

BNSSG CCG Governing Body Meeting

Date: Tuesday 5th February 2019

Time: 1.30pm

Location: The Royal Hotel, 1 South Parade, Weston-super-Mare BS23 1JP

Agenda number: 9.1

Report title: Adult Continuing Healthcare Commissioning Policy

Report Author: Jo Kapp

Report Sponsor: Janet Baptiste-Grant

1. Purpose

The purpose of the paper is to seek Governing Body's approval of the BNSSG Commissioning policy for Adult Continuing Healthcare (CHC).

2. Recommendations

The Governing Body is asked to approve the attached policy

3. Executive Summary

Adult Continuing Healthcare Commissioning policy

The presented policy was previously approved by the legacy CCG's through their respective governance arrangements.

The policy describes the ways in which BNSSG CCGs will commission healthcare in a manner that reflects the choice and preferences of individuals whilst ensuring a balance between choice, safety and effective use of finite resources available to BNSSG CCGs. In the delivery of CHC, BNSSG CCGs have to ensure consistency and fairness in the application of the National Framework for NHS Continuing Healthcare and NHS-Funded Nursing Care; whilst implementing and maintaining good practice and ensuring quality standards are met and sustained in line with commissioning for value.



The policy was challenged by the European Human Rights Council. Advice was sort from Bevan Brittan and following advice the following sections were significantly amended:

7. Human Rights Act
8. Public Sector Equality Duty

Other amendments were made through out the document to ensure that the policy reflects the CCG's obligations and duties under the NHS Act 2006, Article 8 of the European Convention on Human Rights, the Public Sector Equality Duty ('PSED') in s.149 of the Equality Act 2010 and also the requirements of the NHSCHC National Framework and Practice Guidance, which echo the requirements of Article 8 and the PSED.

The policy was reviewed and approved with amendments by BNSSG CCG Quality Committee on 24 January 2019.

4. Financial resource implications

The policy sets out that's while there is no set upper limit on CHC expenditure, the principle is that care provision will not be agreed where costs are unjustifiably higher than the most effective package that has been assessed as able to meet the individual's needs. Funding decisions relating to such circumstances will be clearly documented and discussed with the CHC eligible individual or their representative.

5. Legal implications

The policy has been thoroughly reviewed by Bevan Brittan and all advice has been included in the policy.

6. Risk implications

There are no specific risks associated with this policy. The policy may have implications for Local Authorities commissioning individual packages of care prior to an individual being eligible for CHC or following a decision that an individual is no longer eligible for CHC funding. The policy has been shared with the three Local Authorities who may be affected.

7. Implications for health inequalities

The policy will ensure that there is an equitable approach to the commissioning of care for those eligible for CHC funding

8. Implications for equalities (Black and Other Minority Ethnic/Disability/Age Issues)

An Equality Impact Assessment has been completed. The policy will affect the approach to commissioning CHC, which due to its nature primarily effects an older population, and individuals living with complex disabilities. There may be positive and negative impacts on these groups. BNSSG CCGs have ensured that the policy reflects a consistent and fair approach in the

application of the National Framework for NHS Continuing Healthcare and NHS-Funded Nursing Care; whilst implementing and maintaining good practice and ensuring quality standards are met.

9. Implications for Public Involvement

There are no currently implications for public involvement at this time.

Commissioning Policy for Adult Continuing Healthcare



Please complete the table below:

To be added by corporate team once policy approved and before placing on website

Policy ref no:	
Responsible Executive Director:	Janet Baptiste-Grant, Interim Director of Nursing and Quality
Author and Job Title:	Jo Kapp, Associate Director for Quality Lee Colwill, CHC Commissioning Manager
Date Approved:	TBC
Approved by:	Quality Committee 24 January 2019
Date of next review:	1 February 2020 or prior dependent on legislative change

Policy Review Checklist

	Yes/ No/NA	Supporting information
Has an Equality Impact Assessment Screening been completed?	Yes	
Has the review taken account of latest Guidance/Legislation?	Yes	
Has legal advice been sought?	Yes	
Has HR been consulted?	No	
Have training issues been addressed?	Yes	
Are there other HR related issues that need to be considered?	No	

	Yes/ No/NA	Supporting information
Has the policy been reviewed by JCC?	No	
Are there financial issues and have they been addressed?	Yes	
What engagement has there been with patients/members of the public in preparing this policy?	No	
Are there linked policies and procedures?	Yes	National Framework for Continuing Healthcare
Has the lead Executive Director approved the policy?	Yes	
Which Committees have assured the policy?	Yes	Quality Committee 24 January 2019
Has an implementation plan been provided?	No	
How will the policy be shared with	Website	
Will an audit trail demonstrating receipt of policy by staff be required; how will this be done?	No	

Version Control <i>please remove this box once approved and finalised</i>		
Version	Date	Consultation
1	October 2018	Amendment to policy following legal advice received from Bevan Brittan on October 2018.
2	December 2018 Commissioning Policy Group Submission	Deferred by commissioning policy group advised to be presented at Quality Committee

3	January 2019	Amendment to include BNSSG Safeguarding policy approved by Governing Body
4	January 2019	Submission to Quality Committee for approval
5	24 January 2019	Approved by Quality Committee
6	February 2019	Submission to Governing Body for approval

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Commissioning Policy for Adult Continuing Healthcare

Introduction

This policy sets out the process Bristol, North Somerset and South Gloucestershire Clinical Commissioning Groups (BNSSG CCG) will follow to commission and make provision for equitable, safe and effective care, for individuals who have been assessed as eligible for fully funded NHS Continuing Healthcare (CHC).

The policy describes the ways in which BNSSG CCG will commission healthcare in a manner that reflects the choice and preferences of individuals whilst ensuring a balance between choice, safety and effective use of finite resources available to BNSSG CCG. In the delivery of CHC, BNSSG CCG have to ensure consistency and fairness in the application of the National Framework for NHS Continuing Healthcare and NHS-Funded Nursing Care; whilst implementing and maintaining good practice and ensuring quality standards are met and sustained in line with commissioning for value.

This policy should be read in conjunction with:

- National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care October 2018 (Revised);
- BNSSG CCG Policies and Procedures for Safeguarding;
- The Care Act 2014;
- Mental Capacity Act 2005;
- Deprivation of Liberty;
- BNSSG CCG Continuing Healthcare Operational Guides;
- BNSSG CCG Personal Health Budget Policies.

1 Purpose and scope

The purpose of this policy is to provide clarity regarding the commissioning processes undertaken in relation to CHC provision, ensuring that process is person centred; that equity, equality and risk is managed and that BNSSG CCG is able to demonstrate the most effective use of their resources. The NHS Continuing Healthcare eligibility process is not within the scope of this document.

