NHS
Rotherham
Clinical Commissioning Group

Title:	**NHS Rotherham Clinical Commissioning Group Continuing Care, Equality & Choice Policy**
Reference No:	Q1
Owner:	Mrs Sue Cassin, Chief Nurse, Operational Executive Member
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First Issued On:	November 2014
Latest Issue Date:	January 2017
Operational Date:	January 2017
Review Date:	January 2019
Consultation Process	Policy Review only
Ratified and approved by:	Operational Executive 27th February 2017 AQuA 17th March 2017 Governing Body 3rd April 2017
Distribution:	All staff and GP members of the CCG.
Compliance:	Mandatory for all permanent and temporary employees of Rotherham CCG.
Equality & Diversity Statement:	In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination**,** promote equality of opportunity**,** and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

CONTROL RECORD				
Title	NHS Rotherham Clinical Commissioning Groups Continuing Care, Equality & Choice Policy.			
Reference	Continuing Care Commissioning Equality & Choice Policy.			
Purpose	This policy illustrates how NHS Rotherham Clinical Commissioning Group will make provision for the care of individuals who have been assessed as eligible for Continuing Care (CHC) and NHS-funded Nursing Care			
Audience	All staff and GP members of the CCG, West and South Yorkshire and Bassetlaw Clinical Support Unit acting on behalf of Rotherham Clinical Commissioning Group.			
Issue	1		**Issue date**	12/2014
Version	2		**Date**	12/2014
Status	Final		**Review**	01/2019
Owner	NHS Rotherham Clinical Commissioning Group			
Author	Alun Windle Deputy Chief Nurse/Head of Quality.			
Assisted in the Development of the document	Sue Cassin Chief Nurse.			
Superseded Documents	Continuing Health Care Policy on the Commissioning of Care Provision – ref 001/Finance.			
Approved by	Operational Executive AQUA Governing Body		27th February 2017 17th March 2017 3rd April 2017	
Target audience	Organisations and individuals involved in the commissioning and provision of care for the Rotherham population by NHSR CCG.			
Distribution list	NHS Rotherham Clinical Commissioning Group, The NHS Rotherham Foundation Trust, Rotherham Doncaster and South Humber NHS Foundation Trust. Rotherham Metropolitan Borough Council.			
Method	Intranet /Internet ✓ Other ☐			
Archived	**Date**		**Location**	
Access	Open Access			

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1. INTRODUCTION

1.1 The context for this Policy is provided in the form of The National Framework for NHS Continuing Care and NHS Funded Nursing Care 2012 and The National Framework for Childrens & Young Peoples Continuing Care 2016. For the purpose of this policy the term continuing care is utilised to denote an episode of funding from either framework.

1.2 NHS Rotherham Clinical Commissioning Group (RCCG) will continue to apply the principles and guidance within the Continuing Care Frameworks in its assessment and decision making processes with regard to the eligibility of individuals to have their care needs met through the use of NHS funding.

1.3 Therefore this policy applies once an individual has received a comprehensive, multidisciplinary assessment of their health and social care needs and the outcome shows that they are eligible for an episode of Continuing Care funding.

1.4 Individuals who require Continuing Care will need their care to be delivered in a dedicated setting that meets the assessed need of the individual The treatments, care and equipment required to meet complex, intense and unpredictable health needs often depend on suitably trained specialists. Specialised care, particularly for people with complex disabilities may only be provided in specialist environments, and may be distant from the patient's ordinary place of residence.

1.5 Clinical Commissioning Groups (CCGs) bear the responsibility to promote a comprehensive health service on behalf of the Secretary of State and to not surpass its financial allocations. Additionally the CCG is expected to take account of individual choice, this has to be in the framework of both responsibilities.

1.6 In response to both responsibilities RCCG has created and approved this policy to guide decision making, in an approach that considers the choice and preferences of individuals, and balances the need for RCCG to commission care that is safe and effective and makes best use of the resources.

1.7 Where an individual, normally resident in the Rotherham Borough has been assessed and the primary need is a health need, then that individual will be eligible for Continuing Care. Where an individual is eligible, the NHS is responsible for providing for the individual's assessed health care needs.

1.8 RCCG is obligated to acquire and fund Continuing Care packages that meet the reasonable needs of patients that have been assessed by relevant professionals. Such needs will be identified through a multi-disciplinary assessment. There is no duty on RCCG to provide a specific package of care although the CCG will take individual choice into account when arranging a suitable package.

2. PURPOSE

2.1 This policy illustrates how RCCG will make provision for the care of individuals who have been assessed as eligible for Continuing Care.

2.2 This policy will provide a common and shared understanding of RCCG's commitments in relation to individual choice and resource allocation and to:-

- ✓ Inform robust and consistent commissioning decisions for the CCG using a locally developed policy;
- ✓ Ensure that there is consistency in the local area over the services that individuals are offered;
- ✓ Ensure the CCG achieves value for money in its purchasing of services for individuals eligible for Continuing Care;
- ✓ Facilitate effective partnership working between health care providers, NHS bodies and the Local Authority in the area;
- ✓ Promote individual choice as far as reasonably possible.

