Joint Inter-agency Dispute Resolution Policy for Continuing NHS Healthcare for Haringey and Islington Clinical Commissioning Groups

1	**SUMMARY**	This document sets out the processes and standards for addressing and resolving disputes that may arise from the application for NHS Continuing Healthcare in the London Boroughs of Haringey and Islington. It includes expectations for adhering to the National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care (October 2018 Revised). The role of the CCG is to make a decision on eligibility for all cases referred for assessment for Continuing Healthcare. In some cases the local authority may not be in agreement with the decision and as per the National Framework this procedure sets out the steps to resolve disputes locally.			
2	**RESPONSIBLE PERSON:**				
3	**ACCOUNTABLE DIRECTOR(S):**	Jennie Williams- Director of Quality and Nursing Rachel Lissauer- Director of Commissioning and Integration Clare Henderson- Director of Commissioning			
4	**APPLIES TO:**	All staff that have a role in continuing healthcare.			
5	**GROUPS/ INDIVIDUALS WHO HAVE OVERSEEN THE DEVPT OF THIS POLICY:**	CHC Commissioning Leads CHC Clinical Leads Adult Social Care- London Borough of Haringey Adult Social Care- London Borough of Islington			
6	**GROUPS WHICH WERE CONSULTED AND HAVE GIVEN APPROVAL:**	**EMT**			
7	**EQUALITY IMPACT ANALYSIS COMPLETED:**	**Policy Screened**	**Add date**	**Template completed**	**Add date**
8	**RATIFYING COMMITTEE(S) & DATE OF FINAL APPROVAL:**				

9	**VERSION:**	**2.0**			
10	**AVAILABLE ON:**	**Intranet**			
11	**RELATED DOCUMENTS:**	**Continuing Healthcare (Adults) Standard Operating Procedure (2018)** **National Framework for NHS continuing healthcare (CHC) and NHS-funded nursing care (FNC)-Revised October 2018**			
12	**DISSEMINATED TO:**	**All staff working in Whittington Health Continuing Healthcare Team** **HCCG Continuing Healthcare Team.** **Adults Resource Team in LBI** **Adult Services Staff LBI** **Adult Social Care Team- LBH**			
13	**DATE OF IMPLEMENTATION:**	**1 July 2019**			
14	**DATE OF NEXT FORMAL REVIEW:**	**30 June 2022**			

DOCUMENT CONTROL

Date	Version	Action	Amendments

1 Introduction

The National Framework for NHS Continuing Healthcare and NHS funded Nursing Care (October 2018 revised) [hereafter referred to as 'the National Framework'] requires each area to agree a local disputes resolution process to resolve cases where there is a dispute between them about:
• a decision as to eligibility for NHS Continuing Healthcare, or
• where an individual is not eligible for NHS Continuing Healthcare, the contribution of a CCG or local authority to a joint package of care for that person, or
• the operation of refunds guidance (see Annex E) (Paragraph 209 National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (revised October 2018).

CCGs are responsible and accountable for system leadership for NHS Continuing Healthcare within their local health and social care economy (refer to paragraphs 40-41), including:

a) ensuring delivery of, and compliance with, the National Framework for NHS Continuing Healthcare;

b) promoting awareness of NHS Continuing Healthcare;

c) establishing and maintaining governance arrangements for NHS Continuing Healthcare eligibility processes and commissioning NHS Continuing Healthcare packages.

d) ensuring that assessment mechanisms are in place for NHS Continuing Healthcare across relevant care pathways, in partnership with the local authority as appropriate. The Standing Rules require CCGs to consult, so far as is reasonably practicable, with the relevant social services authority before making a decision on a person's eligibility for NHS Continuing Healthcare (the Care and support statutory guidance1 should be used to identify the relevant social services authority).

e) making decisions on eligibility for NHS Continuing Healthcare;

f) identifying and acting on issues arising in the provision of NHS Continuing Healthcare;

g) commissioning arrangements, both on a strategic and an individual basis;

h) having a system in place to record assessments undertaken and their outcomes, and the costs of NHS Continuing Healthcare packages. It is important that any such system should clearly identify those receiving NHS Continuing Healthcare as a distinct group from those being supported via joint packages or any other funding routes;

i) implementing and maintaining good practice;

j) ensuring that quality standards are met and sustained;

k) nominating and making available suitably skilled professionals to be members of Independent review panels (in accordance with Standing Rules1);

l) ensuring training and development opportunities are available for practitioners, in partnership with the local authority; and

m) having clear arrangements in place with other NHS organisations (e.g. Foundation Trusts) and independent or voluntary sector partners to ensure effective operation of the National Framework.

Local authorities must, as far as is reasonably practicable, provide advice and assistance when consulted by the CCG in relation to an assessment of eligibility for NHS Continuing Healthcare. This duty applies regardless of whether an assessment of needs for care and support under section 9 of the Care Act 2014 is required (refer to paragraphs 124-130). Where the local authority has carried out such an assessment of needs it must (as far as it is relevant) use information from this assessment to assist the CCG in carrying out its responsibilities (refer to paragraph 21).

