

Redress Payment Policy

For Continuing Healthcare and Children's Continuing Care

November 2021



DOCUMENT TRAIL AND VERSION CONTROL SHEET

Heading	North Central London Clinical Commissioning Group (NCL CCG) Redress Payment Policy for Continuing Healthcare and Children's Continuing Care
Project Sponsor	Director of Complex Individualised Commissioning Director of Continuing Healthcare
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1. Introduction

- 1.1 This document details the overarching operational and financial principles and processes that North Central London Clinical Commissioning Group (NCL CCG) will follow in regards to payments of financial redress to individuals where it is deemed appropriate and required (see section 6 for Scope).
- 1.2 The NCL CCG Redress Payment Policy follows the principles set out in the Parliamentary and Health Service Ombudsman's Principles for Remedy document (appendix 1) and the NHS Continuing Healthcare Refreshed Redress Guidance 2015 (appendix 2).
- 1.3 The underlying principles of both aforementioned documents that apply to the NCL CCG Redress Policy is that where maladministration or poor service results in financial injustice or hardship the appropriate public body restores the individual(s) to the position they would have been in if maladministration or poor service had not occurred.
- 1.4 This Policy details the NCL CCG approach to the financial redress of this principles

2. Background

- 2.1 NCL CCG was formally established in April 2020, bringing together five north central London CCGs – Barnet, Camden, Enfield, Haringey and Islington. NCL CCG is a clinically-led and member-driven CCG with the 201 GP practices across Barnet, Camden, Enfield, Haringey and Islington making up our membership.
- 2.2 Prior to this policy, within NCL CCG, each borough had a different approach to the redress payment process. This policy aligns processes across NCL CCG to ensure consistency and equality of provision across the system which is underpinned by standardised policies and operational processes.
- 2.3 Whilst the policy provides a framework to apply redress, it is not prescriptive. The decision on the method of redress will be made on a case by case basis, taking into account any legal or organisational constraints.
- 2.4 By April 2022, NCL CCG will transition to become an Integrated Care System (ICS) however, this policy will continue to be utilised until further notice, subject to the usual review processes.

3. Key documents and legislation

- NHS Continuing Healthcare Refreshed Redress Guidance for CCGs
- Parliamentary and Health Service Ombudsman's Principles for Remedy - <https://www.ombudsman.org.uk/sites/default/files/page/Principles%20for%20Remedy.pdf>
- RPI rates for redress from Office of National Statistics

- Who Pays? Determining which NHS commissioner is responsible for making payment to a provider. August 2020
(see appendix for links or documents)

4. Responsibilities

- 4.1 The NCL CCG Associate Director Complex Individualised Commissioning is responsible for publishing, monitoring the implementation of and updating the NCL CCG Redress Payment policy.
- 4.2 All staff working for or on behalf of NCL CCG including those on permanent or fixed term contracts, interims, self-employed contractors / consultants, Governing Body members and volunteers are responsible for complying with the NCL CCG Redress Payment policy.
- 4.3 All NCL CCG line managers are responsible for ensuring their teams comply with the NCL CCG Redress Payment policy.
- 4.4 The Quality Senior Management Team will recommend approval of the Redress Payment policy, providing operational oversight and scrutiny of any complex care requests and high cost care packages.
- 4.5 The Quality subcommittee is responsible for the approval of the NCL CCG Redress Payment policy providing scrutiny and oversight.
- 4.6 The senior responsible officer and / or accountable officer is accountable for the NCL CCG Redress Payment policy and for supporting the implementation thereof.

5. Definition

- 5.1 Redress applies to the restoration of an individual to the financial position they would have been in had Continuing Healthcare (CHC) or Children's Continuing Care (CC), been awarded at the appropriate time.
- 5.2 Redress will not lead to an individual making profit or gaining a financial advantage but will be fair, reasonable and proportionate to the injustice of hardship incurred.

6. Scope

- 6.1 This policy applies to individuals of all ages, who are the responsibility of NCL CCG for the provision of their care needs under CHC or CC and who have paid for their own care due to poor service, incorrect eligibility decision, or other failures by or on behalf of NCL CCG, which has led to financial injustice or hardship.

6.2 NHS England has responsibility for NHS Continuing Healthcare for specified groups (see Appendix 4 Who Pays Who Pays? Determining which NHS commissioner is responsible for making payment to a provider. August 2020). Therefore any redress for the cohort of individuals, for whom NHSE is the responsible body, will fall outside of scope for this policy. NCL CCG will not accept responsibility for the compensation of this cohort of individuals or their representatives.