2.3 This policy details the legal requirements, RCCG responsibilities and agreed course of action in commissioning care which meets an individual's assessed needs. Whilst improving quality and consistency of care, this policy is intended to assist care coordinators to make decisions about clinically appropriate care provision for individuals in a robust way and thus improve financial management at the CCG.

The policy sets out to ensure that decisions will:

- ✓ Be robust, fair, consistent and transparent;
- ✓ Be based on the objective assessment of the patient's clinical need, safety and best interests;
- ✓ Have regard for the safety and appropriateness of care packages to those involved in care delivery;
- ✓ Have due regards for the 9 protected characteristics under the Equality Act 2010;
- ✓ Involve the individual and their family or advocate where possible and appropriate;
- ✓ Take into account the need for the CCG to allocate its financial resources in the most cost effective way;
- ✓ Support choice to the extent possible in the light of the above factors;
- ✓ Be consistent with the principles and values of the NHS Constitution;
- ✓ Take into account an individual's needs for both their health and their wellbeing.

This policy and Rotherham CCG's Continuing Care policy's should be read in conjunction with:

- ✓ National framework on Continuing Healthcare and NHS funded nursing care (2012 revised);
- ✓ National Framework for Children's and Young Peoples Continuing Care;
- ✓ RCCG Health and Safety Policies;
- ✓ RCCG Policy and Procedure for Safeguarding Adult;s
- ✓ The NHS Constitution;
- ✓ The NHS Continuing Healthcare (Responsibilities) Directions 2009;
- ✓ NHS Continuing Healthcare Practice Guidance (1 April 2010);
- ✓ The Human Rights Act 1998;
- ✓ Equality Act 2010;
- ✓ National Assistance Act 1948 (Choice of Accommodation) Directions 1992 (as amended);
- ✓ Guidance on: National Assistance Act 1948 (Choice of Accommodation) Directions 1992. National Assistance (Residential Accommodation) (Additional Payments and Assessment of Resources) (Amendment) (England) Regulations 2001;
- ✓ Updated guidance on National Assistance Act 1948 (Choice of Accommodation) Directions 1992: Consultation outcome (14 October 2004;)
- ✓ National Health Service Income Generation - Best practice: Revised guidance on income generation in the NHS (1 February 2006);
- ✓ National Health Service Act 2006;
- ✓ Who Pays? Establishing the Responsible Commissioner (2013);
- ✓ Guidance on NHS patients who wish to pay for additional private care (May 2009);
- ✓ Relevant case law;
- ✓ Legal guidance;
- ✓ NHS England Operating Model for NHS Continuing Healthcare (2015).

3. ROLES AND RESPONSIBILITIES

3.1 RCCG has an obligation to meet the assessed care needs of eligible Individuals in a way that is considered to be reasonable and affordable whilst also in accordance with the Commissioner's relevant legal obligations. The responsible commissioner for Continuing Care will maintain transparent and robust processes to ensure that the assessment of an eligible Individual's care needs complies with National Frameworks.

3.2 When considering how and what care services can be commissioned, the responsible commissioner has a responsibility toward taxpayers to comply with its own standing financial Instructions to ensure that commissioning decisions take full account of the most cost effective options available, whilst also ensuring the assessed care needs of eligible individuals are met.

3.3 The responsible commissioner will make a reasonable offer of care to eligible individuals, which is able to meet care needs assessed under National Frameworks, complies with its own standing financial Instructions and takes account of the rights and preferences of the individual.

3.4 The CCG's Continuing Care lead will undertake audits of this Policy to determine the extent to which it is delivering choice, equity and value for money in the delivery of Continuing Care.

4. THE PROVISION OF CONTINUING CARE

4.1 RCCG has developed this policy in light of the need to balance personal choice alongside safety and effective use of finite resources. It is also necessary to have a policy which supports consistent and equitable decisions about the provision of care regardless of the person's age, condition or disability. These decisions need to provide transparency and fairness in the allocation of resources.

4.2 Continuing Care is generally provided in a range of settings including specialist homes, these are established and managed specifically for the purpose of providing multi-disciplinary interventions in an environment designed to promote safety, dignity and choice within the constraints of the patient's condition.

4.3 These settings have high levels of expertise in the successful management of complex or unusual physical and mental health care, and employ staff trained, managed and supervised in specialist interventions. They provide care significantly beyond the degree of complexity which can generally be managed safely in community settings. Therefore the most appropriate placement may not always be the patient's initial choice or borough of residence.

4.4 RCCG's Continuing Care Policies, illustrates the method of assessing eligibility in detail. When the determination on eligibility is decided, the appropriate team will identify a provider of specialist care that is skilled in meeting the assessed needs and which is in a position to provide a place within a reasonable space of time.

4.5 RCCG aims to offer individuals a choice of care packages which meet the Individual's assessed needs. This assessment takes into account their needs for both their health and their general wellbeing. Any assessment of need will include a review of the psychological and personal care needs and the impact on home and family life as well as the individual's health care needs. However RCCG aims to support individuals to take reasonable risks whilst ensuring that care provided is clinically safe.

