East Leicestershire and Rutland Clinical Commissioning Group

Settings of Care Policy

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Document Author:	NHS East Leicestershire and Rutland CCG
Director:	Tracy Burton, Interim Chief Nurse and Quality Officer

Version Control

Version number	Approval / Amendments made	Date (Month, Year)
Version 1	"Policy for Continuing Healthcare Settings of Care" (February 2011) inherited from predecessor organisations: Leicestershire County and Rutland Primary Care Trust and Leicester City Primary Care Trust.	February 2011
Version 2	Review of the Settings of Care Policy commenced, including the engagement event.	March 2016 – July 2016
Version 3	Proposed Settings of Care Policy drafted. Public consultation commenced on the proposed Policy.	January 2017 – February 2017
Version 4	Consideration given to the feedback and comments received through the public consultation process, Policy updated to reflect the feedback, however also ensuring the CCGs continue to meet their statutory obligations and duties.	May 2017 – June 2017
Version 5 and 6	Policy updated further to include discussions across the CCGs on the content.	June 2017
Version 7, draft 4	Updated version of the Settings of Care Policy to be presented to the Governing Body of East Leicestershire and Rutland CCG.	July 2017
Version 8	Version 7, draft 4 of the Policy was approved by the Governing Body on 11 July 2017. Version 8 is the final version which reflects the amendments (e.g. minor typos and consistency review of document) as agreed by the Governing Body.	28 July 2017
Version 8	On behalf of the Governing Body the Integrated Governance Committee agreed for the Policy to remain unchanged and extend the review date noting that as the CCG moves towards a more collaborative structure across Leicester, Leicestershire and Rutland (LLR) all policies and procedures will be reviewed, including this Policy. Therefore extension to the Policy will enable continuity during this period in preparation for a review across LLR.	9 July 2019

DOCUMENT STATUS:
This is a controlled document. Whilst this document may be printed, the electronic version posted on the intranet is the controlled copy. Any printed copies of the document are not controlled.

RELATED DOCUMENTS:
This document will reference additional policies and procedures which will provide additional information.

Contents

1. Policy Statement

1.1. This Policy applies to East Leicestershire and Rutland Clinical Commissioning Group (hereafter "ELR CCG" or "the CCG").

1.2. This policy describes the way in which ELR CCG will plan and commission services for people who have been assessed as eligible for an episode of fully funded NHS Continuing Healthcare (CHC), and patients who are eligible for CHC who wish to have a Personal Health Budget (PHB).

1.3. The CCG has developed this policy to help provide a common and shared understanding of the CCG's commitments in relation to individual choice and resource allocation.

1.4. Once an eligibility decision has been made NHS CHC packages of care are subject to a cost effectiveness test in the same way as all other NHS services. Whilst agreeing a package of care for eligible individuals that meet their reasonable assessed needs, the CCG has a statutory duty to consider the available resource. In coming to a decision on a package of care to be commissioned for a patient the CCG must balance the need to commission safe, effective and clinically appropriate care that makes the best use of available resources and in a manner that reflects the choice and preferences of individuals.

2. Scope of the Policy

2.1. The scope of this policy applies to guide decision making by all staff employed by or contracted to ELR CCG, who are required to make decisions about the care packages for individuals that are eligible for an episode of fully funded NHS CHC (for the avoidance of doubt this includes PHBs).

2.2. This policy applies to all adults aged 18 years and over who are eligible for CHC.

3. Legal Compliance

3.1. Section 14v of the National Health Service Act 2006 places a procedural statutory duty on CCGs to take account of patient choices when making commissioning decisions. It provides:

> "Each clinical commissioning group must, in the exercise of its functions, act with a view to enabling patients to make choices with respect to aspects of health services provided to them."

3.2. Subject to the terms of this policy, ELR CCG will seek to commission services in accordance with choices made by individuals including as to their preferred setting of care. However, there are some restrictions that the CCG is entitled to make to the choices that patients have expressed in order to ensure the CCG commissions safe, effective and clinically appropriate care which makes the best use of available resources. For these

reasons there may be occasions where ELR CCG cannot offer to commission services which are the individual's preferred option. If this is the case reasons will be explained to the individual.

