

# Children's Continuing Care Appeals Procedure

**December 2020**

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Version	Version 2.0
Ratified by:	Quality Assurance Committee
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Name of originator/author;	Children's Continuing Care Team
Name of responsible committee/individual	Quality Assurance Committee
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Distribution/target audience	Sheffield CCG CCC and CHC staff

To ensure you have the most current version of this policy please access via the NHS Sheffield CCG Intranet Site by following the link below:

<http://www.intranet.sheffieldccg.nhs.uk/policies-procedure-forms-templates.htm>



**Please give status of Policy: Revised**

<b>1. Details of Policy</b>		
1.1	Policy Number:	CL017/12/2022
1.2	Title of Policy:	Children's Continuing Care Appeals Procedure
1.3	Sponsor	Chief Nurse
1.4	Author:	Children's Continuing Care Team
1.5	Lead Committee	Quality Assurance Committee
1.6	Reason for policy:	To have a clear and transparent process to appeal a decision made in relation to eligibility, package of care offer, or a change in the offer of a package of care following review
1.7	Who does the policy affect?	CCC staff and patients and reps
1.8	Are the National Guidelines/Codes of Practices etc. issued?	National Framework for Children and Young People's Continuing Care 2016 this framework is being reviewed nationally so may need to be reviewed before December 2021
1.9	Has an Equality Impact Assessment been carried out?	No
<b>2. Information Collation</b>		
2.1	Where was Policy information obtained from?	National Framework for Children's and Young People's Continuing Care 2016 <a href="http://www.legislation.gov.uk/ukxi/2009/309/content/made">http://www.legislation.gov.uk/ukxi/2009/309/content/made</a> <a href="#">Mental Capacity Act 2019</a>
<b>3. Policy Management</b>		
3.1	Is there a requirement for a new or revised management structure for the implementation of the Policy?	Not required
3.2	If YES attach a copy to this form.	
3.3	If NO explain why.	Have existing team and processes in place
<b>4. Consultation Process</b>		
4.1	Was there external/internal consultation?	Has been approval through internal consultation
4.2	List groups/persons involved	CCC and CHC staff
4.3	Have external/internal comments been included?	Yes
4.4	If external/internal comments have not been included, state why.	
<b>5. Implementation</b>		
5.1	How and to whom will the policy be distributed?	CCG intranet, available for staff and members of the public on request
5.2	If there are implementation requirements such as training please detail.	Yes, team training to be rolled once agreed
5.3	What is the cost of implementation and how will this be funded	None
<b>6. Monitoring</b>		
6.2	How will this be monitored	Through teams
6.3	Frequency of Monitoring	Annually / as required

<b>VERSION CONTROL</b>				
<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Status</b>	<b>Comment</b>
2.0	December 2020	Michelle Racey and Carolyn Maundrill	Reviewed	<b>Policy revised to represent You said, we did and SEND progression</b>
1.0	May 2018	Scarlett Milward	Revised	Policy revised to match service redesign
0.3	September 2018	Scarlett Milward	Revised	Service required redesign before could establish the appeals policy
0.2	March 2017	Lucy Ashall	Amended	
0.1	Feb 2017	Lucy Ashall	New	

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## **1.0 Introduction and purpose**

**1.1** The purpose of this document is to provide guidance to parents or carers of children subject to the Children's Continuing Care (CCC) process and to Sheffield Clinical Commissioning Group (SCCG) on how to make and manage an appeal. This process does not extend to section 117 after care of the Mental Health Act.

### **1.2 Responsibilities**

The appropriate care of children with profound multiple disabilities or chronic severe illness generally involves input from all statutory agencies: Health, Social Care and Education. High quality care for this small, but highly complex group of children depends on timely, comprehensive interagency assessment and co-ordination of services.

**1.3** Parents have the primary responsibility for the care of their child with statutory agencies supporting them to meet the child's identified outcomes. Continuing care assesses and supports delivery of identified health outcomes for the child. It is essential that families do not rely on continuing care support to fulfil their primary caring responsibilities for a child or young person (e.g. to allow them to go out to work). A continuing care package only provides support for the individual child or young person with complex needs, and should not support the siblings. We work closely with Sheffield Local Authority who are responsible for assessing social care and education requirements.

**1.4** The continuing care assessment gathers information to provide a holistic picture of the needs of the child/young person and the family in order to support partnership working. Continuing care eligibility is determined by the presenting health needs, their level of complexity, and whether existing services can meet the identified outcomes. Diagnosis of a disease or a particular condition is not in itself a determinant of a need for continuing care. Continuing care should be part of a wider package of care agreed and delivered by collaboration between Health, Education and Social Care, to meet identified outcomes.

