change should be put in writing to the individual by the organisation that is proposing to make such a change. If agreement between the LA's and NHS cannot be reached on the proposed change, the local disputes procedure (see separate policy) should be invoked, and current funding and care management responsibilities should remain in place until the dispute has been resolved.

6.4 Personal Health Budgets

6.4.1 In line with the NHS Long Term Plan (2019) ICBs are required to offer personal health budgets (PHBs) to people in receipt of NHS CHC funding in order to give individuals better flexibility, choice and control over their care. A personal health budget helps people to get the services they need to achieve their agreed health and wellbeing outcomes (agreed between the individual and clinician). Financially, personal health budgets can be managed in a number of ways including:

- A notional budget held by the ICB commissioner
- A budget managed on the individual's behalf by a third party, and
- A cash payment directly to the individual (a 'healthcare direct payment').

6.4.2 People newly in receipt of NHS CHC funding for home care packages will be introduced to the concept of PHBs before or during their 3-month CHC Review, depending on the individual's circumstances and preference. If they would like to investigate this option, based on the outcome of the individual's DST, an indicative budget will be produced and shared with the patient during an introductory meeting to explain the PHB process.

6.4.3 The CHC case manager, along with support from BLMK ICB PHB department, will work with the individual and/or their carers and representatives to agree health and wellbeing outcomes and develop a support plan. They will then also work with the individual to think creatively about how they could best make use of their available budget to meet their health and wellbeing outcomes.

6.4.4 Once a care plan has been agreed the CHC co-ordinator and PHB team will work to put the care plan in place. Support services will be provided to help people with direct payments, and support and advice will be provided for those wishing to employ personal assistants directly.

6.4.5 BLMK ICB will encourage this approach when an individual who was previously in receipt of a LA direct payment begins to receive NHS CHC to avoid unnecessary changes of provider or of the care package.

6.5 Care Reviews

6.5.1 When the NHS is commissioning funding or providing any part of an individual's care, a care review should be undertaken to reassess that their care needs are being met and to the agreed standard. BLMK ICB has a robust process in place for care reviews for both NHS CHC and NHS FNC funded individuals.

6.5.2 Care reviews will be undertaken for individuals no later than three months following the eligibility decision and thereafter on an annual basis, unless indicated earlier. This will ensure that individuals are receiving the care they need and manage any issues within the care package. A DST assessment will be carried out if the needs have diminished. If needs have not changed then the individual will remain eligible for NHS CHC funding. NHS CHC funding may only be withdrawn should a new full assessment show that the patient no longer meets the criteria for eligibility of NHS CHC.

6.5.3 It is the responsibility of the initial referrer and subsequently CHC case manager to ensure that the individual and their family/carer are aware, by providing written information in the form of a leaflet, that these reviews occur, and that NHS CHC funding may be removed should the patient's level of health need change.

6.6 NHS Funded Nursing Care (FNC)

6.6.1 NHS FNC is only appropriate where it has been established that the individual is not eligible for NHS CHC and the individual requires placement in a care home with nursing.

6.6.2 If BLMK ICB is commissioning, funding or providing any part of an individual's care, a review should be undertaken within three months after the initial eligibility decision, in order to review care needs and to ensure that those needs are being met. Some cases will require a more frequent review, in line with clinical judgement; anticipated changing needs, or if there is a significant change in the healthcare needs of the individual.

6.6.3 When reviewing the need for NHS FNC, potential eligibility for NHS CHC must always be considered, and full consideration should be carried out, where indicated. Where the Checklist indicates that a full assessment should be completed an MDT should complete a DST with the following exception:

- the person has previously had a positive checklist and full DST completed by an MDT
  and
- there has been no material change in their needs that might lead to a different eligibility decision regarding NHS CHC and (by implication) NHS FNC

In order to determine this, the previously completed DST must be available at the NHS FNC review and each of the domains and previously assessed need levels considered as part of the review by the reviewer. Where the Checklist indicates that a full assessment is not required, NHS FNC can be applied if the need for access to regular Nursing has been identified.

6.6.4 Where there has not been a previous DST completed by an MDT or where the NHS FNC review indicates a possible change in eligibility, a positive Checklist should always be followed by an MDT-completed DST and a recommendation on eligibility regarding NHS CHC.

6.6.5 Accommodation and personal care costs are met by the LA and/or the individual (subject to the outcome of means-testing).

6.6.6 If the individual is dissatisfied with the outcome and a decision relating to their eligibility for NHS FNC, they are entitled to ask for a review of that decision. If they remain dissatisfied following local re-consideration, they can pursue the matter through the NHS Complaints procedure.

6.7 Joint Funding

6.7.1 A joint package of care with the LA will only involve joint funding where there is a particular identified health need, that cannot be met by any existing commissioned NHS funded service, requiring an identified individual care package to be commissioned. In these circumstances BLMK ICB will fund the care costs for the identified health element of the package. Joint packages of care can be provided in any setting as appropriate to the assessed needs of the individual.

