

NCL CCG NHS Continuing Healthcare Appeals Policy and Local Resolution Process

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DOCUMENT TRAIL AND VERSION CONTROL SHEET

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1. Introduction

- 1.1 The North Central London Clinical Commissioning Group (NCL CCG) Appeals Policy has been developed in accordance with the Department of Health's National Framework for NHS Continuing Healthcare and NHS-funded nursing care (October 2018 revised) (see appendix 1. for the link, known throughout the document as "the Framework").
- 1.2 "NHS Continuing Healthcare means a package of ongoing care that is arranged and funded solely by the National Health Service (NHS) where the individual has been assessed and found to have a 'primary health need'" as set out in the Framework.
- 1.3 Care is provided to an eligible individual aged 18 or over, to meet health and associated social care needs that have arisen as a result of disability, accident or illness.
- 1.4 Eligibility for NHS Continuing Healthcare (CHC) is not determined by the setting in which the package of care is offered or by the type of service delivery
- 1.5 Paragraph 194 of "the framework" states "Where an individual or their representative asks the CCG to review the eligibility decision, this should be addressed through the local resolution procedure, which is normally expected to resolve the matter. CCGs should deal with requests for review in a timely manner."
- 1.6 All Clinical Commissioning Groups are expected to publish an appeals and local resolution policy that is fair and transparent that includes timescales for resolution.

2. Purpose and Scope

- 2.1 The NCL CCG Appeals policy will sets out the processes when individuals and / or their representatives disagree with the eligibility decision made by NCL CCG for Continuing Healthcare (CHC) funding.
- 2.2 It does not cover disputes between public bodies (this is covered under the NCL CCG Joint Disputes Policy) and only applies to patients / representatives where eligibility has been assessed and there is a subsequent wish to appeal a CHC eligibility decision.
- 2.3 It does not apply for requests for retrospective assessments or NHS Funded Nursing Care (FNC) eligibility decisions.
- 2.4 It does not apply to requests for NCL CCG to review its decisions regarding care packages.
- 2.5 Timeframes for individual stages of this process are outlined as working days (based on a 5 day week, Monday to Friday).

3. Background

- 3.1 Clinical Commissioning Groups are responsible for decision making regarding NHS Continuing Healthcare eligibility, based on the recommendation made by the multidisciplinary team (MDT).
- 3.2 The decision is independent of budgetary constraints and based on the evidence collated by the MDT during the assessment process and the subsequent recommendation.
- 3.3 Any disagreements on the domain levels and / or final recommendation should be clearly recorded on the decision support tool (DST) with the individual being assessed and / or their representatives given the opportunity to add their own comments.
- 3.4 Once the decision in regards to eligibility has been made NCL CCG is responsible for informing the individual and / or their representative in writing as soon as possible.
- 3.5 The written confirmation will include the decision, reasons for the decision, a copy of the DST, contact details if further clarification is required and details regarding how to request a review of the decision.

4. Appeals process

- 4.1 A request for a review of the eligibility decision can be made by the individual assessed or their representatives who hold the appropriate authority, following the receipt of the assessment outcome letter.
- 4.2 Any notification of appeal letters received prior to the assessment taking place and outcome letter received will be disregarded.
- 4.3 A request can be made in the following circumstances:
 - Where the individual / representative is dissatisfied with the decision in regards to CHC eligibility
 - Where the individual / representative perceive there has been a failure to follow the framework in reaching the decision in regards to CHC eligibility.
- 4.4 If the assessed individual does not have the mental capacity to request a review it can be requested by a representative on the individual's behalf.
- 4.5 Where an appeal is received, it will be addressed through this policy which is expected to resolve the matter. If following the completion of the process there is no resolution the next steps will be discussed.