3.3. ELR CCG aims to design and implement policy documents that meet the diverse needs of our services, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account current UK legislative requirements, including the Equality Act 2010 and the Human Rights Act 1998, and promotes equal opportunities for all. This Policy has been designed to ensure that no-one receives less favourable treatment due to their personal circumstances, their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity. Appropriate consideration has been given to gender identity, socio-economic status, immigration status and the principles of the Human Rights Act.

3.4. This Policy applies to adults 18 years and over. A separate process is in place for children and young people under the age of 18 years.

3.5. In carrying out its functions, the CCG is also committed to having due regard to the Public Sector Equality Duty of the Equality Act 2010 to: eliminate discrimination, harassment, victimisation; advance equality of opportunity; and foster good relations.

3.6. NHS CHC funded packages of care can minimise disadvantages suffered by people due to their disability and home/domiciliary care c a n support individuals with a disability and their carer(s) to participate in public life. ELR CCG recognises Article 8 of the Human Rights Act 1998 and that everyone has the right of respect for their private and family life, home and correspondence. Whilst the CCG will respect this right, there may be circumstances when the need for the CCG to commission safe, effective and clinically appropriate care, which makes the best use of available resources, will not allow families to remain together.

4. Purpose, Aims and Principles

4.1. **The purpose of this policy is to:**

a. define how and when the CCG will support choice of care setting for individuals in relation to safe, effective and clinically appropriate care which makes the best use of available resources and to ensure that care is provided equitably across ELR CCG; and
b. ensure that the reasonable assessed needs of eligible individuals are met in a manner which supports consistent and equitable decisions about the provision of that care regardless of the person's condition or disability.

4.2. **The intentions of this policy are to:**

a. inform robust, fair and consistent commissioning decisions for the CCG

b. ensure that there is consistency in the local area regarding the services that individuals are offered
c. ensure the CCG achieves value for money in the purchasing of services for individuals
d. facilitate effective partnership working between healthcare providers, NHS bodies and the Local Authorities in the area
e. promote individual choice as far as is reasonably possible.

4.3. **This policy aims to assist the CCG to:**

a. understand the legal requirements, CCG responsibilities and agreed course of action in commissioning care that meets the assessed needs of the individual
b. meet the responsibilities under the sources of guidance listed in section 20 of the Policy;
c. make decisions about clinically appropriate care provision in a robust way, within the available financial envelope
d. provide guidance for those staff who are designing the package of care with the eligible individual to develop a process whereby the cost of care provided is proportionate for the same level of need regardless of the setting the care that is provided, and to meet all of the individual's assessed health and associated social care needs
e. take account of the wishes expressed by individuals and their representatives when making decisions as to the location or locations of care packages to be offered to individuals
f. promote the individual's independence and to support individuals to take reasonable risks whilst ensuring that care provided is clinically safe, including through the use of a PHB subject to the factors set out below:

- the individual's safety
- the individual's choice and preference
- ensuring services are of sufficient quality
- the individual's right to family life
- ensuring services are culturally sensitive
- ensuring services are personalised to meet individual need
- best use of resources for the population of the CCGs.

4.4. **How should decisions be made by the CCG about settings in which care will be commissioned?**

a. ELR CCG understands that many individuals with complex medical conditions wish to remain in their own homes and continue to live with their families with a package of support to aid them to do this. Similarly the CCG accepts that many patients might wish for other care options including other forms of supported living or care homes.

b. Where an individual or their family expresses such a desire, the CCG will investigate whether it is clinically feasible to provide a sustainable package of CHC funded care for the individual that is consistent with their preferences and the likely cost of commissioning care in accordance with choices made by patients.

c. ELR CCG needs to act fairly to balance the resources spent on an individual patient with those available to fund services to other patients and the wider health economy. In an attempt to balance different interests the CCG will, save in exceptional circumstances or where otherwise provided for in this policy, be prepared to support a clinically sustainable package of care funded by the NHS which keeps a patient in their preferred setting of care. This is provided the cost to the CCG is not more than 10% above the anticipated cost of the provision of a broadly similar service to be delivered in an appropriate alternative setting. This 10% threshold will be applied consistently to every case across ELR CCG unless the CCG decides that the patient demonstrates exceptional circumstances or the patient's circumstances come within paragraph 8.4 of this policy.