**1.5** A continuing care assessment should not be undertaken in order to shift commissioning responsibility, either within a CCG or between health and social care.

**1.6** Arrangements made under the Children and Families Act 2014 for children with special educational needs or disability (SEND), in particular provide a framework for outcomes-focused joint assessments (Education, Health and Care Plan, [EHCP]). The process involves different partners across Education, Health and Social Care, and many children and young people who need continuing care will have special educational needs or disability. There may be common elements to both the continuing care assessment and the EHCP, and where appropriate there should be joint working to bring together a single set of outcomes.

## **2.0 Scope**

The scope of this policy is for all children and young people and their families to appeal a decision made in relation to Children's Continuing care.

**2.1** Where a young person is aged 16 or above and is the named person accessing the process of assessment, consent will need to be obtained by that person. If that person does not have capacity, this should be reflected in the consent form (Mental Capacity Act 2005) and all elements pertaining to best interest decision making should be fully completed.

**2.1** Despite the best intentions to work in partnership and transparently there will be occasions when the Clinical Commissioning Group (CCG) and a child/young person or their parent/carer are unable to reach agreement. The National Framework for Children and Young People's Continuing Care (2016) provides a clear expectation that local dispute resolution and complaints procedures are in place. The CCG dispute resolution will be conducted in the best interests of the child and their parents/carers and have clear timescales to avoid periods of uncertainty.

### 3.0 Definitions

**Children's Continuing Care (CCC)** – The national guidance for Children and Young people's Continuing Care funding 2016 sets the national standard for this provision and Sheffield has developed a local process for service delivery.

**The Continuing Care Checklist** – The referral document to refer children and young people to Children's Continuing Care. There are two variations of the referral that include a 'general' referral for assessment and a 'Fast Track' request. The 'Fast Track' referral is reserved only for children or young people who are at an end of life stage and who require urgent care support.

**Designated Clinical Officer** – DCO, clinical advisor appointed by the CCG to support and develop the Special Educational Needs and Disability (Children and Families Act 2014) agenda throughout health services and support a joint approach to service provision with local authority

**Decision Support Tool** – DST, this is the documentation used to record the Children's Continuing Care Assessment

**Eligibility Panel (QAC)** – This panel consists of a Nurse Team Leader from the Children's Continuing Care and a social worker from the local authority to make decisions in relation to eligibility based on the national guidance

**Joint Resource Allocation Panel** – This panel consists of a children's commissioning manager, senior nurse manager, and senior education manager from the local authority and senior social care manager from the local authority to make decisions in relation to the financial allocation of packages of care

### 4.0 Process

#### 4.1 Appeal the outcomes of a checklist (referral to Children's Continuing Care (CCC))

The Continuing Care Checklist can be completed by a range of professionals, including social workers or health professionals. This checklist is submitted to the CCC nurse assessment team to support a decision as to whether to progress to a DST assessment. If there is disagreement on the outcome of a checklist this must be discussed with the CCC nurse assessor to try and reach a satisfactory outcome in the first instance. The referrer may be asked to re-submit the checklist with additional information.

If this does not resolve the dispute, the child/young person or their parent/ carer/guardian or advocate may ask the Sheffield CCC assessment team to reconsider the decision not to progress to an assessment. This request must be in writing and include specific information as to why the appellant is raising the appeal. Requests to appeal the decision can be sent by email or post to:

[SHECCG.childrencontinuingcare@nhs.net](mailto:SHECCG.childrencontinuingcare@nhs.net)

Children's Continuing Care Team  
722 Prince of Wales Road  
Sheffield  
S9 4EU

Once received into the Children's Continuing Care Team, the request will be reviewed by the CCC nurse team leader and the Designated Clinical Officer (DCO).

**4.2** The nurse team leader and DCO will review the original decision. The nurse team leader and DCO will give this request prompt and due consideration, taking into account all information available, including any additions. Once a final decision is made the nurse team leader will make contact with all relevant parties involved by letter. This process will be completed within two weeks following receipt of written notification from the appellant.

**4.3** If the appellants remain dissatisfied, they can ask for the matter to be considered under the

CCG's complaints procedure.

**4.4** It should be noted that the checklist threshold for triggering a CCC assessment has intentionally been set low, any decision to proceed to a full CCC assessment does not guarantee eligibility and eligibility does not guarantee a package of care.

#### **4.5 Appeal eligibility decision and/or package of care offered following a full CCC assessment**

If a child/young person or their parent/carer is dissatisfied with the outcome of an eligibility decision or a package of care being offered, including a Personal Health Budget (PHB), by the CCG they can appeal the decision.