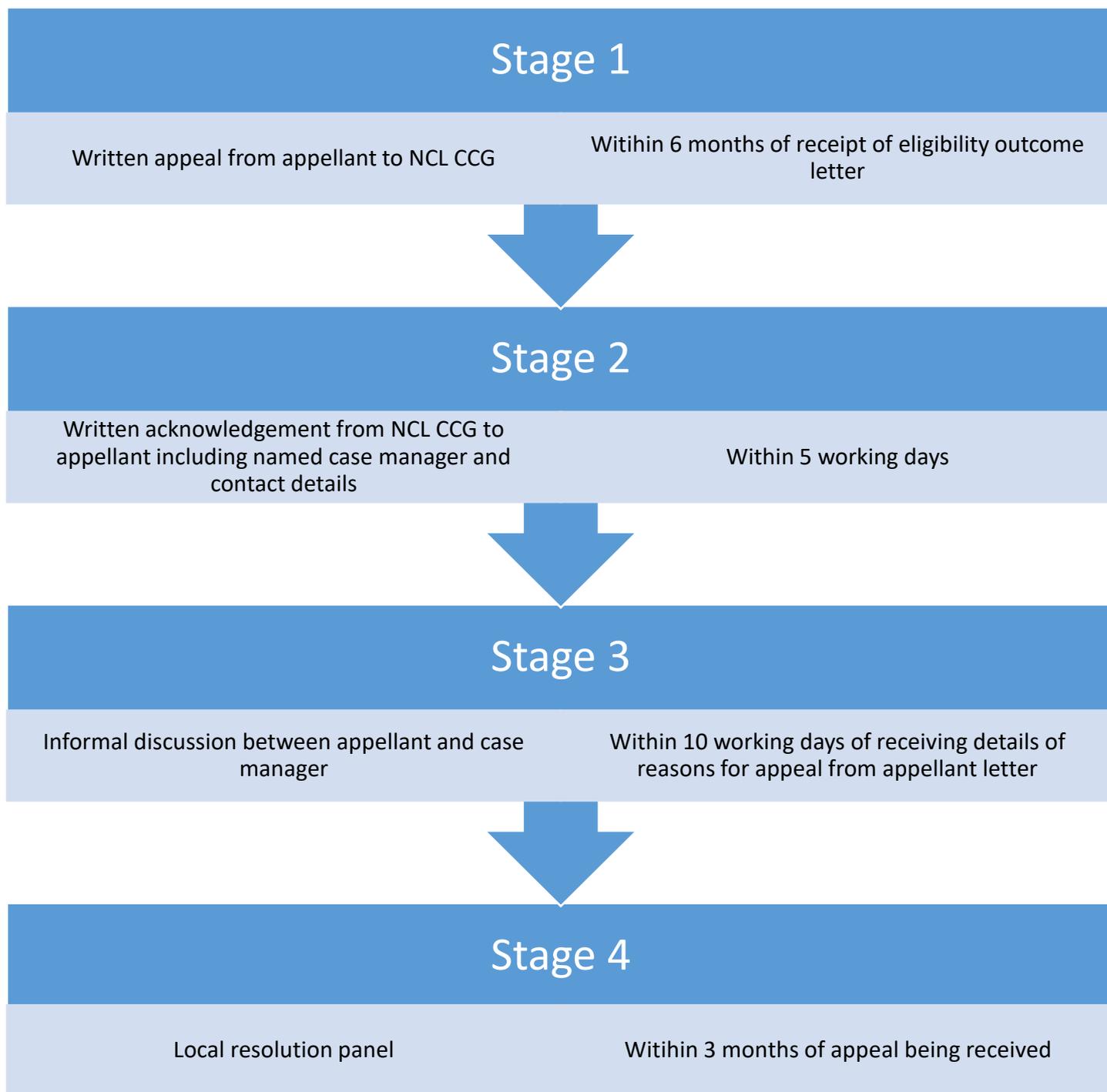
5. Appeal Stages

- 5.1 If an individual / representative wishes to appeal the eligibility decision they must do so within 6 months of the date of the outcome letter.
- 5.2 **Stage 1** – The appeal must be lodged with the local CHC team in writing. (contact details are provide on each outcome letter)
- 5.3 **Stage 2** – NCL CCG will respond with a written acknowledgement of the appeal within 5 working days, including details of the allocated case manager who will handle the appeal and act as the point of contact for the appellant (the individual or representative requesting the appeal).
The appeal acknowledgement letter will include a form requesting relevant information from the appellant in regards to the areas in which there is a disagreement and any further information and / or evidence to support the appeal. This should be returned to the CHC service within 2 weeks.
Where an individual is unable to make the appeal in writing due to illness, disability or unfamiliarity with written English NCL CCG will support them in submitting the appeal or can provide details of advocacy service as required.
- 5.4 **Stage 3** – an informal meeting will take place between the allocated case manager and appellant within 10 working days of receiving the completed appeal form from the appellant., The appeal will be discussed and attempt to resolve any matters raised, if possible, prior to moving to the next stage.
This meeting will be minuted and may take up to an hour.
In certain circumstances, and only by mutual written consent, this stage may be skipped and proceed directly to stage 4.
If, at this stage, the appellant wishes to withdraw the appeal, correspondence will be sent by NCL CCG confirming the withdrawal.
If, following the informal meeting, the allocated case manager decides that a review of the recommendation would be appropriate if, for example, further evidence has been presented, the assessment will be returned to the original multidisciplinary team for reconsideration.
If, due to the period of time, or other factors, a member of the multidisciplinary team is no longer available to reconsider the recommendation, then the appeal will be heard at Local Resolution Panel.
In either case NCLCCG will send correspondence to the appellant confirming the next steps.
- 5.5 **Stage 4** – If the appeal cannot be resolved at stage 3 then a local resolution panel (LRP) will be convened. The purpose of a LRP is to discuss the appeal, the needs of the patient at the time of the completion of the DST and the content of the DST.
This meeting may take up to 2 hours.
- 5.6 The discussion will also include how the eligibility decision was reached and provide clarification on anything not understood regarding the process or the assessment tools. It is also an opportunity for the appellant to provide additional evidence to be considered.