d. The CCG will make a decision as to whether a patient is able to demonstrate exceptional circumstances or whether the circumstances outlined in paragraph 8.4 apply on a case by case basis.

e. For any individual who lacks the capacity and where, in addition to the CCG making commissioning decisions, a best interest decision has to be undertaken, the decision will be made in accordance with the paragraph 6 of this policy.

f. The Policy will apply to all new cases deemed eligible for CHC funding from the date the Policy is implemented. Existing patients will be subject to the Policy upon review of their case (see paragraph 16) and then only in cases where their assessed needs have changed and therefore a change to the care package is necessary. Where there is no change to the care package, existing patients will continue to be offered funding which ought to enable them to remain in their current setting of care.

5. The role of the CCG

5.1 The CCG will seek to take into account any reasonable request from the individual and their representative(s) in making the decision about the care provision subject to the factors set out in this policy; and endeavour to offer a reasonable choice of available, preferred providers to the individual. Where the individual wishes to receive their care from an alternative provider, the CCG will consider this, subject to the individual's preferred care setting being considered by the CCG to be safe, and effective and clinically appropriate in relation to the individual's needs as assessed by the CCG; and subject to the principles set out in section 4.4 of this Policy.

6. Mental Capacity and Representation

6.1. The Mental Capacity Act 2005 states that there should be an assumption of capacity. However, where there is reason to believe that an individual may lack the capacity to make a decision regarding the provision or location of (or change to) their care and/or accommodation, a mental capacity assessment must be undertaken. If the assessment confirms that the individual lacks capacity to make the relevant decision, a

'best interest decision' should be undertaken in accordance with the Mental Capacity Act and its Code of Practice. Where necessary the CCG will appoint an Independent Mental Capacity Advocate (IMCA) to support the individual in decision making in accordance with the Act.

6.2. Where a personal welfare deputy has been appointed by the Court of Protection under the Mental Capacity Act (2005) or a Lasting Power of Attorney with powers extending to healthcare decisions has been appointed, the LLR CCGs will consult with that person and obtain a decision from that appointed person on the preferred care option.

6.3. Where there is no health and welfare deputy or attorney the CCG will be the best interest decision maker.

6.4. In all cases there is an expectation that the decision maker will consult with relevant professionals, family members and / or carers. The CCG will make this decision in accordance with the Mental Capacity Act guidance referenced in Appendix A.

6.5. Commissioning option decisions will be taken first and then a best interest decision can be made from amongst the options that the CCG is prepared to fund.

7. Identification of Care Provision

7.1. Where an individual is eligible for an episode of CHC funding, the CCG will commission the care which meets the individual's reasonable assessed care needs giving effect to the patient's choices to the extent defined by this policy.

8. Exceptional circumstances

8.1. The CCG has resolved that, where the patient is able to demonstrate exceptional circumstances, it will be prepared to support a safe, cost-effective and clinically appropriate and sustainable package of care, which keeps a person in their chosen setting. Even where the patient shows that he or she has exceptional circumstances, the CCG retains a discretion to decide the extent to which, if at all, it is prepared to fund the care package for the patient to be delivered in an alternative appropriate location which costs more than 10% over the cost of delivering on the CCG's duties to the client in a cheaper location.

8.2. The CCG will make its decision as to whether the patient is able to demonstrate exceptional circumstances and if so what package should be funded based on the precise facts of each case. This may involve reviewing the complexity of the individual's condition and the level of clinical risk associated with any proposed placement, which would prevent adequate and timely care provision. The CCG may also be prepared to consider the extent to which a care package will result in breaking up a family unit of which the patient is part. However the purpose of allowing a 10% buffer is to ensure that families are not broken up where the difference in costs is marginal. Where the additional costs are more than 10% over the costs of an alternative package, the general approach of the CCG will be that the sad fact of breaking up a family is not to be treated as exceptional as this is an unfortunate consequence of many CHC packages of care. However there may be exceptional cases where a family break up as a result of a CHC package does constitute exceptional circumstances.