This policy is applicable to individuals deemed to be eligible for CHC funding, including where a personal health budget has been requested, in line with the principles listed below:

- Fully funded CHC describes a package of ongoing care arranged and funded solely by the NHS for the period the individual is found to be eligible.
- BNSSG CCG have a duty to meet the assessed health and associated social care needs of an individual, whilst also considering the best use of resources for the population it serves. Care options will be considered to meet the assessed and identified health and social care needs of an individual who is eligible for CHC and BNSSG CCG will always consider the most cost-effective option to meet the individual's assessed needs along with any alternative options preferred by the individual. However there is no legal obligation for BNSSG CCG to provide a package of care greater than the individual's assessed health and associated social care needs. BNSSG CCG have a responsibility to ensure that all commissioned services are safe, equitable, and any identified risks are appropriately and reasonably managed.

The NHS Constitution states that individuals have the right to make choices about their NHS funded healthcare and receive appropriate information to make these choices. BNSSG CCG are fully committed to delivering the Integrated Personalised Commissioning (IPC) agenda and as such, are keen to ensure that an individual's views and preferences are always obtained and considered. However, there may be occasions when an individual's preferred choice cannot be agreed. In these situations the reasons for this decision will be fully explained to the individual.

All BNSSG CCG decisions will be made in accordance with their wider duties and obligations under the NHS Act 2006, the Equality Act 2010 and the Human Rights Act 1998.

2 Duties and responsibilities

BNSSG CCG have an ongoing responsibility to fund the care for individuals outside hospital settings where the individual has been assessed to have a 'primary health need' as set out in the National Framework. Anybody can qualify for NHS CHC as long as their assessed needs meet the eligibility criteria. This care can be provided in a variety setting and can include, for example, funding for assessed individual, nursing, medical care and, if within a care home, reasonable accommodation costs. BNSSG CCG hold responsibility and accountability for making the final decision on eligibility. BNSSG CCG will establish within a quality framework the costs for these services which will be subject to an annual review.

BNSSG CCG is responsible for ensuring that the assessment for eligibility for CHC is undertaken using the Decision Support Tool in accordance with the National Framework.

BNSSG CCG is responsible for ensuring that the assessment process and Decision Support Tool are multi-disciplinary assessments of the patient's health care needs.

Following an individual's assessment the eligibility recommendation is confirmed against the submitted Decision Support Tool, BNSSG CCG then ratify this recommendation in line with the National Framework for CHC and Funded Nursing Care (DH 2012).

BNSSG CCG is responsible for ensuring the delivery of best possible health and wellbeing outcomes, as well as working to promote equality and patient choice and achieving this with the best use of available resources.

3 Definitions/explanations of terms used

NHS Continuing Healthcare

NHS Continuing Healthcare (CHC) means a package of ongoing care that is arranged and funded solely by the National Health Service (NHS) specifically for the relatively small number of individuals (with high levels of need) who are found to have a 'primary health need'.

Decision Support Tool (DST)

The Decision Support Tool (DST) has been developed to aid consistent decision making. The DST supports practitioners in identifying the individual's needs. This, combined with the practitioners' skills, knowledge and professional judgement, should enable them to apply the primary health need test in practice.

NHS-funded Nursing Care (FNC)

For individuals in care homes with nursing, registered nurses are usually employed by the care home itself. In order to fund the provision of such nursing care by a registered nurse, the NHS makes a payment direct to the care home. This is called 'NHS-funded Nursing Care' and is a standard rate contribution towards the cost of providing registered nursing care for those individuals who are eligible.

Clinical Commissioning Group (CCG)

CCGs are clinically led statutory NHS bodies responsible for the planning and commissioning of healthcare services for their local area.

Multidisciplinary Team (MDT)

In the context of assessing eligibility for CHC, a MDT is a team of at least two professionals, usually from both the health and the social care disciplines.

4 The Provision of Services for People Who Are Eligible for NHS Continuing Healthcare

BNSSG CCG have a duty to commission services that offer quality, efficiency and value for the whole population they serve. For individuals eligible for NHS CHC, the BNSSG CCG is only obliged to commission services reasonably required to meet the individual's current assessed health and social care needs.

The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care October 2018 (Revised) states,

“The process of assessment and decision making should be person-centred. This means placing the individual, their perception of their support needs, and their preferred models of support at the heart of the assessment and care-planning process... When commissioning a package, the individual's wishes and expectations of how and where the care is delivered should be documented and taken into account, along with the risks of different types of provision and fairness of access to resources.”

In light of the need to balance individual preference alongside safety and value for money, BNSSG CCG have developed this policy to support consistent decision making, an equitable distribution of resources and to provide transparency.

Application of this policy will ensure that decisions about care will:

- be person-centred;
- be robust, fair, consistent and transparent;
- be based on objective assessment of the individual's clinical need, safety and best interests;
- have regard for the safety and appropriateness of care to the individual and those involved in care delivery;
- involve the individual and their appointed representative wherever this is possible and appropriate;
- take into account the need for the CCG to allocate their financial resources in the most cost effective way;
- support individual choice to the greatest extent possible in the light of the above factors.

This policy will also help to support consistent decision making taking into account:

- Clinical Safety and quality;

- The obligations of BNSSG CCG to commission and fully fund packages of care for the assessed needs of eligible individuals;
- Individual choice and preferences;
- The duty of BNSSG CCG to effectively commission and ensure value for money.

At the heart of the National Framework is the process for deciding whether an individual is eligible for NHS CHC, which is based on assessed needs. The diagnosis of a particular disease or condition is not in itself a determinant of eligibility for NHS CHC.

BNSSG CCG operate an assessment process that is carried out by a multi-disciplinary team and is in line with the core values and principles set out within the National Framework.

BNSSG CCG have a duty to provide a care package which reasonably meets the assessed care needs of the individual as assessed by the relevant multi-disciplinary professionals. Whilst BNSSG CCG will always strive to offer individuals a choice of care packages which meet their assessed needs and take into account any important individual circumstances, BNSSG CCG is also required to take into account their responsibility to provide care equitably for their entire population.

In instances where more than one suitable care option is available, BNSSG CCG will need to balance consideration of the individual's circumstances with their responsibility to provide care equitably for their entire population. In particular BNSSG CCG will need to identify and assess each package for cost effectiveness and consider this alongside the psychological and social care needs of the individual and the impact of each package on their home and family life as well as the individual's care needs. In doing so, BNSSG CCG will also need to take into account their public sector equality duty under the Equality Act 2010 and obligations under the Human Rights Act 1998 and Article 8 of the European Convention on Human Rights.

The setting in which CHC is provided is ultimately a decision for BNSSG CCG; however the CCG will take into account reasonable requests from the individual and their representative(s) in relation to particular settings as far as it is able and reasonable to do so in line with this policy.

Where a care package requested by an individual is more expensive than the option(s) offered by BNSSG CCG, then the care package should be referred to the CCG Complex Case Commissioning panel for detailed consideration.