6.8 Deprivation of Liberty Safeguards & Court of Protection Deprivation of Liberty

6.8.1 BLMK ICB adhere to The Mental Capacity Act 2005 and The Human Rights Act 1998 when commissioning NHS CHC care packages for individuals who lack capacity and who, in their own best interests, need to be deprived of their liberty, in order for them to receive the necessary care or treatment.

6.8.2 This makes lawful the care regime that is in place, recognising that restrictions are necessary for that individual, but they are proportionate to the risk and it is in their best interests to protect them from harm.

6.8.3 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.

6.8.4 Deprivation of Liberty Safeguards (DOLs) for eligible NHS CHC individuals in Care/Nursing Homes and Hospitals are managed by the LA's.

6.8.5 BLMK ICB has a process in place to identify eligible NHS CHC individuals in shared lives schemes, supported living and own homes who:

- Lack mental capacity to consent to their accommodation
- Not free to leave and is under continuous supervision and control.

To make applications direct to the Court of Protection for authorisation of Deprivation of Liberty (COPDOL)

6.9 Retrospective Reviews

6.9.1 BLMK ICB can only consider requests for retrospective reviews where it is satisfied that one or more of the following grounds for the review exist:

- BLMK ICB failed to carry out an assessment of the claimant's eligibility for NHS CHC funding when requested to do so
- Family request for a retrospective review for periods of unassessed care (N.B. Requests for the period 1/04/2004-31/03/12 no longer accessible following deadlines set by the Department of Health).

If alive the individual can make a request via a questionnaire and consent or their representative who holds LPA (reg Court of Protection). If the individual/ is deceased, the ICB will need evidence that the claimant is an executor or named within the deceased person's will.

6.9.2 In the absence of evidence of any of the above, BLMK ICB is not obliged to undertake a retrospective review of claimant's eligibility for such funding.

6.9.3 Where a retrospective review of eligibility for NHS CHC funding is approved, appropriate arrangements will be made for financial recompense in accordance with the NHS CHC: Refreshed Redress Guidance (NHSE 2015). Pension and benefits payments will also be taken into account in any calculation of sums reimbursed.

6.9.4 Calculation of interest payments will be in line with national guidance and ICB policies.

6.10 Management of Appeals & Complaints

6.10.1 The eligibility decisions of BLMK ICB are communicated to the individuals or their representative, in writing within 10 working days of the verification. The individual, or their representative, and the lead health and social care professionals making the application can be informed verbally of the decision, if they have not been present, and pending receipt of the formal correspondence.

6.10.2 Where an application has been found not eligible, individuals can appeal BLMK ICB's decision in writing, giving a clear rationale as to why it is believed the decision is incorrect, within 6 months of the notification of eligibility verification. When an appeal is received this is acknowledged and the evidence is reviewed by the ICB Verifier who will contact the appellant to discuss. If the appeal is not resolved at this stage an offer of a formal resolution meeting with the individual or their representative is made to go through the process of decision and rationale for the decision.

BLMK ICB will not accept as an appeal either letters requesting a hold on a potential appeal or appeals that do not set out the reasons for such an appeal and will not 'hold' the appeal timeframe.

Appeals in the first instance should be sent to:

Appeals Administrator
NHS BLMK ICB
NHS Continuing Healthcare Service
Capability House
Wrest Park
SILSOE
Bedfordshire
MK45 4HR

Email: blmkicb.chc@nhs.net

On receipt of request to appeal the individual and/or their representative will receive acknowledgement from the Appeals Administrator of the wish to appeal with a questionnaire required for completion to clarify the areas of appeal.

6.10.3 The individual and/or their representative, will be asked to attend a Local Resolution Meeting with an Operational lead within the CHC Department, this can be held virtually if required. To ensure efficient timeframes the meeting will be arranged within 28 days of receipt of the appeals questionnaire. Notes of the meeting will be kept, a decision by the Operational lead regarding any concerns/issues raised by the individual and/or their representative and whether the original decision is upheld, or further action required. A decision letter and report will be sent to the individual and/or their representative.

6.10.4 Where an individual remains dissatisfied by Local Resolution outcome, they can request an Independent Review by writing to the NHS Commissioning Board at:

NHS East of England
Victoria House
Capital Park
Fulbourn
Cambridge
CB21 5XB

Tel: 0113 8253175
england.chcirpeoe@nhs.net

An Independent Review Panel's key tasks are, at the request of the Board, to conduct a review of the following:

a) the procedure followed by an ICB in reaching a decision as to that person's eligibility for NHS Continuing Healthcare; or
b) the primary health need decision by an ICB.

and to make a recommendation to the Board in the light of its findings on the above matters.

The eligibility decision that has been made by BLMK ICB will continue to be effective while the independent review is awaited. If previously eligible for NHS CHC, ICB funding of the care package will cease as indicated at the time of the decision and responsibility for care provision will be transferred to the LA for a Community Care Assessment, in accordance with the Framework and Care Act.
If the Appeal is overturned, then the funding will be started on the date of verification or when the individual became eligible for CHC.