The National Framework also sets out a requirement CCG's duty to consult with the local authorities and the local authority's duty to co-operate with the CCG's should include arrangements for situations where the local authority has not been involved in the Multi-disciplinary team MDT assessment and in formulating the recommendation.

Haringey and Islington Clinical Commissioning Group's in partnership with Haringey Council and Islington Council respectively, recognise it is in the best interests of service users/carers for disputes to be resolved between the organisations arranging services speedily and at the earliest point. The prime consideration is to ensure that the interests of service users are protected and that care is provided first, with discussion regarding funding only taking place later through the dispute process. A key element in this is to ensure that eligibility decisions are made promptly and in accordance with the Framework. Formal disputes should be a last resort; it is expected that most disputes can be resolved locally through discussion and negotiation.

Haringey and Islington Clinical Commissioning Group's and Haringey Council and Islington Council recognise that resources should be directed towards resolution at an early stage rather than being directed into managing disputes. It is recognised CHC is a complex and high-risk area for all parties and there may well be disagreement and professional differences between partners. Strategic managers will take steps to strengthen joint activity and understanding in order to prevent conflict and help prevent unnecessary escalation to formal dispute:

Haringey and Islington Clinical Commissioning Group's and Haringey Council and Islington Council respectively, are committed to avoiding disputes wherever possible. Eligibility determinations are about evidence based judgements and requesting additional evidence to support assessments can often resolve differences. Building on current best practice and positive partnership working will ensure that disputes will be kept to a minimum. Where they do occur they will be resolved promptly, professionally and in a person-centred way.

This process only relates to disputes between the CCG and their respective Council. ***Separate procedures exist for service users and their representatives to resolve concerns regarding NHS CHC.***

The success and integrity of this process is wholly dependent on both organisations working in partnership and in a committed person-centred way.

The parties recognise that each have different statutory responsibilities and a duty of care to carry out their own assessments according to criteria relevant to that organisation and the decision to be made. In assessing whether a client is eligible to NHS funded CHC, the decision on eligibility will be determined against the Primary Health Need criteria using the Decision Support Tool (DST).

During this process, individuals will continue to receive the care they need from the responsible Commissioners as appropriate.

2 The Guiding Principles

Haringey and Islington Clinical Commissioning Group's in partnership with Haringey Council and Islington Council respectively are committed to minimising the need to invoke formal inter-agency dispute resolution procedures, by, for example:

- following the guidance set out in the National Framework;
- agreeing and following local protocols and/or processes which make clear how the CCG discharges its duty to consult with the local authority and how the local authority discharges its duty to co-operate with the CCG;
- developing a culture of genuine partnership working in all aspects of NHS Continuing Healthcare;
- ensuring that eligibility decisions are based on thorough, accurate and evidence based assessments of the individuals' needs;
- always keeping the individual at the heart of the process and ensuring a person-centred approach to decision-making;
- always attempting to resolve inter-agency disagreements at an early and preferably informal stage;
- dealing with genuine disagreements between practitioners in a professional manner without drawing the individual concerned into the debate in order to gain support for one professional's position or the other;
- ensuring practitioners in health and social care receive high-quality joint training (i.e. health and social care) which gives consistent messages about the correct application of the National Framework. (National Framework 2018, paragraph 208).

An escalation protocol has been developed to support the dispute resolution policy and minimise the need to invoke formal dispute resolution procedures set out here.

3 Where are disputes likely to arise?

Disputes may arise at different stages of the process for assessing eligibility for CHC.

3.1 At checklist stage

Although there is no requirement in the Regulations or the National Framework for the CCG and the council to have a policy to deal with disputes relating to the completion of the checklist we acknowledge that there are instances when a dispute can occur and we have therefore included this area in our joint procedure to support best practice.

Checklists should always be completed by staff members who have completed the Continuing Care training, which can be accessed at https://www.england.nhs.uk/resources/resources-for-ccgs/nhs-continuing-healthcare-e-learning-tool/. Occasions may arise when the checklist has been completed and a decision not to progress to completion of a Decision Support Tool has been made.

Disputes may arise at the checklist stage where a social care professional or multi-disciplinary team (MDT) has completed a checklist but has not provided enough evidence that demonstrates a need for a full CHC assessment. This will be where an individual client/patient is living in the community or in their own home.

If there is disagreement between the CCG and the Council as to the contents of a checklist completed by a Council staff, the Council Team Manager must raise this with the individual(s) who have completed the checklist and reach a satisfactory outcome. A notification of the disagreement should also be sent to the Manager in the CHC Team.

If resolution cannot be achieved at this stage, then a Senior CHC Nurse Assessor or team manager, deputy team manager will review the paperwork and evidence to assist in resolving the issue. If the review indicates that significant levels of need have been missed and that evidence determines that consideration for eligibility is warranted then the CCG may instruct the multidisciplinary team to complete their assessments for MDT recommendation. This stage should take no more than 48 hours to reach resolution.

