

NORTH CENTRAL LONDON
CHILDREN'S CONTINUING CARE
APPEALS POLICY

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1	SUMMARY	This policy describes the way in which the five ICBs in North Central London will respond to appeals for eligibility and provision of Children's Continuing Care			
2	RESPONSIBLE PERSON:	Responsible Children's Health Commissioner from Islington, Camden, Haringey, Barnet and Enfield			
3	ACCOUNTABLE DIRECTOR:	Accountable Commissioning Director from Islington, Camden, Haringey, Barnet and Enfield			
4	APPLIES TO:	Islington, Camden, Haringey, Barnet and Enfield NHS Commissioning, Patients, Parents, Public, Local Authorities, Provider Continuing Care Staff and Contracted Preferred Providers that deliver care.			
5	GROUPS/INDIVIDUALS WHO HAVE OVERSEEN THE DEVELOPMENT OF THIS POLICY:	Islington, Camden, Haringey, Barnet and Enfield responsible Children's Health Commissioners			
6	GROUPS WHICH WERE CONSULTED AND HAVE GIVEN APPROVAL:	This appeals policy was agreed at the NCL Continuing Care Network on the 6 th Dec 2018.			
7	EQUALITY IMPACT ANALYSIS COMPLETED:	Policy Screened		Template completed	
8	RATIFYING COMMITTEE(S) & DATE OF FINAL APPROVAL:	09/08/18 Barnet Quality Committee –approved 28/08/18 Haringey and Islington Quality Committee – approved 12/09/18 Enfield Quality and Safety Committee – approved 17/09/18 - Camden Quality and Safety Committee.			
9	VERSION:	3.0			
10	AVAILABLE ON:	Intranet	Yes	Website	Yes
11	RELATED DOCUMENTS:	National Framework for Children and Young People's Continuing Care January 2016 North Central London CCGs Continuing Care Policy 2018			
12	DISSEMINATED TO:				
13	DATE OF IMPLEMENTATION:	December 2018			
14	DATE OF NEXT FORMAL REVIEW:	Annual			

DOCUMENT CONTROL

Date	Version	Action	Amendments
29/03/18	1.0	Haringey and Islington Quality Committee Chairs reviewed the policy	
31/07/18	2.0	Amendments made following recommendations from the Committee by Head of Children's Commissioning, Haringey CCG	
11/12/18	3.0	Islington Children's Commissioner made amendments following agreement at the NCL CC Network	Another step added into the reassessment section.



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1. INTRODUCTION

- 1.1 The Department of Health published the National Framework for Children and Young People's Continuing Care in March 2010, which has since been revised in January 2016. The revision takes in to account the new structures of NHS commissioning created by the Health and Social Care Act 2012 and the new integrated approach to the commissioning of services for children with Special Educational Needs and Disabilities (SEND) in the Children and Families Act 2014.
- 1.2 North Central London Clinical Commissioning Groups (CCGs) have updated their Children's Continuing Care Policy for 2018 and this appeals policy has been developed as a supporting document.

2. BACKGROUND

A continuing care package will be required when a child or young person has needs arising from disability, accident or illness that cannot be met by existing universal or specialist services alone.

'National Framework for Children and Young People's Continuing care 2016'

- 2.1 Some children and young people may have complex health needs as a result of congenital conditions, long-term or life limiting or life-threatening conditions, disability, or the after effects of serious illness or injury. In some cases, these needs are so complex they cannot be met by the services that are routinely available from primary care, secondary care and other community services commissioned by the North Central London ICBs and NHS England.
- 2.2 When a child or young person's needs cannot be met by universal and specialist services, NHS Continuing Care funding may be required to ensure the child or young person's holistic health and wellbeing outcomes are met through bespoke packages of care from health, and where appropriate integrated with social care and education. The purpose of continuing care funding is to specifically meet the identified health needs of the child or young person.
- 2.3 This appeals policy sets out the process for North Central London ICBs and their commissioned services in the event that a family challenges a decision made at the Continuing Care Decision Making Forum, in regards to continuing care eligibility and/or funding.

3. POLICY STATEMENT

- 3.1 This policy is based on the Department of Health's National Framework for Children and Young People's Continuing Care (2016) and the North Central London ICBs' Children's Continuing Care Policy (2018) and should be read in conjunction with these documents.

