

Reference: FOI.ICB-2526/046

Subject: Continuing Healthcare Care Planning

I can confirm that the ICB does hold the information requested; please see responses below:

QUESTION	RESPONSE
<p>1. In the context of your adults' social care (or if you are an ICB, your Continuing NHS Healthcare) service, does your council/ICB take the cost of residential or where needed, nursing care home services into consideration at the point of care planning for the person owed a duty ie after any eligibility decision has been made but before a budget for the duty owed to the client (or patient) is finalised (as it is lawful to do)?</p> <p>Please answer for people owed a duty by your organisation</p> <ul style="list-style-type: none"> i. aged 18-65 ii. 66+ iii. in any particular client group cohort that is care planned for by a particular body of staff with specialist expertise, such as learning disabilities/autism/physical disability/EMI/sensory impairment 	<p>The BNSSG ICB Commissioning Policy for All Age Continuing Care sets out the process for commissioning individual care, ensuring that it is person-centred, balances equity, equality and risk, and allows the ICB to facilitate the effective use of finite NHS resources.</p> <p>The policy can be found on the ICB's website at the following link: https://bnssghealthiertogether.org.uk/library/commissioning-policy-for-individual-funded-care/</p>
<p>2. If the answer to Question 1 is yes, how do you ensure that the care planning staff do not apply those theoretically lawfully relevant costs to the care planning</p>	<p>Application of the policy detailed above ensures that care decisions:</p>

<p>exercise without also balancing them with the person's wishes and feelings, their state of cognitive functioning, their Choice of Accommodation rights anywhere in the country under the Regulations, their human rights to respect for their homes and family life, under article 8 and the UK's Human Rights Act, and the fact that the wellbeing duty under the Care Act requires consideration of the emotional wellbeing of not just the client but also people's carers (the definition of which is broad enough to include people who will be visiting the individual)?</p> <p>Please give a narrative answer.</p>	<ul style="list-style-type: none"> • give due consideration to individuals' wishes around care and support; • are person-centred; • are robust, fair, consistent, and transparent; • are based on an objective assessment of the individual's need(s), safety and best interests; • consider the safety, sustainability, and appropriateness of care to the individual and those involved in care delivery; • involve the individual and their appointed representative whenever possible and appropriate; • account for the need for the ICB to allocate its financial resources in the most cost effective and equitable way; and • support individual choice to the greatest extent possible considering the above factors
<p>3. If the answer to Question 1 is yes, but the person or their family says that a care home would not be acceptable to them, does your decision-making body or level of officer with delegated decision-making authority for the organisation (ie a panel, a forum, a meeting, a huddle)</p> <p>a) follow para 10.86 of the Care Act Guidance (or the National Framework practice guidance if the person is entitled to CHC funding) and reconsider whether in fact the offer of a care home that has been aired may be unlawful in the first place, with regard to the pros and cons of a move at this time, the impact of the difficulties being faced by the person and the</p>	<p>The ICB's process for managing a situation in which an individual declines the care options being proposed by the ICB is detailed in section 14 of the above policy, titled "Considering Alternative Requests for Care".</p> <p>Section 15 of the policy addresses the process by which an individual can appeal a decision by the ICB around the care options being proposed.</p> <p>With regards to question 3.d, the ICB is obliged to provide services that meet the assessed needs and reasonable requirements of the individual eligible for NHS-Funded Care. These services, whether within a registered care setting, or at home must be free of charge to the individual.</p>

possibility that the person's or support circle's stance being conveyed may be an indication that appropriateness and suitability has not been properly considered, as yet? (...since only the cost of suitable and appropriate proposals can be of any lawful relevance to the ultimate offer from the Council or ICB?)