Where the individual client/patient is in hospital and there is disagreement between hospital discharge and a Council member of staff as to the contents of a checklist completed by hospital staff, this must be resolved between the Council and the hospital trust. It may be necessary to seek advice from a senior nurse/manager in the CCG's CHC team to prevent a delay in hospital discharge for the individual client/patient. In either case it will be for the Senior CHC Nurse/manager to determine it is not necessary to undertake a full assessment – although the decision will have regard to the fact that the checklist has a low threshold and for passage through to a full eligibility assessment.

3.2 At the MDT recommendation stage using the decision support tool

The DST should be completed by a Multidisciplinary Team ("MDT"):
(i) two professionals who are from different healthcare professions, or
(ii) one professional who is from a healthcare profession and one person who is responsible for assessing persons who may have needs for care and support under part 1 of the Care Act 2014.

The Framework makes it clear that the MDT should include both health and social care professionals who are knowledgeable about the individual's health and social care needs. Where this is not available both health and social care professionals must ensure they know the individual health and social background.

The MDT should collate information from a range of professionals and must consult professionals involved in the individuals care. It is possible that agreement cannot be

reached regarding the recommendation of the MDT about eligibility for CHC. Where there is disagreement, or the MDT is unable to reach agreement on the recommendation this should be clearly recorded so that the CCG can note this when verifying recommendations.

In accordance with the Framework guidance, where practitioners are unable to reach agreement on the level of need, the higher level of need should be recorded and a note outlining the position included within the recommendation on eligibility. It is necessary that this is evidence based, and this evidence is recorded.

For Haringey CCG, disputes that cannot be resolved at the informal stage described in the latter sections of this policy will be referred to the Joint Dispute Resolution Panel

The CCG will monitor this area on an ongoing basis and work in collaboration with the council to identify trends and potential training needs for MDT staff.

3.3 At the Continuing Healthcare decision making stage

In accordance with the Framework it is acknowledged that only in exceptional circumstances should the recommendation of an MDT not be accepted as the formal decision by the CCG.

For Haringey CCG, which does not operate an Eligibility Panel, where there is a disagreement concerning eligibility for NHS Continuing Healthcare, which cannot be resolved using the informal escalation process, it will formally be recorded that both parties are in dispute and will be referred to the formal stage of the Dispute Resolution process.

For Islington CCG which operates an eligibility panel, staff are expected to resolve before submission to Panel in line with the national guidance. Differences are noted in the DST.

All relevant information must be available before the Panel. If the nominated managers believe that there is missing information and/or assessments that would be essential to the final decision they can request that the Case Coordinator collates the information prior to the panel meeting.

4 The Escalation and Dispute Resolution Process

Both the CCG's and their respective Council's staff will adhere at all times to the general principles outlined above including a real commitment to work in partnership and in a person-centred way.

4.1 Informal Dispute Resolution/Escalation Stage

This stage seeks to resolve a dispute at operational level and within a timeframe that enables the CCG to reach a decision on CHC eligibility within the 28-days decision standard set out in the National Framework.

This might, for example, involve consultation with relevant managers immediately following the MDT meeting to see whether agreement can be reached.

It might also include seeking further information/clarification on the facts of the case or on the correct interpretation of the National Framework. Details of the Informal Dispute Stage are set out in the escalation protocol (refer to Appendix 1).

This stage should take no more than four working days.

4.2 Formal Dispute Resolution Panel Stage

This stage involves a referral to the joint inter-agency appeals and dispute resolution panel, (Terms of Reference attached in Appendix 2). Referrals of disputes or disagreements that cannot be resolved at the informal stage 1 should be made to the Panel within five days of the informal stage for the case to be discussed at the next meeting of the Panel

The Panel will discuss the case in detail and may call upon the MDT to attend the dispute panel to verbally provide their rational for the levels of need awarded and their recommendations.

The Panel chair, the CCG representative and the local authority representative will jointly or by majority decision make a recommendation on eligibility and the CCG will be expected to agree that recommendation. The outcome of that review will be communicated in writing to the local authority as soon as reasonably practicable after the dispute panel hearing.

It is anticipated that in all but the small minority of cases, disputes will be resolved within the two stages above. If, however, the local authority wishes to escalate further, stage three must be engaged.

4.3 Independent Review Stage

The case, with all associated documentation, including a record of the discussions held at stages 1 and 2 will be sent to an independent Continuing Healthcare expert (which may be an individual or another CCG) to review for a final recommendation. It is expected that both the CCG and the local authority will agree to the recommendation of the independent reviewer.

It is anticipated that this process may take between two to four weeks. The CCG will be expected to collate and send the relevant papers to the independent reviewer within five working days of the Panel meeting.

4.4 Independent Arbitration Stage

This stage should only be invoked as a last resort and should rarely, if ever, be required. It can only be triggered by senior managers at assistant director level or above within the respective organisations who must agree how the independent arbitration is to be sourced, organised and funded.

Agreement as to how the placement and/or package for the individual is to be funded pending the outcome of dispute resolution and arrangements for reimbursement to the agencies involved once the dispute is resolved.