4. SCOPE OF THIS POLICY

- 4.1 This policy covers children and young people aged 0-17yrs (up to 18th birthday) who are already eligible for continuing care funding or are being assessed, who are registered with a North Central London GP or registered at the point of being looked after and placed in care outside of the North Central London Boroughs.
- 4.2 This policy covers appeals to decisions made by any North Central London Children's Continuing Care Decision Making Forum, or the outcome of a pre-assessment checklist. Decision Making Forum decisions may relate to whether the child/young person is eligible for children's continuing care, or to the level of support agreed by the Decision Making Forum to meet the child/young person's needs.

5. APPEALING A PRE-ASSESSMENT CHECKLIST DECISION OR A DECISION MADE AT THE DECISION MAKING FORUM

5.1 GROUNDS FOR APPEAL

5.1.1 There are two grounds for appeal:

1. The child/young person or their parent/representative believes inaccurate or out-of-date information was used in the assessment process.
2. The child/young person or their parent/representative believes that there has been a failure to follow the National Children's Continuing Care Framework (2016), which has impacted on the Decision Making Forum's decision.

6. APPEALING THE PRE-ASSESSMENT CHECKLIST DECISION (This appeal is between the family and the continuing care team)

- 6.1 When a child or young person is referred to the continuing care team, a pre-assessment checklist is completed. The checklist indicates whether the child/young person is likely to meet the continuing care criteria and will therefore move to a full assessment. If the checklist indicates that the child/young person will not meet eligibility for continuing care funding and will not move to full assessment, the family will be notified of this decision by the continuing care team and will be provided with a copy of the completed pre-assessment checklist.
- 6.2 If the family, Gillick Competent young person (please see glossary) or representative does not agree with this decision and the reasons meet the grounds for appeal, as outlined in Section 5.1 of this policy, the family must notify the continuing care team in writing and where necessary, provide additional clinical evidence within 28 days.
- 6.3 If the clinical needs of a child or young person have substantially changed, a new checklist can be completed, this would not be considered an appeal, but must have clinical support from a professional working with the child or young person.

7. APPEAL STAGES – Appealing a pre-assessment checklist

7.1 STAGE ONE – Reviewing the Grounds for Appeal

- 7.1.1 Upon receipt of a written appeal, the Children and Young Person's Health Assessor, known as 'the Assessor', will review the appeal documentation and will decide whether the grounds for appeal have been met.
- 7.1.2 In the event that the grounds for appeal are not met the pre assessment checklist decision will stand. The appeal decision will be communicated in writing by the Assessor within 14 days.
- 7.1.3 If the grounds for appeal are met, or there is sufficient evidence to suggest they may be met, the Assessor will do a clinical review. The outcome of the clinical review, will lead to an appeal decision, which will be communicated to the family in writing within 14 days, by the Assessor.
- 7.1.4 If the family does not engage in the appeals process within 6 weeks, the appeal will be discontinued and the family will be informed in writing by the Assessor. Following discontinuation of the appeal the pre-assessment checklist decision will stand.

7.2 STAGE TWO – Clinical Review

- 7.2.1 The Assessor will complete a clinical review of the additional information. There are two potential outcomes from the clinical review:
- The information is deemed sufficient to trigger a change to the assessment and the pre-assessment checklist decision. The Assessor will communicate the changes to the family and move to a full assessment.
 - The information is not deemed sufficient to trigger changes to the assessment. The re-assessment checklist decision stands.

7.3 STAGE THREE – Reassessment

- 7.3.1 If the family, Gillick Competent young person or representative does not agree with the pre-assessment checklist appeal decision and the reasons meet the grounds for appeal, as outlined in Section 5.1 of this policy, the family must notify the continuing care team in writing and where necessary, provide additional clinical evidence within 28 days.
- 7.3.2 If the grounds for appeal are met, the Assessor will request another Children and Young Person's Health Assessor to carry out the pre-assessment checklist.
- 7.3.3 The decision reached from the second pre-assessment checklist will be communicated to the family in writing within 6 weeks, by the second Assessor.

7.4 STAGE FOUR – Completion of the Appeals Process

- 7.4.1 If the family wishes to appeal the second pre-assessment checklist decision, the family must take their appeal to the Parliamentary and Health Service Ombudsman.