- b) If the organisation is sure that the proposal being aired is at least lawful, consider the possibility that the person could also potentially be cared for in their own home or a non-registered setting, and that therefore the Best Value aspect of the two alternative suitable proposals for meeting the needs must in fact be engaged with and considered?
- c) Offer a direct payment capped to the cost of the care home you have been bearing in mind, regardless of any other consideration, on the basis that it is the person's choice to refuse a care home, or if lacking in capacity, their relative's choice?
- d) Offer a sum capped to the amount of the care home, but via a direct payment to enable the person to stay in their own home, IF the person and family are able to request a direct payment and your staff are satisfied that the shortfall will be secured through assets, strengths, voluntary contribution of labour or money from the person's circle of support, or the payment by the individual from disregarded assets (for instance, savings below £14250)?

In the case of adult CHC, the package of care which the ICB has assessed as being reasonably required to meet the individual's assessed needs is known as the core package. The ICB is not able to allow personal top-up payments into the CHC package of healthcare services, where the additional payment relates to the core package. This is because top-up arrangements for CHC provision are unlawful.

Further detail on this specific issue is addressed in section 19 of the commissioning policy.

<p>e) Identify the actual lowest practicable minimum cost of either council or ICB commissioned or direct payment or PHB funded home care that would be regarded as professionally defensibly sufficient were the person to be supported in their own home, in order to meet whatever the actual extent of eligible unmet need will then be, after all assets and strengths as mentioned in d) are drawn in to meet what would otherwise have been the full extent of the eligible needs identified on assessment?</p> <p>f) Offer to fund whatever the person or their family is prepared to accept, so that the budget can be finalised and signed off in a timely fashion, for at least the short term future?</p>	
<p>4. If the answer to Question 1 is yes, is the fee level taken into consideration either one or other of the two options below:</p> <p>a) the local fees agreed with either the care homes on your list of approved providers (after some sort of commissioning exercise for admission to a Dynamic Purchasing System or pre-approved providers), or</p> <p>b) the standard rates of all the locally registered care homes who have formally agreed to do business with you at a range of rates representing their core fees for the placement (that is, allowing for the addition of one</p>	<p>Section 11 of the commissioning policy sets out the process for developing care options with an individual found eligible for CHC. There may be several suitable options to meet an individual's needs. These typically involve care at home or in a registered care setting such as a nursing home, residential home/school, or an independent hospital. In identifying appropriate options for individuals eligible for NHS-Funded Care, the ICB will consider factors such as:</p> <ul style="list-style-type: none"> • The safety, quality, sustainability (including care capacity and financial sustainability) and feasibility of proposed care options; • The overall cost of proposed care options and any concerns about value for money or affordability for the ICB;

<p>to one hours or services required for a person with the particular level of needs or band?).</p> <p>c) the lowest spot rate that can be secured by commissioning officers or brokerage staff looking at a capacity tracking tool and communicating with suitable care homes as to what they would take to admit the person to whom your organisation owes a duty?</p> <p>d) the level of any third party top-up that will also need to be agreed (or any privately arranged additional payment for wants and not needs) for particular aspects of the care home's offered facilities before the person is admitted or allowed to stay on council or ICB terms?</p>	<ul style="list-style-type: none"> • The individual's preference about where care is delivered, e.g. at home, or in a care home; • The effectiveness of proposed care options in meeting the individual's assessed health and social care needs; • The potential impact on the individual's human rights; • 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; • Communication needs and requirements; • The Care Quality Commission ("CQC") registration status of potential care providers and whether there are any open suspensions or enforcement actions by the ICB, local authority or CQC; • Presence of informal carers to provide care. There is no obligation for family members to provide care for an adult, but where an offer is made, the Funded Care Team may take this into account as an integral part of the care package. In such circumstances the Funded Care Team will consider a referral to the local authority so that a carer's assessment can be considered and offered in line with the Care Act 2014; • Parent's role as informal carers; and • Any concerns about contingency plans in terms of the support that may be required if a care option fails.
---	--

The information provided in this response is accurate as of 19 May 2025 and has been approved for release by Rosi Shepherd, Chief Nursing Officer for NHS Bristol, North Somerset and South Gloucestershire ICB.