8.3. Exceptionality will be determined on a case by case basis and will require agreement from the High Risk and Complex Care Panel. In urgent cases a decision can be made outside of the panel by joint agreement of a CCG Director and a clinical lead. Authorisation outside of panel would be determined by the CCG's Standing Rules and Financial instructions.

8.4. In addition to the exceptionality provision outlined at 8.1-8.3, a care package costing more than 10% over the cost of an alternative care package may be funded for an individual who has an advanced, progressive, and incurable illness and is entering a terminal phase. The CCGs will deal with individuals that fall within this section on a case by case basis and packages of care will be assessed and offered accordingly.

9. Registered Care Settings

9.1. Where care is to be provided in a registered care setting (i.e. one that provides accommodation, such as a nursing home, residential home, independent hospital and some supporting living schemes), the CCG will only place individuals with providers which are:

a. registered with the Care Quality Commission (or any successor); and

b. not subject to commissioning restrictions placed by the CCG or Local Authorities in ELR CCG area as a result of quality and safety concerns, including the host CCG or Local Authority if the provider is not located in the CCG's area .

c. prepared to contract with the CCG to provide care at the locally agreed tiered rate unless there are exceptional circumstances.

9.2. The CCG will, subject to the other provisions of this policy, consider providing a placement in a registered care setting not already contracted to the CCG as long as the requested care provision is clinically appropriate and meets the conditions in paragraphs 9.1.(a) to (c) above.

10. Preferred provider placements

10.1. Subject to the provisions of this policy, and in order to assist the CCG in achieving consistent, equitable care, the CCG will endeavour to offer and place individuals with providers that have undergone a procurement exercise with the CCG and have secured a place on the CCG's approved lists.

10.2. Where a preferred provider is not available to meet the individual's reasonable assessed needs or the patient has expressed a wish to be provided with care by a provider who does come within paragraph 10.1, the CCG may make a specific purchase and place the individual with a care provider who is able to demonstrate that the provider meets the individual's needs. Where such an arrangement has been agreed on a temporary basis, the CCG reserves the right to offer to move the individual to a suitable preferred provider when capacity becomes available if a move of placement will provide substantially better value for money to the CCG. For example, if an individual has a specific care need which cannot be met in the

available preferred accommodation, the CCG will need to specifically commission accommodation for the individual, potentially through an individually negotiated agreement. The CCG should notify the individual and/or their representative that they may be moved should a preferred provider subsequently have availability. In such circumstances, the CCG will give a minimum of seven days' notice to the individual and / or their representative; and will devise a transition plan with the individual and / or their representative to ensure safe transition within a period of 28 days from date of notice. This is unless the health and safety of the individual warrants transition to the alternative provider sooner.

10.3. Where the CCG deems that a provider is not providing care of an acceptable standard, the CCG reserves the right to terminate a placement and will offer to move the individual to an alternative provider.

10.4. Where an individual's needs change, the CCG may offer a package of care with a different provider.

10.5. A PHB may be provided to an individual in a registered or a non-registered setting. It may cover all or part of the care needed by the individual. It may only be used to pay for care agreed as part of a care package, by the CCG.

11. The role of the Care Co-ordinator

11.1. The individual's Care Co-ordinator will be responsible for the following:

a. discussion of the proposed care provision with the individual and their representative(s) (where the individual gives consent for such a discussion or where the individual lacks capacity) including where the care and support may be provided;

b. identification of different options for providing the care and gain an indication which of these is preferred by the individual; and

c. preparation of a written care plan that must clearly identify and articulate the outcomes that the individual wishes to achieve and what actions need to take place for that to happen.

12. Domiciliary Care and domiciliary care providers

12.1. Many individuals with complex healthcare needs wish to remain in their own homes, with support provided in that environment. Where an individual or their representative(s) express such a desire, the CCG will investigate to determine whether safe, effective and clinically appropriate and sustainable care can be provided for an individual in their own home.