8.0 APPEALING A DECISION MADE AT THE DECISION MAKING FORUM (This appeal is between the family and the ICB)

- 8.1 Where possible any challenges to the outcome of a continuing care assessment should be resolved between the Assessor and the family prior to the assessment being presented at the Decision Making Forum.
- 8.2 As outlined in section 5.6 (Decision) and section 5.7 (Inform) of the North Central London Children's Continuing Care Policy, families will be verbally informed of the Decision Making Forum's decision by the Assessor within 5 working days. This will be followed by a written decision, which will include information on how to appeal, sent by the responsible Children's Health Commissioner within 5 working days from the decision making forum. From the date of the letter, families will have 28 days to appeal the outcome of the Decision Making Forum's decision.
- 8.3 An appeal may be made by a Gillick Competent young person, or a parent/carer or a representative of the family, with the written consent of the family provided.
- 8.4 When an appeal is made, it should be done in writing to the responsible Children's Health Commissioner within 28 days. The appeal must include any relevant information that the child/young person or their parent/representative wants to be considered, including any additional or updated clinical reports. The reasons for the challenge to the decision must be clearly stated in the letter. If support is needed with this process, the continuing care team can offer advice.

9.0 APPEAL STAGES – Appealing a decision made at the Decision Making Forum

9.1 STAGE ONE – Reviewing the Grounds for Appeal

- 9.1.1 Upon receipt of a written appeal, the responsible Children's Health Commissioner will review the appeal documentation and will decide whether the grounds for appeal have been met.
- 9.1.2 In the event that the grounds for appeal are not met, the Decision Making Forum decision will stand and the change to the package will proceed as outlined in the initial decision letter. The appeal decision will be communicated in writing by the responsible Children's Health Commissioner within 14 days, along with information on the appropriate complaints process dependent on the nature of the appeal letter.
- 9.1.3 If the grounds for appeal are met, or there is sufficient evidence to suggest they may be met, the responsible Children's Health Commissioner will forward the appeal to the Assessor for a clinical review. The outcome of the clinical review will lead to an appeal decision, which will be communicated to the family in writing within 14 days, by the responsible Children's Health Commissioner.
- 9.1.4 If the child or young person is in receipt of a package of care the existing package of care will remain in place whilst the appeal is ongoing. There is an expectation that the family will engage in this process.

9.1.5 If the family does not engage in the appeals process within 6 weeks, the appeal will be discontinued and the family will be informed in writing by the responsible Children's Health Commissioner. Following discontinuation of the appeal the Decision Making Forum's decision will stand.

9.2 STAGE TWO – Clinical Review

9.2.1 The Assessor will complete a clinical review of the additional information. There are two potential outcomes from the clinical review:

- The information is deemed sufficient to trigger a change to the assessment and recommendations. The Assessor will communicate the changes to the family. If the family agrees with the changes, the updated assessment will be presented at the next Decision Making Forum and the appeals process will stop. If the family does not agree with the updated assessment, a local resolution meeting will be offered and the appeals process will continue.
- The information is not deemed sufficient to trigger changes to the assessment. A local resolution meeting will be offered.

9.3 STAGE THREE – Local Resolution Meeting

9.3.1 A local resolution meeting will be offered to the family within 14 days of the appeal decision notification from the responsible Children's Health Commissioner. The meeting will take place between the family and the Assessor that carried out the original assessment. This is an opportunity to explore the reason for appeal, the continuing care assessment and the clinical review.

9.3.2 The Assessor will take detailed notes at this meeting and obtain consent to share this information.

9.3.3 If the appeal cannot be resolved at this stage, and the family want to proceed with the appeal following the local resolution meeting, they must notify the Assessor.

9.4 STAGE FOUR - Reassessment

9.4.1 The Assessor will notify the responsible Children's Health Commissioner that the family would like to proceed with the appeal following the local resolution meeting.

9.4.2 The responsible Children's Health Commissioner will request a second continuing care assessment to be carried out by either a Children's Nurse Matron from the same organisation, or an independent Children and Young People's Health Assessor from one of the North Central London Boroughs. This is decided by the Children's Health Commissioner and based upon the reasons for the appeal.