Individuals must never be left without appropriate support whilst disputes between statutory bodies about funding responsibility are resolved.

5 Funding arrangements for individuals whilst dispute is ongoing

Where existing funding arrangements are in place, whichever organisation is funding at the time of the dispute arising will continue to fund on a "without prejudice" basis until the dispute is resolved in accordance with this agreement. The appropriate authority in line with the agreed outcome will facilitate new arrangements e.g. following hospital discharge.

The CCG and their respective Council agree that following resolution of the dispute, funding will be backdated in line with the reimbursement arrangements set out in the Annexe F of the National Framework for NHS Continuing Healthcare and NHS funded Nursing Care (October 2018 Revised)

Interim funding responsibility during a dispute will be agreed as follows:

Setting	**Funding at time of dispute**	**Funding until dispute resolved**
Own home, residential or nursing home	Council	Council
In NHS hospital, own home, residential or nursing home*	CCG	CCG
Own home, residential or nursing home	Shared CCG/Council	Shared CCG/Council

*In order to avoid raising unrealistic expectation of future care location or costs of care provision and to avoid committing the other party to inappropriate future liabilities where interim funding has been agreed, The CCG and their respective Council agree to work collaboratively when considering interim funding based placements and care provision and, where possible, to agree interim care costs. This should happen in the majority of cases. Where there is no prior agreement because consultation has not been practicable or emergency arrangements are necessary, the interim funding authority undertakes to keep cost to the necessary minimum within the context of the duty owned by the body in question to the individual concerned. Any subsequent reimbursement will be based on the actual cost incurred.

6 Communication with service users

The CCG will write to the patient and/or their nominated representative to inform them where the outcome of an assessment is delayed due to the use of the escalation process and/or disputes policy. Where possible, the CCG will tell the service user and/or their representative what the timescale for decision-making is likely to be.

APPENDIX 1 TO THE JOINT INTER-AGENCY DISPUTE RESOLUTION POLICY ESCALATION PROTOCOL- Haringey CCG & London Borough of Haringey

1 Introduction

The Continuing Healthcare National Framework (2018) requires CCGs and local authorities should ensure that the assessment of eligibility for care or support and its provision take place in a timely and consistent manner, in accordance with their respective statutory responsibilities.

CCGs are measured against two Continuing Health Care (CHC) Quality Premium (QP) standards:

- **DST Location**- CCGs should ensure that less than 15% of CHC assessments take place in acute settings;
- **28-Day Decision-** CCGs should ensure that in more than 80% of cases with a positive checklist, a CHC eligibility decision is made within 28 days of referral. A subset to this target is the 12+ Weeks Waits target,
    - **12+ Weeks Waits** – No one should be waiting 12 weeks or more for a CHC eligibility decision.

2 Purpose

Haringey Clinical Commissioning Group (the CCG) and the London Borough of Haringey (the Council) have developed and agreed this Escalation Protocol to support timely Continuing Healthcare (CHC) decision making process and ensure effective joint working arrangements.

It is not intended to replace the Haringey CCG CHC Standard Operating Policy and the related CHC Dispute Resolution Policy.

Where possible, both Parties agree to resolve difficulties quickly and without delay at a professional practitioner level in order to minimise the time taken to reach an eligibility decision.

This Escalation protocol represents the Stage 1, Informal Process of the Joint Dispute Resolution Policy.

3 When This Escalation Protocol Applies

The Escalation protocol applies in the following instances:

- In the event there are delays in providing relevant information, reports and/or assessments to support the CHC assessment and decision making process in accordance with agreed timescale standards;
- Delays in allocating appropriate trained health and/or social care staff to carry out agreed in accordance with agreed timescale standards;
- Where poor quality information (such as checklists, DST, reports and/or paperwork) is submitted for a CHC referral or following a CHC assessment;
- The information provided to the CCG is incomplete or missing and prevents the CCG from making a timely CHC eligibility decision;
- Delays in notifying either Party of changes in eligibility and in the transfer of existing care arrangements, contracts and cost when one organisation ceases to have a statutory duty towards the patient/service user.

4 Key Principles

Professionals should:

- Share key information appropriately and often
- all parties following the guidance set out in the National Framework;
- agree and follow local protocols and/or processes which make clear how the CCG discharges its duty to consult with the local authority and how the local authority discharges its duty to co-operate with the CCG;
- develop a culture of genuine partnership working in all aspects of NHS Continuing Healthcare;
- ensure that eligibility decisions are based on thorough, accurate and evidence-based assessments of the individuals' needs;
- always keep the individual at the heart of the process and ensuring a person-centred approach to decision-making;
- always attempt to resolve inter-agency disagreements at an early and preferably informal stage;
- deal with genuine disagreements between practitioners in a professional manner without drawing the individual concerned into the debate in order to gain support for one professional's position or the other;
- Avoid disputes which place patient/service user at further risk by obscuring the focus on the individual or which delay decision making.
- Recognise that a colleague is raising the issue because they hold a genuine professional concern, their opinion is valid and their view needs to be fully considered.
- Familiarise themselves with the escalation routes within their agency for escalation and resolution.
- Ensure that at all stages of the process accurate actions and decisions are recorded (on the individual's file) and shared with relevant personnel (including the worker who raised the initial concern). This must include written confirmation between the parties about an agreed outcome of the disagreement and how any outstanding issues will be pursued.