**4.6** There are two stages to the appeal process

1. A local review procedure
2. A request for an independent review

**4.7** The National Framework for Children and Young People's Continuing Care (2016) guides decision making of eligibility. If an individual would like to challenge a decision of eligibility or the care package being offered this will initially be dealt with through this local procedure.

**4.8** The first stage of the process is to appeal in writing. This is required to be sent to the following email address or postal address clearly documenting the reasons for the appeal:

[SHECCG.childrenscontinuingcare@nhs.net](mailto:SHECCG.childrenscontinuingcare@nhs.net)  
CCC Business Support Team  
NHS Sheffield Clinical Commissioning Group  
722 Prince of Wales Road  
Darnall  
Sheffield  
S6 7EU

**4.9** Reasons for an appeal against an eligibility decision should be based upon:

- i) The procedure followed by the CCG in reaching the decision of eligibility

The application of the criteria to determine eligibility Reasons for an appeal against a package of care, including a PHB, should be based on:

- i) Reasons why the package of care would not meet the health and care needs of the child or young person
- ii) Reasons why the package of care would not safely manage the risks associated with the child/young person's health needs

**4.10** Please note an appeal cannot be heard on the grounds that an individual is not in agreement with the National Framework's eligibility criteria and guidance itself. The appeal can only relate to decisions made by Sheffield Clinical Commissioning Group and organisations party to this decision in relation to Children's Continuing Care.

**4.11** Any appeal should be made no later than 35 days from the date the notification. The notification should be received by way of letter stipulating the eligibility decision or offer of care in relation to the child or young person. The CCC Panel should instigate the appeal process within 35 days of receiving the appeal request into the Children's Continuing care Team.

**4.12** Following receipt of a request to appeal, the CCC nurse team leader, will review all relevant information and make contact with the person who lodged the appeal. Following a discussion with the appellant, a letter will be sent out confirming receipt of the appeal and next steps, which could include an informal face to face meeting with members of the CCC and Continuing Health Care (CHC) senior nursing team and the Social Worker to discuss all issues

rose with the intention of reaching an agreement.

**4.13** If the informal process does not resolve the appeal, it will be referred to the Children's Continuing Care Panel (DCO, Operational Lead for CHC and Service Manager for Children with disability team) to review the decision. The appellant will have the opportunity to present their case to the panel if they so wish and the Panel will try to accommodate this request by negotiating a date and times suitable to all parties. The Panel can proceed without individual/family representation but an opportunity to attend must be offered. Following the presentation of the case, the individual will be asked to leave to allow the panel to begin their deliberations.

**4.14** Where a family or the young person chooses to use the services of an advocate, the appellant must inform us in writing, and sent to the above address or email to be received no later than 7 working days prior to the Children's Continuing Care Panel meeting date.

**4.15** If an individual has advised that they will be attending a panel and then fail to turn up without prior notification, the panel will proceed. If the appellant contacts the CCG beforehand advising they are unable to attend, the Chair will endeavour to arrange an alternative date within a one month period. Due to the need to resolve matters in a timely way, if the appellant fails to turn up on a second occasion the panel will proceed.

**4.16** It should be noted that sensitive medical/social information will be discussed and it is therefore not appropriate to have individuals attend panel who do not know the individual/their needs unless acting as an advocate.

**4.17** The CCC Panel will endeavour to communicate in writing the outcome of the Panel within 7 working days of the panel date. This letter will provide a clear rationale for the decision making.

**4.18** If all efforts to reach agreement have been exhausted locally and the individual remains dissatisfied, a request for independent review can be made. This request should be made in writing within 35 days of the conclusion of the local review procedure to the address provided below:-

Children, Young People & Maternity Portfolio  
NHS Sheffield Clinical Commissioning Group  
722 Prince Of Wales Road,  
Sheffield,  
S9 4EU  
Or [SHECCG.ChildrensCommissioning@nhs.net](mailto:SHECCG.ChildrensCommissioning@nhs.net)

On receipt of a request for an independent review, the Children's Commissioning Manager will contact the appellant and a letter will be sent out confirming receipt of the request no later than 7 working days after receipt. The CCC Panel will also be informed of the request.

**4.19** The Independent Review procedure involves securing a CCC assessment from another CCG in the region to review case information and provide a second opinion on eligibility and/or the proposed care package subject to the nature of the appeal. The independent reviewer may need to arrange to see the child/young person and their family to re-assess their health and care needs. The Sheffield Children's Commissioning Manager will secure this support and negotiate timescales. The child/young person and their parent/carer/advocate and the panel will be kept informed of the timescales. Independent reviews should ordinarily be conducted within a two month period or a time period agreed between the commissioning manager and the independent reviewer. The

Independent reviewer will be expected to provide a comprehensive report of findings.