4.6 The Continuing Care Operational Lead in consultation with the current responsible care coordinator and the individual / representative(s), will choose the placement based on, quality standards, cost and personal choice. The care coordinator will ensure that the placement is Care Quality Commission (CQC) registered and therefore expected to meet the minimum standards and will check the status of any known Safeguarding Adults alerts/investigations/ CQC improvement notice /Council embargo etc.

4.7 Placements will be assessed as being able to meet the individuals needs and Continuing Care will receive confirmation that they are able to do so. Continuing Care assessments should be reviewed at 3 months and annually thereafter or more frequently if indicated. All funded clients are listed for review and this review will pick up, not only commissioning and eligibility issues, but any concerns relating to Safeguarding, as appropriate.

4.8 If more than one suitable establishment or care package is available, or where there is a request for a care package which is not usually commissioned by the CCG, the total costs of each package will be identified and assessed for overall cost effectiveness by the care co-ordinator team and commissioners.

4.9 Where an individual is eligible for an episode of Continuing Care funding, the CCG will commission care which meets the individual's assessed needs. The CCG will only fund services that are identified in the care plan and for which it has a statutory responsibility.

4.10 While there is no set upper limit on costs, the expectation is that placements will not be agreed where costs exceed 10% of the most cost effective package that has been assessed as able to meet an individual's needs.

4.11 This is the most efficient, reasonable and sustainable use of limited capital, as set out in contemporary legislation, understanding and the principles and values of the NHS Constitution.

4.12 Where a care package request by an individual is not the most cost effective, the CCG, taking into account the considerations set out below, may agree to fund such a package of care in exceptional circumstances:

- ✓ Circumstances of overall placement/package
- ✓ Clinical need;
- ✓ Psychological need;
- ✓ Risk;
- ✓ Patient preference;
- ✓ Available alternatives;
- ✓ Overall cost to CCG.

4.13 A dialogue will take place between the care coordinator and the individual/representative(s), on the respective merits of the alternatives. Where the patient and families preference is consistent with the most cost effective package, the placement/care package will be negotiated and the arrangements made and reviewed by the care co-ordinator team.

4.14 The individual's care co-ordinator should discuss the proposed care provision with the individual and their representative(s) (where the individual gives consent for such a discussion or where the individual lacks capacity) including where the service may be provided. The care co-ordinator should identify different options for providing the care, indicating which of these is preferred by the individual.

4.15 The contemporary understanding of care is that if possible this should be provided in the individual's home. If a placement at home is more cost effective than in an establishment setting, it will only be agreed with the consent of the individual / representative(s), or advocate and in line with the expectation is that placements will not be agreed where costs exceed 10% of the most cost effective package.

4.16 The CCG will endeavour to offer a reasonable choice of available, preferred providers to the service user. Where Continuing Care is to be offered with a preferred provider and the individual declines all of the preferred providers proposed by the CCG, the individual can suggest a different provider, provided it satisfies:-

- ✓ The individual's preferred care setting is considered by the CCG to be suitable in relation to the individual's needs as assessed by the CCG.
- ✓ The cost of making arrangements for the individual at their preferred care setting would not require the CCG to pay more than they would usually expect to pay having regard to the individual's assessed needs (and having regard to the average value of care provision offered by the CCG and rejected by the individual).
- ✓ The individual's preferred care setting is available.

- ✓ The persons in charge of the preferred care setting are able to provide the required care to the individual subject to the CCG's usual terms and conditions, having regard to the nature of the care setting, for providing the care setting for such a person for CHC.

4.17 Where an individual is found eligible for Continuing Care whilst in acute NHS care or in a placement funded by the NHS, the individual or representative(s) must seek prior approval from the Care Coordinator for any change in the care package location unless they intend to pay for the full care privately. In the event that the placement is not one of the packages offered by the care co-ordinator, the CCG will consider the proposed placement in accordance with this policy.

4.18 For the avoidance of doubt, a patient will not be treated on a different basis to another NHS patient because the individual previously received privately funded treatment. An individual may appeal the decision in writing within 28 days through the Continuing Care lead, as outlined in RCCG's Continuing Care policies.

5. CAPACITY TO MAKE A DECISION

5.1 The Mental Capacity Act (2005), (MCA), provides a statutory framework to empower and protect vulnerable people who are unable to make their own decisions. The MCA's starting point is the assumption that adults have capacity to make decisions for themselves, unless it is shown that they do not. The MCA clarifies the rights and duties of the workers and carers, including how to act and make decisions on behalf of adults who may lack the mental capacity to make decisions. It aims to ensure that people are given the opportunity to participate in decisions about their care and treatment to the best of their capacity. It covers all aspects of health and social care. People should be given all appropriate help and support to enable them to make a decision. People eligible for NHS Continuing Healthcare should be referred to the Independent Mental Capacity Act Advocate (IMCA) service when:

- ✓ A decision is being made about serious medical treatment, **or** a long term change in accommodation **and** the person lacks capacity to make that decision **and** they do not have friends or representative(s), with whom the decision maker feels is appropriate to consult with about the decision.
- ✓ Where a personal welfare deputy has been appointed by the Court of Protection under the Mental Capacity Act, or a Lasting Power of Attorney with powers extending to health care decisions has been appointed, then the CCG appointed care co-ordinator will consult with that person and obtain a decision from the appointed person on the preferred care option.

