Herefordshire and Worcestershire Clinical Commissioning Group

NHSE Herefordshire and Worcestershire NHS Continuing Healthcare and Funded Nursing Care

Working in Partnership Policy

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NHSE Herefordshire and Worcestershire CHC Operational Policy

Operating Framework

1.0 Introduction

This Operational Policy confirms the agreed approach for the delivery of NHS Continuing Healthcare services for the population for whom NHS Herefordshire and Worcestershire Clinical Commissioning Group ("the CCG") is the responsible commissioner. The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care *October 2018 (Revised)* [the 'Framework'] sets out the principles and processes relevant to NHS Continuing Healthcare and NHS-funded Nursing Care. The Framework also provides national tools to be used in assessments and for Fast Track cases.

2.0 References

Links to key documents:

This local policy describes the processes that will be followed by the CCG and should be read in conjunction with the following documents:

- The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care, incorporating the NHS Continuing Healthcare Practice Guidance (Department of Health & Social Care, 2018, revised); 20181001 National Framework for CHC and FNC - October 2018 Revised (publishing.service.gov.uk)
- Who Pays? Determining responsibility for payments to providers (NHS England 2020); Who-Pays-final-24082020-v2.pdf (england.nhs.uk)
- The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (as amended): The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (legislation.gov.uk)

3.0 Definitions

Assessment of eligibility for NHS Continuing Healthcare: The assessment process used by a multidisciplinary team to make a recommendation regarding eligibility for NHS Continuing Healthcare. The assessment of eligibility requires the completion of the Decision Support Tool in order to arrive at an eligibility recommendation.

Assessment of needs: The collection and evaluation of a range of relevant information relating to an individual's needs.

Care: Support provided to individuals to enable them to live as independently as possible, including anything done to help a person live with ill health, disability, physical frailty or a learning difficulty and to participate as fully as possible in social activities. This encompasses health and social care.

Care package: A combination of care and support and other services designed to meet an individual's assessed needs.

Care planning: A process based on an assessment of an individual's needs that involves working with the individual to identify the level and type of support to meet those needs, and the objectives and potential outcomes that can be achieved.

Clinical Commissioning Group (CCG): CCGs are clinically led statutory NHS bodies responsible for the planning and commissioning of healthcare services for their local area. The CCG cannot delegate its final decision-making function in relation to eligibility decisions and remains legally responsible for all eligibility decisions made (in accordance with Standing Rules).

Commissioning: Commissioning is the process of specifying and procuring services for individuals and the local population

Decision Support Tool (DST): A standardised tool completed by clinicians, informed by a comprehensive multidisciplinary assessment of an individual's health and social care needs. The completion of the DST enables the MDT to make a recommendation regarding the eligibility of a client/patient for NHS Continuing Healthcare.

End-of-life care: Care that helps those with advanced, progressive, incurable illness to live as well as possible until they die.

Local authority social services: Local authorities are statutory bodies responsible for a wide range of public services in specified geographic area, including social services. Individually and in partnership with other agencies, local authority social services departments provide a wide range of care and support for people who are in need and meet nationally specified eligibility criteria for care and support.

Mental capacity: The ability to decide about a particular matter at the time the decision needs to be made. The legal definition of a person who lacks capacity is set out in section 2 of the Mental Capacity Act 2005

Multidisciplinary: 'Multidisciplinary' refers to when professionals from different disciplines (such as social work, nursing and occupational therapy etc) work together to assess and/or address the holistic needs of an individual, in order to improve delivery of care.

Multidisciplinary team: In the context of assessing eligibility for NHS Continuing Healthcare, a multidisciplinary team (MDT) is a team of at least two professionals from different disciplines and should usually include professionals from both the health and the social care disciplines. Whilst, as a minimum, the MDT can compromise two professionals from different healthcare professions, the MDT should usually include both health and social care professionals, who are knowledgeable about the individual's health and social care needs.

NHS Continuing Healthcare: A complete package of ongoing care arranged and funded solely by the NHS, where it has been assessed that the individual has a 'primary health need'.

NHS-funded Nursing Care: Funding provided by the NHS to care homes with nursing, to support the provision of nursing care by a registered nurse for those assessed as eligible

Palliative care: Palliative care is the active holistic care of patients with advanced, progressive illness.