5 CHC Process Standards

Both organisations are committed to the timescales outlined below:

Issues	Timescales
Referral Processing & Acknowledgement	Within 24 hours- Fast Track Within 48 hours Standard CHC
MDT Set Up	CCG to request for social care staff to form MDT within 2 working days of receipt of a positive Checklist/DST where required, LBH to respond to CCG within 2 working day of request from CCG for social care staff to form MDT
Incomplete Checklist/DST Clarification	Council to respond within 2 working days

6 The Escalation Process- Informal Dispute Resolution Stage

Professionals should attempt to resolve differences through discussion within timescales as set out in the National Framework.

The processes described below is the informal stage of the dispute resolution policy.

Informal Escalation Steps	Parties/Staff Involved	Process	Timescales
1- MDT/Practitioner Discussions	• Referring Professionals • CHC Staff processing referrals • Health and Social Care staff undertaking a CHC Assessment as part of DST •	Upon carrying out quality assurance checks following a referrals a Party submits incomplete information In the first instance the professionals from the other agency should raise the matter with the relevant practitioner/ team manager as appropriate doing so verbally or in writing via email (for referrals use the CHC QA Feedback Form) with clear timescale for a response. Where MDT do not agree on a recommendation, they should note the areas of	Request sent by CCG within 24-hours of receipt of information Respondent has 48 hours/2 working days to respond Response to request for Social Worker allocation/nurse allocation- 48 Hours/2 Working Days

Informal Escalation Steps	Parties/Staff Involved	Process	Timescales
		disagreement in the DST	
2- Manager/Head of Service Discussions	• Service/senior manager- CCG • Service Manager/senior CHC Nurse- Whittington Health • Head of Service- the Council	If the disagreement or issue is not resolved within 48 hours or 2 working days, the CHC service/senior manager will raise the issue to the Head of Service in the Council or vice-versa. The issue will be raised in writing and could also be followed up with a meeting if required. The receiving manager will ensure a response to address the issue is sent within 48 hours/2 Working days. **<u>Where MDT disagreements regarding a recommendation cannot be resolved, the case should be referred to the Dispute Resolution Panel</u>**	Response within 48 hours/2 working days Response for care transfer notification- 5 working days
3- Director Escalation Meeting	• Director of Commissioning and Integration- CCG • Assistant Director - Adult Social Services	Only issues that cannot be resolved at the Manager/Head of Service stage should be referred to the Directors Escalation Meeting. **This will not include <u>MDT disagreements regarding a recommendation. These cases should be referred to the Dispute Resolution Panel</u>**	Directors will set timescales for actions agreed at the meeting taking account of internal agreed or national statutory timescales

Informal Escalation Steps	Parties/Staff Involved	Process	Timescales
		Directors will need information about details of actions that have been taken to resolve the matter/issue, reasons for the disagreements, resolution/outcome sought and impact on the statutory responsibilities of the relevant Party	

4 Formal Dispute Resolution Stage

Where MDT disagreements regarding a recommendation cannot be resolved, the case should be referred to the Dispute Resolution Panel within five days for the case to be discussed at the next meeting of the Panel

5 Following the use of the Escalation Process

It may be useful for individuals to debrief following some disputes in order to promote continuing good working relationships.

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London Borough of Haringey			
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Name	Designation	Contact Details	Role
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APPENDIX 2 TO THE JOINT INTER-AGENCY DISPUTE RESOLUTION POLICY ESCALATION PROTOCOL- Islington CCG & London Borough of Islington, Whittington Health

1. Introduction

The Continuing Healthcare National Framework (2018) requires CCGs and local authorities to ensure that all assessment of care eligibility or support and its provision take place in a timely and consistent manner, in accordance with their respective statutory responsibilities. CCGs are measured against two Continuing Health Care (CHC) Quality Premium (QP) standards:

- **DST Locations** - CCGs should ensure that less than 15% of CHC assessments take place in an acute setting.
- **28-Day Decision-** CCGs should ensure that more than 80% of cases with a positive checklist and CHC eligibility decision are made within 28 days of referral. A subset to this target is the **12+ Weeks Wait Target** where – No one should be waiting 12 weeks or more for a CHC eligibility decision.

2. Purpose

Islington Clinical Commissioning Group (ICCG) and the London Borough of Islington (The Council) have developed and agreed this Escalation Protocol to support timely Continuing Healthcare (CHC) decision-making processes and ensure effective joint working arrangements.

This policy is not intended to replace the Islington CCG CHC Standard Operating Policy and the related CHC Dispute Resolution Policy.

Where possible, both parties agree to resolve difficulties quickly, without delays and at a professional practitioner level in order to minimise the time taken to reach an eligibility decision.