All individuals will have their care reviewed at 3 months and thereafter at least annually or sooner if their care needs indicate that this is necessary. Individuals with

palliative care needs will have their care reviewed more frequently in response to their medical condition. The review may result in either an increase or decrease in support offered and will be based in the assessed needs of the individual at that time.

The individual's condition may have improved or stabilised to such an extent that they no longer meet the criteria for NHS CHC. In these circumstances please see the section of this policy entitled 'Change of Circumstances' for further information as to how BNSSG CCG will approach this.

5 Consent and capacity to make decisions

BNSSG CCG will support an individual to make a decision about where they wish to receive their care. If an individual is considered not to have the mental capacity (in line with the Mental Capacity Act 2005) to make this decision then a mental capacity act assessment will be undertaken, and the CCG will act in accordance with that individual's best interests in line with that legislation (see below).

5.1 Consent

Consent is vitally important in the provision of CHC packages of care and before any care is provided consent is required from the individual who is to receive it. Consent can be either written, verbal or non-verbal. For an individual to be able to give consent to care, either at home or in a registered care home, they must be:

- Given enough relevant information to make a decision;
- Able to fully understand and retain this information to be able to take a decision in line with Mental Capacity Act (2005) guidelines. They must also be able to weigh up the relevant information provided to reach a decision and be able to communicate that decision by any means possible (including non-verbally) in line with the Mental Capacity Act (2005) guidelines;
- Acting of their own free will and not under the undue influence of another;
- Fully informed regarding what is involved, including the type of care that will be provided, what risks and benefits there are and what might happen if they refuse any aspect of treatment or care.

Another adult is not able to give consent for treatment or care on behalf of an individual unless that right has been legally conferred. It may need to be explained to husbands, wives, partners or other close relatives that they are not able to give consent for the individual unless the individual does not have capacity and those family members have a Lasting Power of Attorney specifically including health and welfare rights (which provides them with authority to act in these circumstances), or have been appointed as a welfare Deputy by Court Order in the Court of Protection.

You should request copies of relevant documentation (the LPA or Court Order) to verify that individual's authority to act on behalf of the incapacitated individual.

The five key principles of the Mental Capacity Act 2005 will be applied by BNSSG CCG when working with individuals eligible for CHC:

- (i) Every adult has the right to make his or her own decisions and must be assumed to have capacity to make them unless it is proved otherwise.
- (ii) An individual must be given all practicable help before anyone treats them as not being able to make their own decisions.
- (iii) Just because an individual makes what might be seen as an unwise decision, they should not be treated as lacking capacity to make that decision.
- (iv) Anything done or any decision made on behalf of an individual who lacks capacity must be done in their best interests.
- (v) Anything done for or on behalf of an individual who lacks capacity should be the least restrictive option with regards to their basic rights and freedoms.

5.2 Individuals who have mental capacity to make decisions about care

An individual can accept or decline NHS Continuing Healthcare. However, in making this decision the potential risks must be assessed and the implications fully explained to them, particularly if care has been declined or may cease as a result of the individual's decision. Provided that the individual has mental capacity they are entitled to choose to take risks, even if professionals or other parties consider the decision to be unwise. BNSSG CCG will ensure that any risks involved are explained fully to the individual and set out in writing and not to make generalised assumptions about these.

If an individual makes an informed decision to decline/refuse care, or the decision they make results in the cessation of care, this decision and its outcome must be comprehensively documented in the individual's records.

5.3 Individuals who may not have mental capacity to make decisions about care

If it is identified that an individual may not have the mental capacity to make an informed choice or it is considered that the individual may be making an unwise choice which places them at risk; a Mental Capacity Assessment will be undertaken under the provisions of the Mental Capacity Act 2005.

If the MCA assessment identifies that an individual does not have the capacity to make an informed choice BNSSG CCG will act in the individual's best interests. "Best Interests" are wider than best medical interests and will include factors such as the previous wishes and beliefs of the individual when competent, their current wishes, their general well-being and their spiritual and religious welfare.

If an individual does not have the mental capacity to make a decision about their package of care, the CHC team will commission a care package based on an assessment of the individual's best interests and in consideration of the factors outlined with this policy. This will be carried out in consultation with any Lasting Power of Attorney for health and welfare, an appointed welfare Deputy of the Court of Protection, a relevant family member or other person who should be consulted under the terms of the Mental Capacity Act 2005 and the associated code of practice. BNSSG CCG will consider whether there is a requirement for a deprivation of liberty authorisation in relation to the placement.

Where the individual does not have the capacity to understand the particular decision then the CCG will consider whether it is appropriate to involve an independent advocate if the CCG considers that there is no one else willing and able to be consulted or that appointing an independent advocate will benefit the individual.

BNSSG CCG is legally obliged to meet an individual's best interests in the delivery of any NHS CHC care package, and must balance this with safety and cost effective use of finite resources at all times. Where there is a dispute with regards to an individual's best interests which cannot be resolved in some circumstances, an application may need to be made to the Court of Protection for decisions to be made. In the interim, BNSSG must take steps to meet that individual's best interests in line with the Mental Capacity Act 2005 as far as possible, and may utilise an interim placement or package of care to keep the individual safe in line with their assessed needs whilst any Court process is being undertaken. Consideration should also be given to whether any safeguarding referral will need to be made.

6 Safeguarding

BNSSG CCG will adhere to the statutory functions for safeguarding adults under the Care Act 2014 and safeguarding children under section 11 of the Children Act 2004. An adult is defined as anyone over 18yrs; all adults have the potential to be at risk of abuse or neglect. The safeguarding of individuals is integral to the CHC commissioning, quality assurance, clinical governance, performance management and finance audit arrangements. When commissioning CHC packages of care BNSSG CCG will take all possible measures to ensure that the safeguarding of both children and adults is evidenced within contracts and that any arrangements minimises the risks of harm and promotes the wellbeing of that individual.

BNSSG CCG safeguarding policies must be referenced if a situation arises during the commissioning or delivery of a CHC package which places an individual at risk of harm. The Safeguarding Adults Multi-Agency Policy, agreed by Safeguarding Adults Boards in BNSSG must be followed where there are concerns. The details are as follows:

<https://intranet.bnssgccg.nhs.uk/index.php/resources/organisation-and-staff-policies/914-safeguarding-policy/file>

7 Human Rights Act

In adopting this policy the BNSSG CCG has taken into account the issue of human rights, and specifically the right to respect for an individual's private and family life provided by Article 8 of the European Convention of Human Rights (ECHR).

There is an obligation under Article 8 to respect an individual's private and family life, home and correspondence. Family life should be interpreted widely and may include persons who are not related or married, depending on the circumstances.

When making decisions under this policy regarding an individual, BNSSG CCG will need to consider the individual's circumstances and the impact of any care package on the individual's Article 8 rights. Any impact identified should be documented.