6. DEPRIVATION OF LIBERTY SAFEGUARDS

6.1 Under the Deprivation of Liberty Safeguards the services of an IMCA can be provided as either a representative of a vulnerable adult or to support their representative(s). This person is known as an 'advocate'.

6.2 Where the individual lacks capacity to make the decision on where to live, and there is no Lasting Power of Attorney which extends to health care decisions, then the CCG is under a duty to act in accordance with the individual's best interests in line with the MCA. The CCG will take the decision on the basis of consideration of the best interests of the individual taking into consideration the views of the individuals representative(s).

6.3 The care coordinator will need to consider whether there is a requirement for a deprivation of liberty authorisation. In such cases the CCG is expected to follow the following procedure:

- ✓ The care coordinator will document that it has established beyond reasonable doubt that the individual in question lacks mental capacity according to Part 1, Sections 2 and 3 of the Mental Capacity Act 2005.
- ✓ The care coordinator will document that it has established that there is no Power of Attorney.
- ✓ The care coordinator will document that it has made all reasonable attempts to contact any of the individual's representative(s) and, in cases where they can be involved, has sought their views. The care coordinator will decide if there is a need to appoint a IMCA in cases where no firm views from the individuals representative(s) can be obtained.

- ✓ The care coordinator on the behalf of RCCG will then make a decision on the best interests of the individual, in accordance with Part 1, section 4 of the Mental Capacity Act 2005. It is expected that any views obtained by friends, family or IMCA will be taken into account.

7. AVAILABILITY

7.1 To enable individuals to receive the correct care promptly, individuals will be offered available care as soon as possible. If an individual's first choice from the care coordinator's preferred provider is not available, they will be offered other preferred providers to ensure provision as soon as possible.

7.2 If the individual requests care which is currently unavailable, and is unwilling to accept available care, there are several options available to the CCG:

7.3 Temporary placement of the individual with alternative care provision until the preferred care is available, for example, an alternative home care provider or alternative care home.

7.4 The individual may choose to go to their own or a relative's home without the assessed care provision until the preferred care is available. The individual will, however, retain the right subsequently to change their mind and elect to accept the care provision offered by the CCG. The individual may not have mental capacity to make this decision, the CCG will exercise its duties under the Mental Capacity Act;

7.5 If it has been agreed with the individual that the assessed needs can best be met through a care home placement, the CCG may choose to provide home care until the preferred care home is available, but cost implications to the CCG must be considered.

7.6 If the individual's representative(s) are delaying placement in a care home due to non-availability of a preferred home, and the individual does not have the mental capacity to make this decision themselves, the care coordinator will have recourse to local safeguarding procedures and the Mental Capacity Act, as appropriate.

7.7 If the individual is in an acute health care setting, they must move to the most appropriate care setting as soon as they are medically fit for discharge, even if their first choice of care provision is not available. Whilst the individual's choice will be respected as far as possible, if their first choice is not available, but alternative provision which will meet their assessed needs is available, they must move and cannot remain in an acute setting once they are medically stable, the move would be temporary until a preferred option is available.

7.8 If the CCG provides an individual with care that is more expensive than the standard cost due to, either availability in the market, or the ability of the CCG to commission at the standard cost, the additional cost will be funded by the CCG. Where such an arrangement has been agreed the CCG reserves the right to move the individual to a suitable preferred provider where this will provide a financial saving to the CCG. The CCG should notify the individual and/or their representative(s) that their provision may be moved should a preferred provider subsequently have capacity. In such circumstances, the CCG will give a minimum of 7 days' notice to the individual.

7.9 An individual is not obliged to accept a Continuing Care package. Once an individual is eligible and offered Continuing Care, and they choose not to accept the package, the CCG may, in appropriate cases, take reasonable steps to make the individual aware that the Local Authority does not assume responsibility to provide care to the individual. The CCG will work with the individual to help them understand their available options and facilitate access to appropriate advocacy support. As appropriate, the CCG will have recourse to local safeguarding procedures and the Mental Capacity Act 2005.

8. ADDITIONAL SERVICES

8.1 The individual or their representative(s), have the right to enter into discussions with any provider to supplement the care provision, over and above that required to meet assessed needs. Any such costs arising out of any such agreement must be funded by the individual or through third party funding.