This Escalation protocol represents the first stage of the Informal Process of the Joint Dispute Resolution Policy.

3. Protocol Application

The Escalation protocol applies in the following instances:

- In the event that there are delays in providing relevant information i.e. reports and/or assessments to support a CHC assessment and decision making process in accordance with agreed timescale standards as a result of;

I. Delays in allocating appropriate trained health and/or social care staff to carry out agreed assessments in accordance with agreed timescale standards.
II. Where poor quality and/or missing information such as checklists, DST, reports and/or paperwork is submitted for a CHC referral or following a CHC assessment delaying a timely decision.
III. Delays in notifying either party of changes in eligibility, the transfer of existing care arrangements, contracts and cost when one organisation ceases to have a statutory duty towards the patient/service user.

Key Principles

Professionals should:

- Share key information appropriately and often.
- All parties following the guidance set out in the National Framework;

Agree and follow local protocols and/or processes, which make clear how the CCG discharges its duty to consult with the local authority and vice versa.

- Develop a culture of genuine partnership working in all aspects of NHS Continuing Healthcare by;

I. Ensuring that eligibility decisions are based on thorough, accurate and evidence-based assessments of the individuals' needs.
II. Always keeping the individual at the heart of the process and ensuring a person-centred approach to decision-making.
III. Where necessary, attempt to resolve inter-agency disagreements at an early and preferably informal stage.

- Avoid disputes that place patient/service user at further risk by obscuring the focus on the individual and/ or further delay decision-making.
- Recognise that a colleague is raising the issue because they hold a genuine professional concern, their opinion is valid and their view needs to be fully considered.
- Familiarise themselves with the systems in place within their agency for escalation and resolution.
- Ensure that at all stages of the process, actions and decisions are accurately recorded and shared with relevant personnel.
- This must include a written confirmation from the parties involved about agreed outcomes from the disagreement and how any outstanding issues will be pursued.

3 The Escalation Process- Informal Dispute Resolution Stage

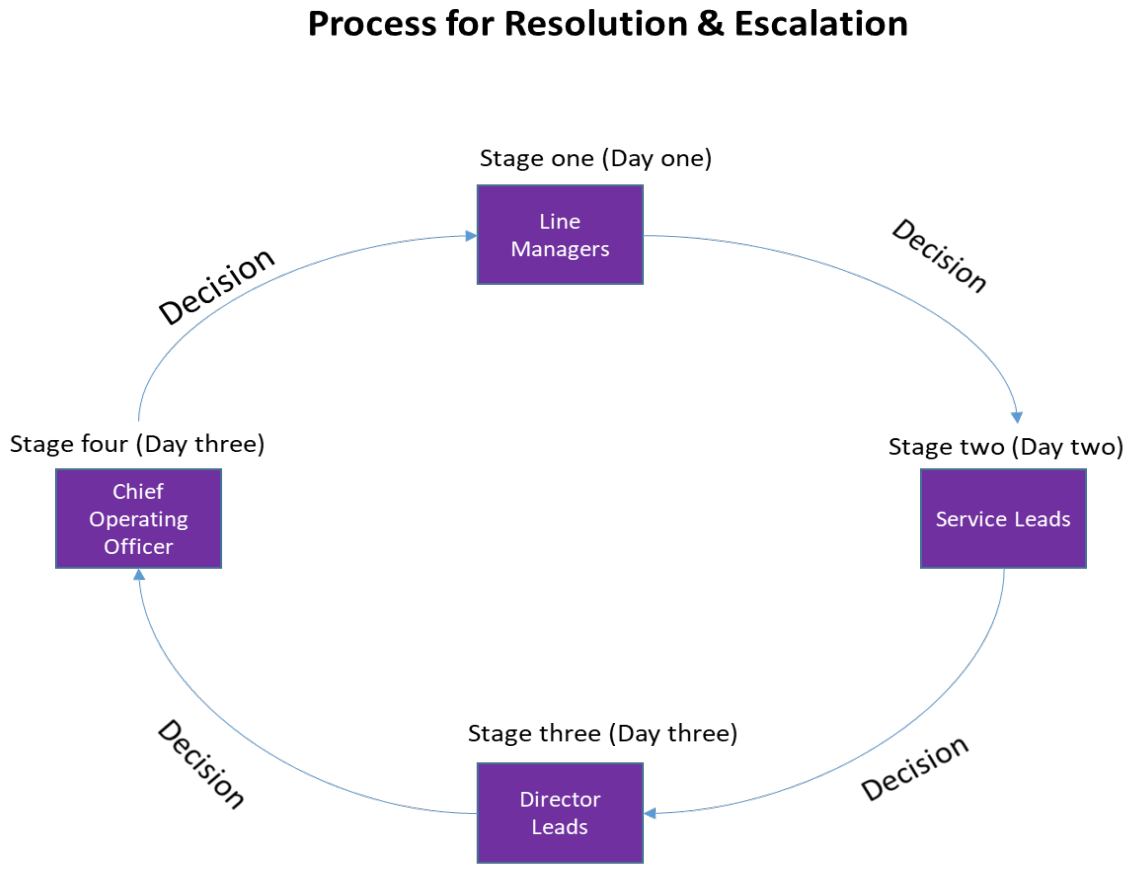
- Professionals should attempt to resolve differences through discussion within timescales as set out in the National Framework.