9.4.3 In the event that the 1st reassessment was completed by a children's Matron from the same organisation, if this decision is also appealed the family will be eligible for an independent Children and Young People's Health Assessor from one of the North Central London Boroughs.

- 9.4.4 The assessment should be completed within 6 weeks of the decision to proceed to a re-assessment. If the ICB or provider cannot meet the 6 week timeframe, this will be communicated in writing by the responsible Children's Health Commissioner to the family explaining the reasons why this has not been achieved.
- 9.4.5 The Children and Young People's Health Assessor will access clinical information from all reasonable sources to ensure a second assessment is undertaken.
- 9.4.6 Consent will be obtained at the outset to share this information with the Decision Making Forum. Withdrawal of consent to share the assessment will constitute a withdrawal of the appeal.
- 9.4.7 All relevant continuing care assessment documentation and supporting evidence will be presented by the Children and Young People's Health Assessor at the Decision Making Forum. If necessary, partners in social care and education will also provide up to date assessments along with the continuing care assessment.

9.5 STAGE FIVE – Decision Making Forum

- 9.5.1 The Decision Making Forum will review all paperwork and will reach a decision as outlined in section 5.6 (Decision) of the North Central London Children's Continuing Care Policy. The outcome of the Decision Making Forum will bring the appeal process to a close.
- 9.5.2 As outlined in section 5.7 (Inform) of the North Central London Children's Continuing Care Policy, families will be verbally informed of the Decision Making Forum's decision within 5 working days by the Children and Young People's Health Assessor. This will be followed by a written decision, sent within 5 working days by the responsible Children's Health Commissioner.

9.6 STAGE SIX – Completion of the Appeals Process

- 9.6.1 If the family wishes to appeal the final decision made at Decision Making Forum, the family must take their appeal to the Parliamentary and Health Service Ombudsman.

10. GLOSSARY OF KEY TERMS

Assessment

A multi-agency process in which the needs of a child or young person and their family are identified and their impact on daily living and quality of life is evaluated. The nominated children and young people's health assessor is responsible for undertaking a health assessment and collating existing assessments by local authority children's and young people's services on behalf of the commissioners to present a holistic picture of the child or young person's continuing care needs.

If there is no existing assessment, the nominated health assessor should liaise with the appropriate professionals to instigate assessments by local authority children and young people's services on behalf of the commissioners and then use these reports to inform the holistic assessment of the child or young person's continuing care needs.

Children and young people's continuing care

A package of continuing care needed over an extended period of time for children or young people with continuing care needs that arise because of disability, accident or illness, which cannot be met by universal or specialist services alone. Children and young people's continuing care is likely to require services from health and the local authority children and young people's services.

Children and young people's health assessor (the Assessor)

A health practitioner, experienced in children and young people's health and skilled in the health assessment of children, who leads on the assessment phase of the continuing care process. Following the completion of the assessment phase, the Assessor will produce recommendations for presentation to a multi-agency decision-making forum for them to reach a decision on whether continuing care is needed and, if so, what package of continuing care to provide. If a continuing care need is identified, it is for health commissioners and the local authority to decide what services each will commission and fund.

Consent

If a child who is under 16 does not have the capacity to give consent, someone with parental responsibility can consent for them, but that person must have the capacity to give consent.

If one person with parental responsibility gives consent and another does not, the healthcare professionals can choose to accept the consent and perform the treatment in most cases. If the people with parental responsibility disagree about what is in the child's best interests, the courts can make a decision. If a parent refuses to give consent to a particular treatment, this decision can be overruled by the courts if treatment is thought to be in the best interests of the child.

If the local authority has reason to believe that the child is suffering or likely to suffer significant harm, they could apply to the court under the Children Act 1989 for either:

- an emergency protection order on the basis that the significant harm would occur should the child not receive care
- an interim care order if the harm or likely harm could be attributed to the care given by the parents.

Young people with SEND have the right to make decisions for themselves, when they reach the end of the academic year in which they turn 16, rather than their parents making decisions for them (although their family can continue to provide support if the young person agrees). The right of young people to make a decision is subject to their capacity to do so, as set out in the Mental Capacity Act 2005.

Continuing care needs

There are no clear definitions of continuing care needs but it is generally recognised that they include multiple health needs where care pathways require co-ordination because of the complexity of service provision and input from local authority children's and young people's services.

