

**Clinical Commissioning Group Governing Body
Paper Summary Sheet
Date of Meeting: 28 January 2014**

For: PUBLIC session PRIVATE Session

For: Decision Discussion Noting

Agenda Item and title:	GOV/14/01/19 NHS Wiltshire CCG Continuing Healthcare Review
Authors:	Janette McGarvie, Lynn Street, Nita Hughes
Clinical Leads:	Dr Debbie Beale, Dr Celia Grummitt
Responsible Director:	Deborah Fielding
Executive summary:	<p>Following allegations of historic maladministration of the Continuing Healthcare (CHC) process in the Wiltshire area that may have led to eligible individuals not receiving CHC, an audit of current practice was commissioned by the Wiltshire CCG and BGSW Area Team. A Review Team were tasked with reviewing a sample of cases to:</p> <ol style="list-style-type: none"> 1. Provide independent assurance to the Chief Officer of Wiltshire Clinical Commissioning Group (CCG) and the Bath Gloucestershire, Swindon and Wiltshire Area Team of NHS England that the practice of the CCG since its inception in April 2013 is compliant with the Department of Health (DH) guidance (National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care November 2012 (revised)). 2. To confirm partnership working between Wiltshire CCG and Wiltshire Council is appropriate and supportive enabling timely decision making. 3. To confirm that Multi-Disciplinary Team (MDT) assessments are undertaken in line with best practice. 4. To confirm that Wiltshire CCG have a clearly defined and appropriate local resolution/appeals process for claims where CHC assessments were found to not be eligible.

Evidence in support of arguments:	
Who has been involved/contributed:	The Review Team, comprised of an Independent Local Authority Advisor and two Independent Clinical Advisors from other CCGs and the scope of the project was to review within the timescale April – June 2013. The CCG’s Associate Director Of Quality (CHC and specialist placements) was allowed to review the final document for accuracy.
Cross Reference to Strategic Objectives:	QIPP
Communications Issues:	Historical appellants that NHS England (South) meet with.
Engagement and Involvement:	The CCG were engaged in writing and agreeing the terms of reference for the review and were given opportunity to comment on the accuracy of the findings.
Financial Implications:	Increase in expenditure.
Review arrangements:	Through the Clinical Executive and Governing Body and action plan through the Quality and Clinical Governance Committee.
Risk Management:	The issues investigated have already been highlighted on the directorate risk register.
National Policy / Legislation:	The criteria used to assess the specific case was the National Framework for NHS Continuing Health and NHS-funded Nursing Care November 2012 (Revised).
Equality & Diversity:	Assurance and implementation of Department of Health Continuing Healthcare Guidance (National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care November 2012 revised) within NHS England South.
What specific action re. the paper do you wish the Governing Body to take at the meeting?	To be noted in the public session of the January 2014 Governing Body.

(JC/CH)

Bath, Gloucestershire, Swindon & Wiltshire
Area Team
Sanger House, 5220 Valiant Court
Gloucester Business Park
Gloucester GL3 4FE
Email : jill.crook1@nhs.net
Tel. 0113 825 3482

**For the attention of Deborah
Fielding, Accountable Office**
Wiltshire Clinical Commissioning
Group
Southgate House
Pans Lane
Devizes SN10 5EQ

29th November 2013

Dear Deborah

Re: Continuing Healthcare

I am pleased to enclose the final version of the recent Wiltshire CCG Continuing Healthcare review. It would be helpful to have confirmed what internal governance processes this will now go through at the CCG and when it will be reported on at Wiltshire CCG Board.

Douglas Blair and myself would appreciate meeting with you in the next few weeks as a follow up to this piece of work and to share our thinking on how, across all CCGs, we gain assurance for this complex area.

Please could your office contact catherinehale@nhs.net in order to arrange such meeting.

Yours sincerely



Jill Crook
Director of Nursing
NHS England
Enc

Report for Continuing Health Care Wiltshire Clinical Commissioning Group

Assurance and implementation of Department of Health Continuing Healthcare Guidance (National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care November 2012 revised) within NHS England South.

Executive Summary

Following allegations of historic maladministration of the Continuing Healthcare (CHC) process in the Wiltshire area that may have led to eligible individuals not receiving CHC, an audit of current practice was commissioned by the Wiltshire CCG and BGSW Area Team.

