

South East London Integrated Care Board

**SEL Local Resolution Policy, Procedure and
Independent Review Panel Guidance**

V1.0

Approved by	Executive Committee
Date approved	14.05.25
Name and title of originator/author	Jane Waite Head of CYPCC Governance Assurance & QIPP Lizzie Wallman Deputy Chief Nurse
Name and title of sponsor	Gwen Kennedy Chief Nurse
Name of responsible committee/individual	Quality and Safeguarding Committee
Review date	14 th May 2026
Description	This policy sets out a process for individuals or their representatives who disagree with a CHC eligibility decision and wish to seek a review of the decision via the SEL ICB Local Resolution Procedure in accordance with paragraphs 214 and 215 of the National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care (Revised 2022). The policy includes Independent Review Panel Guidance.
Target audience	All staff including SEL employees, contractors, agency and volunteer staff.
Stakeholders engaged in development or review	Described in All Age Continuing Care Governance Handbook Stakeholder Analysis and Management Plan

Version Control

Version number	V.1
Supersedes	SEL Local Resolution Process implemented April 2022

Implementation

Implementation plan in place?	Described in All Age Continuing Care Governance Handbook Stakeholder Analysis and Management Plan
Method and date of dissemination	Described in All Age Continuing Care Governance Handbook Stakeholder Analysis and Management Plan

Monitoring

Monitoring method	Monthly monitoring of key performance and quality
Frequency	
Responsibility	Jane Waite Head of CHC/CYPCC Governance Assurance

Reporting	Quality and Safeguarding Committee
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Document Review Control Information

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Contents

1. Introduction and scope	5
2. Definitions and acronyms	6
4. Requests for review of eligibility decisions.....	7
5. Equality and diversity statement	11
6. Links to other Policies/Documents and Guidance.....	11

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1. Introduction

Introduction & Purpose

- 1.1 Formal responsibility for informing individuals of a decision about eligibility for NHS Continuing Healthcare and of their right to request a review of that decision lies with the Integrated Care Board (ICB) with which the individual is a patient for the purposes of NHS Continuing Healthcare, in line with current legislation.
- 1.2 South East London ICB (SEL ICB) is required to provide clear reasons for its decision on whether an individual has a primary health need and is eligible for NHS Continuing Healthcare (CHC). The ICB is required to set out the basis on which the decision of eligibility was made.
- 1.3 SEL ICB is required to set out arrangements and timescales for dealing with a request to review a CHC eligibility decision where an individual or their representative disagrees with and want to challenge the decision.
- 1.4 This document is designed to set out a clear process for individuals or their representatives who disagree with the eligibility decision and wish to seek such a review in accordance with paragraphs 214 and 215 of the National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care (Revised 2022). The policy includes Independent Review Panel guidance.
- 1.5 Responsibility for the delivery of NHS Continuing Healthcare was delegated to the SEL ICB local Borough teams in July 2022.
- 1.6 This policy, procedure and guidance must be read in conjunction with the National Framework for NHS Continuing Healthcare.

Scope of the policy and Local Resolution Procedure

- 1.7 This policy/ procedure applies to any request for review of a decision made by an individual or their representative to SEL ICB following an assessment of eligibility for NHS CHC. The procedure applies exclusively to cases for which the ICB is the Responsible Commissioner.
- 1.8 The procedure should be able to consider the levels of need in disputed care domains, the application of the primary health need test and any process concerns.
- 1.9 This procedure is not for use when disputes arise between public bodies as to funding responsibilities or disagreement regarding a recommendation for eligibility made by the multi- disciplinary team (MDT).
- 1.10 This procedure only applies to periods of care where eligibility for funding has been assessed. Where periods of unassessed care exist, eligibility needs to be considered by the ICB prior to any review of a decision via this procedure.

- 1.11 The procedure does not apply to NHS Funded Nursing Care (FNC) eligibility decisions nor does it apply to requests for SEL ICB to review its decisions regarding care packages.
- 1.12 The local resolution process does not apply to NHS CHC Checklist Tools and cannot be raised by professionals or organisations on behalf of the individual unless they have been legally appointed to do so. Challenges to a negative checklist should be addressed through the NHS complaints process.