Personal health budget: A personal health budget is an amount of money to support the identified healthcare and wellbeing needs of an individual, which is planned and agreed between the individual, or their representative, and the local NHS.

Primary Health Need: An individual has a primary health need if, having taken account of all their needs (following completion of the Decision Support Tool), it can be said that the main aspects or majority part of the care they require is focused on addressing and/or preventing health needs. Having a primary health need is not about the reason why an individual requires care or support, nor is it based on their diagnosis; it is about the level and type of their overall actual day-to-day care needs taken in their totality.

4.0 Purpose and scope

4.1 This policy sets out the CCG's role and responsibilities for the delivery of the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care. It outlines the process for determining eligibility for NHS Continuing Healthcare funding and the procedures to be followed.

4.2 The policy also sets out the responsibilities of the CCG in those situations where there is no eligibility for NHS Continuing Healthcare and for the management of disagreements that may arise as a result of NHS Continuing Healthcare eligibility-related decisions.

4.3 In addition, the policy describes the way in which the CCG will commission care to meet needs in a manner that reflects patient choice and preferences, whilst balancing the requirement to stay within the set financial limit allocated by NHS England to the organisation.

4.4 The policy applies to all NHS Continuing Healthcare applications for adults 18 years or older who are registered with a General Practice in Herefordshire and Worcestershire or who are resident within the CCG boundary and are not registered with a General Practitioner elsewhere or where the CCG retains commissioning responsibility for an individual placed outside that boundary. It includes all care groups.

4.5 This policy does not apply to children for whom the National Framework for Children and Young People's Continuing Care (2016) applies. It is acknowledged that, at times, joint working may be required to support an adult who has parenting responsibilities and care needs in line with relevant legislation.

5.0 Roles and responsibilities

Herefordshire and Worcestershire CCG	The organisation that is responsible and accountable for system leadership for NHS Continuing Healthcare within the local health and social care economy, including: - Ensuring delivery of, and compliance with, the National Framework for NHS Continuing Healthcare. - Promoting awareness of NHS Continuing Healthcare. - Establishing and maintaining governance arrangements for NHS Continuing Healthcare eligibility processes and commissioning NHS Continuing Healthcare packages. - Ensuring that assessment mechanisms are in place for NHS Continuing Healthcare across relevant care pathways, in partnership with the local authority as appropriate. The Standing Rules require CCGs to consult, so far as is reasonably practicable, with the relevant social services authority before making a decision on a person's eligibility for NHS Continuing Healthcare. - Making decisions on eligibility for NHS Continuing Healthcare, in partnership with Local Authorities. - Identifying and acting on issues arising in the provision of NHS Continuing Healthcare. - Commissioning arrangements, both on a strategic and an individual basis. - Having a system is place to record assessments undertaken and their outcomes, and the costs of NHS Continuing Healthcare packages. -Sharing relevant data and information with Local Authority partners within the limits of the relevant data sharing agreements. - Implementing and maintaining good practice. - Ensuring that quality standards are met and sustained. - Ensuring training and development opportunities are available for practitioners, in partnership with the local authority. - Having clear arrangements in place with other NHS organisations
Herefordshire Council and Worcestershire County Council	-The organisations that provide social care practitioner input into DSTs, assessments and reviews to support the completion of DSTs and recommendations on eligibility. -Provide social care practitioners who are responsible for assessing persons who may have needs for care and support under Part 1 of the Care Act (2014) and who may also complete checklists triggering the initial stages of the CHC process. - Actively participate in quality assurance and audit processes, in agreeing joint integrated funding, dispute processes, Local Review Panels and appeals. - Implementing and maintaining good practice. - Ensuring that quality standards are met and sustained. - Ensuring training and development opportunities are available for practitioners, in partnership with the local authority. - Having clear arrangements in place with other NHS organisations
Continuing Healthcare (CHC) Team	The team that: - Receives and reviews all checklists and Fast Track referrals for assessment for eligibility or receipt of service. - Maintains the continuing healthcare database, ensuring all referrals are recorded and that full records are maintained. - Appoints a nurse assessor to carry out a co-ordination role which is pivotal to the assessment process and completion of the DST by the multidisciplinary team. - Reviews completed DSTs to ensure they are completed fully, in an appropriate manner, in accordance with the National Framework, supported by robust clinical

