

Livewell Southwest

**Continuing Healthcare NHS
Disputes Resolution Procedure.
NHS Northern, Eastern & Western Devon and
Plymouth City Council Adult Social Care**

Version No 2

Review: May 2019

Notice to staff using a paper copy of this guidance

The policies and procedures page of Intranet holds the most recent and procedural version of this guidance. Staff must ensure they are using the most recent guidance.

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Reader Information

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Equality Analysis Checklist completed	N/A
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Associated Documentation	Managers will need to be aware of the contents of two supportive policy documents which can be found on the Intranet: Livewell Southwest : arrangements for reviewing decisions on eligibility for NHS Continuing Healthcare and NHS-Funded Nursing Care (2008) Plymouth Health and Social Care Community Continuing Care Decision Making Policy and Process (2009) National Framework for NHS Continuing Health care and NHS Funded Nursing Care (DH 2007)

	<p>Managers will also be able to access supplies of the Plymouth CHC Information leaflet from:</p> <p>CHC & FNC Team Livewell Southwest Ground Floor Beauchamp Centre Mount Gould</p>
Supersedes Document	V.1.3
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Document Review History

Version no.	Type of change	Date	Originator of change	Description of change
0.1	New Policy	May 2008	Assistant Director of Commissioning	Policy required Under National framework
0.2	New Format	19.3.09	Assistant Director of Commissioning	updated
1	Minor amendments/ formatting changes	April 2009	Policy ratification group secretary	Formatting/updating/clarifying.
1:1	Updated	April 2009	Author	Corrections
1:2	Review	Feb 2011	Author	Reviewed, no changes made.
1:3	Reviewed	October 2013	Lead officer CHC Team	PCH Logo and formatting updated.
2	Reviewed	April 2016	FNC Lead	LSW Logo and formatting updated.

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Continuing Healthcare NHS Disputes Resolution Procedure. NHS Northern, Eastern & Western Devon and Plymouth City Council Adult Social Care.

1. Context

- 1.1 The National Framework for NHS Continuing Health Care requires LSW's, NHS Trusts and Local Authorities to put in place a local dispute resolution process, which proceeds in a robust and timely manner. This process will deal with disputes about responsibility for funding arrangements between the responsible bodies. It is not intended to be used by individuals or their representatives. Disputes must not delay the provision of care packages or the transfer of patients to new settings.
- 1.2 Following a comprehensive review of NHS Continuing Healthcare decision making arrangements in Plymouth in January 2008 changes are being made across the health and social care community to ensure all decisions are made jointly and transparently on eligibility for NHS Continuing Healthcare and packages of Continuing Health and Social Care. It is the clear expectation that local managers will work in a collaborative and person centred manner and therefore disputes are only likely to arise on an exceptional basis.

2. When are disputes likely to arise?

- 2.1 For Plymouth City Council (PCC) it will be when a decision is made not to grant eligibility for NHS Continuing Healthcare when PCC believes there is evidence of a primary need for healthcare or that the individual requires an amount of general nursing care that is more than incidental or ancillary to the accommodation and is not of a nature that a local authority can be expected to provide.
- 2.2 For Livewell Southwest it will be when a patient is waiting hospital discharge or in receipt of NHS Continuing Healthcare and the LSW believes that there is not (or no longer) a primary need for healthcare and the individual has needs for shared health and social care or a social care package that requires funding from PCC, yet PCC does not accept responsibility for the arrangement.

3. Types of Disputes

3.1 At Checklist stage

Checklists should always be completed by staff who have completed the Joint Livewell Southwest and PCC Continuing Care training. 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. If there is disagreement at this stage then the PCC Team Leader must raise this with the individual (s)

who have completed the Checklist and reach a satisfactory outcome. If resolution cannot be reached at this stage then an Assessor from the LSW Onward Services Care Team or Funded Nursing Care team must be contacted to assist in resolving the issue. This stage should take no more than 24 hours to reach a resolution.

3.2 At Decision Support Tool Stage (DST)

The DST should be completed by a Multi-disciplinary Team: (or in a multi disciplinary manner when formal MDT's do not exist) a minimum constitution of an MDT is one NHS health professional and one local authority social care professional (one of whom must always be designated as the care co-coordinator). It is likely that the DST will be completed by more than two professionals. It is possible that agreement cannot be reached regarding the recommendation of the MDT about eligibility for NHS Continuing Healthcare, where there is disagreement, or the MDT finds it difficult to give a recommendation, and then the care co-ordinator should forward the completed DST and supporting material, to the local Continuing Care Quality Assurance officer who will offer advice and if necessary refer to the Plymouth Continuing Care Panel who will be able to reach a decision on eligibility.

This stage should take no more than 7 days to reach a resolution. The transfer of the patient should not be delayed whilst waiting for a panel decision on eligibility.

3.3 At Plymouth Continuing Care Panel

There is potential for Panels, where they are making decisions about eligibility (and it is expected that this will be rare under the National Framework) to not always reach unanimous decisions. If any Panel member is unable to agree with a majority verdict dissention should be formally recorded both within the discussion and the minutes of the meeting.

3.3 Post Plymouth Continuing Care Panel

A dispute will inevitably arise when the outcome of a Panel decision is not agreed.

4. What should happen when a dispute is unresolved?

The National Framework is clear that existing funding arrangements cannot be unilaterally withdrawn without the agreement of the other party.

Setting	Funding at time of dispute	Funding until dispute resolved
Own home, Residential or Nursing Home	Local Authority	Local Authority
In NHS hospital, own home, Residential or Nursing Home	LSW	LSW
Own home, Residential or Nursing Home	Shared NHS/LSW	Shared NHS/LSW
Own home, Residential or Nursing Home	Self funding	Self funding
The final outcome of the dispute should be backdated to the time of the original funding request		

5. Escalation

5.1 Stage 1

When a LA member of a Panel does not support a decision to refuse eligibility for NHS Continuing Healthcare or a LSW member of a Panel disagrees with the PCC decision to refuse funding for either a shared package of care or a package of social care (and when the LSW member believes that there is no eligibility for NHS Continuing healthcare), the chair of the panel must reconvene a 2nd Panel with individuals from both organisations who have not previously been involved in the case to reconsider. If resolution is not achieved at this stage the chairman must refer the case to Stage2. The chair must reconvene the 2nd Panel within 7 days

5.2 Stage 2

When Stage 1 has not achieved a resolution the chair of the Panel must refer the case to the LSW Assistant Director of Commissioning and the PCC Head of Service who will discuss and negotiate the case, aiming to reach agreement based on the principles underpinning in the National Framework and taking into account the lawful limits of the Local Authority. These officers will have 7 days to resolve the dispute

5.3 Stage 3

If resolution cannot be reached at Stage 2 then both officers must set out the rationale for their position which must be forwarded to the LSW Chief Executive and PCC Director of Community Services. This scenario should be regarded as a serious failure in the system and in practise it should rarely, if ever be reached. These officers will have 7 days to resolve the dispute.

All disputes should be completed within a maximum of 4 weeks of first becoming a matter of dispute.

6. Monitoring Compliance and Effectiveness

All disputes will be regarded as formal if they are referred to the Plymouth Continuing Care Panel recorded on the Continuing Care database (Care Track). The LSW is required to supply the DH with numbers of formal disputes on its quarterly regional CHC return

All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Locality Manager.

The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.

Signed: Director of Professional Practice, Quality and Safety.

Date: 10th May 2016