12.2. The CCG will also consider if domiciliary care for an individual is likely to be more costly than for an individual whose equivalent care is provided in a residential or nursing home placement as outlined at paragraph 4.4 above.

12.3. Where domiciliary care is to be provided, the CCG will use domiciliary care agencies they have commissioned for other patients to provide such care. Where the CCG is assured through a procurement process that domiciliary care will be provided by agencies suitably qualified to deliver the care that meets an individual's assessed needs they will ask family members if they are willing and able to supplement support. If they agree the CCG will assume that family members will provide the agreed level of support when designing any domiciliary care package.

12.4. There will be occasions when a clear commitment by family members or others (whether paid or unpaid) to provide some elements of the patient's care needs could reduce the reasonable assessed needs of the patient that the NHS is required to provide and thus reduce the services that the CCG is obliged to fund for the patient. In such cases, care by family members or others may have the effect of making a package of care at home a cost effective option having regard to the terms of paragraph 4.4 of this policy when, without those commitments, the home care package would be outside the terms of this policy.

12.5. CCG staff should ensure that no pressure is applied to family members or others to offer and provide such support. The CCG recognises that family members are under no legal obligation to offer care but equally recognises that family members can often be expert and reliable carers and that patients wish to continue to be supported by their family members. When deciding about whether to make an offer of a domiciliary care package, the CCG will take account of any voluntary offers from family members or other commitments to provide care to a patient when applying paragraph 4.4 of this policy in comparing the cost of any such package with the cost of a suitable package of care in a registered care setting.

12.6. Where the CCG decides to offer domiciliary care to an individual, the individual's home becomes the member of staff's place of work. Employee safety is an important consideration in domiciliary care packages. The individual's home must be a reasonably safe environment to work and deliver care to the individual. This includes cleanliness and safety of the environment, and interactions between the individual, family/carer and the employee. The CCG reserves the right to terminate any domiciliary care package if it appears that the patient's home is not an appropriate place of work for care staff for any reason.

13. Personal Health Budgets

13.1. Where ELR CCG receives a request for a PHB from or on behalf of an eligible person the CCG must grant that request, unless it is not appropriate to do so. Where ELR CCG decides to offer an individual a PHB, it will assess the cost of an appropriate package of care. The cost of a PHB is designed to permit a patient to make arrangements so as to enable the patient or those acting on the patient's behalf to purchase services to meet the individual's reasonable assessed needs. The setting of the indicative budget for calculating the value of a PHB must apply the principles set out in this policy. The cost of a PHB will include any directly incurred additional expenditure, including but not limited to:

a. administering managed accounts

b. recruiting a Personal Assistant including any training and employment checks
c. tax, national insurance and any other costs associated with directly employing staff
d. costs associated with redundancy
e. legal advice
f. financial advice, including accountancy

13.2. Where the individual receives a direct payment as their PHB and they directly employ staff they assume responsibility for all of the obligations that apply to any employer. The CCG will not accept any vicarious liability arising out of an individual's decisions to employ staff, funded by a direct payment.

13.3. The requirements for PHBs are laid down in the CCG's PHB Policy.

14. Availability of care provision

14.1. To enable individuals to receive the correct care promptly, they must be offered care as soon as possible. If an individual's agreed provider and placement does not have the capacity to provide the care at the point required, the individual will be offered another CCG preferred provider in the interim to ensure care is provided as soon as possible preventing any delays.

14.2. If the individual requests care from one of the CCG's preferred providers which is currently unavailable, there are several options available to the CCG:

a. Temporary placement of the individual with alternative care provision until the care from the individual's preferred care is available. For example, alternative home care provider, alternative care home, respite care or a community bed;

b. If the temporary placement is refused the individual may choose to go to their own or a relative's home without receiving the assessed care provision that has been offered by the CCG until the preferred care is available. The individual will retain the right subsequently to change their mind and elect to accept the care provision offered by the CCG. If the individual does not have mental capacity to make this decision, the CCG will exercise its duties under the Mental Capacity Act;

c. If it has been agreed with the individual that the assessed needs can best be met through a care home placement, the CCG may choose to provide a package of care at home to cover the reasonable assessed care needs of the individual until the preferred care home is available. This must be considered in light of paragraph 4.4 (c) of this policy.