	evidence and have a clearly stated recommendation from the multidisciplinary team who have completed it, seeking further clarification as necessary. All DSTs are quality checked by an identified senior clinician. - Makes every attempt to secure social care attendance at the assessment and DST completion. Where this has not been possible the reason must be stated on the DST. - Where required, arranges for the DST to be presented to the CCG along with any supporting information. - Writes to the individual or their representative with the outcome of the CHC assessment. - When a recommendation of eligibility for NHS Continuing Healthcare has been verified by the CCG, completes a Commissioned Care Plan (CCP), arranges the package of care based on the needs of the individual ['brokerage function'] and provides the costings of the package of care for approval by the CCG. - If the individual is not eligible for NHS Continuing Healthcare but is entitled to NHS-funded Nursing Care arranges for the payments to be made to the care home (with nursing). - Records all CCG decisions in individuals' case records and ensures all communication of CCG decisions is undertaken in a timely and professional manner. - Ensures individual case management arrangements are in place. - Ensures reviews are undertaken in line with the framework and at other times if needs change. - Receives requests for review of an eligibility decision and manages the process on behalf of the CCG. - Undertakes regular audit to ensure the service is meeting agreed KPIs, including patient, staff and customer feedback. - Ensures the CCG is alerted to issues with care providers which may compromise quality of care. - Raises any safeguarding concerns with the local authority.
Herefordshire and Worcestershire Health and Care Trust **Wye Valley Trust** **St Michaels Hospice** **St Richards Hospice**	The organisations that provide acute and community care in Herefordshire and Worcestershire and may, as part of discharge planning processes: - Identify appropriate discharge pathways for individuals e.g. Discharge to Assess (DTA), Home First. - Completes checklists triggering the initial stages of the CHC process or following agreed protocols proceeds straight to completion of DST. - Submit checklists (positive and negative) to the CCG for recording on the CHC database. - Complete and submit the Fast Track tool for those individuals identified as having a rapidly deteriorating condition that may be entering a terminal phase.
CHC Senior Nurse Team	- Verifies recommendations of continuing healthcare eligibility when required in a timely and robust manner, ensuring consistency and quality of content and that the evidence submitted supports the recommendation. -Participates in the CHC eligibility decision quality assurance process. -Ensures that an appropriate selection of packages, including PHBs, are offered to each patient based on their individual care plan in line with the CCG's NHS Fully Funded Adult Continuing Healthcare Choice and Resource Allocation policy.

	- Reviews all complex packages of care ensuring value for money has been considered. - Regularly reviews commissioned care package agreements to ensure that they continue to meet assessed needs. - Approves the placing of contracts for packages up to the manager's delegated limit. - Seek assurances that providers are fit and proper organisations to provide care. - Ensures that a database of clients and packages is maintained. -
Contracting Team	The team that manages the contracted providers who deliver packages of care will: - Maintain a database of accredited providers. - Seek assurances that the providers utilised have CQC accreditation. - Negotiate prices and terms and conditions for services offered by providers. If such providers have not been previously used by the CCG lead the procurement process, including Pre-Qualifying Questionnaire completion. - Procure and develop contracts with providers that ensure high quality care delivery and value for money. - Monitor all contracts to ensure adherence to all key performance indicators.
Finance Director	-Periodically review delegated limits for managers working in this area. - Sign off very high cost packages.

6.0 Governance

6.1 Implementation and delivery of the requirements of the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (2018, Department of Health and Social Care) will be monitored through performance reports to the Partnership Board and associated sub-committees:

• CHC Quality and Performance meeting will receive a monthly activity performance report that details activity levels and compliance with framework targets and standards,

• Partnership Board will receive a monthly report providing an overview of CHC activity and current issues.

7.0 Continuing Healthcare Operational Procedure

7.1 Principles

NHS Continuing Healthcare is a package of ongoing care arranged and funded solely by the NHS where the individual has been found to have a 'primary health need' as set out in the Framework. 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.

Clinical Commissioning Groups have a responsibility to ensure that the assessment of eligibility for NHS Continuing Healthcare is completed and the funding decision is made, in most cases, within 28 days from the date of receipt of a fully completed CHC Checklist. The CCG, Worcestershire County Council and Herefordshire County Council are committed to working in partnership to achieve these timeframes.