The Human Rights Act requires that any interference with an individual's Article 8 rights must be necessary, reasonable and proportionate. Where a decision regarding a care option is likely to impact on an individual's right to private and family life, BNSSG CCG will consider whether any adverse impact on the individual is necessary, reasonable and proportionate given their circumstances; the clinical appropriateness, safety and sustainability of the proposed care package and other alternatives; and, also their obligations to their entire population.

Where an individual is already receiving care in their own home and a move to other accommodation is being considered, the BNSSG CCG will need to assess the impact on the individual's needs (including physical, psychological and emotional needs) that a move to a different care setting may have.

Article 8 may also be engaged in the context of an ability to maintain family and social links. If the BNSSG CCG proposed solution would be more remote from the individual's family, this will need to be taken into account in any decision making process. For example, if an individual is active within their local community and has many friends and family in the local area, a move to accommodation in a different geographical area is likely to have a material impact on the individual's Article 8 rights. Given the impact on this individual's Article 8 rights, the CCG may consider it is appropriate to commission a more expensive care option closer to the individual's community to minimise the impact on the individual's Article 8 rights. In contrast, if an individual has limited interaction within their community and has no friends or family locally, the relevant BNSSG CCG may take the view that the impact on the individual's Article 8 rights of a move to a different community area is proportionate, reasonable and necessary given the the relevant BNSSG CCG duty to provide resources for its entire population. The above examples are provided for illustration

purposes only. Each case will need to be decided upon its individual circumstances in line with this policy.

8 Public Sector Equality Duty

The Equality Act 2010 introduced the public sector equality duty. In relation to implementation of the individual package of care policy, BNSSG CCG have a duty to have regard to the need to:

- Advance equality of opportunity between people who share a protected characteristic and people who do not share it;
- remove or minimise disadvantages suffered by people due to their protected characteristics; and
- meet the needs of people with protected characteristics (e.g. where the needs of a disabled person may be different from those of non-disabled person).

Protected characteristics include age, disability, gender reassignment, pregnancy and maternity, race (including ethnic or national origins, colour or nationality, religion or belief (including lack of belief), sex, and sexual orientation

In making decisions regarding care options, the relevant BNSSG CCG must consider whether the person affected by the decision has any protected characteristics and if so, whether any reasonable adjustments should be made available, which are proportionate in the circumstances.

Decisions about proportionality of adjustments can take into account the relevant BNSSG CCG obligations to its entire population; however, decisions must be taken on the individual circumstances of each situation considering whether it would be reasonable to make additional resources available in each case.

9 CHC Funded Registered Care Home Placements

A suitable placement will be identified through discussion with the individual and / or family/ carers, and the CHC team. Care homes will be offered that can meet the individual's assessed care needs. Responsibility for authorising the placement sits with the BNSSG CCG. Where an individual is assessed as requiring a registered care home placement the BNSSG CCG will aim to offer a reasonable choice of care homes and care providers.

The following principles apply to all potential placements:

- The appropriateness of the package to meet the individual's assessed needs will be considered.
- Individual circumstances, choice and preference will be taken into account.

- Where possible an individual will be offered the choice of more than one placement. Fewer placements may be offered where there is limited availability of appropriate placements.
- Any impact upon the individual's human rights will be identified and considered.
- Geographical proximity of identified registered care homes to family and friends will be given consideration
- Consideration will be given to the cost effectiveness of the placement and the relevant BNSSG CCG ability to meet its obligations in respect of patient care for others. The CCG will identify whether the individual has a protected characteristic under the Equality Act 2010 and whether there are any steps that could reasonably be taken to promote equality of opportunity for that individual
- The likely length of the proposed placement will be considered.
- All placements offered must meet the requirements of this policy and be in line with the BNSSG CCG approach to CHC procurement.
- All placements offered must be registered with the Care Quality Commission, and will not be subject to any current enforcement action or under suspension by a Local Authority.
- All placements offered will be able to deliver care in line with the BNSSG CCG Quality Schedule which includes core care package costs for individual, nursing, medical care and accommodation.
- Only single rooms will be commissioned unless there is an identified health need for a shared room which has been agreed by a clinician.
- BNSSG CCG will not normally fund a placement where the requested care home can only safely or resiliently meet the individual's identified care needs with additional staffing at significant extra cost to the BNSSG CCG.

In circumstances when individuals or their family/representative identify a preference for a different care home placement the BNSSG CCG may agree to fund if it can meet the individual's assessed health needs, and is in line with the principles listed above. Where a different care home requested by an individual is more expensive than the options offered by the CCG, the decision should be referred to the BNSSG CCG Complex Case Commissioning panel for detailed consideration.. In some cases the overall cost of the more expensive placement may include optional additional services, which do not constitute the core care package. Section 24 below provides further detail around individuals funding additional services in a care home.

Where the placement of preference among those offered is not immediately available, but the individual's move from their current setting should not be delayed, (e.g. if currently in hospital there is a risk of increasing dependency or exposure to infection), a provisional placement will be offered. A provisional placement in this context is defined as one that is suitable to meet the individual's assessed needs

short-term and can be provided whilst waiting for a preferred choice among those offered to become available.

The BNSSG CCG will, in discussion with the individual, carer/family or advocate, make a reasonable effort to take individual choices, preferences and circumstances into account when offering any placement. However there may be circumstances where the preferred provider is not suitable (for example where the preferred provider is unable to meet the individual's care needs). BNSSG CCG will not normally fund a registered placement where the requested care home is not the most suitable place for the provision of care.

9.6 If the individual or their representative indicates that they are unwilling to accept any of the placements offered by the CCG, then it shall apply the process indicated in this policy.

10 CHC Funded Packages of Care at Home

Many individuals wish to be cared for in their own homes rather than in a registered care home. Choice of care setting should be taken into account, but there is no automatic right to a package of care at home.

Individuals who are eligible for CHC funding have a complexity, intensity, frequency and/or unpredictability in their overall care needs which means it is often difficult for care to be safely delivered at home on a sustainable basis. Although individual circumstances will be considered, it must be understood that it is usually not possible to replicate support services that are available within in-patient NHS settings and registered care or nursing home facilities, (e.g. 24-hour nursing care) and if this level of support is required it would usually not be possible to care for the individual at home.

When working within an individual's own home, care workers do not have access to the full range of support services that are available within a hospital or a registered nursing home environment, and in most cases staff will be working in isolation. If an individual care package at home is agreed, this must be acknowledged, and any implications identified and fully understood, with contingency plans put in place where required.

BNSSG CCG will consider if care can be delivered safely and sustainably to the individual and without undue risk to the individual, carers, staff or other members of the household, including children, and property.