Decision Making Forum

The Decision Making Forum is a multi-agency forum, bringing together health, education and social care, where based upon the assessed needs of the children presented, funding decisions are made.

North London Borough's Decision Making Forums:

Islington: Education, Health and Care Needs Management Board (EHCMB)

Camden: Continuing Care Panel

Haringey: Integrated Additional Services Panel

Barnet: Continuing Care Panel

Enfield: Early Support Resource Allocation Panel 0-5yr and Specialist Children's Panel 5+yr

Gillick Competence

This is a determination of whether a child/young person has the necessary capacity to make decisions relating to their healthcare when under the age of 16.

"Whether or not a child is capable of giving the necessary consent will depend on the child's maturity and understanding and the nature of the consent required. The child must be capable of making a reasonable assessment of the advantages and disadvantages of the treatment proposed, so the consent, if given, can be properly and fairly described as true consent." ([Gillick v West Norfolk, 1984](#))

North Central London Intergrated Care Boards (ICBs)

North Central London include Haringey, Islington, Barnet, Enfield and Camden Intergrated Care Boards and Local Authorities. The North Central Boroughs work closely together with local NHS Providers to deliver the local Sustainability and Transformation Plan (STP); the STP sets out how the local health and care system will be transformed and made sustainable over the coming years. The name for this partnership is North London Partners in Health and Care.

Parliamentary and Health Service Ombudsman

The Parliamentary and Health Service Ombudsman makes final decisions on complaints that have not been resolved by the NHS in England and UK government departments. They do this fairly, without taking sides and their service is free.

They can be contacted via:

<https://www.ombudsman.org.uk>

Customer Helpline on 0345 015 4033

Responsible Children's Health Commissioner

The organisation that discharges the statutory duty to secure care for an individual. For health services, the duty is that of Sections 3 to 6 of the NHS Act 2006, and accompanying regulations.

Most health services for an individual are usually commissioned by the ICB of which their GP practice is a member, but specialised services and health care for some specific groups is commissioned by NHS England. Public health services are usually commissioned by local authorities or Public Health England.

More information is available at:

<https://www.england.nhs.uk/>

<https://www.gov.uk/government/organisations/public-health-england>

APPENDIX A

Appeals Pathway



CHILDREN'S CONTINUING CARE APPEALS PATHWAY

GROUNDS FOR APPEAL:

3. The child or young person or their parent/representative believes inaccurate or out-of-date information was used in the assessment process.
4. The child or young person or their parent/representative believes that there has been a failure to follow the National Children's Continuing Care Framework (2016), which has impacted on the Decision Making Forum's decision.

STEP	SUMMARY OF KEY ACTIONS		TIMESCALE
	PRE-ASSESSMENT CHECKLIST APPEAL	DECISION MAKING FORUM APPEAL	
<p>APPEAL TO DECISION NOTIFICATION</p>	<ul style="list-style-type: none"> • The family will be notified of the Pre-assessment decision and a copy of the pre-assessment checklist will be provided. • If the family, Gillick Competent young person or representative does not agree with this decision and the reasons meet the grounds for appeal, the family must notify the Children and Young Persons Health Assessor in writing and where necessary, provide additional clinical evidence. 	<ul style="list-style-type: none"> • The family will be notified of the decision made at the Decision Making Forum. • If the family, Gillick Competent young person or representative does not agree with this decision and the reasons meet the grounds for appeal, the family must notify the responsible Children's Health Commissioner in writing and where necessary, provide additional clinical evidence. 	<p>28 DAYS</p>