8.2 These costs may relate to;

- ✓ Additional non-health care services to the individual. For example hairdressing, provision of a larger room, en-suite, or enhanced TV packages.
- ✓ Additional health care services to the individual, outside of the services the CCG has agreed to provide as part of the Continuing Care package. These types of services may include things such as chiropractor appointments or additional physiotherapy sessions. The CCG will satisfy itself that these services do not constitute any part of the Continuing Care identified need.
- ✓ The decision to purchase additional services to supplement a Continuing Care package must be entirely voluntary for the individual. The provision of the Continuing Care package must not be contingent on or dependent on, the individual or their representative(s) agreeing to fund any additional services. This means that the care home must be willing and able to deliver the assessed Continuing Care needs to the individual, without the package being supplemented by other services.
- ✓ Any funding provided by the individual for private services should not contribute towards costs of the assessed need that the CCG has agreed to fund. Similarly, Continuing Care funding should not in any way subsidise any private service that an individual chooses outside of the identified care plan.
- ✓ Where an individual is funding additional services, the associated costs to the individual must be explicitly stated and set out in a separate agreement with the provider. If the individual chooses to hold a contract for the provision of these services, it should be clear that the additional payments are not to cover any assessed needs funded by the CCG.
- ✓ Where an individual is found eligible for Continuing Care, the CCG must provide any services that it is required to provide, free of charge. In the context of care home placements this will be limited to the cost of providing accommodation, care and support necessary to meet the assessed needs of the patient. For 'care at home' packages this will be the cost of providing the services to meet the assessed needs of the individual. The package of care which the CCG has assessed as being reasonably required to meet the individual's needs is known as the core package.

8.3 Where an individual wishes to augment any Continuing Care package to meet their personal preferences they are at liberty to do so. However, this is provided that it does not constitute a subsidy to the core package of care identified by the CCG. The CCG is responsible for the core package and must not allow the individual to contribute to it.

8.4 In order to ensure that there is no confusion between the NHS and privately funded services, the CCG will enter into a legally binding contract with the selected provider which details the provision by the provider of a defined level of health and social care to the individual. This will expressly be independent of any arrangement between the care provider and the individual or their representative(s) and will be expressed to continue notwithstanding the termination of any arrangements made between the individual and the care provider. Any payments made by the individual under a contract with the care provider for additional services cannot be made under the CCG contract.

8.5 If the individual or their representative(s), for any reason, decides that they no longer wish to fund the additional services over and above the core care package, the CCG will not assume responsibility for funding those additional services.

8.6 Where the care coordinator is aware of additional services being provided to the individual privately, the care coordinator will satisfy itself that they do not constitute any part of the provision to meet assessed needs.

8.7 RCCG is only obliged to provide services that meet the assessed needs and reasonable requirements of an individual. A patient has the right to decline NHS services and make their own private arrangements.

8.8 Joint funding arrangements (between the NHS & the individual / representative(s) are not lawful and any additional private care must be delivered separately from NHS care. The invoices for any extra services must be dealt with directly by the individual / representative(s) and show the service/item that the payment relates to so that it can be clearly seen that payment is not subsidising the CCG's core package.

9. REVIEW OF CONTINUING CARE SUPPORT

9.1 The care coordinator on behalf of RCCG routinely reviews packages of care and as a result all reviews will comply with Rotherham CCG policy.

9.2 All individuals will have their care reviewed within the first three months of its start. Subsequent to any review, including this first, all patients must be reviewed at least once every twelve months thereafter or sooner if their care needs indicate that this is necessary.

9.3 Individuals with palliative care needs will have their care reviewed more frequently in response to their medical condition, a FastTrack assessment will not be required if the individual is already in receipt of continuing care funding as care packages can be increased to meet needs in these cases.

9.4 Where an individual rapidly deteriorates and is not currently receiving continuing care then a FastTrack referral would be required by the CCG.

9.5 The review may result in either an increase or a decrease in support offered and will be based on the assessed need of the individual at that time. Reviews will include input from the individual / representative(s) and in the case of those who lack capacity, their advocate also.

9.6 Where the individual is in receipt of a home support package and the assessment determines the need for a higher level of support. This may result in care being offered from a nursing home, hospital or hospice, whichever best meets the criteria overall.

9.7 The individual's condition may have improved or stabilized to such an extent that they no longer meet the criteria for Continuing Care. Consequently, the individual may be referred to the Local Authority who will assess their needs against the Fair Access to Care criteria. This may mean that the individual will be charged for all or part of their on-going care. Transition to Local Authority care will be managed by agreement between the respective authorities.

9.8 An individual may appeal the decision in writing within 28 days through the Continuing Care lead, as described in RCCG's Continuing Care policies.

9.9 RCCG aims to offer individuals a reasonable choice of care homes and care providers. The care coordinator will provide information to individuals/representatives about the choice of care homes so that they are able to make an informed choice.

9.10 If an individual or their representative(s) exercise individual choice and select a care home in another area, the CCG will consider placing the individual there and, if they do place the individual the responsibility for commissioning between different CCG's will be decided in accordance with guidance.

9.11 An individual has the right to decline NHS funding and make private arrangements. For the avoidance of doubt, in the event that an individual has been assessed and found to be eligible for Continuing Care they will no longer be able to receive funding from the Local Authority towards their care even if they decline NHS funding.

9.12 The appropriateness of a placement will be reviewed at the initial and any subsequent reviews. The CCG will not normally fund a placement where the requested care home is not the most suitable place for the provision of care and the care package can only be provided safely or resiliently with additional staffing at significant extra cost to the CCG.