**4.20** Once received, the independent review report will be submitted for discussion at the following CCC panel meeting, usually within a 28 working day period, and to the child/young person and their parent/carer/advocate. The CCC Panel will consider the information provided in the review. The Panel will make a final decision of eligibility and/or the package of care offer. The family will be informed within 7 days of the panel meeting date.

### **5.0 Further complaints**

5.0 If the individual is dissatisfied with the appeals process followed, the CCG's complaints process can be utilised. Details are available on the CCG website (<http://www.sheffieldccg.nhs.uk/get-involved/comps.htm>)

The appeal decision cannot be overturned by the complaints process. However you are at liberty to contact your Ombudsmen for advice on escalating your complaint. You can find further information on the following link: [www.ombudsman.org.uk/making-complaint](http://www.ombudsman.org.uk/making-complaint)

### **6.0 Funding implications**

If a child/young person is in receipt of Children's Continuing Care funding and following a review the panel find the child/young person ineligible or reduce the care package offered, the original care package remains in place until the local appeals process is complete.

**6.1** If the independent Review process finds in favour of the CCG, a minimum of 28 days' notice must be given by the CCG of any change in a package of care.

### **7.0 Transition**

**7.1** If a young person in transition would like to appeal eligibility or the care package offered in adult services, the adult Continuing Health Care appeals procedure must be utilised; details can be found at the following web link:

<http://www.sheffieldccg.nhs.uk/Your-Health/continuing-healthcare.htm>.

**7.2** The notice period to end a package of care for a young person in transition funded by Children's Continuing Care is 28 days.

### **8.0 Monitoring effectiveness of the procedural document (Policy Audit Tool)**

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

## **9.0 Review**

This document may be reviewed at any time at the request of either staff side or management, but will automatically be reviewed after twelve months and thereafter on a bi-annual basis or when a change in legislation dictates.

## **10.0 Children and Young People's Continuing Framework 2016**

<https://www.gov.uk/government/publications/children-and-young-peoples-continuing-care-national-framework>

## **11.0 Mental Capacity Act**

Having considered and completed the MCA compliance statement at Appendix A, the MCA is applicable to this policy.

## **12.0 Equality & Diversity Statement**

NHS Sheffield CCG aims to design and implement services, policies and measures that meet the diverse needs of our service population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the Human Rights Act 1998 and promotes equal opportunities for all. This document has been assessed to ensure that no-one receives less favourable treatment on grounds of their gender, sexual orientation, marital status, race, religion, age, ethnic origin, nationality, or disability. Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the person requesting has difficulty in accessing this policy, the use of an interpreter will be offered where possible.

NHS Sheffield CCG embraces the seven staff pledges in the NHS Constitution. This policy is consistent with these pledges. Please refer to Appendix B

## Appendix A - Mental Capacity Act Compliance Statement

Any policy, guideline or procedure which deals with circumstances where a service user has a decision to make, or has to be consulted, or their agreement is required, must include a **Mental Capacity Act policy compliance statement** setting out:

<b>Mental Capacity Act Compliance Statement</b>	Number of paragraph in policy, guideline or procedure where referenced or N/A
What service user decisions / consent / agreement may need to be sought during the operation of the policy / guideline or procedure	<b>2.1</b>
For each level of decision-making, who will be required to assess the client's mental capacity at each level	<b>Nurse assessor and or social worker</b>
What decisions staff may <b>not</b> make under the policy / guideline / procedure	<b>Where a formal MCA assessment has deemed a young person as having capacity to make decisions about a specific element of the question.</b>
How the existence of advance decisions, an Enduring Power of Attorney, Lasting Power of Attorney or deputy will be identified and recorded	<b>APA/LPA does not apply until 16 years Consent includes consideration of Deputy</b>
Any other specific guidance that the policy / guideline / procedure requires staff to follow in relation to mental capacity	<b>Under 16years best interest applies for all decisions.</b>

To provide practical support for staff, a link to the Mental Capacity Act 2005 Implementation Guidance can be found at: <http://nww.sheffield.nhs.uk/policies/clinical.php#m> and can be included in the electronic version of the document being developed.

This **Mental Capacity Act compliance statement** is a consideration for all policies, guidelines and procedures. Where the MCA does not apply, authors need to make this clear in a statement to this effect inserted at the Mental Capacity Act section of the policy, guideline or procedure.

