

Bedfordshire, Luton & Milton Keynes Integrated Care Board

NHS Continuing Healthcare Operational Policy

Document Control	
Document Owner:	Chief Nurse Officer
Document Author(s):	AACC Quality & Assurance Manager
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Approved By:	BLMK ICB Operational Group
Date of Approval:	30-07-2025
Date of Next Review:	30-07-2027
Effective Date:	01-07-2022

Version Control			
Version	Date	Reviewer(s)	Revision Description
Draft v0.5	27-09-2021	Interim CHC Transformation Lead	Draft
Draft v0.6	08-10-2021	Associate Director Individualised Care & System Flow	Consistency of terms and some formatting changes
Draft v0.7	19-10-2021	Associate Director Individualised Care & System Flow	Final draft created
v1.0	01-04-2022	CHC Development Practitioner	Agreed Policy for publication
Draft v2.0	13-03-2025	AACC Quality & Assurance Manager	Changes to reflect organisation restructure. Change to contact address Removal on Discharge to Assess section as no longer relevant.
Final v2.0	30-07-2025	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 ▪ Continuing Healthcare Operational Leads ▪ All Age Continuing Care Commissioning Manager ▪ PHB Commissioning Manager ▪ COPDOL & MCA Manager
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 on all associated processes to relevant ICB, Local Authorities and Community Services staff
Monitoring:	<p>Monitoring and compliance of this document will be carried out via:</p> <ul style="list-style-type: none"> ▪ See Section 6.15
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 ▪ Mental Capacity Act 2005 ▪ BLMK ICB NHS CCC Operational Policy ▪ BLMK ICB CHC Commissioning Policy ▪ BLMK ICB CHC Dispute Policy ▪ BLMK ICB CHC Joint Funding Policy ▪ BLMK ICB CHC Appeals Policy

References:

The following articles were accessed and used to inform the development of this document:

- National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care July 2022 (Revised)
- Care Act 2014
- Mental Capacity Act 2005

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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 to outline 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 (*revised July 2022*), 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 receive a 'whole system' approach to the assessment and management of their social and health care needs.
- 1.6 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 City Council (MKCC).
- 1.7 This policy will provide clarity regarding the commissioning processes undertaken for individuals who have been assessed as eligible for NHS CHC, ensuring that the process is person centred; that equity, equality and risk is managed and that the ICB are able to demonstrate the most effective use of NHS resources in accordance with the Framework.

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 This Policy applies as appropriate, to all professionals and stakeholders involved within the processes of NHS CHC assessment and commissioning, and providers of healthcare to individuals identified to be the responsibility of the ICB via the NHS CHC, FNC or associated Joint Funding processes.
- 2.3 In accordance with the framework, this policy does not apply to certain cohorts of the population:
- 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 for acute illnesses 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 *Joint Funding* – Process for assessing and arranging a bespoke care package, where there are specific health needs identified beyond which the LA is able to provide in accordance with the Care Act 2014, and where there is not an NHS commissioned service to meet those needs. This could be funded solely by the ICB or a combined package of health and social care, jointly funded, following the exclusion of NHS CHC.
- 3.7 *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.
- 3.8 *Care Packages* – suite of services (nursing, therapies, home care etc.) that are designed to match the assessed needs of an individual.
- 3.9 *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.
- 3.10 *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.
- 3.11 *PUPoC* – Previously Unassessed Periods of Care, *post 1 April 2012*, 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
- 3.12 *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 commissioning care and support plan; ensuring the needs of the individual receiving a care package are met 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 prompt assessment of eligibility for NHS CHC in a consistent manner to ensure that individuals receive the care they require in the appropriate environment and without unreasonable delays.
- 4.2 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.
- 4.3 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 and the commissioning of care in a manner that reflects the preferences of individuals whilst balancing the need for safe and effective care that makes the best use of available resources.
- 4.4 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.
- 4.5 The principles underlying this policy are that the residents of BLMK have fair and equitable access to NHS CHC. To achieve this, the implementation of the criteria and application for NHS CHC should meet the following principles:
- Needs led
 - Equitable
 - Culturally sensitive
 - Person centred
 - Robust and transparent
 - Easily understood
 - Adheres to guidance and best practice
- 4.6 Health and social care professionals will work in partnership with individual's and their families throughout the process
- 4.7 All individual's and their representative(s) will be provided with information to allow them to participate in the process, subject to the individual's informed consent to share information being obtained
- 4.8 If the individual lacks the mental capacity either to refuse or consent, a 'best interests' decision will be taken and recorded in line with the Mental Capacity Act 2005 as to whether to proceed with sharing information with their representative(s) as part of the assessment for eligibility for NHS CHC. A third party cannot give or refuse consent 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.