14.3. If there is a delay in the CCG being able to secure a placement in a care home due to non-availability of a preferred home, and the individual does not have the mental capacity to make this decision themselves, the CCG will follow due process in applying the LLR Safeguarding Children and Adults Policy and the Mental Capacity Act 2005 as appropriate.

14.4. If the individual is in an acute healthcare setting, they must move to the most appropriate care setting as soon as they are medically fit for discharge, even if their

first choice of care provision is not available. The individual's preference must be considered in line with this policy, when the CCG is deciding which package of care to offer to them. Where the individual's preferred choice is not available, but alternative provision which will meet their assessed needs is available, they must move and cannot remain in an acute healthcare setting once they are medically fit for discharge.

15. Acceptance of care provision

15.1. An individual is not obliged to accept a CHC package of care. Once an individual is eligible and offered a package of care, and they choose not to accept the CHC package, the CCG will take reasonable steps to work with the individual to help them understand their available options and facilitate access to appropriate advocacy support if necessary. Decisions regarding individuals without capacity will be taken in accordance with the Mental Capacity Act and the CCG will make an application to the Court Of Protection as necessary.

16. Continuing Healthcare review

16.1. A case review should be undertaken no later than three months after the initial eligibility decision, in order to reassess the individual's care needs and eligibility for CHC, and to ensure that the Individual's assessed needs are being met. Reviews should thereafter take place annually, as a minimum. The CHC review may identify an adjusted, decreased or increased care need, or no further health care needs.

16.2. Any review should take account of this policy.

16.3. The CCG will conduct an annual review of the provision of care to a CHC eligible patient or more frequently if an individual's care needs have changed. An assessment of the patient's clinical needs will be made to determine the most clinically appropriate package of care for that individual. At this point, and after full discussion with the individual or their carer where an individual does not have capacity, any decision about a future setting of care will need to take into account whether a package of care is being and/or will in the future be delivered in an individual's preferred choice safely. Keeping an individual safe must take priority, however this must be balanced with an individual accepting responsibility for their choices where they have capacity to make the decision about their care.

16.4. Where the individual is accommodated in a care home, the CCG will ensure that the care home is able to deliver to meet any changed care needs of the individual.

16.5. Where the care home is unable to meet this adjusted care need, the CCG will offer to fund an alternative package of care for the individual in accordance with this policy.

16.6. Where there is a decreased need, the CCG will consider the cost effectiveness of the package to be delivered in the current care home, and may move the individual to a suitable alternative provider in accordance with this policy.

16.7. If the review demonstrates that the individual's condition has improved to an extent that they no longer meet the eligibility criteria for CHC funded care provision, the CCG is obliged to cease funding accommodation and social care for the individual. This includes

home care and care home provision. In these cases the CCG will carry out a joint review with the relevant Local Authority in the area. At this point the Local Authority has 28 days to review the individual's requirements and the individual will be notified they may no longer be eligible for CHC. CCG funding for an individual's care may be continued for 28 days where a Local Authority is undertaking such a review or such longer period as seems reasonable in the circumstances.

17. Withdrawal or refusal of care provision

17.1. The NHS discharges its duty to individuals by taking account of its legal obligations including those outlined in paragraph 3 and makes an offer of a package of care to meet an individual's reasonable assessed care needs. It is an individual's decision whether they choose to accept the offer of care made by the CCG.

17.2. An individual can refuse to accept the CCG's offer of care. In these circumstances the NHS will not be responsible for arranging and paying for a care package for that patient.

17.3. Where an individual with capacity exercises their right to refuse, the CCG will ask the individual or their representative(s) to sign a written statement confirming that they are choosing not to accept the offer of care provision.

17.4. For individuals who do not have the capacity to make a decision about the location of their care provision the CCG will apply the principles of paragraph 6 and make applications to the Court of Protection where appropriate.

17.5. The CCG has a duty to ensure that all staff providing care are not subject to violence and abuse in any form. The CCG and care provider will work to ensure that positive behaviour support is reflected in an individual's care package where necessary. However, under extreme circumstances, it may be appropriate for the CCG to remove CHC services where the situation presents a risk of danger, violence to or harassment of care staff who are delivering the package and/or all attempts of positive behaviour support have failed.