The key principle underpinning this policy is that all individuals for whom a CCG is responsible have fair and equitable access to NHS Continuing Healthcare. It should be noted that all individuals registered with a Herefordshire and Worcestershire GP (regardless of their eligibility for CHC) have the access to universal NHS services. Other principles are:

- The individual's informed consent will be obtained before starting the process to determine eligibility for NHS CHC. 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 Continuing Healthcare. A third party cannot give or refuse consent for an assessment of eligibility for Continuing Healthcare 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 Health and Welfare. Where Lasting Power of Attorney for Health and Welfare exists, a copy of this should be obtained and submitted with checklist. This consent will need to encompass permission to undertake the NHS Continuing Healthcare assessment process and also to the 'sharing and processing of data' (i.e. sharing relevant personal information between professionals in order to undertake the eligibility assessment for NHS Continuing Healthcare and, where appropriate, for audit and monitoring of decisions.
- Health and social care professionals will work in partnership with individuals and their representatives throughout the process.
- All individuals and their representatives will be provided with information to support them to participate as fully as possible in the process.
- The CCG supports the use of independent advocacy for individuals through the process of application for NHS Continuing Healthcare, where this is appropriate.
- The process for decisions about eligibility for NHS Continuing Healthcare will be transparent for individuals and their representatives and for partner agencies. Once an individual has been referred for and is eligible for a full assessment for NHS CHC, all assessments will be undertaken by the Multi-Disciplinary Team (MDT).
- The Decision Support Tool (DST) will be completed using all of the relevant and contemporaneous information available, ensuring a comprehensive multi-disciplinary assessment of an individual's health and social care needs.

The DST has been developed to aid consistent decision making and supports the practitioner in identifying the individual's needs. This, combined with the practitioner's own experiences and professional judgement, should enable them to apply the primary health needs test in practice.

7.2 Eligibility for NHS Continuing Healthcare

The Framework provides a consistent approach to establishing eligibility for NHS Continuing Healthcare. Legal judgements in the cases of Coughlan (1999) and Grogan (2006) have heavily influenced the law relating to NHS Continuing Healthcare and clarified the distinctions between what the NHS and local authorities, respectively, can fund. The concept of "primary health need" has, at least in part as a

result, evolved to assist in deciding when it is appropriate for the NHS to commission both health and social care services (as NHS Continuing Healthcare), and to distinguish those circumstances from situations where services should be provided solely by the local authority under the Care Act 2014 or funded jointly with the NHS.

Where a person has been assessed to have a “primary health need”, they are eligible for NHS Continuing Healthcare. Deciding whether this is the case involves looking at the totality of the relevant needs from the assessment process. Where an individual has a primary health need, the NHS is responsible for providing for all of that individual’s assessed health and associated social care needs. This will include accommodation, if that is part of the overall need.

Consideration of primary health need includes consideration of the characteristics of need and their impact on the care required to manage the needs; in particular, to determine whether the quantity or quality of care is more than the limits of responsibility of Local Authorities (as in the Coughlan judgement and the Care Act 2014). Consideration is given to the following areas:

- **Nature**: This describes the particular characteristics of an individual’s needs (which can include physical, mental health or psychological needs) and the type of those needs. This also describes the overall effect of those needs on the individual, including the type (‘quality’) of interventions required to manage them.
- **Intensity:** This relates both to the extent (‘quantity’) and severity (‘degree’) of the needs and to the support required to meet them, including the need for sustained/ongoing care (‘continuity’).
- **Complexity:** This is concerned with how the needs present and interact to increase the skill required to monitor the symptoms, treat the condition(s) and/or manage the care. This may arise with a single condition, or it could include the presence of multiple conditions or the interaction between two or more conditions. It may also include situations where an individual’s response to their own condition has an impact on their overall needs, such as where a physical health need results in the individual developing a mental health need.
- **Unpredictability:** This describes the degree to which needs fluctuate and thereby create challenges in managing them. It also relates to the level of risk to the person’s health if adequate and timely care is not provided. An individual with an unpredictable healthcare need is likely to have either a fluctuating, unstable or rapidly deteriorating condition.

Each of these characteristics may, alone or in combination, demonstrate a primary health need, because of the quality and/or quantity of care that is required to meet the individual’s needs. The totality of the overall needs and the effects of the interaction of needs will be carefully considered when completing the Decision Support Tool (DST).