9.13 If the individual or their representative(s) indicates that they are unwilling to accept any of the placements offered by the care coordinator then the CCG shall issue a final offer letter setting out the options available. If the CCG does not receive confirmation that the individual has accepted one of the placements within 14 days then the CCG will write to the individual confirming that the NHS funding has been turned down and NHS funding will cease from 28 days after the date of this notice.

9.14 Where the individual or their/representative(s) choose to turn down Continuing Care funding, they will not be able to access local authority funding for the care and will need to make private arrangements.

9.15 If after receipt of a letter from the CCG, stating that funding has been turned down, the individual or their representatives want to access NHS services, they remain entitled to do so and can re-enter the Continuing Care process.

9.16 The CCG acknowledges that many individuals with complex health care needs wish to remain in their own homes, with support provided to the individual in their own homes. Where an individual or their representative(s) express such a desire, the care coordinator will investigate to determine whether it is clinically feasible and within the duties of the CCG to provide a sustainable package of Continuing Care for an individual in their own home.

9.17 The willingness of representative(s) to supplement support should be taken into account, although no pressure should be put on them to offer such support. Whilst representative(s) are under no legal obligation to offer care, the care coordinator will ask representative(s) if they are prepared to do so and, if they agree, the care co-ordinator is entitled to assume that representative(s) will provide the agreed level of support in designing any home care package.

9.18 Through discussions with the individual, or their representative(s), location requests will be accommodated as much as reasonably possible, and in accordance with this policy, for example, proximity to relatives.

9.19 Where an individual expresses the preference to receive care at home, the CCG will benchmark the cost of such a package against the cost of a suitable package of care in a registered care setting.

9.20 The cost of domiciliary care provision should not exceed the equivalent cost of a registered care setting capable of meeting the assessed needs of that individual at that time.

9.21 Where the CCG decides to offer home care to an individual, the individual's home becomes the member of staff's place of work. Employee safety is an important consideration in home care packages. The individual's home must be a reasonably safe environment to work and deliver care to the individual. This includes cleanliness of the environment, and interactions between the individual/representative(s) and the employee.

9.22 The CCG only supports the use of 'care at home' packages where appropriate and recognises the importance of patient choice. However, there may be situations where the CCG cannot provide the individual's choice of having a 'care at home' package either because of the cost or risks associated with the package. The CCG considers that packages which require a high level of input may be more appropriately and safely met in another care setting.

9.23 The CCG's duty to fund services does not extend to funding for the wide variety of different, non-health and non-personal care related services that may be necessary to maintain the patient in their home environment. Should the CCG identify that such basic needs are not going to be (or have not been) properly met, the CCG may find that 'care at home' is not or no longer appropriate.

9.24 RCCG will only consider the provision of Continuing Care at home in the following circumstances:

9.25 Care can be delivered safely to the individual and without undue risk to the individual, the staff or other resident members of the household. The safety will be determined by professional assessment of risk which will include the availability of equipment, the environment and appropriately trained carers to deliver care whenever it is required; including -

- ✓ The acceptance by the individual, the CCG and each person involved in the individual's care of any risks relating to the care package.
- ✓ The patient's General Practitioner's opinion on the suitability of the package and confirmation that he/she agrees to provide primary medical support.
- ✓ The opinion of a secondary care, specialist clinician, will be taken into account
- ✓ It is the individual's informed and preferred choice.
- ✓ The suitability, accessibility and availability of alternative arrangements.
- ✓ The extent of a patient's needs
- ✓ Where the total cost of providing care is within 10% of the equivalent cost of a placement in an establishment.
- ✓ The cost of providing the package of choice.

- ✓ The cost (or range of costs) of the care package(s) identified by the CCG as suitable to meet the individual's assessed care needs.
- ✓ The psychological, social and physical impact on the individual.
- ✓ The individual's human rights and the rights of their family and/or carers including the right of respect for home and family life.
- ✓ The willingness and ability of family members or friends to provide elements of care where this is a necessary/desirable part of the care plan and the agreement of those persons to the care plan.

9.26 If the service user has capacity to make an informed decision and still wishes to be cared for at home, the following conditions apply:

- ✓ A full risk assessment must be made covering all the assessed needs and reflecting the proposed environment in which the care is to be provided.
- ✓ The individual agrees to receive care at home with a full understanding of the risks and possible consequences.
- ✓ The organisation with responsibility for providing the care agrees to accept the risks to their staff of managing the care package.
- ✓ The patient's primary care team agrees to provide clinical supervision of the care package, accepting the risks, which will need to be made explicit on a case by case basis.
- ✓ If action by family members or friends is needed to provide elements of care they must also agree to the care plan.
- ✓ Actions to be taken to minimize risk will include those that must be taken by the individual or their family.
- ✓ Any objections from other members of the household are taken into consideration.
- ✓ Costs are expected to fall within 10% of an equivalent core care package, although there is no set tariff placement and the assessed needs to be met within the cost are itemised within the care plan.
- ✓ Care is provided by an organisation or individual under a formal agreement and meeting standards acceptable to NHS commissioners; at this time it is not possible to make payments to individual patients or their families to purchase their care directly.