6.10.5 Appeals may only be made by individual applicants themselves or their representative.

6.10.6 If an individual or their representative is dissatisfied with the manner in which the overall process has been conducted rather than specifically the outcome regarding eligibility for NHS CHC, they may make a complaint to BLMK ICB through the NHS Complaints Procedure.

Complaints should be sent to: -

BLMK Complaints Manager
BLMK ICB
Capability House
Wrest Park
SILSOE
Bedfordshire
MK45 4HR

Email blmkicb.contactus@nhs.net

6.11 Training and competency

6.11.1 Joint Training will be developed and provided to internal and external staff - all hospital, community and adult social care staff involved in the implementation and application of the Framework. Training will be provided in the use of the National Tools, the identification of a 'primary health need', the application process and the timescales for completion of assessments.

6.11.2 Training is delivered by BLMK ICB in collaboration with BLMK LAs in a planned programme and in various venues.

6.11.3 All those applying the Checklist and DST/Fast Track Application must have been trained in the use of these documents. Link to e-learning for NHS CHC is provided below which all staff can use to gain greater understanding of the process. http://www.e-lfh.org.uk/projects/continuing-healthcare/

6.11.4 Both external and internal staff will require to undertake NHS CHC competencies based on the NHS England competency document.

6.12 Governance

6.12.1 Implementation and delivery of the requirements of the Framework will be monitored through performance reports to BLMK ICB Board.

6.12.2 This policy will be reviewed every 12 months.

6.13 Monitoring

6.13.1 The following monitoring methods will apply:

What standards / key performance indicators will you use to confirm this document is working / being implemented?	**Method of monitoring**	**Monitoring information prepared by**	**Minimum frequency of monitoring**	**Monitoring reported to**
% reached within 28 days of receipt of the Checklist	80% achieved	CHC Service	quarterly	Board of the ICB
% Fast Track patients with provision in place within 48 hours of completed Fast Track Tool	90% achieved	CHC Service	quarterly	Board of the ICB
% of patients in receipt of service provision with a completed 3-month review after eligibility decision	80% achieved	CHC Service	quarterly	Board of the ICB

% of patients in receipt of service provision with a completed 12-month review	80% achieved	CHC Service	quarterly	Board of the ICB
Number of patients in receipt of Personal Health Budgets	Total number	CHC Service	quarterly	Board of the ICB
% of appeals where original decision upheld	90%	CHC Service	quarterly	Board of the ICB
Number of incomplete referrals awaiting completion of a Checklist	Total number	CHC Service	quarterly	Board of the ICB
% of completed MDT referrals carried out jointly by health and social care professionals	80% achieved	CHC Service	quarterly	Board of the ICB
Number of pre 01/04/2013 retrospective applications with an outcome reached in period	Total number	CHC Service	quarterly	Board of the ICB
Number of post 01/04/2013 retrospective applications with an outcome reached in period	Total number	CHC Service	quarterly	Board of the ICB
% of spot purchased placements as a proportion of all current placements	10%	CHC Service	quarterly	Board of the ICB
% Current spot (NCA) placements out of area	5%	CHC Service	quarterly	Board of the ICB
% of Fast Track patients still in receipt of provision at 3 months	20%	CHC Service	quarterly	Board of the ICB
Forecast year end spend against budget	Finance report	Finance support staff	quarterly	Board of the ICB
Staff turnover rate	Number + %	CHC Service	quarterly	Board of the ICB

NHS
Bedfordshire, Luton and Milton Keynes
Integrated Care Board

Appendix 1 - Equality Impact Assessment Initial Screening

Please answer the questions against each of the protected characteristic and inclusion health groups. If there are significant impacts and issues identified a full Equality / Quality Impact Assessment (EQIA) must be undertaken. It is against the law to discriminate against someone because of these protected characteristics. For support and advice on undertaking EQIAs please contact: agcsu.equalities@nhs.net

Name of Policy:	
Date of assessment:	dd-mm-yyyy – to follow
Screening undertaken by:	<insert name and role>

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).		
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.		
Gender reassignment The process of transitioning from one gender to another.		
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'.		
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 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.		
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.		
Sex A man or a woman.		
Sexual orientation Whether a person's sexual attraction is towards their own sex, the opposite sex, to both sexes or none.		
Carers Individuals within the ICB which may have carer responsibilities.		
Please summarise the improvements which this policy offers compared to the previous version or position.		
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

Data protection is the fair and proper use of information about people. Before completing this form, please refer to the Data Protection Impact Assessment (DPIA) Guidance in the Information Governance (IG) section on the staff Intranet or contact the Data Protection Officer for support via blmkicb.ig@nhs.net

A DPIA is a process to help you identify and minimise the data protection risks. You must do a DPIA for processing that is likely to result in a high risk to individuals. You can use our screening checklist below to help you decide when to do one. If you have answered 'Yes' to any of the 10 screening questions, you must then carry out a full DPIA using the Stage 2 form, which is also available on the Intranet in the IG section.

Name of Policy:	
Date of assessment:	dd-mm-yyyy – to follow
Screening undertaken by:	<insert name and role>

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