A Review Team were tasked with reviewing a sample of cases to;

1. Provide independent assurance to the Chief Officer of Wiltshire Clinical Commissioning Group (CCG) and the Bath Gloucestershire, Swindon and Wiltshire Area Team of NHS England that the practice of the CCG since its inception in April 2013 is compliant with the Department of Health (DH) guidance (National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care November 2012 (revised)).
2. To confirm partnership working between Wiltshire CCG and Wiltshire Council is appropriate and supportive enabling timely decision making.
3. To confirm that Multi Disciplinary Team (MDT) assessments are undertaken in line with best practice.
4. To confirm that Wiltshire CCG have a clearly defined and appropriate local resolution/appeals process for claims where CHC assessments were found to not be eligible.

The Review Team, comprised of an Independent Local Authority Advisor and two Independent Clinical Advisors from other CCGs and the scope of the project was to review within the timescale April – June 2013:

- Up to 10 individual cases where the MDT recommendation and decision found that individuals were not eligible for CHC funding – 10 cases were reviewed
- Up to 10 cases which went to local appeal - 4 cases were reviewed.
- Up to 10 cases where a local resolution meeting has been required by the CCG following appeal by the family – 0 cases reviewed as no cases within the timescale

The criteria used to assess the specific case was the National Framework for NHS Continuing Health and NHS-funded Nursing Case November 2012 (Revised). Fourteen cases were included in the sample. Four cases had been to appeal panel, one of which involved a Local Authority dispute, seven cases had no appeal, and three cases had an appeal in progress. Cases were randomly selected; however it was ensured that cases from different nurse assessors were selected.

Detailed information regarding each case is outlined in Appendix 1.

Discussions were held with the review team and CHC lead and relevant process documentation was read. Fourteen cases were included in the sample. Cases were randomly selected; however it was ensured that cases from different nurse assessors were selected.

The key findings of the review are as follows:

1. In relation to providing independent assurance to the Chief Officer of Wiltshire Clinical Commissioning Group and the Bath, Gloucestershire, Swindon & Wiltshire Area Team of NHS England:-

- The review team ascertained, from the evidence available to them, that other than issues regarding timeframe breaches, overall CCG was compliant with statutory duties, framework, guidance, governance and there was system assurance to ensure legal compliance.
- Overall, patient and family engagement was good.
- Decisions made by the CHC Panels and Appeals Panels, in all cases reviewed, were considered to be appropriate.
- Overall, it was agreed that the practice the CHC team was in line with relevant guidance; issues raised have been discussed with the CHC lead and are to be addressed.

- There were no cases relating to Independent Appeals, however, discussions with the CHC Lead provided evidence that learning from IRP cases was being fully utilised.
2. To confirm partnership working between Wiltshire CCG and Wiltshire Council is appropriate and supportive enabling timely decision making:-
- A multi agency approach is evident in all aspects of the CHC process, with good collaboration with other agency staff and managers. Ongoing discussions are being held in relation to continuous improvements.
 - Overall, the MDT process worked well and included a Local Authority manager.
 - In 2 cases issues with partnership working were identified.
3. To confirm the Multi Disciplinary Team assessment are undertaken in line with best practice:-
- Overall, the MDT process worked well and included a Local Authority manager.
 - However the review team established that in 10 of the 14 cases, the 28 day timeframe had been breached.
4. To confirm that Wilts CCG have a clearly defined and appropriate local resolution/appeals process for claims where CHC assessments were found to not be eligible.

Overall, it was agreed that the practice the CHC team was in line with relevant guidance; issues raised have been discussed with the CHC lead and are to be addressed.

Decisions made by the CHC Panels and Appeals Panels, in all cases reviewed, were considered to be appropriate.

Minutes of meetings were felt to be clear and concise, when letters indicate the inclusion of the minutes and consideration of the lawful limits of the Local Authority, the process will be complete.

Partnership working appears to show improvement from the position which was described to the review team by the CHC lead. However, further integration would improve the efficiency of information gathering and timely decision making closer to the patient.

Conclusion & Recommendations

Overall, it was agreed that the practice the CHC team was in line with relevant guidance; issues raised have been discussed with the CHC lead and are to be addressed.

Decisions made by the CHC Panels and Appeals Panels, in all cases reviewed, were considered to be appropriate.

Minutes of meetings were felt to be clear and concise, when letters indicate the inclusion of the minutes and consideration of the lawful limits of the Local Authority, the process will be complete.

Partnership working appears to show improvement from the position which was described to the review team by the CHC lead. However, further integration would improve the efficiency of information gathering and timely decision making closer to the patient.