The processes described below is the informal stage of the dispute resolution policy.

Informal Escalation Steps	Required Staff	Process	Timescales
MDT Practitioner Discussions	Referring Professionals	Upon carrying out quality assurance checks following a referral, a party submits incomplete information	Request sent by CCG within 24 hours of receipt of information
	CHC staff processing referrals	In the first instance the professionals from the other agency should raise the matter with the relevant practitioner/ team manager as appropriate doing so verbally or in writing via email (for referrals use the CHC QA Feedback Form) with clear timescale for a response	Respondent has 48 hours/2 working days to respond

Informal Escalation Steps	Required Staff	Process	Timescales
	Health and social care staff undertaking assessments as part of DST	Where an MDT recommendation is not agreed upon, the areas of disagreement should be noted in the DST	Response to request for Social Worker allocation/nurse allocations should be within 48 Hours/2 Working Days

Formal Process for Resolution and Escalation



Escalation Process Contacts			
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APPENDIX 3 TO THE JOINT INTER-AGENCY DISPUTE RESOLUTION POLICY ESCALATION PROTOCOL

TERMS OF REFERENCE- HARINGEY NHS CONTINUING HEALTHCARE APPEALS & DISPUTE RESOLUTION PANEL

1. Scope of the Panel

1.1 To enable Haringey Clinical Commissioning group (CCG) to discharge its responsibilities in relation to the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (October 2018 Revised). The Panel will provide a forum for the CCG to support the Multi-Disciplinary Teams (MDT) in determining whether individuals have needs that meet the eligibility for NHS Continuing Health Care. Cases will be presented to the Panel after having been through the CCG ratification process and will have been identified as needing review of the recommendation through the Resolution Panel process.

1.2 To enable the CCG and the local authority to discuss and resolve disputed cases between the local authority and the CCG.

1.3 To discharge the CCG's duties under the National Framework for a Local Resolution Meeting (LRM) for individuals or their legally appointed representatives who have appealed against a 'not eligible' decision following a full Decision Support Tool review.

2. Objectives of the Panel

2.1 The Panel meets to ensure that the CCG executes its responsibilities in relation to the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (October 2018 Revised) where the Multi-disciplinary team (MDT) have been unable to agree on a recommendation, or the MDT's recommendation cannot be agreed by the CCG. Before referring to the Panel, attempts should have been made to escalate and resolve the dispute or disagreement through the Informal Dispute Resolution Stage (refer to Escalation Protocol).

2.2 In the event of a dispute- to hear submissions by representatives of the local authority and CCG in regards to instances where the local authority does not agree with the decision on eligibility and to uphold or overturn the CCG's decision.

2.3 In the case of LRM- to hear submissions by the CCG and the appellant or their legally appointed representatives and to uphold or overturn the CCG's decision.

2.4 To ensure decisions of Panel are appropriately communicated to the patient or their representative, the referrer and appropriate others.

2.5 To monitor the quality of applications and recommendations being provided by MDT's and to ensure any concerns are picked up and fed back into all relevant organisations via individual feedback or joint training.

2.6 Where appropriate, to make recommendations on joint funding arrangements.

2.7 To raise any safeguarding concerns that may arise through the panel process.

3. Membership

3.1 The Panel must consist of the following;

a. Chair – the Chair will be a senior clinician of Haringey CCG,

b. Health representative – this will be a representative holding a current clinical registration and be a senior member of the CCG Continuing Healthcare Team (band 8a or above),

c. Social Services representative – this will be a representative of home Council or relevant local authority selected by the local authority as having the appropriate qualification and/or experience to advise on behalf of the Council.

4. Specialist Advisors and Observers

4.1 From time to time the Panel may request a specialist professional to advise the Panel on complex cases or those that require specialist knowledge to evaluate their eligibility appropriately. The role of the specialist advisor is to provide specialist knowledge and guidance to the Panel members in order that a determination of eligibility can be made. Specialist advisors do not have a decision making responsibility.

4.2 As part of a learning and development process professionals from either health or social care may attend Panel to view proceedings and understand the Panel process. It is appropriate to share materials at Panel with observers. Observers do not have a decision making responsibility.

4.3 Panel is a confidential and impartial process. It is, therefore, not appropriate to have members of the public present during a Panel meeting, unless it is to make representations for an appeal in a LRM.

5. Panel Operation

5.1 The Panel will meet as needed – usually fortnightly – to enable cases to be considered.

5.2 Split/Missing/Unclear/Unsupported Recommendation

5.2.1 In cases where the MDT have been unable to agree a recommendation or the recommendation is unclear or where the CCG has been unable to agree the recommendation, the Panel will review all of the available evidence and make a decision on eligibility.

