



Oldham
Council

Report to Health Scrutiny Committee

Oldham CCG Choice and Equity Policy

Portfolio Holder:

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Purpose of the Report

This report concerns an updated draft Choice and Equity Policy and an outline consultation to gather the views of patients on the new policy.

Executive Summary

NHS Continuing Healthcare (CHC) refers to packages of continuing care arranged and funded solely by the NHS where the individual has been found to have a 'primary health need'. Where a person qualifies for CHC, the CCG has a duty to offer to provide a package of health and social care services to meet the individual's assessed health and associated social care needs.

The draft Choice and Equity Policy (Appendix I) sets out how the CCG will implement CHC in accordance with the National Framework and taking into account the legal requirement for the CCG to act efficiently, effectively and fairly. It would apply to new patients (with exceptions) and in a few cases to existing patients whose care needs have changed considerably

The policy seeks to balance the CCG's duties to the individual and to all the other patients to ensure fairness and best value.

CCG staff will aim to work with patients to identify potential locations and care options. The CCG will generally use home care providers and care or nursing home providers that it has assessed as able to meet procurement and contractual requirements. Under the policy, the CCG will generally not fund a care package in a person's home if the cost of doing so is more than 10 per cent higher than providing the same care in a care or nursing home.

In addition, the CCG will generally not fund a placement at a care or nursing home if its fees are more than 10 per cent higher than those of a suitable preferred provider.

The CCG will take account of an individual's views and wishes regarding where their care package is provided, when determining whether their case is exceptional and justifies a higher cost being incurred to provide care. This will include considering an individual's particular reasons and family circumstances, and whether there are very compelling circumstances. However, in reaching this decision the CCG must be satisfied that the proposed overall cost of the care package is proportionate and a justifiable use of CCG funds in comparison to the cost of commissioning a package of care for the individual in another location.

The policy has been updated to ensure continued compliance with the National Framework, and article 8 of the European Convention on Human Rights and has taken into account the implications for social care.

The CCG proposes to begin a small scale, six-week consultation (see appendix ii) of the 232 Oldham patients currently in receipt of Continuing Healthcare beginning on 9 September and ending 21 October, with the aim of finalising the policy at the CCG Governing Body meeting on 7 November 2019.

Recommendations

The committee is asked to note the content of the report.

Oldham CCG Choice and Equity Policy

1 Background

- 1.1 “NHS Continuing Healthcare” means a package of continuing care arranged and funded solely by the NHS where the individual has been found to have a ‘primary health need’ as set out in the National Framework. The actual services provided as part of that package must be seen in the wider context of best practice and service development for each client group. Eligibility places no limits on the settings in which the package of support can be offered or on the type of service delivery.

The concept of a ‘primary health need’ has been developed. Where a person’s primary need is a health need, the NHS is regarded as responsible for providing for all their needs, including accommodation, if that is part of the overall assessed need, and so they are eligible for NHS Continuing Healthcare (CHC).

Where a person qualifies for CHC, the CCG has a duty to offer to provide a package of health and social care services to meet the individual’s assessed health and associated social care needs in a way that is considered reasonable.

The draft Choice and Equity policy sets out the commissioning principles that the CCG will work to when commissioning individual packages of care for patients eligible for NHS Continuing Healthcare (CHC) funded by the NHS. It explains how the CCG will commission care in accordance with the National Framework for NHS Continuing Healthcare and NHS- funded Nursing Care (October 2018, revised), taking into account the legal requirement for the CCG to act efficiently, effectively and fairly in allocating its limited resources between all of the patients for whom the CCG has commissioning responsibility.

2 Current Position

- 2.1 The draft policy would apply to all new patients who are eligible for CHC, and in a few cases to existing patients whose care needs have changed considerably since their last CHC review. It does not apply to:

- I. Children under the age of 18.
- II. Individuals who are assessed as needing ‘fast-track’ CHC.
- III. Section 117 aftercare under the Mental Health Act.

The policy has been developed to ensure that:

Any package of care which is offered to be commissioned by the CCG is sufficient to meet the reasonable requirements of an individual who is eligible for CHC.

As far as is reasonably practicable, a person-centred approach is taken by the CCG in making decisions about a care package to be funded by the CCG for that individual, taking into account choices expressed by the individual, their family or a representative.

Decisions are made in a way that is fair, balancing the CCG’s duties to the individual and to all the other patients for whom the CCG has commissioning responsibility.

Where a person qualifies for CHC, the CCG has a duty to offer a package of health and social care services that meets the individual's assessed health and associated social care needs in a way that is considered reasonable. The duty to make and maintain the offer and, if accepted, to commission care in accordance with the offer, continues for as long as the individual is eligible for CHC.

The CCG has a statutory duty to break-even financially. When making decisions about commissioning services, the CCG must balance a range of factors including individual choice and preferences, quality, safety and value for money. Throughout the decision-making process, the CCG needs to recognise the need to achieve best value in its use of financial resources, in order that it can share finite NHS resources equitably across all patients for whom it has commissioning responsibility.

In all instances, the CCG will need to satisfy itself that any health and social care services that are to be commissioned by the CCG for an individual will be provided in a location which is:

- I. Clinically appropriate to providing the package of health and social care which the CCG has assessed is reasonably required to meet the individual's assessed health and associated social care needs.
- II. Able to provide a safe and sustainable package of care.

In most circumstances, CCG staff will work with the individual and/or their family or representative to seek to identify a range of potential locations and care options, which are appropriate to meeting the individual's assessed needs. The CCG will communicate those potential options to the individual and any representative identified by the individual.

Under this policy, the CCG will generally use home care providers and care or nursing home providers that it has assessed as able to meet procurement and contractual requirements.

The CCG will generally not fund a care package in a person's home if the cost of doing so is more than 10 per cent higher than providing the same care in a care or nursing home. In addition, an individual or their family or representative has the right to ask that their package of care is provided in a care or nursing home that is not a preferred provider. The CCG will generally not fund a placement at a care or nursing home if its fees are more than 10 per cent higher than a suitable preferred provider.

The CCG will take account of an individual's views and wishes regarding where their care package is provided, when determining whether their case is exceptional and justifies a higher cost being incurred to provide care. This will include considering an individual's particular reasons and family circumstances, and whether there are very compelling circumstances. However, in reaching this decision the CCG must be satisfied that the proposed overall cost of the care package is proportionate and a justifiable use of CCG funds in comparison to the cost of commissioning a package of care for the individual in another location.

3 Key Issues for Health Scrutiny to Discuss

3.1 The Committee may wish to discuss:

- The national and local drivers for the proposed policy
- The likely implications of the policy for current and future patients
- The balance struck between meeting the needs of CHC qualifying patients and all other patients.

4 **Key Questions for Health Scrutiny to Consider**

4.1 The Committee may wish to seek assurance that the draft policy and engagement plan are compliant with the following:

- The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (October 2018, revised)
- Article 8 of the European Convention on Human Rights, providing a right to respect for one's "private and family life, his home and his correspondence"
- Due consideration of implications for social care, and
- the proposed consultation exercise fulfills the CCG's 'Duty to Involve' arising from s14Z2 the National Health Service Act 2006 as amended by the Health and Social Care Act 2012.

5. **Links to Corporate Outcomes**

5.1 n/a

6 **Additional Supporting Information**

6.1 The Policy and Engagement Plan are attached.

7 **Consultation**

7.1 This draft policy was approved for consultation by the CCG Clinical Committee on 15-08-2019

8 **Appendices**

8.1 Appendix I – Draft Choice and Equity Policy
Appendix II – Outline Engagement Plan