Issues from the review have been raised in the main body of the report, with the main concern being timeframes and the large proportion of breaches. The review team therefore recommends that a Process Mapping Exercise, with lean working principles being applied, would benefit the CHC team. Given the comment above re further integration, the exercise would benefit from Local Authority inclusion.

Jeanette McGarvie
Lynn Street
Nita Hughes

Review Findings

1. CCG compliance with statutory duties, framework and guidance

The review team ascertained, from the evidence available to them, that overall the CCG was compliant. Staff had received appropriate training with ongoing training planned. Relevant documentation and management support was readily available, the latter on both an informal and formal basis.

2. Governance and system assurance to ensure legal compliance

The review team ascertained compliance as outlined above. It was noted that none of the letters sent out following an appeal panel contained a reference to the legal limits of the Local Authority.

3. Compliance and timelines for decision making

The review team established that in 10 of the 14 cases, the 28 day timeframe had been breached. It was felt that the main cause of the breaches was related to the following:

- A disproportionate amount of information recorded in the Decision Support Tool (DST). Examples of this were 7-10 pages of information for one domain with an outcome of low/moderate and 3 pages for no needs. Admin staff were copying and pasting or typing copious notes from other professionals, which was time consuming and repetitive.
- Where no Social Care assessment has already been completed, the document completed by Social Care staff for the purpose of the CHC process appeared lengthy. Information contained in the reports had already been covered in the DST e.g. medication.
- Reports from other professionals, on some occasions, took some time to complete and be sent to the CHC team. The information contained in the above bullet point was felt to be a contributory factor.
- There was no 'stop the clock' information on any of the files, the inclusion of this would be helpful and provide supporting evidence of reasonable delays.

- In two cases, review timescales were breached. In one of the cases the timescale from review to decision making was 8 months, the outcome was that funding was withdrawn. Although the patient was not disadvantaged, there was an unnecessary expense for CCG.

4. Patient and family engagement, including patient information, choice and complaints

Overall, it was felt that patient and family engagement was good. In one case, there was evidence that a pre meeting was held in the patient's care home, as this was most beneficial to the patient. However the following was noted:

- Patients and families were not involved in the totality of the assessment process i.e. they are only invited to part 1 of the MDT meeting and not part 2 where domain outcomes are decided. One reviewer felt that including the patients and families in Part 2 of the MDT where recommendations are made could reduce later challenges.
- In one case a DST, which did not contain family comments, was sent with the JDM letter. This was corrected once the error was realised.
- One case contained information about a complaint made by a family member regarding the quality of an assessment. An apology was made for an initial delay in responding to the complaint and subsequent responses were timely.

5. MDT involvement and recommendations

Overall, the MDT process worked well and included a Local Authority manager.

- The comments regarding patient and family involvement in the MDT is covered in Section 6 above.

6. Collaboration with other agencies and providers

A multi agency approach is evident in all aspects of the CHC process, with good collaboration with other agency staff and managers. Ongoing discussions are being held in relation to continuous improvements to streamline the amount of information gathered and reduce breaches in the timeframes. There were two cases where issues were noted:

- It was noted that the Local Authority had raised a dispute in one case, this was part of disputes in relation to several cases, all of which were subsequently withdrawn.

7. Learning from Independent Appeals

There were no cases relating to Independent Appeals, however, discussions with the CHC Lead provided evidence that learning from IRP cases was being fully utilised.

8. Case findings

Of the 14 cases reviewed

- 10 breached the 28 day timeframe and 2 breached review timeframes.
- 4 had issues relating to quality of evidence, process and information given to the patient/family
- 2 had issues in relation to partnership working
- 11 had no challenges to the CHC panel decisions or issues, 3 had issues relating to missing information.

Appendix 1

The information reviewed was based on evidence gained to identify:

1. Whether current CCG practice is in line with the relevant guidance and legislation;
2. The quality of the assessments and processes being followed, including MDT decision making and recommendations
3. The quality of the partnership working between Wiltshire CCG and Wiltshire Council in relation to CHC
4. The quality of the process to locally review or respond to reviews where an individual or their representatives wish to challenge a CHC assessment.