## NHS Sheffield CCG Equality Impact Assessment 2016

## Equality Impact Assessment

<b>Title of policy or service:</b>	Children's Continuing Care Appeals Procedure	
<b>Name and role of officer/s completing the assessment:</b>	Scarlett Milward Children's Commissioning Manager 2018 Reviewed by Michelle Racey and Carolyn Maundrill 2020	
<b>Date of assessment:</b>	02/05/2018 reassessment 10/12/2020	
<b>Type of EIA completed:</b>	Initial EIA 'Screening' ✓ <i>or</i> 'Full' EIA process X	

<b>1. Outline</b>	
<p><b>Give a brief summary of your policy or service</b></p> <ul style="list-style-type: none"> <li>• Aims</li> <li>• Objectives</li> <li>• Links to other policies, including partners, national or regional</li> </ul>	<p>The purpose of this document is to provide guidance to parents or carers of children subject to the Children's Continuing Care (CCC) process and to Sheffield Clinical Commissioning Group (SCCG) on how to make and manage an appeal; this process does not extend to section 117 after care of the Mental health Act.</p> <p>The purpose of this policy is to ensure we provide a clear, fair and transparent approach to decision making and appealing a decision quickly and reasonably.</p> <p>This appeals process covers package of care provided by Sheffield Clinical Commissioning Group through Children's Continuing care, packages may be jointly funded with the Local Authority, this policy will still apply.</p>

**Identifying impact:**

- **Positive Impact:** will actively promote or improve equality of opportunity;
- **Neutral Impact:** where there are no notable consequences for any group;
- **Negative Impact:** negative or adverse impact causes disadvantage or exclusion. If such an impact is identified, the EIA should ensure, that as far as possible, it is justified, eliminated, minimised or counter balanced by other measures. This may result in a ‘full’ EIA process.

<b>2. Gathering of Information</b>					
This is the core of the analysis; what information do you have that might <i>impact on protected groups, with consideration of the General Equality Duty.</i>					
(Please complete each area)	What key impact have you identified?			For impact identified (either positive an or negative) give details below:	
	Positive Impact	Neutral impact	Negative impact	How does this impact and what action, if any, do you need to take to address these issues?	What difference will this make?
Human rights		X			
Age		X			
Carers		X			
Disability			X	Users may not be able to understand/manage the appeals process independently. The CCG will make reasonable independent provision available to support applicants through the appeals process by developing a leaflet and access process to achieve an easy read version of the policy, we have established different access points for support e.g. phone number and email available as well as written information. We will also evaluate how	This will make the appeals process more accessible for people with a range of disabilities and will be adapted accordingly following a review at 12 months

				effective this has been by gaining patient and carer experience so we care able to adapt accordingly as the process is implemented	
<b>Sex</b>		X			
<b>Race</b>		X			
<b>Religion or belief</b>		X			
<b>Sexual orientation</b>		X			
<b>Gender reassignment</b>		X			
<b>Pregnancy and maternity</b>		X			
<b>Marriage and civil partnership (only eliminating discrimination)</b>		X			
<b>Other relevant groups</b>	<input type="checkbox"/>	<input type="checkbox"/>	X	Users may not be able to understand the appeals process due to varying communication needs. The CCG will aim to ensure there is also a user friendly version of this process to aid understanding , both policies will be made accessible to all (translated into different languages and print variations according to need).	This will make the appeals process more accessible and will be evaluated
<b>HR Policies only: Part or Fixed term staff</b>	<input type="checkbox"/>	X	<input type="checkbox"/>		

**IMPORTANT NOTE:** If any of the above results in 'negative' impact, a 'full' EIA which covers a more in depth analysis on areas/groups impacted must be considered and may need to be carried out.

Having detailed the actions you need to take please transfer them onto the action plan below.

<b>3. Action plan</b>				
<b>Issues/impact identified</b>	<b>Actions required</b>	<b>How will you measure impact/progress</b>	<b>Timescale</b>	<b>Officer responsible</b>
Availability of Advocacy services	SOP to be written	SOP in place for CCG to follow	30/06/2021	Michelle Racey and Carolyn Maundrill
Patient friendly version of the appeals policy	Policy to be written and review by the reading panel	Policy in place	31/07/2021	Michelle Racey
Review of appeals process	Patient engagement for feedback, internal review process	Patient feedback	30/06/2021	Carolyn Maundrill

<b>4. Monitoring, Review and Publication</b>				
<b>When will the proposal be reviewed and by whom?</b>	<b>Lead / Reviewing Officer:</b>		<b>Date of next Review:</b>	
	<b>Designated Clinical Officer (SEND)</b>		<b>Dec 2021</b>	