<p>REVIEWING THE GROUNDS FOR APPEAL</p>	<p>STAGE 1</p> <ul style="list-style-type: none"> • Upon receipt of a written appeal, the Assessor will review the appeal documentation and will decide on whether the grounds for appeal have been met. • In the event that the grounds for appeal are not met the pre-assessment checklist decision will stand. This will be communicated in writing by the Assessor, along with information on the complaints process, if necessary. • If the grounds for appeal are met, or there is sufficient evidence to suggest they may be met, the Assessor will do a clinical review. 	<p>STAGE 1</p> <ul style="list-style-type: none"> • Upon receipt of a written appeal the responsible Children’s Health Commissioner will review the appeal documentation and will decide on whether the grounds for appeal have been met. • In the event that the grounds for appeal are not met, the Decision Making Forum decision will stand and the change to the package will proceed as outlined in the initial decision letter. This will be communicated in writing by the responsible Children’s Health Commissioner, along with information on the complaints process. • If the grounds for appeal are met, or there is sufficient evidence to suggest they may be met, the responsible Children’s Health Commissioner will forward the appeal to the Assessor for a clinical review. 	<p>14 DAYS</p>
<p>CLINICAL REVIEW</p>	<p>STAGE 2</p> <ul style="list-style-type: none"> • The Assessor will complete a clinical review of the additional information. There are two potential outcomes from the clinical review: <ol style="list-style-type: none"> 1. The information is deemed sufficient to trigger a change to the assessment and the pre-assessment checklist decision. The Assessor will communicate the changes to the family and move to a full assessment. 	<p>STAGE 2</p> <ul style="list-style-type: none"> • The Assessor will complete a clinical review of the additional information. There are two potential outcomes from the clinical review: <ol style="list-style-type: none"> 1. The information is deemed sufficient to trigger a change to the assessment and recommendations. The Assessor will communicate the changes to the family. If the family agrees with the changes, the updated assessment will be presented at the next 	

	<p>2. The information is not deemed sufficient to trigger changes to the assessment. The re-assessment checklist decision stands.</p>	<p>Decision Making Forum and the appeals process will stop. If the family do not agree with the updated assessment, a local resolution meeting will be offered and the appeals process will continue.</p> <p>2. The information is not deemed sufficient to trigger changes to the assessment. A local resolution meeting will be offered.</p>	
<p>LOCAL RESOLUTION MEETING</p>	<p>Not Applicable</p> <p>(Please move to Reassessment)</p>	<p>STAGE 3</p> <ul style="list-style-type: none"> If a local resolution meeting is offered and accepted by the family. The meeting will take place between the family and Assessor that carried out the original assessment. This is an opportunity to explore the reason for appeal, the continuing care assessment and the clinical review. If the appeal cannot be resolved at this stage, and the family want to proceed with the appeal following the local resolution meeting they must notify the Assessor, who will notify the responsible Children's Health Commissioner. 	<p>14 DAYS</p>
<p>RE-ASSESSMENT</p>	<p>STAGE 3</p> <ul style="list-style-type: none"> If the grounds for appeal are met, the Assessor will request another Children and Young Person's Health Assessor to carry out the pre-assessment checklist. The decision reached from the second pre-assessment checklist will be communicated to the family in writing 	<p>STAGE 4</p> <ul style="list-style-type: none"> The responsible Children's Health Commissioner will request a second continuing care assessment to be carried out by the Continuing Care Matron or an independent Children and Young Person's (CYP) Assessor; from one of the North Central London Boroughs. 	<p>6 WEEKS</p>

	<p>within 6 weeks, by the second Assessor.</p> <ul style="list-style-type: none"> The outcome of the second assessment will bring the appeals process to a close. 	<ul style="list-style-type: none"> The Assessor will access clinical information from all reasonable sources to ensure a second assessment is undertaken. In the event that the 1st reassessment was completed by a children's Matron from the same organisation, and this decision is also appealed the family will be eligible for an independent Children and Young People's Health Assessor from one of the North Central London Boroughs. 	
DECISION MAKING FORUM	<p>Not Applicable</p> <p>(Please move to completion of the appeals process)</p>	<p>STAGE 5</p> <ul style="list-style-type: none"> The Decision Making Forum will review all paperwork and will reach a decision. The outcome of the Decision Making Forum will bring the appeals process to a close. Families will be verbally informed of the Decision Making Forum's decision by the Assessor. This will be followed by a written decision, sent within 5 working days by the responsible Children's Health Commissioner. 	5 WORKING DAYS
COMPLETION OF THE APPEALS PROCESS	<p>STAGE 4</p> <ul style="list-style-type: none"> If the family wishes to appeal the second pre-assessment checklist decision, the family must take their appeal to the Parliamentary and Health Service Ombudsman. 	<p>STAGE 6</p> <ul style="list-style-type: none"> If the family wishes to appeal the second decision, the family must take their appeal to the Parliamentary and Health Service Ombudsman. 	