Case 001

1. Practice is in line with relevant guidance.
2. Retrospective case, NPD used but no DST needed. Decision making was undertaken at panel level.
3. Partnership was at panel level, patient was self funding with no Local Authority input requested by the family.
4. N/A

Case 002

1. MCA checklist and consent forms were completed. The 28 day timeframe was breached in this case, in other respects practice was in line with relevant guidance.
2. Very full assessment and information gathering.
3. Partnership working, there was social care involvement at every stage of the process.
4. The family were engaged but mainly in writing as they had appointed a solicitor and independent social worker to represent them.

Case 003

1. Practice is in line with relevant guidance.
2. Very full assessment and information gathering.
3. Social care were involved throughout the process, however a formal dispute was raised by the Local Authority. The daughter commented on her perception of a division between CCG and the LA in May 2012.
4. N/A

Case 004

1. Evidence of consent, initial assessment within 28 day timeframe but DST lacks supporting evidence. Recommended 6 week review not undertaken, the first review completed was 10 months later in August 2010. A further review in December 2011 did not result in decision, which was to withdraw eligibility, until August 2012.
2. Very full assessment and information gathering in DST dated July 2012. Appeal panel minutes were very comprehensive and included the rationale for decision making.
3. Partnership working, there was social care involvement at every stage of the process. There was evidence of an information resolution of a disagreement in the decision making process.
4. The patient and his wife were fully engaged in the process. The pre appeal panel visiting patient in his care home for a discussion in this own environment.

Case 005

1. MCA checklist and consent forms were completed, checklist dated 31st January 2013, decision 8th May 2013, therefore a breach of the 28 day timeframe.

2. Very full assessment and information gathering.
3. Partnership working, there was social care involvement at every stage of the process.
4. Not applicable.

Case 006

1. Evidence of consent and a best interest checklist completed. Outside of relevant guidance in respect of timeframes, checklist 8th November 2012, DST 29th January 2013 and JDM 3rd April 2013.
2. Very comprehensive DST.
3. Partnership working, there was social care involvement at every stage of the process.
4. Not applicable.

Case 007

1. The 28 day timeframe was breached, checklist 3rd September 2012, DST 15th January 2013, JDM 21st February 2013.
2. Very full assessment and information gathering. There were incidences of 3 pages for low needs and 7 pages for moderate, with a short period of high, in Drugs Therapies. Good minutes of JDM.
3. There was evidence of partnership working with social care involvement at every stage of the process.
4. Not applicable.

Case 008

1. No evidence of consideration for CHC funding at the point of admission to the care home in 2010. The request for a retrospective review generated a checklist. The 28 day timeframe was breached.

2. Very comprehensive assessment and evidence of family involvement and their views being considered. In the mobility domain the family information resulted in the MDT amending the level.
3. There was evidence of partnership working with social care involvement at every stage of the process.
4. The appeal is in progress with evidence of regular correspondence with the family and a pre appeal meeting has taken place.

Case 009

1. An assessment was generated at the family's request via a third party. The 28 day timeframe was breached i.e. checklist 18th October 2012, DST 15th April 2013 and JDM 24th April 2013.
2. Very full assessment and information gathering with clear attempts to engage the family. Administrative errors noted within the process e.g. letter sent to advocate referring to "your nephew".
3. There was evidence of partnership working with social care involvement at every stage of the process
4. Appeal panel held 19th September 2013 – no notes yet available.

Case 010

1. The DST 14th January 2013 states that no CHC review had been undertaken since February 2008. The file notes indicate that LD CHC reviews were undertaken in 2009 and 2010 but nothing after that until the review in September 2012. This is a breach of the guidance.
2. The assessment was very lengthy with many pages of information for low/moderate needs. There was clear evidence that family were involved in the process and their comments listened to.
3. There was evidence of partnership working with social care involvement at every stage of the process.
4. Not applicable.

Case 011

1. The 28 day timeframe was breached, checklist 24th July 2012, DST 7th February 2013, JDM 5th June 2013 otherwise practice was in line with relevant guidance.
2. Full assessment and information gathering. Some domains had a large amount of information for low scores other were a more appropriate level.
3. Social care information on the DST is actually taken from a Care Planning/Service Provision document as opposed to an assessment document although the DST refers to an assessment document. Partnership working is evident in the decision making process.
4. Not applicable.