Safety will be determined by a written assessment of risk undertaken by an appropriately qualified professional. The risk assessment will include the availability of equipment, the appropriateness of the physical environment and the availability of appropriately trained care staff and/or other staff to deliver the care at the intensity and frequency required.

In cases where it is agreed to provide care in the individual's own home, the individual and his or her family need to be aware that a time may come when it may no longer be appropriate or safe to provide care at home, for example if a deterioration in the individual's condition requires clinical oversight and twenty-four hour monitoring.

BNSSG CCG support the use of 'care at home' packages where appropriate and recognises the importance of patient choice. However there may be situations where BNSSG CCG cannot provide the individual's choice of having a 'care at home' package either because of the risks associated with the package or due to the effect of the cost of the package on the CCG duties to provide resources for its entire population. The BNSSG CCG is clear that packages which require a high level of clinical input will usually be more appropriately and safely met in another care setting.

Where a package of care at home is requested by an individual but is more expensive than the options offered by the CCG, the decision should be referred to the CCG Complex Case Commissioning panel for detailed consideration.

BNSSG CCG' duty to fund services does not extend to funding for the wide variety of different, non-health related and non-personal care related services that may be necessary to maintain a person in their home environment, Should BNSSG CCG identify that such basic needs are not going to be (or have not been) properly met, a BNSSG CCG may determine that a 'care at home' package is not or is no longer appropriate. Whether a particular service should be provided by any BNSSG CCG will be dependent on the assessment by that organisation of whether that particular service is required in order to meet that person's assessed health or personal needs in line with the National Framework.

11 Determining Suitability for 'Care At Home'

The following will be considered before BNSSG CCG agrees to commission a package of care in the individual's own home:

- The extent of the individual's current and likely future needs and the individual's circumstances, choice and preference.
- Whether the proposed care package meets the individual's assessed needs.
- The psychological, social and physical impact of the care package on the individual
- The safety and quality of the proposed package of care.
- The assessed sustainability and feasibility of a home package of care
- Any impact upon the person's human rights and any other family members / carers will be identified and considered.
- The views of other residents in the home.
- The individual's GP agreement to provide primary care medical support.

- Whether the proposed care package is consistent with the terms with any tenancy at the property.
- The suitability and availability of alternative care options and the suitability of the environment to provide the requisite care at the required level.
- Whether the care can be delivered safely and the level of risk to the individual, staff or other members of the household (including children) is acceptable to the BNSSG CCG.
- Consideration will be given to the cost effectiveness of the placement and the CCG ability to meet its obligations in respect of patient care for others.
- The cost of suitable alternative packages of care that BNSSG CCG reasonably considers would meet the individuals assessed needs.
- The CCG will identify whether the individual has a protected characteristic under the Equality Act 2010 and whether there are any steps that could reasonably be taken to promote equality of opportunity for that individual
- Whether the level of risk and potential consequences are accepted by the CCG and each person involved in the person's care along with the acceptance by the individual and family to use any equipment suggested by BNSSG CCG in order to mitigate any identified risks. Likewise where an identified risk to the care providers or individual can be minimised through actions by the person or their family and carers, those individuals have agreed to comply with the steps required to minimise such identified risk and confirming their agreement in writing.
- The willingness and ability of family, friends or informal carers to provide elements of care where this is part of the care plan and the agreement of those individuals to the care plan.

Many persons wish to be cared for in their own homes rather than in residential care. A person's choice of care setting will be taken into account but there is no automatic right to a package of care at home. If requested, the option of a package of care at home will be considered, even if discounted, with documented reasons.

BNSSG CCG as Commissioners has responsibility for ensuring that the commissioned package of care is and remains safe, effective and appropriate to support the individual's assessed needs and agreed outcomes. Wherever possible this will involve partnership and co-operation with the individual and their family. However, as indicated, there may be situations where the CCG cannot provide the individual's choice of having a care at home package because of the risks or costs associated with the package and / or the ability to deliver the package safely.

12 What Happens While The Package Is Being Set Up?

By their very nature care at home packages can take a while to set up. It is not appropriate for the individual to remain in hospital during this time, as there is an

increased risk of developing dependency, increased exposure to infection and a reduction in bed availability for patients requiring acute hospital treatment and care.

Therefore when an individual has been declared medically fit for discharge from Hospital they will, with agreement, be transferred to another clinically appropriate facility or environment whilst arrangements for their NHS CHC 'care at home' package are being made. This may also be arranged as a 'step down' in the healthcare input for the individual between the Acute hospital and care arranged in their own home.

Transitional support either in the hospital or home setting may be arranged, for example; for any complex care package requiring specialist input, during recruitment and training of staff, or for young people moving to adult services.

13 What Happens If The Home Care Package Breaks Down?

Alternative care arrangements should the care package break down will be discussed between the individual and his or her family or advocate and NHS case manager before commencement of a 'care at home' NHS CHC package so that the individual and their family / carers are aware in advance of the potential steps which BNSSG CCG would take in the event of a home care package irrevocably breaking down. These arrangements would usually require an alternative commissioned service to be sourced, or a rapid admission to a registered care home or respite setting which should be agreed with the individual and his or her family or other carers and should be entered on the care plan.

If subsequently, the individual, or his or her family or other carers do not allow the agreed alternative care package to be put in place should care break down, the BNSSG CCG will follow the safeguarding policy to ensure the welfare and / or best interests of the individual are maintained.

Where care at home NHS CHC package has broken down, (i.e. the care agency/provider is unable to deliver appropriate care to meet the individual's needs for reasons of difficulty with, for example, the individual, his or her family, location, finding appropriate carers or managing clinical risk); provided that the conditions of this policy can still be met, BNSSG CCG will commission a replacement care package from a second/alternative Provider. At this point, BNSSG CCG will give written notice to the individual and his or her family that should the second care package break down, the individual will be moved to an appropriate 'back-up' registered care home or other appropriate place of safety that both meets their needs and satisfies BNSSG CCG criteria as set out in this policy. Where possible, this 'back-up' placement will be identified by BNSSG CCG in advance and detailed within the individuals care/support plan.

14 When Nursing Care May Be More Suitable

BNSSG CCG considers that in some circumstances an individual's needs may most appropriately be met within a care home setting. The general principles are set out below; however BNSSG CCG will take into consideration all relevant circumstances to the individual to establish whether any of these principles can be displaced, or if any other factor is relevant.

- A package in excess of eight hours a day would indicate a high level of need which may more appropriately be met by a registered care / nursing home placement. Individual cases would be considered and financial and risk assessments undertaken.
- Individuals who need waking night care would generally be more appropriately cared for in a care / nursing home. The need for waking night care indicates a high level of supervision at night. Individual cases would be considered and risk assessments undertaken.
- Individuals who may benefit from direct oversight by registered clinical professionals and 24-hour monitoring.

