Agenda Item: 14
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Governing Body
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NHS Norwich Clinical Commissioning Group

Subject:	Continuing Healthcare Proposal
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Purpose of Paper:	For agreement

This paper is the culmination of that work and outlines a proposal to introduce a standard decision making framework for Clinical Commissioning Groups (CCGs) to use when commissioning and reviewing Continuing Health Care (CHC) packages.

Currently all CCGs in Norfolk have an established panel which reviews these cases but there is some variability in the scope of the evidence used to support the decision making process. The proposed standardisation of the domains addressed in this process, based on best practice will ensure a consistent approach for all patients within and between different CCGs.

Recommendation:

Governing Body members are invited to agree proposals to support decisions made on packages of NHS CHC.

Proposal to Standardise the Governance and Decision Making Process for NHS CHC Packages of Care
Norwich CCG, North Norfolk CCG, South Norfolk CCG
West Norfolk CCG
September 2015

1. Introduction - What is NHS continuing healthcare (NHS CHC)?

"*NHS continuing healthcare is the name given to a package of care which is arranged and funded solely by the NHS for individuals outside of hospital who have ongoing healthcare needs. You can receive NHS continuing healthcare in any setting, including your own home or in a care home. NHS continuing healthcare is free, unlike support provided by local authorities for which a financial charge may be made depending on your income and savings.*

If you are found to be eligible for NHS continuing healthcare in your own home, this means that the NHS will pay for healthcare (e.g. services from a community nurse or specialist therapist) and associated social care needs (e.g. personal care and domestic tasks, help with bathing, dressing, food preparation and shopping). In a care home, the NHS also pays for your care home fees, including board and accommodation." 1

The process for establishing a patients' eligibility and processes for planning and commissioning care is defined nationally within the NHS Framework for NHS Continuing Healthcare 2 which is implemented locally and not subject to change.

2. Background and what you are being asked to approve

CCGs in central and west Norfolk are producing a joint guide to NHS Continuing Healthcare locally for patients and carers. This guide is on track to be launched on 11 January following the publication of revised guidance by the Department of Health, which is anticipated in December 2015. As part of this process, CCGs identified a key area where clearly articulated processes regarding the commissioning and review of NHS CHC care packages would benefit from standardisation across all CCGs.

This paper relates to the process for making decisions on care packages for patients who are eligible for NHS CHC. Whilst there is a robust current process around how CCGs make decisions, this has not been standardised across Norfolk. Risks of inconsistency in approach have been identified which CCGs wish to mitigate.

North East London Commissioning Support Unit (NEL CSU) has reviewed what CCGs are doing across the country regarding funding decisions for care packages. The CSU has engaged with local key stakeholders, consulted the national framework and secured legal opinion in reviewing current practice when making decisions regarding NHS CHC funding. Following careful consideration and discussion across local CCGs, the concept of setting thresholds was not supported.

Instead it is recommended that some norms are established in respect of when a CCG Complex Case Review Panel (CCRP) will convene to review a care package and what services CHC should and should not fund.

1. NHS Continuing Healthcare and NHS Funded Nursing care: Public Information leaflet 2013
2. National Framework for NHS continuing Healthcare and NHS - Funded Nursing Care Nov 2012 (Revised)

Specifically, a CCRP will be convened at the point where a home care package costs in excess of 5% more or less than the equivalent Care Home package.

We believe that by taking this approach we will be more consistent in our approach across Norfolk, whilst allowing CCGs flexibility to reflect the unique nature of care packages and individual needs. We believe that this approach will be clearer for patients and families, whilst ensuring that CCGs both treat all patients fairly, and comply with the law

3. Why did we need to review?

Complex Care Review Panels (CCRPs) exist in each CCG but lack a uniform, standardised framework regarding the information they require and the dimensions they wish to consider in order to make decisions on the commissioning and funding of care. This variability in approach makes it more difficult for the NHS CHC clinical teams who would benefit from more clarity around what information CCG panels wish to receive. At present requests from panels for additional information slows down the decision-making process.

Patients and their carers will also find it useful to know the domains which are considered by panels when their care package is being reviewed and decisions are made.

4. What are CCGs proposing to standardise?

Section 6 of this paper proposes standardising current governance arrangements. This will support CCGs in their oversight and decision making with regard to funding of individual NHS CHC packages of care. Processes and decision making regarding eligibility are entirely separate and will not change as a result of this proposal. The national Decision Support Tool continues to be the framework used to determine eligibility.

5. What have we taken into account when developing our proposals?

Practice Guidance within the National Framework 2 has been considered in putting forward this proposal and the domains for CCRPs to consider. Alongside this we have looked at relevant case law - particularly the Human Rights Act and Gunter vs South Western Staffordshire PCT (2005). We have also given careful consideration to the comments and contributions of our stakeholders, complaints we have received regarding NHS CHC in general and also what we have been able to feed into the process from our patient experiences of services as conveyed by the NHS CHC clinical team. Our proposal will standardise how the current clinical NHS CHC team works and how packages are presented for approval. This will also save time. We will also streamline training provision for CCG complex case panels and NHS CHC clinical teams with online training available to all to ensure all staff involved are regularly updated regarding: assessments of risk, Disability the Human Rights Act legislation.

The Harwood Charter cards support patients to have conversations with those helping to identify the outcomes they want to achieve and to agree their preferences when looking at options. This can be used where patients find these useful. We also hope this gives patients the confidence to provide feedback and help shape the care they receive, and to feel able to tell us when things are not going well for them.