7.3 Assessment of eligibility process

Screening

If NHS Continuing Healthcare is under consideration a Checklist should normally be completed. Such screening should take place at the right time and location for the individual and when the individual's ongoing needs are known. There will be many situations when it is not necessary to complete a Checklist, for example, when it is clear to health and social care practitioners that there is no need for NHS Continuing Healthcare at this point in time. Such decisions should be recorded, along with the rationale for the decision.

The purpose of the Checklist is to encourage proportionate assessments so that resources are directed towards those people who are more likely to be eligible for NHS Continuing Healthcare. Its use also provides evidence to demonstrate that the CCG has taken reasonable steps to ensure that individuals are assessed for NHS Continuing Healthcare in all cases where it appears that there may be a need for such care. In certain circumstances, in accordance with agreed protocols, a positive checklist outcome may be assumed and the individual case may proceed directly to the DST stage.

Before applying the Checklist, it is necessary to ensure that the individual and their representative, where appropriate, understand that the Checklist does not indicate the likelihood that the individual will be found eligible for NHS Continuing Healthcare, only that they are entitled to consideration for eligibility. At this stage, the threshold is set deliberately low to ensure that all those who require a full consideration of their needs get the opportunity.

A nurse, doctor or other qualified healthcare professional or social care practitioner can apply the Checklist to refer individuals for a full consideration of eligibility from within the community or hospital setting, although in the majority of cases eligibility should be considered after discharge or a period of rehabilitation when the individual's on-going needs should be clearer. Whoever applies the Checklist should be familiar with the Framework and should be trained in the use of the Checklist.

Consent should be obtained before applying the Checklist (see section 7.1) and provided to the CCG when the Checklist is submitted. Consent should also be obtained when, in accordance with the aforementioned protocol, a decision is made to proceed straight to DST stage. The consent will need to encompass permission to undertake the NHS Continuing Healthcare assessment process and also to the 'sharing and processing of data'. In cases where the individual is unable to consent (determined in accordance with the Mental Capacity Act 2005) or consent from a valid and applicable Lasting Power of Attorney for Health and Welfare or Deputy (Health and Welfare) appointed by the Court of Protection is not available the referrer must make a decision on whether to proceed in the individual's "best interests". This decision should be recorded and the dates of the Mental Capacity Act assessment and Best Interest decision should be submitted to the CCG with the Checklist. All completed NHS CHC Checklists should be sent to the CCG at: Hwccg.chc@nhs.net.

Receipt of completed checklists will be acknowledged by the CCG within one working day.

A negative Checklist means the individual does not require a full assessment of eligibility and they are not eligible for NHS Continuing Healthcare. If an individual has been screened out following completion of the Checklist, the referred may ask the CCG to reconsider the Checklist outcome. Such requests should be made to the CCG by emailing Hwccg.chc@nhs.net. The CCG will give these requests due consideration, taking account all of the information available, and/or including

additional information from the individual or representative, however the CCG is under no obligation to undertake a further Checklist.

7.4 Discharge Planning

The CCG is committed to:

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

In a hospital setting, where a NHS body is considering issuing an assessment notice to a local authority under the provisions of the Care & Support (Discharge of Hospital Patients) Regulations 2014, the responsible NHS body is required to consider the individual's need for NHS Continuing Healthcare before issuing such a notice. Screening and assessment of eligibility should be at the right time and location for the individual and when the individual's ongoing needs are known. If it is considered that there is no need for NHS Continuing Healthcare at this time a decision not to screen can be made and should be recorded along with the rationale for the decision.

Herefordshire and Worcestershire CCG patients receiving acute hospital treatment will be considered for and offered appropriate reablement or rehabilitation prior to consideration for NHS Continuing Healthcare. Such reablement or rehabilitation will take place in a community based 'Discharge to Assess' (DTA) bed or through other interim NHS-funded services. The CCG does not generally support the provision of a CHC assessment in an acute hospital setting. DTA beds are commissioned with the aim of maximising an individual's independence to ensure an appropriate assessment of their healthcare needs once they have had a period outside of an acute hospital setting and have reached their optimal potential. Where it is anticipated the individual may have NHS Continuing Healthcare needs, a Checklist may be submitted and a DST completed in the Discharge to Assess (DTA) setting.