There are specific conditions or interventions that may not be appropriate to manage at home. These may include (but are not limited to) the requirement for sub-cutaneous fluids, intravenous fluids, total parenteral nutrition (TNP), continual invasive or non-invasive ventilation or the management of grade 4 pressure injury. In each case a comprehensive risk assessment would be completed to help determine the most appropriate place for care to be provided.

BNSSG CCG will generally only support a clinically safe and sustainable package of care within an individual's own home where the costs of doing so are in line with this policy. The above issues in each case will be considered by BNSSG CCG Complex Case Commissioning Panels.

15 Health, Safety and the Home Environment

The health and safety of the individual, care workers, family and other carers is extremely important. BNSSG CCG health and safety policies will be applicable to all staff as will the policies of care agencies/providers to their staff.

Any equipment required to care for the individual must be able to be accommodated in the home before a NHS Continuing Healthcare package can be commenced. A home environment visit and occupational therapist involvement is required before a home care package could be recommended by the BNSSG CCG and before a package of care at home is pursued. The NHS and/or Social Services Department are responsible for ensuring equipment provided is operational and properly maintained. The care provider must inform the BNSSG CCG of any concerns with assigned equipment, whether provided by BNSSG CCG or previously in place.

The care provider shall ensure all staff conforms to any health and safety requirements when using the equipment, including compliance with any manual handling arrangements specified in the individual's moving and handling plan. The care provider shall also ensure that all staff are up to date with all required training and are deemed to be competent to use any equipment required. In instances where an individual is in receipt of a direct payment personal health budget, the BNSSG CCG and budget holder will be responsible for ensuring all staff conforms to any health and safety requirements

The householder will be responsible for ensuring the environment is safe and for taking care of any loaned equipment. This will include:

- Relevant fire precautions, fire escape routes and working smoke detectors;
- Removing trip hazards;
- Removal of pets from the care environment;
- Ensuring the facilities is clean.

In many cases care workers will be working alone with the individual or alongside his or her family and other carers, so the premises must be made secure and the lone worker must feel safe.

Lone worker risk assessments should be completed and guidelines for lone workers to check in/out before and after shifts should be established.

It is recognised that violent and potentially violent incidents can happen. If such incidents occur, they must be reported to BNSSG CCG which will instigate an investigation under the serious incident policy, may involve safeguarding procedures, and if necessary the police and/or any required legal proceedings as needed.

Such incidents may jeopardise the ability of the BNSSG CCG to provide packages of care at home, although in some situations risk assessments, appropriate support plans and behaviour contracts may be put in place for individuals whose care or behaviour presents a high risk to other individuals. Consideration will also be given as to whether any specific training or use of particular equipment may help to mitigate risks to an acceptable level.

Any incidences of harassment or bullying, verbal or physical abuse of care workers by the individual or their family and other carers will not be condoned or accepted and BNSSG CCG will take any action necessary to protect their staff and contractors. This may include, where necessary, the immediate withdrawal of services. Where in those extreme circumstances it is necessary to withdraw services, BNSSG CCG will urgently consider how else (if at all) services can be offered.

16 Role of the Family or Carer

Carers and family members may be expected to continue to be involved in the care of the individual if safe to do so, in accordance with the adopted care plan;

Caring for an individual at home who requires a significant amount of health care intervention and may be disruptive to the household, the following considerations should be considered:

- The NHS should consider a referral to the Local Authority so that a carer's assessment can be considered and offered to those undertaking the care in line with the Care Act 2014;
- Having strangers in the house for long periods of time can place considerable pressure on carers and family members as well as the care workers themselves; and
- Communication between carers, family and care workers/providers and the BNSSG CCG is essential to maintain good relationships. However, there may be situations when it is not safe for commissioned care workers to communicate information to family/carers, such as when a complex potential safeguarding issue is identified.

Carers and family members may be expected to take part in training in the specific care of the individual so that any support is provided safely.

Care workers will need to have access to areas of the household other than the immediate care area. This will include access to toilet and bathroom areas and access to the kitchen to make refreshments and where required prepare their own hot meals.

Care workers should not be requested to undertake household tasks such as laundry and cleaning that do not directly pertain to the individual they are caring for.

Adequate supplies of clean linen, clothing, towels etc. must be available.

The environment temperature must be maintained at an adequate level and there must also be suitable ventilation as required. Appropriate seating arrangements will also need to be available.

In situations where sleep-in care is commissioned appropriate sleep in accommodation for staff members will be required. This should be in a separate room from the individual they are to provide care for

17 Workforce

The individual's needs will be assessed by an NHS healthcare professional and multi-disciplinary team where indicated, and approved by BNSSG CCG. The care the individual receives will be provided by a care agency Provider under contract

with The BNSSG CCG or via a Personal Health Budget (please see BNSSG CCG personal health budget policies for further information regarding these).

18 Individuals Who Live Alone

The fact that an individual lives at home alone is not sufficient to determine that he or she should not be provided with a package of care at home. However, an individual who is eligible for NHS CHC generally has needs that are complex, unpredictable and intense in nature and it may be difficult to meet those assessed needs without the support of live-in family care in addition to any possible package of care at home. The full range of options for care should be explored with the individual who lives on their own (in the same way as with any other individual), in the context of his or her preferences and the requirements of this policy and the associated procurement guidance.

19 Personal Health Budgets

Since the 1st April 2014 it has been possible for the NHS to offer Personal Health Budgets to individuals in receipt of NHS Continuing Healthcare funding. This includes the NHS making direct payments to individuals or their families to purchase their own care to meet their assessed care needs.

This policy should be read in conjunction with BNSSG CCG Personal Health Budget policy, and where BNSSG CCG or an individual wish to commission their care by way of a Personal Health Budget, then the CCG policy on Personal Health Budgets shall apply.

The use of Personal Health Budgets as a means of arranging care for individuals living within their own home should be considered as an option for all clinically assessed suitable packages, in line with BNSSG CCG Personal Health Budget Policy, and through the application of this policy.

Where a personal health budget requested by an individual is more expensive than the options offered by the CCG, then the decision should be referred to the CCG Complex Case Commissioning panel for detailed consideration.

If a Personal Health Budget is set up and subsequently becomes untenable for any reason, then alternative placement within a registered care home or a package of care at home will be considered in line with this policy.

20 Period of Notice

If there is a breakdown in the relationship between the care Provider or their staff and the individual, BNSSG CCG will attempt to accommodate this as far as is

reasonable. However, care packages, particularly live-in care, take time to set up and so reasonable time must be allowed to make alternative arrangements, if possible.

A notice period of termination of contract will be given by BNSSG CCG to care agencies/Providers, or by an individual who holds a Personal Health Budget and employs their own PAs. Details will be held within the NHS contract supplied to the care Provider or PHB agreement held by the individual.