5.2.2 Cases should not be deferred for more evidence – the Continuing Healthcare Clinical Standard Operating Procedure assures that all cases where a recommendation has not been agreed by the MDT, or where the CCG has not been able to support a recommendation, the CCG will have returned the case to the MDT in order to gain further evidence and/or for clarity on the recommendation being made.

5.2.3 It is expected that Patients or their representatives' views are represented to the Panel in the DST. Where this has not been possible the DST should reflect that.

5.3 Disputed Cases

5.3.1 In cases where the local authority does not agree the decision of the CCG on eligibility a dispute can be raised using the Joint Inter-agency Dispute Resolution Policy (JIDRP) for Continuing NHS Healthcare.
The Panel will hear cases and consider the CCG's decision if agreement cannot be reached at the informal stage of the JIDRP.

5.3.2 Representatives from the CCG and local authority will present the cases and provide a rationale for their view on eligibility. All relevant documentation including the DST, supporting evidence, and records of discussions held between the local authority and the CCG will be available to the Panel in electronic or paper form.

5.3.3 The Panel will ask the representatives to withdraw whilst the panel members discuss the case, although the representatives should be available should the panel members require any clarification.

5.4 In the Event the CCG receives an appeal against an eligibility decision- Local Review Meetings

5.4.1 As the final part of the local review process of appeals the appellant may opt to attend a Local Review Meeting (LRM). The purpose of this meeting is to both discuss eligibility and to discuss with appellants how the CCG arrived at the decision on eligibility. LRMs are aligned to the process of NHS England Independent Review Panels in their makeup and how they are discharged.

5.4.2 At the point of the LRM the appellant will have already presented their rationale as to why they believe the decision of the CCG is incorrect. The Panel will have a copy of the rationale, a copy of the clinical review that was conducted in response to the appeal, a copy of the original DST and any relevant supportive evidence that has been made available to the CCG.

5.4.3 A representative of the CCG or the organisation that carried out the assessment on behalf of the CCG– usually the appeal review assessor – will present the case. The appellant, or their legally appointed representative, will make representations to the Panel. Should the appellant bring new relevant documentary evidence that has not been reviewed by the CCG then the meeting must be stopped to allow the CCG to consider this evidence. Verbal evidence must be considered in context of the documentary evidence available.

5.4.4 The Panel will ask the representatives to withdraw whilst the panel members discuss the case, although the representatives should be available should the panel members require any clarification.

5.5 Making a Decision

5.5.1 The Panel should consider each of the domains in turn to determine if the evidence submitted supports the level awarded by the MDT. Where it does not support the recorded level, the Panel will discuss and record the Panel view. Where Panel members' views are not in consensus this should be recorded in the Panel minutes.

5.5.2 The Panel should consider the four key indicators and apply their clinical and experiential knowledge, as well as the guidance in the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (October 2018 Revised), to consider whether there is a primary healthcare need. Where the Panel members' views are not in consensus this should be recorded in the Panel minutes.

5.5.3 The decision on eligibility for each case will be made by the Chair of the Panel, advised by the Health and Social Services representatives. This will normally be the consensus of the Panel. Where the Health representative and the Social Services representative disagree on eligibility the Chair must apply their judgement in order to make an eligibility decision – it is not acceptable to defer the decision for another Panel to hear solely on the basis of eligibility. The Chair may make a decision with which neither the Health representative nor the Social Services representative agrees and in such cases the Chair must give a clear rationale for this decision in the minutes of the Panel meeting.

5.5.4 The Chair on behalf of the CCG should not overturn a recommendation by the MDT regarding an individual's eligibility unless exceptional circumstances are identified. Exceptional circumstances would include:

- Where the DST is not completed fully (including where there is no recommendation)
- Where there are significant gaps in evidence to support the recommendation
- Where there is an obvious mismatch between evidence provided and the recommendation made • where the MDT have not reached agreement
- Where the recommendation would result in either authority acting unlawfully

The 'exceptional circumstance', where the recommendation of the MDT is overturned, must be recorded in the minutes of the Panel.

5.5.5 Where a 'not eligible' decision has been made, the Panel may consider whether to recommend joint funding. A recommendation for joint funding may have been made by the MDT or may come as a result of discussion in the Panel meeting. Panel must also consider whether there is eligibility Funded Nursing Care (FNC), regardless of the care package that may be in place for the individual.

5.5.6 In the cases of disputes and appeals the representatives should be invited back into the meeting to hear the outcome of the Panel decision.

5.6 Minutes of Resolution Panels must be sent to the chair of panel within 5 working days so that they can be approved in a timely manner.

5.7 The referrer and patient/representative (if required) should be informed of the Panel decision, in writing, within 5 working days of the Panel meeting. A more detailed outcome letter giving a reasoned explanation of how the decision was

reached will be sent within 15 working days of the Panel meeting which will include the panel minutes of their case.

6. Review

6.1 The Terms of Reference will be reviewed in accordance with legislation that may affect the operation of the Panel, or every two years, whichever is sooner.