2. Definitions and Acronyms

Assessment of eligibility for NHS Continuing Healthcare	The assessment process used by a multidisciplinary team to make a recommendation regarding eligibility for NHS Continuing Healthcare. The assessment of eligibility requires the completion of the Decision Support Tool in order to arrive at an eligibility decision.
Care Package	A combination of care and support and other services designed to meet an individual's assessed need.
Checklists	The Checklist is the NHS Continuing Healthcare screening tool which can be used in a variety of settings to help practitioners identify individuals who may need a full assessment of eligibility for NHS Continuing Healthcare.
Commissioning	The process of specifying and procuring services for individuals and the local population. This involves translating aspirations and needs into services that: deliver the best possible health and well-being outcomes, promote equality and provide the best possible health and social care provision; achieving this with the best use of available resources and best value for the local population.
Co-ordinator	A person(s) who coordinates the NHS Continuing Healthcare eligibility assessment process.
Decision Support Tool	A national Decision Support Tool (DST) developed to aid consistent decision making. The DST supports practitioners in identifying care needs and ensures that evidence is applied in a single practical format.
Integrated Care Board	Integrated Care Boards are statutory NHS bodies responsible for the commissioning of healthcare services in their local area.
Independent Review Panel	Where it has not been possible to resolve the matter through the local resolution procedure, the individual may apply to NHS England for an independent review of the decision, if they are dissatisfied with the decision regarding eligibility for NHS Continuing Healthcare, or the procedure followed by the ICB in reaching its decision as to the person's eligibility for NHS Continuing Healthcare.

Local Resolution	Where an individual or their representative asks the ICB to review the eligibility decision, this should be addressed through the local resolution procedure, which is normally expected to resolve the matter. ICBs should deal with requests for review in a timely manner.
NHS Continuing Healthcare (CHC)	A complete package of ongoing care arranged and funded solely by the NHS for adults with the highest levels of complex, intense or unpredictable needs who have been assessed as having a 'primary health need'
NHS-funded Nursing Care (FNC)	Funding provided by the NHS to care homes with nursing, to support the provision of nursing care by a registered nurse for those assessed as eligible.
Multidisciplinary team (MDT)	An MDT in the context of CHC is a team of at least two professionals, usually from both the health and the social care disciplines.
Primary Health Need	Primary Health Need was a concept developed by the government to assist in determining which health services it is appropriate for the NHS to provide under the health act, and to distinguish between those and the services that Local Authorities may provide under the Care Act 2014.
Four key characteristics of need	Four characteristics of need – namely 'nature', 'intensity', 'complexity' and 'unpredictability' – 'may help determine whether the 'quality' or 'quantity' of care required is beyond the limit of a local authority's responsibilities. Each of these characteristics may, alone or in combination, demonstrate a primary health need because of the quality and/or quantity of care that is required to meet the individual's needs.

3. Requests for review of SEL eligibility decisions

- 3.1 Where an individual or their representative asks SEL ICB to review the eligibility decision, this should be addressed through the SEL local resolution procedure set out at paragraph 4 below.
- 3.2 A representative may be a friend, unpaid carer or family member who is supporting the individual in the process as well as anyone acting in a more formal capacity (e.g. someone with a valid and applicable Lasting Power of Attorney (Health and Welfare) or someone appointed as a Deputy (Health and Welfare) by the Court of Protection, or an organisation representing the individual.
- 3.3 Appropriate consent to discuss the local resolution and share information should be determined by and sought by the local borough team in line with the National Framework. The principles of the Mental Capacity Act 2005 and associated code of practice may need to be applied.

3.4 The SEL Local Resolution Procedure is set out below.

4. Review of eligibility decisions

- 4.1 All requests for review must be received by the ICB no later than six months following receipt of the decision regarding eligibility. Requests for a local resolution should be made in writing. Where an individual is unable to make the request for review in writing due to illness, disability, impairment or sensory loss or unfamiliarity with written English, SEL ICB will take steps to ensure that the individual receives information in an accessible format and any communication support that the individual needs.
- 4.2 Only once an eligibility decision is made by the ICB can a request for eligibility decision review be made by the individual or representative. The outcome of the decision will remain unchanged until such time as local resolution or independent review is concluded.
- 4.3 SEL ICB will aim to conclude a request for a local review in a timely manner and within three months of receipt of notification of the request for eligibility review.
- 4.4 NHS CHC local resolution meetings are normally held online (virtually) by Microsoft Teams. Individuals can request telephone, face to face and hybrid versions of local resolution meetings and these requests will be considered by SEL ICB on a case-by-case basis. Prior to the local resolution meeting, the individual who requested the review will be sent an invitation. This will confirm the date and time of the panel meeting, a brief description of what happens on the day and details of how to join the virtual meeting.

Stage 1 Request for Eligibility Review

- 4.5 The ICB will acknowledge a request for eligibility review by the individual or representative in writing within two working days.

Stage 2 Informal discussion

- 4.6 SEL ICB will attempt to resolve any concerns relating to the request for eligibility review through an informal two-way meaningful discussion between the ICB representative and the individual and/or their representative via a mutually agreeable means, for example, by telephone.
- 4.7 The discussion should be an opportunity for the individual or their representative to receive clarification of anything they have not understood.