21 Exceptional Funding Of Care Packages

BNSSG CCG duty is to provide a care package to meet the reasonable assessed care needs of the individual. BNSSG CCG aim to offer individuals a choice of care packages which meet their assessed needs. Consequently BNSSG CCG will seek to take account of the wishes expressed by individuals or their representatives when making decisions as to the location(s) and type of care packages/placements to be offered to satisfy the obligations of BNSSG CCG to provide NHS CHC and individual choice.

BNSSG CCG have a duty to consider an effective, efficient and equitable use of their resources. When determining cost effectiveness BNSSG CCG will consider the genuine cost of each possible care package taking into consideration the individual circumstances including, in relation to care at home packages, possible assistive technology and family input.

Where a package of care is requested by an individual but is more expensive than the options offered by the CCG, the decision should be referred to the CCG Complex Case Commissioning panel for detailed consideration.

The CCG Complex Case Commissioning panel will take into account the factors identified at Sections 10 and 12 above, giving particular consideration to:

- The person's individual circumstances
- The extent to which the preferred option might contribute to the person's wellbeing, or offer a significant health benefit
- Any impact on the person's human rights (see Section 7)
- BNSSG CCG' duties under the Equality Act 2010 (see Section 8)
- Whether a decision not to pay for a more expensive option would be reasonable and proportionate given the likely effect on the person and their carers
- The impact on the CCG ability to meet its obligations in respects of patient care for others

Care packages will not be agreed to unless they have been ratified by the CCG Complex Case Panel.

CCG outcomes of funding decisions considered by the BNSSG CCG Complex Case Commissioning panel will be clearly documented and shared with the CHC eligible individual or their representative/advocate.

All outcomes of funding decisions considered by the CCG Complex Case Commissioning panel will require Associate Director level or nominated deputy authorisation.

The BNSSG CCG Complex Case Commissioning panels will be convened as required within a maximum of seven working days.

22 Individuals in Receipt of Existing Care Arrangements Who Become Eligible For NHS CHC

If an individual is currently self-funding a home care package, or a care home placement at a rate which is in excess of what the BNSSG CCG would expect to fund, the individual must be informed that the BNSSG CCG would only continue to fund at the higher rate following a decision from the CCG Complex Case Commissioning panel.

If the individual decides to proceed with the NHS CHC assessment process, and is subsequently deemed eligible, but the CCG Complex Case Commissioning panel does not approve the relevant funding, the BNSSG CCG will:

- Renegotiate fees with the current provider which are consistent with the associated CHC procurement approach, but if unsuccessful;
- Consider alternative home care providers, or registered care homes which can meet the individual's assessed needs within the requirements of this policy including the Equality Act 2010 and the Human Rights Act 1998 and the associated CHC procurement approach.
- If in these circumstances, alternative providers or placement/s are offered and rejected the BNSSG CCG will follow the process set out in this policy.

23 Enhanced Care

BNSSG CCG will exercise firm financial control, accountability and quality assurance in respect of requests for enhanced care ensuring that all decisions are made in the best interest of individuals in a manner that is equitable, safe and effective and makes best use of the resources available to BNSSG CCG in respect of enhanced care of individuals eligible for Continuing Healthcare.

Where an enhancement to a care package is requested by an individual, the BNSSG CCG may agree to fund. Funding decisions relating to such circumstances need be supported by evidence demonstrating the assessed need and risk assessments undertaken.

Requests for enhanced care will be made by a Care Provider. All requests must be provided with clinical evidence to support the request, as well as all appropriate risk assessments, behaviour charts, evidence of communication with the individual/relative, a proposed step down plan and any other relevant evidence deemed helpful to support the request.

Requests for enhanced care will be considered at the BNSSG CCG Complex Case Commissioning Panel.

Decisions will be made within two working days. If the decision is declined, a justification for this decision will be given and shared with the individual or their representative.

For approved requests the care provider will need to complete behaviour charts hourly for the times of enhanced care provision and a stepdown plan will need to be evidenced.

Individuals will have their enhanced care reviewed by the BNSSG CCG with the care provider and individual/representative and documented. Frequency of reviews will be determined on a case by case basis depending on the individual's specific needs.

The review may result in either an increase or a decrease in provision of enhanced care and will be based on the assessed need of the individual at that time. All decisions will be discussed with the individual and communicated to them or their representative.

24 Funding Additional Services

BNSSG CCG is only obliged to provide services that meet the assessed needs and reasonable requirements of an individual. An individual does however, have the right to decline NHS Services and make their own private arrangements.

Where an individual is found eligible for NHS CHC, BNSSG CCG must provide any services that it is required to provide based on the individual's assessed needs. These services, whether delivered within a registered care home, or at home must be free of charge to the individual. In the context of care home placements this is limited to the cost of providing accommodation, care and support reasonably necessary to meet the assessed needs of the individual. The package of care which BNSSG has assessed as being reasonably required to meet the individual's assessed needs is known as the core package.

BNSSG CCG is not able to allow personal top-up payments into the package of healthcare services under NHS CHC, where the additional payment relates to the core package assessed as meeting the NHS continuing healthcare needs of the individual and covered by the fee negotiated with the service provider, (e.g. the care home), as part of the contract. This is because joint funding arrangements for NHS

CHC provision are not lawful. Consequently where an individual wishes to augment any NHS funded care package to meet their individual 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 BNSSG CCG.

Where service Providers offer additional services which are unrelated to the person's health and social care needs as assessed under the NHS CHC framework, the individual may choose to use personal funds to take advantage of these optional services. However this is provided that it does not constitute a subsidy to the core package of care identified by BNSSG CCG as indicated.

As a general rule individuals can make a contribution to their care package where the additional services are optional, non-essential services which an individual has chosen (but was not obliged) to include in their care package. Examples include a more spacious bedroom, hairdressing, massage, reflexology and beauty therapies.

To be clear, top-ups cannot be used to fund any of the care which is set out in the care plan, which remains the responsibility of BNSSG CCG. Any top-up arrangements proposed must be made directly by the individual, or on his or her behalf, to the service Provider and only after first being notified to BNSSG CCG, so that it can ensure that if additional care is purchased as part of the proposed arrangements, such care does not replace or conflict with any element of the services to be funded by BNSSG CCG as set out in the care plan. A placement that involves an element of additional fees will not be supported by BNSSG CCG if a care home is unwilling, or unable to provide a clear breakdown of the NHS-funded costs vs optional additional fees.

All such top-up arrangements will be separate from the care packages funded by BNSSG CCG and it is the responsibility of the individual, or carer/family/advocate to ensure that all providers of top-up care or facilities are aware that the top-up funding arrangement is separate from BNSSG CCG funded package of care, and should be invoiced to the individual separately. If an individual, who has agreed with a provider to purchase additional services, becomes unable to meet the ongoing costs, BNSSG CCG will not routinely take on the funding responsibility. If a provider is unwilling to accept the continuation of the care home placement, or the care at home package, without additional fees BNSSG CCG will identify a suitable alternative.