17.6. The CCG may also withdraw the offer of CHC funded support in a home care environment where the clinical risks become too high. This can be identified through, or independently of, the review process. Where the clinical risk has become too high in a home care setting, the CCG may choose to offer CHC in a care home setting.

18. Disputes resolution and appeals

18.1 Where there is a disagreement with an individual or their representative about where someone may receive care, the CCG will aim to resolve the matter through the local dispute resolution process, which will be defined in the local procedure document. A patient or their representatives are also entitled to lodge a complaint about the CCG's decision using the NHS complaints process; and where local resolution has been exhausted individuals or their representatives can appeal to the Parliamentary Health Service Ombudsman.

19. Monitoring and review of the Policy

19.1. Performance against key performance indicators will be reviewed on an annual basis and used to inform the development of future procedural documents.

19.2. This policy will be reviewed in accordance with the following on an as and when required basis:

a. legislative changes;
b. good practice guidance;
c. case law;
d. significant incidents reported;
e. new vulnerabilities; and
f. changes to organisational infrastructure

19.3 The policy will be reviewed at least once every two to three years or sooner where relevant changes occur in regard to the law, national policy or guidance.

20. References

a. Care Act 2014
b. Guidance on: National Assistance Act 1948 (Choice of Accommodation) Directions 1992. National Assistance (Residential Accommodation) (Additional Payments and Assessment of Resources) (Amendment) (England) Regulations 2001
c. Guidance on NHS patients who wish to pay for additional private care (May 2009)
d. Human Rights Act 1998
e. Legal guidance Relevant case law
f. Mental Capacity Act 2005 Code of Practice
g. The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012
h. National Assistance Act 1948 (Choice of Accommodation) Directions 1992 (as amended)
i. National Health Service Income Generation - Best practice: Revised guidance on income generation in the NHS (1 February 2006)
j. National Health Service Act 2006
k. The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care - November 2012 (revised)
l. Updated guidance on National Assistance Act 1948 (Choice of Accommodation) Directions 1992: Consultation outcome (14 October 2004)
m. Who Pays? Establishing the Responsible Commissioner (December 2012)

Appendix 1: Definitions

- **Accommodation**: In the context of CHC, accommodation relates to an appropriately registered care setting or the individual's own home.

- **Care Co-ordinator**: Care Co-ordinator refers to the person who coordinates the assessment and care planning process. Care co-ordinators are usually the central point of contact with the individual.

- **Care provision**: Care provision takes two main forms:
  - Care provided in an individual's own home and referred to in this document as 'home care' or 'domiciliary care'.
  - Care provided in an appropriately registered care setting (such as a nursing home, a residential home or an independent hospital) and referred to in this document as 'registered care setting' or 'care home'.

- **Individual:** In the context of this policy the individual is the service user that has been assessed for and offered continuing healthcare, often referred to as the individual.

- **Representative(s):** Representative(s) refers to the people or person that liaises between individuals and the CCG. The individual receiving healthcare may elect to have representative(s) act with them or on their behalf, or there may be representative(s) where the individual does not have the mental capacity to make independent decisions.
  Representatives may be legal representatives, individual advocates, family, or other people who are interested in the individual's wellbeing.
  Where the individual has capacity, they must give consent for any representative to act on their behalf.
  A person who has formally been appointed as an Attorney or Deputy has defined responsibilities for the individual. The extent of these responsibilities will vary according to the nature of their appointment.

- **Local Authority / Authorities:** refers to Leicestershire County Council and / or Rutland County Council.

- **Clinical Commissioning Group (CCG)**: CCG refers to NHS East Leicestershire and Rutland Clinical Commissioning Group.

- **Provider:** Provider refers to the organisation that provides NHS continuing healthcare on behalf of the CCG.

- **Preferred providers**: These providers have been assessed and accepted onto the Any Qualified Provider framework by the CCG as being able to fulfil the continuing healthcare requirements of defined categories of individuals at an agreed cost.