5.7 All appropriate documents will be collated in a format that mirrors the Independent Review Panel indexing and circulated a minimum of 2 weeks prior to the panel date to allow time for all attendees to pre read the information.

5.8 Any change in the level of care needs that have occurred after the completion of the DST cannot be considered in relation to eligibility at the time however may lead to a recommendation of a new assessment.

Diagram 1 Stages of appeal



5.9 The Chair, case manager and Local Authority (where appropriate) will deliberate the assessment after the conclusion of the LRP to consider all evidence before making the eligibility decision. The Terms of Reference (ToR) for this panel are included in the appendix. The ToR include the purpose and scope of the panel as well as membership. The LRP should take place within 3 months of the date of appeal being received by NCL CCG.

5.10 There are 3 possible outcomes of the LRP:

- Decision upheld i.e. individual not eligible for CHC
- Decision overturned i.e. individual eligible for CHC
- Recommendation of components of care that should be health funded.
- An additional outcome may be that, although not eligible at the time of the appealed assessment, a change in need may merit completion of a new referral and assessment.

5.11 The appellant will be informed in writing the outcome of the LRP, including a copy of the report, within 4 weeks of the meeting.

5.12 If following the LRP it has not been possible to resolve the disagreement the individual / representative may apply to NHS England for an independent review of the decision.

6. Independent Review Panels (IRPs)

6.1 If an individual / representatives wishes to proceed with the appeal they must write to NHS England requesting an Independent Review. This must be made within 12 months of receiving the outcome of the LRP.

6.2 NHS England is responsible for convening an IRP which will consist of an independent chair, a CCG and Local Authority representative (who have not been involved in the original eligibility decision).

6.3 The address to send the request to is below:

Pauline Thwaites,
IRP Facilitator, CHC Team – Nursing Directorate
1st Floor, Wellington House,
133 - 155 Waterloo Road,
London
SE1 8UG
Or
Email: nhsi.londonchc-irp@nhs.net

7. Ombudsman

7.1 Following an independent review panel, if the original decision is upheld but there is still a challenge the individual has the right to make a complaint to the Parliamentary and Health Service Ombudsman.

Appendix

1. National Framework for Continuing Healthcare and Funded Nursing Care October 2018 (revised) - <https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care>
2. Local Resolution Panel Meeting Terms of Reference
 - Available on Intranet