7.5 Assessment and DST

If completion of the Checklist indicates that the individual patient is entitled to a full assessment to determine their eligibility for NHS Continuing Healthcare, the CCG aims to complete the DST, with MDT recommendation, and reach a funding decision within 28 days of receipt of the completed Checklist- in line with the National Framework (revised 2018).
Eligibility for NHS Continuing Healthcare is based on an individual's assessed health and social care needs. The DST provides the basis for decisions on eligibility for NHS Continuing Healthcare. The DST should be completed by a multidisciplinary team, which must include, as a minimum, two health clinicians from different health

disciplines or one professional from a healthcare profession and one who is responsible for undertaking community care assessments (a social care professional). Specialist staff and mental health staff may be involved, dependent on the individual's needs.
On receipt of a completed Checklist the Continuing Healthcare Team will contact the individual or their representative to schedule the assessment and the date will be confirmed in writing. In accordance with agreed procedure 5 days' notice of attendance will be given to the relevant Local Authority by email. If, at the scheduled appointment, consent to undertake the NHS Continuing Healthcare assessment is withdrawn, for example by refusal to allow the assessment to take place as agreed, the potential consequences of this will be explained to the individual. If consent remains withdrawn following the explanation the checklist will be closed and the process will be considered complete. However, withdrawal of consent will only be accepted from the individual or from someone who has a Lasting Power of Attorney for Health and Welfare. In cases where the individual is unable to consent (determined in accordance with the Mental Capacity Act 2005) or consent from a Lasting Power of Attorney for Health and Welfare is not available the CCG will make a decision on whether to proceed with the assessment process will be made in the person's "best interests". The dates of the Mental Capacity Act assessment and Best Interest decision and the outcome of the decision will be recorded in the CCG's records.

7.6 Verification of MDT recommendations

It is anticipated that all DSTs will be completed by appropriate Health and Social Care professionals and a clear recommendation regarding eligibility for funding will usually be made by the MDT, on the date of the DST. A lead nurse for the CCG, not involved in the DST process, will scrutinise all DSTs during the verification process for quality and consistency. Within two working days of receipt of the MDT recommendation the CCG will:

- Verify the recommendations of the multidisciplinary team where the DST is completed by an appropriately constituted MDT and MDT consensus has been reached in relation to the recommendation.
- Where funding is reduced or removed, provide a detailed explanation of the rationale for the decision to the applicant and/or their representative.

The CCG expects to verify all MDT recommendations, however in exceptional circumstances the CCG will:

- Send the DST back to the MDT for further consideration where there is no recommendation consensus between MDT members.
- Defer verification of the recommendations of the multi-disciplinary team where the evidence provided does not support the level of need indicated in the DST; in such circumstances, asking the MDT to provide additional information to support the recommendation.

The MDT will make a recommendation as to whether or not the individual has a primary health need and is eligible for NHS Continuing Healthcare (CHC). The rationale for the recommendation should be recorded.

As per Framework requirements the recommendations available to the MDT at DST are as follows:

- Individual has primary health need - **Eligible for CHC**
- Individual does not have a primary health need - **Not eligible for CHC**
- Individual does not have a primary health need but the individual has specific needs (nature and levels of need to be identified in the DST) which are beyond the power of the LA to meet on its own - **Not eligible for CHC but a joint package of care is indicated.** This may require further discussions to agree funding responsibilities for each organisation and will be referred to and resolved at Quality Assurance Panel (QAP).
- Individual does not have a primary health need but is assessed as having the need for care from a registered nurse and those needs are most appropriately met in a care home with nursing - **Not eligible for CHC but awarded NHS-funded Nursing Care (FNC).**

Every effort should be made to facilitate a decision by the MDT on the day of the DST and it is anticipated that the final version of the DST is shared and agreed by all Professionals before submission. If the MDT is unable to reach agreement on the recommendation this should be clearly recorded. A dispute form will be completed by the MDT and submitted to the CCG by the end of the working day following the DST meeting.

The eligibility recommendation from the MDT will be verified in order to facilitate completion of the decision-making process within the 28-day timescale. An individual only becomes eligible for NHS Continuing Healthcare once a recommendation regarding eligibility has been verified by the CCG. 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. In such cases without prejudice agreements may be made between the CCG and any existing funding organisation in accordance with agreed local protocols.

Where individuals are found to be newly eligible for NHS Continuing Healthcare, funding will be agreed from the date of the verification decision on eligibility or from day 29 from the date of receipt of the Checklist, whichever is the earlier.