- 4.9 BLMK ICB will support the use of advocacy for individuals through the process of application for NHS CHC.
- 4.10 The process for decisions about eligibility for NHS CHC and any subsequent commissioning of care packages will be transparent for the individual, their representative(s) and for partner agencies.
- 4.11 The ICB fully embrace equality and diversity, and the established NHS values and principles on equality and fairness, as set out in legal frameworks e.g. The NHS Constitution for England, Department of Health (2013) and the laws under the Equality Act 2010 together with the European Convention on Human Rights.
- 4.12 At all times the ICB will ensure the best use of NHS resources both locally and nationally commissioned, and provide a level of service that is sustainable, equitable (fair) to the health and wellbeing of the people of BLMK with a focus on improving consistency and quality of care where able.
- 4.13 The services commissioned will include reviews as indicated by the Framework, with case management of the package where identified, for all those entitled to CHC, including the NHS elements of joint packages of care.
- 4.14 The ICB has a duty to provide care to an individual with healthcare needs to meet those assessed needs. An individual cannot make a financial contribution to the cost of the provision of NHS healthcare. An individual, however, has the right to decline NHS services and funding and make their own private arrangements should they wish.

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 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.

The framework outlines the specific requirements for local authorities to cooperate and work in partnership with ICBs.

Party	Key Responsibilities
Health & Social Care professionals referring individuals for consideration of CHC eligibility	<ul style="list-style-type: none"> • 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 share records, with a representative relating to the CHC assessment process, directing the individual/representative to relevant information. • Complete the CHC Checklist, submit both negative and positive checklists within 48 hours via the portal or 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 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	<ul style="list-style-type: none"> • Verification of a positive checklist within 48 hours of submission to the department

	<ul style="list-style-type: none"> • Where Consent (MCA/BI) or the Checklist is incomplete urgent contact will be made with the referrer to resolve • Aim to book MDT to complete DST within 21 days of positive Checklist submission, where possible. • 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 where LA representative is not present at the MDT meeting. • CHC Co-ordinator to ensure evidence is compiled within the DST, recommendation is signed by all members of the MDT and submit for verification to the CHC Department • Verify the majority of MDT recommendations 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 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 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 notify to the appropriate Local Authority.
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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>

- 6.1.2 BLMK ICB's processes and procedures for establishing eligibility for NHS CHC adhere to the guidance provided by the Framework.
- 6.1.3 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.
- 6.1.4 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
 - or
 - 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
- 6.1.5 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
- 6.1.6 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.
- 6.1.7 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 prescribed package of care.

6.2 Application for eligibility process

- 6.2.1 Screening for NHS CHC should be at the right time and location for the individual and when the individual's ongoing needs are known.
- 6.2.2 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.

- 6.2.3 All appropriately completed NHS CHC Checklist with a consent or Mental Capacity Assessment and best interest assessment, must be uploaded via the portal to the CHC Department at: blmkicb.chc@nhs.net within 48 hours.
- 6.2.4 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.
- 6.2.5 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.
- 6.2.6 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.

- 6.2.7 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.

6.3 Negative Screening Outcome process

- 6.3.1 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 6.12)

6.4 Fast-Track Applications

- 6.4.1 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.
- 6.4.2 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, who has received training and understands the parameters of funding <https://www.gov.uk/government/publications/nhs-continuing-healthcare-fast-track-pathway-tool>
- 6.4.3 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.

- 6.4.4 Others involved in supporting those with end of life 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.
- 6.4.5 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.
- 6.4.6 The BLMK CHC Service operates Monday to Friday 09:00 – 17:00
- 6.4.7 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
- 6.4.8 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.

6.5 Commissioning & Decommissioning of Care Packages

- 6.5.1 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.'

- 6.5.2 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 where possible, 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.
- 6.5.3 The ICB are obliged to meet the health and care needs of individuals who are eligible for CHC, in line with guidance, however, can have discretion as to the manner of provision of services as long as it meets the care requirements of the individual. Ensuring to exercise reasonable judgement to provide the most appropriate care within the resources available.
- 6.5.4 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.
- 6.5.5 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.
- 6.5.6 Care packages will be commissioned from a variety of sources, including but not limited to, care homes, domiciliary care providers and 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.
- 6.5.7 As well as service contracts, BLMK ICB as commissioners are responsible for monitoring quality, access and patient experience within the context of provider performance.
- 6.5.8 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.
- 6.5.9 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.
- 6.5.10 Where concerns about standards are raised, the owners of the care 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, which may include commissioning an alternative package of care elsewhere.
- 6.5.11 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.
- 6.5.12 If the individual has been receiving NHS CHC funding but is now no longer eligible, they will be informed, in writing, of the intention to discontinue funding 28 days from date of verification.

6.5.13 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.

6.6 Personal Health Budgets

6.6.1 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 payment directly to the individual (a 'healthcare direct payment').

6.6.2 Individuals 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 individual during an introductory meeting to explain the PHB process.

6.6.3 The CHC case manager, along with support from BLMK ICB PHB team, 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.

6.6.4 Once a care plan has been agreed the CHC and PHB teams 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.

6.6.5 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.