Case 012

1. Previous assessment in 2011, not eligible. Family requested a further assessment in July 2012. The 28 day timeframe was breached, checklist 21st August 2012, DST 5th April 2013, Panel 30th April 2013, otherwise practice was in line with guidance.
2. Very full assessment and information gathering, again excessive in some domains which is disproportionate.
3. There is evidence of joint working generally throughout the process However there was a lengthy delay in obtaining a Local Authority report requested 24th August 2012, received 26th November 2012.
4. A challenge regarding the quality of the CHC assessment was made through the complaints procedure. An appropriate apology was made for an initial delay in responding and subsequently answered in a timely way.

Case 013

1. The MCA 28 day timeframe was breached, checklist 27th March 2012, DST 19th March 2013, JDM 9th May 2013. In other respects, practice was in line with relevant guidance.
2. Very full assessment and information gathering. Family were involved and information presented incorporated in documentation. Unfortunately the

- JDM outcome letter included a DST which did not contain the family comments. An apology was made and the correct DST sent.
3. There was social care involvement at every stage of the process.
 4. An appeal was lodged on 23rd May 2013. A pre appeal meeting took place on 27th June 2013 and there was further correspondence regarding additional information gathered on 4th September 2013. Records do not indicate if the appeal is continuing.

Case 014

1. A checklist and DST completed in 2011 resulting in the patient not being eligible although the decision does not seem to have been ratified. There is a second DST dated 7th June 2013 with the JDM on 19th June 2013. The outcome of this was also ineligible.
2. An appropriate level of information was included in the DST with the patient being fully involved.
3. There was social care involvement at every stage of the process.
4. Not applicable.

Appendix 2



Terms of Reference

Continuing Healthcare Wiltshire Clinical Commissioning Group

Assurance of implementation of Department of Health Continuing Healthcare Guidance (National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care November 2012 (revised)) within NHS England (South)

Aim

Following allegations of historic maladministration of the Continuing Healthcare (CHC) process in the Wiltshire area that may have led to eligible individuals not receiving CHC an audit of current practice undertaken by Wiltshire CCG will take place to:

1. Provide independent assurance to the Chief Officer of Wiltshire Clinical Commissioning Group (CCG) and the Bath Gloucestershire, Swindon and Wiltshire Area Team of NHS England that the practice of the CCG since its inception in April 2013 is compliant with the Department of Health (DH) guidance (National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care November 2012 (revised)).
2. Confirm partnership working between Wiltshire CCG and Wiltshire Council are appropriate and supportive enabling timely decision making.
3. Confirm that MDT assessments are undertaken in line with best practice.

4. Confirm that Wiltshire CCG have a clearly defined and appropriate local resolution/appeals process for claims where CHC assessments were found to not be eligible.

5. The audit is to be commissioned jointly by the CCG and BGSW Area Team and will include a steering group which ensure that the audit is completed to an appropriate standard. The membership of the steering group will be;

- Director of Nursing, BGSW Area Team
- Director of Operations and Delivery, BGSW Area Team
- Chief Officer, Wiltshire CCG

Methodology

The audit will include:

1. A review of decisions where CHC assessment was found to be not eligible: the sample timeframe will be April – June 2013 and will be drawn from;
 - Up to 10 individual cases where the MDT recommendation and decision found that individuals were not eligible for CHC funding – 10 cases were reviewed
 - Up to 10 cases which went to local appeal - 4 cases were reviewed.
 - Up to 10 cases where a local resolution meeting has been required by the CCG following appeal by the family – 0 cases reviewed as no cases within the timescale

The sample will be reviewed by a team of people, independent from the Wiltshire CCG which will include;

- 2 independent clinical advisors from CCGs
- An independent Local Authority advisor

The review will be based on a desktop assessment of the sample of cases using a checklist designed to evidence best practice.

Outcome

The outcome of the audit will be a report and analysis based on the evidence gained that identifies:

1. Whether current CCG practice is in line with the relevant guidance and legislation;
2. The quality of the assessments and processes being following, including MDT decision making and recommendations
3. The quality of the partnership working between Wiltshire CCG and Wiltshire Council in relation to CHC.
4. The quality of the process to locally review or respond to reviews where an individual or their representatives wish to challenge a CHC assessment.

Reporting

1. The primary purpose of the audit is to provide additional assurance on the processes being followed. If, however, any issues regarding the way in which any individual has been assessed be raised, the audit team will either:
 - recommend a re review
 - Request CCG to inform the individual and/or family
 - Hold it to the end of the audit
2. At the end of the process the draft report will go to the Steering Group for checking that the audit has met Terms of Reference, and checking for factual accuracy. The final report will then be available for the CCG to consider as part of Board proceedings.