7.7 Disputes raised by the Local Authority (inter-agency disputes)

The CCG, Herefordshire County Council and Worcestershire County Council subscribe to the principle that there should be no delay in the provision of services due to disagreements or disputes on the assessment recommendation or outcome of eligibility. Should such situations arise, the Framework is explicit in stating that any existing funding arrangements cannot be unilaterally withdrawn without a joint assessment being carried out and alternative funding arrangements put in place.

It is anticipated that, in the event of an MDT being unable to agree a recommendation at the time of the DST that the MDT will complete a Dispute form and submit this to the CCG by the end of the working day following the DST meeting. There are 3 Dispute resolution stages:

Informal resolution –

- **Stage one:** where the MDT has been unable to agree a recommendation when completing a Decision Support Tool (DST) the MDT and their line managers (Clinical team Leaders, CHC and Team Leaders, LA) will hold a meeting within 5 working days to agree an outcome. It is anticipated that, in most cases, disputes will be resolved with the MDT who undertook the assessment. At this stage, if there is insufficient evidence to make a decision then the MDT may request further information. The MDT need to request specific information and agree who will obtain this, confirm timescales and set a date to reconvene.

Formal resolution –

- **Stage Two:** if unresolved at stage one the case will be reviewed at the earliest opportunity (no later than 5 working days of the stage one meeting) at a senior manager (Senior Nurse Managers, CHC or Operational Managers, LA) level to agree an outcome. If the case is likely to escalate at this stage, then the senior managers must alert Associate Directors on the day of the meeting.
- **Stage Three:** if unresolved at stage two the case will be reviewed at CCG Associate Director and LA Associate Director level within 5 working days of the stage two meeting and a final decision made.

Independent arbitration –

- **Final stage:** The final stage will be invoked as a last resort. It will be triggered at Associate Director-level within 1 working day of the stage three meeting.

Escalation to NHS England –

- All disputes that remain unresolved in excess of 12 weeks will be escalated to NHS England for guidance, using the appropriate documentation.

Individuals and care/support providers will never be left without support whilst disputes between the statutory bodies about funding responsibilities are resolved. It is anticipated that, where a responsible commissioner is already in place, then this will continue but, where there is an increase in care identified, partnership working may be required to ensure there is always appropriate care in place.

For those individuals without an existing funding stream or where existing funding is not sufficient to meet assessed needs an interim funding agreement will be discussed and agreed between the CCG and relevant Local Authority and an interim Lead Commissioner identified with agreed next steps to confirm the permanent position.

7.8 Fast Track Applications

The Fast Track application is there to ensure that individuals who have a “rapidly deteriorating condition, that may be entering a terminal phase” get the care they require as quickly as possible. No other criterion need be fulfilled. (Fast Track applications will be funded from the date of the introduction of the agreed package of care.)

The Framework provides the Fast Track Tool for use in these circumstances. The Fast Track Tool should be completed by an ‘appropriate clinician’ described in the Framework as a person who is:

- Responsible for the diagnosis, treatment or care of the individual under the 2006 Act in respect of whom a Fast Track Pathway Tool is being completed:
- A registered nurse or registered medical practitioner.

The registered nurse or registered medical practitioner completing the Fast Track Tool, should be knowledgeable about the individual’s health needs, diagnosis, treatment or care and be able to provide an assessment of why the individual meets the Fast Tracking criteria. The reasons stated should be supported by evidence clearly demonstrating a rapid deterioration of condition. Where this is not demonstrated, a CHC clinician can challenge the referring clinician to determine eligibility. However, resolution of such concerns should not delay the delivery of an urgent package of care via the Fast Track process. In exceptional circumstances, if there is no evidence to support eligibility, the referrer may be advised to send in a Checklist as an alternative and a DST may be arranged, as appropriate.

The HWCCG NHS Continuing Healthcare Service currently operates Monday to Friday, 09.00 to 17.00 (excluding Bank Holidays). Decisions about eligibility for ‘fast tracking’ of NHS Continuing Healthcare will be made within 48 hours of application, in order to support the preferred priorities of the individual for their end of life care. Only in exceptional circumstances will completion of the process exceed 48 hours when an application is received within operating hours. In cases where an application is made after 17.00 on a Friday the decision will be made by 12 noon the next working day.

Use of Fast Track applications will be closely monitored by the CCG and action will be taken where it is suspected that improper use of the process has occurred. Such actions will be treated as a separate matter from the task of arranging for service provision in the individual case.