9.27 If the assessed individual does not have the mental capacity to make an informed choice and is placing themselves at risk by indicating choice of a care package at home a mental capacity assessment will be undertaken. An independent advocate will be offered to support the user in this process, under the provisions of the Mental Capacity Act 2005.

9.28 If the individual does not have the capacity to make an informed choice the CCG will deliver the safest and most cost effective care available. This is based on an assessment of best interests and in conjunction with any advocate, representative(s) or other person who should be consulted under the terms of the Mental Capacity Act.

9.29 An individual may appeal the decision in writing within 28 days through the Continuing Care operational lead, as described in the Rotherham CCG's Continuing Care Policy.

9.30 In order to establish whether it is appropriate to fund a 'care at home' package, the CCG will undertake a number of assessments prior to agreeing to any package.

9.31 Safety of the package will be determined by a formal assessment of risk, undertaken by appropriately qualified professionals. The risk assessment will include the availability of equipment, the appropriateness of the physical environment and availability of appropriately trained carers and/or staff to deliver care whenever it is required.

9.32 The resilience of the package will be assessed and contingency arrangements will need to be put in place for each component of the package in case any component of the package fails.

9.33 The risk assessment must consider all risks that could potentially cause harm to the individual/representative(s) and the staff. Where an identified risk to the care providers or the individual can be minimised through actions by the individual or representative(s), those individuals must agree to comply with the steps required to minimise such identified risk. Where the individual

requires any particular equipment then this must be able to be suitably accommodated within the home.

9.34 The CCG is not responsible for any alterations required to a property to enable a homecare package to be provided. For the avoidance of doubt, where an individual or representative has made alterations to the home but the CCG has declined to fund the package, the CCG will not provide any compensation for those alterations. Included in the risk assessment will be a robust Safeguarding assessment in order to assess whether there are any actual or potential risks to the individual.

9.35 In any circumstance where the CCG considers that the safety of its staff or its agents/contractors are at risk it shall take such action as it considers appropriate in order to remove that risk. Where this relates to the conduct of the individual or the home environment it shall request that the individual/representatives take the necessary action to remove the risk.

9.36 Where a review identifies, or the CCG otherwise becomes aware, that an action to reduce an identified risk to either the people involved providing care to the individual or to the individual has not been observed; and such failure may put those individuals providing care at risk or may significantly increase the cost of the package then the CCG will take the necessary steps to protect the individual and staff involved with a view to ensuring the safety of all concerned. Harassment or bullying of care workers by the individual, carers or family members will not be accepted and the CCG will take any action considered necessary to protect its staff and contractors.

9.37 Where safety of the individual and/or those people involved in providing care is likely to be compromised without such action and the individual or representative does not take the required action then the CCG may write formally to the individual. Where there is a threat to the safety of CCG staff or agents then the CCG retains the right to take any action it considers necessary to remove the threat including the immediate withdrawal of the care provision.

9.38 Where the individual is in receipt of a home care package and an assessment determines that this is no longer appropriate for any reason (including increase in care needs, inability for family to provide agreed care or identified risk) then an alternative package will be discussed and agreed. If the individual declines to accept alternative suitable provision, the CCG may write formally to the individual, giving no less than 28 days' notice for alternative arrangements to be put in place by the individual.

10. RESPONDING TO CONCERNS

10.1 When concerns arise the Continuing Care team will undertake a timely review involving the patient, and where appropriate, the individual's representative(s).

10.2 The care coordinator will establish any unmet need and revise the care plan and package of care to ensure needs are met.

10.3 The care coordinator will arrange for the review of their commissioned placements in any establishment where concerns are highlighted to establish the overall quality of service, and ensure patient's needs are being met. All quality concerns will be discussed with the provider and appropriate actions agreed with timescales to resolve these and raise a provider alert if necessary.

10.4 The Continuing Care team will receive regular updates from Rotherham Borough Council's safeguarding team and the Care Quality Commission (CQC) about the local provider market, and will take account of the possible impact of any concerns on proposed or existing placements.

10.5 The Continuing Care team will take account of information received through informal links with community service teams and other sources to trigger investigation of quality concerns regarding any commissioned service.

11. PERSONAL HEALTH BUDGETS

11.1 NHS rules allow NHS Commissioners to offer Eligible Individuals the opportunity to have their own Personal Health Budget (PHB)in certain situations.

11.2 A personal health budget is an amount of money to support a person's identified health and wellbeing needs, planned and agreed between the person and their local NHS team.

11.3 Eligible individuals and those supporting them, will know exactly how much funding is available for their care and they will be able to agree the best way to spend it to meet their assessed needs and to achieve agreed outcomes.

11.4 CCGs are encouraged to use personal health budgets where appropriate. A personal health budget helps people to get the services they need to achieve their health outcomes, by letting them take as much control over how money is spent on their care/support as is appropriate for them

11.5 Personal health budgets could work in a number of ways, including:

- ✓ A notional budget held by the CCG commissioner.
- ✓ A budget managed on the individual's behalf by a third party.
- ✓ A cash payment to the individual (a 'health care direct payment').