- 4.8 The ICB should explain how it has arrived at the decision of 'not eligible' regarding eligibility, including reference to the completed Decision Support Tool (DST) and the primary health need test as described in the four key characteristics.
- 4.9 Where required this should also be an opportunity for the individual or their representative to describe additional information that had not been obtained by the Multidisciplinary Team (MDT) that the individual or their representative believe needs to be considered, or describe any additional information that was available to the MDT that the individual believes was not given due consideration.
- 4.10 A written summary of the informal discussion should be completed and made available for both parties as soon as possible, and within seven working days of the informal meeting.
- 4.11 If a resolution cannot be reached at this stage, an offer of a formal meeting will be made by the ICB.

Stage 3 Local Resolution Meeting

- 4.12 The individual should be given the opportunity to bring a representative to the local resolution meeting.
- 4.13 A senior representative nominated by the ICB from outside the original MDT should be involved in the local resolution meeting to enable an objective review of the original assessment and subsequent decision. The senior representative should have the authority to decide next steps on behalf of the ICB.
- 4.14 There should be open discussion that addresses areas of concern and clarifies why the individual remains dissatisfied with the decision of the ICB e.g. whether specific domains are the issue of concern for the individual/representative. If so, the ICB should refer to the relevant notes/assessments pertaining to those domains.
- 4.15 The discussion should be documented in a report form and should include notes taken by an ICB note taker at the meeting. The documentation should include the specific areas of dispute and actions to be taken.
- 4.16 The outcome of the Local Resolution Meeting should be communicated in writing to the individual in line with published timescales. It is important to outline the discussion relating to specific issues in the subsequent local resolution decision letter.
- 4.17 New information should not normally be accepted as part of the formal Local Resolution i.e. information that was not made available to the MDT (and is therefore information that may not have been considered by the MDT when making its recommendation). In exceptional circumstances, this may require the case to be returned to the MDT for a review of their recommendation.

- 4.18 The formal local resolution meeting should incorporate due consideration of information that was available to the MDT but the individual believes they were not given a clear explanation as to why it was not acknowledged or deemed to be of significance.
- 4.19 If agreement is not achieved at the local resolution meeting, the decision letter should inform the individual/representative of their right to request an Independent Review by NHS England, including the relevant contact details.
- 4.20 Before a case is sent to NHS England for an Independent Review, all appropriate steps must have been taken by the ICB to resolve the case locally.
- 4.21 The ICB should use the NHS England Independent Review Panel minimum data set at the Local Resolution Meeting. This is because information used at Local Resolution will form the file that is sent to NHS England if an Independent Review is requested. This will ensure that the Independent Review case will consider all available information and reduces delay in sending the file when it is requested by NHS England.
- 4.22 The NHSE IRP minimum data set is set out in NHSE IRP Guidance (September 2024).
- 4.23 The ICB should complete the Local Resolution Process within three months of the date of the request for eligibility review.

5. Independent Review Panel

- 5.1 Where it has not been possible to resolve the matter through the local resolution procedure, the individual or their representative may apply to NHS England for an independent review of the decision, if they are dissatisfied with:
- the decision regarding eligibility for NHS Continuing Healthcare or
 - the procedure followed by the ICB in reaching its decision as to the person's eligibility for NHS Continuing Healthcare
- 5.2 NHSE will contact SEL ICB where local resolution processes have not been followed and may consider asking the ICB to attempt further local resolution prior to an independent review.
- 5.3 SEL ICB must submit the file containing the NHSE minimum data set to the individual or their representative a minimum of ten working days before the panel date, unless there are exceptional circumstances why this timeframe cannot be met, to allow time for reading and preparation for the panel meeting.

- 5.4 The Independent Review Panel process should be completed, where possible, within 180 days of NHS England receiving an application.

6. Equality and diversity statement

- 6.1 NHS South East London ICB is committed to equality of for its employees and members and does not unlawfully discriminate on the basis of their “protected characteristics” as defined in the Equality Act 2010 - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. An Equality Impact Assessment has been completed for this policy.
- 6.2 If members or employees have any concerns or issues with the contents of this policy or have difficulty understanding how this policy relates their role, they are advised to contact the Chief Operating Officer.

7. Links to other Policies/Documents and Guidance

AACC Handbook

National Framework for NHS Continuing Healthcare and NHS funded Nursing Care July 2022 (Revised)

Mental Capacity Act 2005

NHSE Independent Review Panel (IRP) guidance (Updated September 2024)

NHSE Local Resolution Best Practice Guidance March 2021