7. Principles

7.1 NCL CCG will abide by the following principles when considering any redress claims:

- NCL CCG will adopt a fair and reasonable approach to redress claimant(s) whilst demonstrating an appropriate use of public funds.
- NCL CCG will act in accordance with the NHS Continuing Healthcare Refreshed Redress Guidance for CCGs and the Parliamentary and Health Service Ombudsman's Principles for Remedy.
- NCL CCG will utilise the Retail Price Index as the basis of the appropriate interest rate to apply to redress.
- Redress payments made by NCL CCG will only place a claimant in a financial position they would have been in if care had been correctly funded by the CCG.
- Claimants will not be able to profit from redress payments.
- NCL CCG will fully consider any individual circumstances for redress and utilise legal advice where necessary.
- NCL CCG will ensure the process of redress including financial calculations are transparent and clearly explained to the claimant(s).
- Once an eligibility decision for CHC or CC has been established, NCL CCG will promptly pay any redress to the appropriate individual(s).
- In exceptional circumstances NCL CCG will use discretion to consider any ex-gratia payments over and above care costs and interest, in accordance with Standing Financial Instructions. Legal / professional costs will not be refunded except in extraordinary circumstances.

8. Calculation Principles

8.1 NCL CCG will follow the NHS Continuing Healthcare Refreshed Redress Guidance for CCGs when calculating payments. These include:

- Applying the Retail Price Index (RPI) for calculation of compound interest
- Using the RPI calendar year average for calculating interest payments rather than on a month by month basis
- RPI rates applied will be obtained from the Office of National Statistics (see appendix 3 for link)

9. Assessment, redress and transfer of funds pathway

9.1 Prior to completing a retrospective review of care needs and determining whether maladministration or poor service leading to financial hardship has occurred the CHC or CC clinical team will have established the following principles:

- That NCL CCG is the appropriate “Responsible Commissioner” in accordance with “Who Pays” August 2020 (see appendix 4 for link to guidance)
- That the individual has a right to request a retrospective review of care needs.

9.2A claimant will need to meet one of the following criteria to request a retrospective review of care needs:

- Be the individual who requires care – if over 18 years old, or Gillick competent if under 18
- For children and young people – be the parent or person with parental responsibility i.e. carer, guardian or social worker
- For individuals over 18 - be the representative of the individual who requires care. If the individual requiring care has capacity to consent to the review this must be obtained before proceeding. If the individual does not have capacity to consent to the review then the representative must either hold a registered Lasting Power of Attorney (for health or welfare) or a registered Enduring Power of Attorney or a Court ordered Deputyship or if no registered Power of Attorney is held then a best interest decision must be made and clearly recorded.
- If the individual who required the care is deceased the claimant must be the executor or administrator of the estate and have proof of a Grant of Probate or Grant of Administration.
- Any requests made by solicitors / claims companies on behalf of patients or representative must show proof they have the authority to act on their behalf
- All necessary documents must be seen, or in the case of a best interest assessment been completed, by the assessing team before the review can be completed

9.3A request for a review of the eligibility decision can be made by the individual assessed or their representatives who hold the appropriate authority (see NCL CCG Appeals Policy appendix 5)

9.4 Having confirmed that NCL CCG are the responsible commissioner and that the individual has a right to appeal or request a retrospective assessment, the CHC assessment and ratification process will be completed according to the NCL CHC policy and / or CHC Appeals Policy.

9.5 For Children and Young the NCL CCG Children’s Continuing Care Policy and Appeals Process will apply (see appendix 6)

9.6 If eligibility for CHC or CC is established, an outcome letter will be sent to the individual / claimant detailing the outcome of the assessment, the start and finish dates for the redress payments and the next steps in the process

9.7 Depending on the evidence provided a further letter may be sent to the claimant advising or requesting the following information:

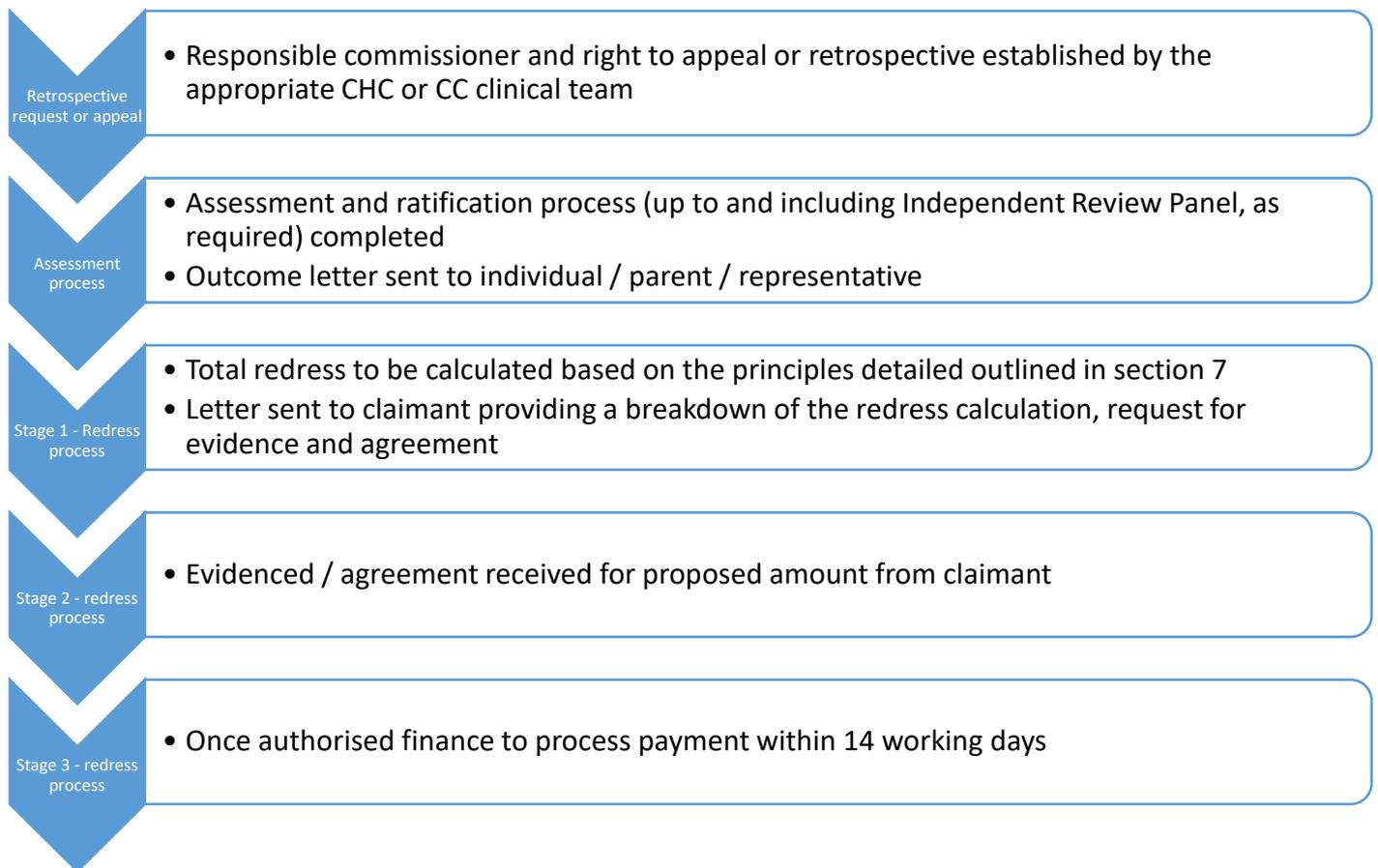
- Confirmation of the period the redress applies to
- Evidence that payments were made to the provider.
 - bank statements that correspond to invoices from the provider for the claim period
 - ID – for example driving license or passport
 - proof of address – for example utility bill, bank statement or council tax letter
- Bank details that the payments are to be made to.
 - These must be in the name of the individual or representative that holds the correct authority (as per the principles above in right to request review) or to a third party i.e. solicitor / claims company that has been authorised by the representative to act on their behalf.
 - This list is not exhaustive and additional information may be required

9.8 All documentation requested must be provided and will be retained for audit purposes.

9.9 Once the requested details have been received the interest will be calculated and a letter detailing the calculations and proposed sum will be sent to the claimant requesting agreement.

9.10 Once agreement of the proposed redress amount has been received from the claimant, this will be processed and NCL CCG will endeavour to pay all amounts promptly and within 14 days of receipt of agreement.

Table 1: Redress process – for those individuals where it has been agreed that maladministration or poor service resulted in injustice or hardship



10. Appeals / Complaints

- 10.1 The Continuing Healthcare Framework states “Where an individual disputes a CCG’s decision on whether to provide redress to them, or disputes the amount of redress payable, this should be considered through the NHS complaints process.”
- 10.2 Any complaints in regards to the redress process should be sent to the NCL CCG complaints team via email to: nclccg.complaints@nhs.net
- 10.3 If, following the response from the complaint, a claimant remains dissatisfied then they will be directed to submit a complaint to the Parliamentary and Health Service Ombudsman (PHSO).
- 10.4 If an individual is assessed retrospectively, rather than via the appeals route, they retain the right to appeal the outcome of the CHC assessment via the CHC Appeals policy process.

Appendix

1. Parliamentary and Health Service Ombudsman's Principles for Remedy
<https://www.ombudsman.org.uk/about-us/our-principles/principles-remedy>
2. NHS Continuing Healthcare Refreshed Redress Guidance for CCGs
<https://www.england.nhs.uk/healthcare/redress-guidance-ccgs/>
3. RPI rates for redress from Office of National Statistics
<https://www.ons.gov.uk/economy/inflationandpriceindices>
4. Who Pays? Determining which NHS commissioner is responsible for making payment to a provider. August 2020
<https://www.england.nhs.uk/publication/who-pays-determining-responsibility-for-nhs-payments-to-providers/>
5. NCL CCG Appeals Policy
Hyperlink to be added once available
6. NCL CCG Children's Continuing Care Appeals Policy
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