Commissioners need to have access to good quality information in order to make decisions and clearly understand the rationale for proposals in terms of wider efficiencies and outcomes for the individual. For example, it is not good enough to propose the funding of a portable hoist without explaining the outcome and cost savings it will achieve - in this case to support a daughter to provide all of her relative's transport to weekly outpatient appointments while saving on patient transport costs. Panels need to be robust in how they make decisions and NHS CHC clinical teams need to be more effective in presenting the information required.

What does the National Framework say about the way we need to make decisions about care?

Practice guidance from the National Framework outlines within paragraph 83.3 on page 107:

"CCGs can take comparative costs and value for money into account when determining the model of support to be provided but should consider the following factors when doing so:

a) *The cost comparison has to be on the basis of genuine costs of alternative models. A comparison with the cost of supporting a person in a care home should be based on the actual costs that would be incurred in supporting a person with the specific needs in the case and not on an assumed standard care home cost.*
b) *Where a person prefers to be supported in their own home, the actual costs of doing this should be identified on the basis of the individual's assessed needs and agreed desired outcomes. For example, individuals can sometimes be described as needing 24-hour care when what is meant is that they need ready access to support and/or supervision. CCGs should consider whether models such as assistive technology could meet some of these needs. Where individuals are assessed as requiring nursing care, CCGs should identify whether their needs require the actual presence of a nurse at all times or whether the needs are for qualified nursing staff or specific tasks or to provide overall supervision. The willingness of family members to supplement support should also be taken into account, although no pressure should be put on them to offer such support. CCGs should not make assumptions about any individual, group or community being available to care for family members.*
c) *Cost has to be balanced against other factors in the individual case, such as an individual's desire to continue to live in a family environment (see the Gunter case in box below). National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care page 108 "*

In central and west Norfolk the complexity bandings used within care home contracts make comparative calculations much easier as patients can look to the comparable package costs within the care and supported living sector relatively easily. For high cost packages Band D individual quotes are currently secured from care home and specialist units who are able to meet the patients' needs.

Clinical teams need to continue to ensure that they work closely with patients and families to consider and present all <u>options</u> before indicating for the panel an agreed preferred option chosen by the patient to put forward to a complex care panel. Teams have been criticised in the past by some for not being creative enough in their thinking, while others believe too much creativity which is poorly justified can be dangerous in terms of the public reaction. There is a clear need for patients to understand all the elements which can impact on choice and how clinical and environmental risks are measured, and there appear to be opportunities for ongoing improvement here. This will be explained in our planned guide to NHS CHC in central and west Norfolk.

We are also working on a set of referral guidelines to ensure CSU clinical teams are able to refer more effectively for mainstream and other services. This should result in less being left for the NHS CHC budget alone to cover.

Taking into account the Human Rights Act: Gunter Case

"In the case of Gunter vs. South Western Staffordshire Primary Care Trust (2005), a severely disabled woman wished to continue living with her parents whereas the PCT's preference was for her to move into a care home. Whilst not reaching a final decision on the course of action to be taken, the court found that Article 8 of the European Convention of Human Rights had considerable weight in the decision to be made, that to remove her from her family home was an obvious interference with family life and so must be justified as proportionate. Cost could be taken into account but the improvement in the young woman's condition, the quality of life in her family environment and her express view that she did not want to move were all important factors which suggested that removing her from her home would require clear justification."

6. Proposed standard domains to be considered in making decisions regarding individual packages of care for patients eligible for NHS CHC

CCG Complex Case Review Panels making decisions in the care to be offered under NHS CHC will take into consideration:

- Patients' needs and the outcomes which they wish to achieve from their care
- Patient and family preferences and views
- The Human Rights Act and any other Disability Rights legislation
- Clinical and safeguarding risks and patients/ families views on these. (Patient view would apply where a patients fully understands risks in the choices they would like to make but still wishes to take those risks.)
- The price and affordability of the various options for the provision of care in light of the need to ensure equitable use of limited NHS resources.

Also

- Due to geographical gaps in some care services, panels will have to take into account the availability of services and choices for patients as this is a limiting factor for many. Reviews of current provision are taking into account current gaps in services commissioners are looking to try to fill.
- Decisions regarding the setting of personal health budgets will be treated in the same way.

7. Ongoing stakeholder engagement

We are planning a feedback workshop in late November to ensure we communicate our final decisions to those who have been helping us review what we are doing. There will also be opportunities for stakeholders to be involved in our ongoing work on the guide to ensure it is accessible to all.

8. Proposed mobilisation of standardised arrangements.

NHS CHC patients will continue to have their needs and packages of care reviewed at 3 months post eligibility decision and at a minimum annually thereafter, unless their needs change and trigger a review. This minimum requirement is laid out in the National Framework.2

Once the proposed standard domains have been approved by all CCGs these will be used consistently by CCRPs to aid decision-making and ensure a uniform county-wide approach. NELCSU will work with CCGs to ensure that evidence submitted to the CCRPs is presented in this standardised format covering of all the domains.

On line training for relevant staff will be provided in the coming months to ensure everyone involved is kept up to date on key areas of national developments regarding the NHS Framework legislation.

9. Recommendation

Governing Body members are invited to:

- Consider the merits of introducing a standard framework to support decisions made on packages of NHS CHC; and
- Approve the adoption of the recommendations in section 2 and 6.