In the event that at any time for any reason the individual or their family or advocate decide that they no longer wish to or are no longer able to fund any top-up care or facilities, BNSSG CCG will not subsidise or assume the responsibility of funding such care or facilities previously funded by the top-up payment.

Any additional services which are unrelated to the individual's assessed CHC needs will not be funded by BNSSG CCG as these are services over and above those which the service user has been assessed as requiring, and the NHS could not

therefore be expected to fund those elements. In these circumstances the Provider must be able to clearly separate the associated cost of these additional services.

Further detail around additional services and top-ups can be found in the National Framework for CHC.

25 Review

Individuals and their carers/representatives must be aware that there may be times where it will no longer be appropriate to provide care in line with the individual's preferred choice based on safety concerns, sustainability or cost.

The care package will be reviewed initially at 3 months and then annually as a minimum (alongside the NHS CHC review) to ensure that the individual's needs are being met, that the package of care remains appropriate to meet the individual's assessed needs and outcomes, is clinically safe, sustainable and within cost limits.

It is important to recognise that the review may result in either an increase or decreases in support and will be based on the assessed needs of the individual at that time,

If the weekly cost of the care increases beyond 10% of alternative suitable acceptable available options at that time, it will be reviewed and other options considered and explored in line with this policy. This principle will be applied to both care at home packages and care home placements It will not apply however in situations involving a a single period of four weeks to cover either an acute episode, or for end of life care to prevent a hospital admission.

26 Change of Circumstances

At any time, following a review of the individual's needs and eligibility, the individual's condition may have improved or stabilised to such an extent that they no longer meet the eligibility criteria for NHS fully funded CHC and BNSSG CCG will no longer be required to fund the identified care

BNSSG CCG will give 28 days' written notice of cessation of funding to the individual or their representative and the relevant Local Authority. Any ongoing package of care may qualify for funding by social services, subject to any Local Authority assessment criteria which will be applied by them and not BNSSG CCG. Alternatively the cost of any ongoing package of care may need to be met by the individual themselves. The transition of care should be seamless and will be coordinated by the nurse assessor before transferring to a Local Authority representative. The individual and/or their representative will be notified of the proposed changes to funding and involved by the organisations as appropriate.

In the event that an individual becomes CHC eligible, who was previously funded by social services, BNSSG CCG will apply the same principles as for all other individuals in line with this policy.

27 Refusal of NHS Services

An individual has the right to decline NHS funding and make private arrangements. If the individual, or carer/family/advocate on that individual's behalf, refuses to consider or accept any of the options offered, BNSSG CCG will determine that it has fulfilled its statutory duty to provide NHS CHC.

Where there appears to be a refusal, BNSSG CCG will write to the individual or carer/family/advocate with a final offer letter setting out the care options that BNSSG CCG is willing to consider and the consequences of refusal. In this letter BNSSG CCG will provide a period of no less than 14 days for confirmation of acceptance of the NHS CHC care package.

Upon receipt of confirmation of refusal, or if no response is received within 14 days BNSSG CCG will confirm in writing that the individual or carer/family/advocate will need to make their own arrangements to meet the individual's ongoing care needs within 28 days. The letter will explain the risks of this choice and the right to challenge BNSSG CCG decision. The risks will also be documented in the individual's notes.

Where an individual has refused NHS services, but a move from the current setting should not be delayed, (e.g. if currently in hospital there is a risk of increasing dependency or exposure to infection), a provisional placement will be offered. A provisional placement in this context is defined as one that is suitable to meet the individual's assessed needs short-term and can be provided whilst an alternative solution is developed.

If during the period of the notice the individual or carer/family/advocate chooses to accept the offered care, this offer will be reinstated. If after the 28-day period the individual or carer/family/advocate want to access NHS services they remain entitled to do so and can re-enter the CHC process at a later time, subject to eligibility.

If the individual is considered at risk of abuse or there are safeguarding concerns BNSSG CCG will follow safeguarding procedures and may make an appropriate referral to Adult social Care in the Local Authority in line with this.

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

If an individual lacks the mental capacity to make a decision about a home care provider, or a registered care home placement and he or she refuses, or the family or carers refuse to accept any of the placements offered, BNSSG CCG will progress this matter in accordance with the procedures under the Mental Capacity Act 2005 and the related Code of Practice in line with that individual's best interests.

28 Disputes Regarding CHC Placement Decision

An individual, or carer/family/advocate on that individual's behalf, that wishes to dispute the decision of BNSSG CCG in respect of care provision, should confirm this in writing to BNSSG CCG through the NHS complaints process.

BNSSG CCG will convene a Complex Care Commissioning panel to re-consider the decision.

If the decision is upheld, the individual or carer/family/advocate on that individual's behalf will be advised of this and of their right to appeal, through BNSSG CCG complaints process.

If the complaint cannot be resolved locally the individual or their representative will be directed to the Health Service Ombudsman.

29 Monitoring Compliance

This policy will be audited to demonstrate that BNSSG CCG is being effective at ensuring choice and equity in the delivery of NHS CHC to individuals across Bristol, North Somerset and South Gloucestershire. Exceptional reports on delivery of equity and choice in CHC will be taken to the BNSSG CCG Clinical Operational Executive Committee and BNSSG CCG Quality and Governance Committee.

30 Training requirements

In order for this policy to operate an understanding of its contents will be required for CCG, provider and Local Authority staff

31 Equality Impact Assessment

31.1 To ensure compliance with BNSSG CCG's public sector equality duty, an Equality Impact Assessment has been undertaken to support this policy development, and to identify any potential negative implications of the implementation on particular groups, and any mitigation required. It is summarised as follows:

- Patient Safety: There is no expected impact on patient safety as a result of implementing this plan.

- **Clinical Effectiveness:** There is no negative expected impact on clinical effectiveness as a result of implementing this plan. There is potential to improve clinical effectiveness of CHC provision by ensuring individuals receive care in the most appropriate setting, and by increasing the level of scrutiny given to complex and challenging cases.
- **Patient Experience:** The implementation of the commissioning policy may impact on patient choice around access to services. There may be an impact on the service user experience where the CCG are unable to support choice around the location of care provision. Mitigations to minimise negative impact in patient experience are set out in section 10.

32 Implementation and Monitoring Compliance and Effectiveness

The monitoring of compliance and effectiveness of the policy will be overseen by the BNSSG CCG CHC Programme Board.

33 Countering Fraud

The CCG is committed to reducing fraud in the NHS to a minimum, keeping it at that level and putting funds stolen through fraud back into patient care. Therefore, we have given consideration to fraud and corruption that may occur in this area and our responses to these acts during the development of this policy document.

Any service user found to be misrepresenting their clinical needs will be referred by the CHC commissioning team to Counter Fraud for investigation.