11.6 The budget set for an individual will depend on their clinical need and may be available for both care within an individual's home and where care is provided within a residential setting.

11.7 Where a PHB is being agreed with an Eligible Individual, a support plan will be put into place which will include:

- ✓ Issues of importance to the individual;
- ✓ Changes to be achieved;
- ✓ Support to be provided to the individual and how this will be managed;
- ✓ How the budget will be used;
- ✓ How the individual will remain in control;
- ✓ How the individual will make it all happen.

11.8 Please read this policy in conjunction with RCCGs Personal Health Budget policy for additional information.

12. DEFINITIONS

Accommodation - In the context of CHC, accommodation relates to an appropriately registered care setting or the individual's own home.

Care coordinator - Care coordinator refers to the person who coordinates the assessment and care planning process. Care coordinators are usually the central point of contact with the individual.

Care provision - Care provision takes two main forms:

- Care provided in an individual's own home and referred to in this document as 'home care' or 'domiciliary care'.
- Care provided in an appropriately registered care setting (such as a nursing home, a residential home or an independent hospital) and referred to in this document as 'registered care setting' or 'care home'.

Individual - In the context of this policy the individual is the service user that has been assessed for and offered Continuing Care, often referred to as the individual.

Representative(s) - Representative(s) refers to the people or person that liaises between individuals and the CCG. The individual receiving care may elect to have representative(s) act with them or on their behalf, or there may be representative(s) where the individual does not have the mental capacity to make independent decisions. Representatives may be legal representatives, individual advocates, family, or other people who are interested in the individual's wellbeing. Where the individual has capacity, they must give consent for any representative to act on their behalf.

Local Authority - Local Authority refers to Rotherham Metropolitan Borough Council.

CCG/RCCG - CCG refers to Rotherham NHS CCG.

Provider - Provider refers to organisation which provides Continuing Care on behalf of the CCG.

Preferred providers - These providers have been assessed and accepted by the CCG as being able to fulfil Continuing Care requirements of defined categories of individuals at an agreed cost.

NHS
Rotherham
Clinical Commissioning Group

Equality Impact Assessment

Title of policy or service:	**Continuing Care, Equality & Choice Policy**	
Name and role of officer/s completing the assessment:	Alun Windle, Head of Clinical Quality	
Date of assessment:	2nd December 2016	
Type of EIA completed:	**Initial EIA 'Screening'** x ***or*** **'Full' EIA process** ☐	*(select one option - see page 4 for guidance)*

1. Outline

Give a brief summary of your policy or service • Aims • Objectives • Links to other policies, including partners, national or regional	The aim of this policy is to outline the provision for the care of individuals who have been assessed as eligible for Continuing Care. The term Continuing Care is used in this policy as an abbreviation for 'Adults, Children and Young People who are eligible for Continuing Care'. This policy is in line with The National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care (Department of Health, 2012). National Framework for Children and Young Peoples Continuing Care 2016

Identifying impact:

- **Positive Impact:** will actively promote or improve equality of opportunity;
- **Neutral Impact:** where there are no notable consequences for any group;
- **Negative Impact:** negative or adverse impact causes disadvantage or exclusion. If such an impact is identified, the EIA should ensure, that as far as possible, it is either justified, eliminated, minimised or counter balanced by other measures. This may result in a 'full' EIA process.

2. Gathering of Information This is the core of the analysis; what information do you have that might *impact on protected groups, with consideration of the General Equality Duty*.					
	What key impact have you identified?			For impact identified (either positive and or negative) give details below:	
(Please complete each area)	Positive Impact	Neutral impact	Negative impact	How does this impact and what action, if any, do you need to take to address these issues?	What difference will this make?
Human rights	x	☐	☐		Overall the policy will have a positive impact across all the 9 protected characteristics
Age	x	☐	☐		
Carers	x	☐	☐		
Disability	x	☐	☐		
Sex	x	☐	☐		
Race	x	☐	☐		
Religion or belief	x	☐	☐		
Sexual orientation	x	☐	☐		
Gender reassignment	x	☐	☐		
Pregnancy and maternity	x	☐	☐		
Marriage and civil partnership (only eliminating discrimination)	x	☐	☐		
Other relevant groups	x	☐	☐		
HR Policies only: Part or Fixed term staff	N/A	☐	☐		

IMPORTANT NOTE: *If any of the above results in '**negative**' impact, a 'full' EIA which covers a more in depth analysis on areas/groups impacted must be considered and may need to be carried out.*

Having detailed the actions you need to take please transfer them to onto the action plan below.

3. Action plan				
Issues/impact identified	Actions required	How will you measure impact/progress	Timescale	Officer responsible
The policy will have a positive impact across all the 9 protected characteristics				

4. Monitoring, Review and Publication				
When will the proposal be reviewed and by whom?	Lead / Reviewing Officer:	Alun Windle	Date of next Review:	

Once completed, this form must be emailed to Elaine Barnes, Equality & Diversity Manager for sign off: elaine.barnes3@nhs.net.

Elaine Barnes signature:	Elaine Barnes, Equality & Diversity Manager.8/12/2016