6.7 Care Reviews

6.7.1 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 NHS CHC, including Fast Track and FNC funded individuals as well as for the NHS elements of joint packages of care

6.7.2 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, which originally indicated a Primary Health Need have changed. If the key characteristics 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.

- 6.7.3 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.

6.8 NHS Funded Nursing Care (FNC)

- 6.8.1 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.

- 6.8.2 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

- 6.8.3 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.

- 6.8.4 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.

- 6.8.5 When applying for FNC, the checklist must be completed and sent to the ICB in no more than 6 weeks after the individual has been admitted to the Nursing Home. The ICB will not back date FNC contributions by more than 6 weeks.

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

- 6.8.7 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.

6.9 Consideration for Joint Funding

6.9.1 A bespoke package of care, funded solely by the ICB or jointly with the LA, can be considered only where there is a specific identified health need, that cannot be met by any existing commissioned NHS funded service or where no such service exists. In these circumstances BLMK ICB may fund the care costs for the identified health element of the package. Joint funded packages of care can be provided in any setting as appropriate to the assessed needs of the individual.

6.9.2 Consideration of joint funding is only appropriate where it has been established that the individual is not eligible for NHS CHC

6.10 Deprivation of Liberty Safeguards and Court of Protection Deprivation of Liberty

6.10.1 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.

6.10.2 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.

6.10.3 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.

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

6.10.5 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)

6.11 Previously Unassessed Periods of Care (PUPoC)

6.11.1 BLMK ICB can only consider requests for PUPoC (also known as retrospective review) 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
- Individual/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).

6.11.2 An 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 the Personal Representative as an executor or named within the deceased person's will or eligible under other legal process

6.11.3 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.

6.11.4 Where a PUPoC 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)..

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

6.12 Management of Appeals & Complaints

6.12.1 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.

6.12.2 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 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
Priory House
Monks Walk
Chicksands
Shefford
SG17 5TQ

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.

6.12.3 The individual and/or their representative, will be asked to attend a Local Resolution Meeting with a Lead within the CHC Department, this can be held virtually if required. 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.

6.12.4 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

6.12.5 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.

6.12.6 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.

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

6.12.7 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
Priory House
Monks Walk
Chicksands
Shefford
SG17 5TQ

Email blmkicb.contactus@nhs.net

6.13 Training and competency

6.13.1 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.

6.13.2 Training is delivered by BLMK ICB in collaboration with BLMK LAs in a planned programme and in various venues or via training videos.

6.13.3 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/>

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

6.14 Governance

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

6.14.2 This policy will be reviewed every 12 months.

6.15 Monitoring

6.15.1 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	Governing Body
% Fast Track patients with provision in place within 48 hours of completed Fast Track Tool	90% achieved	CHC Service	quarterly	Governing Body
% of patients in receipt of service provision with a completed 3-month review after eligibility decision	80% achieved	CHC Service	quarterly	Governing Body

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

Appendix 1 - Equality Impact Assessment Initial Screening

Name of Policy:	NHS Continuing Healthcare Operational Policy
Date of assessment:	9/6/2025
Screening undertaken by:	AACC Quality & Assurance Manager

<p>Protected characteristic and inclusion health groups.</p> <p>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</p>	<p>Could the policy create a disadvantage for some groups in application or access?</p> <p>(Give brief summary)</p>	<p>If Yes - are there any mechanisms already in place to mitigate the potential adverse impacts identified?</p> <p>If not, please detail additional actions that could help.</p> <p>If this is not possible, please explain why</p>
<p>Age</p> <p>A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).</p>	<p>Policy relates to people aged 18 years and above as set out in the National Framework for Continuing Health Care</p>	<p>BLMK ICB have a similar policy in respect of children and young people from Birth to 18 years as set out in the National Framework for Children and Young people's Continuing Care</p>
<p>Disability</p> <p>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.</p>	<p>No</p>	
<p>Gender reassignment</p> <p>The process of transitioning from one gender to another.</p>	<p>No</p>	
<p>Marriage and civil partnership</p> <p>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'.</p>	<p>No</p>	
<p>Pregnancy and maternity</p> <p>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</p>	<p>No</p>	

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.		
<p>This policy has been written to ensure that BLMK Integrated Care Board (ICB) is working in line with the National Framework for Continuing Healthcare and NHS-funded Nursing Care (2022) and is an updated version. This is not a change in practice, neither in service delivery that would impact cohorts of within the BLMK locality, in a different way.</p> <p>The policy is a positive step forward to ensure equity and proportionality for Continuing Health Care across BLMK landscape and will provide clarity for those working for and in collaboration with, BLMK ICB.</p>		
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:	NHS Continuing Healthcare Operational Policy
Date of assessment:	9/6/2025
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
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
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
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
5. Will the policy result in organisations or people having access to information they do not currently have access to?	No
6. Will the policy result in an organisation using information it already holds or has access to, but for a different purpose?	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.	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)	No
9. Will the policy result in the collection of additional information about individuals in addition to what is already collected / held?	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.	No

