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**Care England COVID 19 Membership Briefing and Discussion paper: Continuing Healthcare and CQUINs**

**Introduction**

This membership briefing focuses on the implications of Covid-19 on NHS Continuing Healthcare (CHC) and Commissioning for Quality and Innovation (CQUIN) funding arrangements, specifically within the context of NHS commissioned care from independent adult social care settings. This briefing has been informed by correspondence with Matthew Winn (Director of Community Health NHS England and NHS Improvement), as well as the feedback received by members over the Covid-19 pandemic.

**Context**

As a result of the pressures that the Covid-19 pandemic created, the Government introduced several immediate measures in order to deal with the increased pressure on the health and social care sector. These measures were introduced through the documentation list below:

* [Covid-19 Hospital Discharge Service Requirements](https://www.gov.uk/government/publications/coronavirus-covid-19-hospital-discharge-service-requirements) (published on 19 March 2020 and now withdrawn as of 1st September see below section ‘Next Steps’)
* [Coronavirus Act 2020](https://www.legislation.gov.uk/ukpga/2020/7/contents/enacted) (published on 25 March 2020)
* [Revised arrangements for NHS contracting and payment during the COVID-19 pandemic](https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2020/03/COVID-19_NHS-contracting-and-payment_26-March.pdf) (published 26 March 2020)

This documentation was released in conjuction with a series of centrally funded grants aimed at alleviating the pressure on the health and social care sector:

* On 19 March 2020 £1.6 billion was given to Local Authorities to help respond to Covid-19 pressures across all the services they deliver. This money was not ring-fenced for the adult social care sector.
* On 19 March 2020 £1.3 billion was given to the NHS to help the discharge process so patients who no longer need urgent treatment could return home safely and quickly.
* On 15 May a new £600 million Infection Control Fund was introduced to tackle the spread of Covid-19 amongst adult social care settings.

Despite the introduction of such measures and funds, the perpetuation of Covid-19 has seen many difficulties arise for adult social care providers, particularly around NHS Continuing Healthcare (CHC) and Commissioning for Quality and Innovation (CQUIN) funding arrangements. On behalf of our members, Care England has sought to not only reprimand some of the difficulties arising but also to provide clarity to members around areas which remain ambigious. Such areas include:

* Are the extra costs for people funded by the NHS for CHC being recognised?
* Are Clinical Commissioning Groups (CCGs) proactively contacting or agreeing to fund the Covid-19 extra costs of current CHC funded residents themselves or via their respective Local Authorities?
* What are the processes for funding extra COVID 19 cocts faced by providers for CHC fudned residents?
* What are the CHC fees being offered by CCGs for 20/21?
* Are CQUIN payments for existing care home CHC resident contracts payable from 1st April 2020?
* Are new CQUIN arrangements suspended for new admissions April 2020 going forward until new CHC assessments can take place?
* When will these arrangements for care homes be reviewed?
* Who do members contact in each CCG who is responsible for CHC contract issuese?

**CHC fees**

We have been disappointed that announcements on CHC fees for 2020/21 seem to have been either delayed or not yet announced. Where fees for the year have been publicised they do often not reflect current cost pressures. In addition, in some areas:

* CHC rates payable are the same or even less than the host Local Authority rates for nursing care, despite the fact that in the main it costs more to provide care to CHC residents, due to the increased intensity and complexity of their care needs.
* Fees for 2020/21 not yet announced.
* Fees for 2020/21 do not reflect inflationary costs.
* No increase in fee rates for existing CHC funded residents for many years.
* CCGs not responding to provider issues and concerns and few local networks to address local issues.
* CCGs continue to pay CHC rates that are calculated by reference to host local authority residential care rates plus FNC; which methodology is patently insufficient to fund the costs of CHC provision, which by definition involves the meeting of care needs that are more intense and complex than those funded by local authorities and FNC.
* In those areas where CHC rates are calculated by reference to the host local authority residential rates plus FNC, the CHC rates have not been increased to reflect the FNC increases for 2020/21, nor the backdated FNC increases applied for 2019/20.

**Care England Case Studies**

Cumbria offered 4% increase for their core rates for CHC this year, taking that rate from £731.71 to £760.98  But the LA host rate has also increased from £629.00  (+ FNC = £794.56) to £654 (+ FNC = £837.92).   So the actual LA rates are higher than the FNC increases, which has caused greater disparity for CHC provision.

Lancashire LA Host for General nursing was £534.55 plus FNC £165.56 = £700.11 gross per week.  Now it is £559.41 plus £183.92 = £743.33 gross per week.  CHC for this year, with a 3.7% increase is now £700.11 \*3.7% = £726.01

With only a very small percentage of CCGs having contacted providers to inform them as to what increase will be applied to their standard CHC fee rates for the financial year 2020/21, this is unacceptable as these fees should have been increased from the 1 April 2020.

**NHS Policy Action:**

In response to Care England raising these concerns, NHSEI replied that NHS CHC is not subject to nationally determined NHS tariff arrangements and it is therefore up to each CCG to make a determination in relation to the payment of inflationary uplifts, their frequency and duration. It is likely that these arrangements are to be included in the normal contractual process, however, the June 2020 guidance, provided the following additional advice for CCGs: *“For CCG Commissioners to agree reasonable contract uplifts to care packages, this may be...in the form of an agreed general uplift. These uplifts should exclude any additional COVID-19 pressures and reflect general price inflation. These general uplifts.... should be funded from and affordable within existing CCG allocations.”* This response from NHSEI seemingly disregards the effect that COVID-19 has and continues to have upon occupancy levels within nursing bed provision within care homes and the effects this has on the overall cost of providing CHC services.

**CCGs have not funded the additional costs during the Covid-19 period for people funded via NHS CHC**

Covid-19 has brought and continues to bring significant financial pressure to bear on care home providers across all resident groups, regardless of how their care is being funded. While financial assistance is being provided by Local Authorities, it is not in the main being extended to CHC funded residents. This is of real concern for those care homes who provide a great deal of nursing and complex services.

To date NHSEI has failed to provide public guidance to CCGs regarding the critical importance for them to provide additional financial support to care homes in recognition of the financial impact that COVID-19 has and continues to have on the costs of providing CHC care. Care England understands that there was an internal communication to local systems in early June that went through all the internal governance processes. The message was that regional NHSE/I colleagues need to advise their local CCGs about the clear expectations of working closely on commissioning with Local Authority partners considering the sustainability of the local social care market, the challenges faced by providers and the support needed. Although we have not seen this communication, members could during their discussions direct the CCGs to link to their regional NHSE/I finance and CHC colleagues on this matter. However this approach is in contrast to NHSEI having been clear on reimbursing independent sector providers of specialised Mental Health services. These providers have now been given a template for them to claim reimbursement of extra Covid-19 costs incurred in these hospitals which provide specialised services directly commissioned by NHSEI.

The enquiries undertaken by Care England indicate that in excess of 70% of CCGs are still failing to provide any additional financial support in the case of CHC funded placements, to meet the additional costs of those placements brought which have been brought about by COVID-19. It is crucial that this gap in COVID-19 funding support is recognised and addressed as a matter of urgency. The provision of nursing support within the care home market is critical, not only for those residents who are in receipt of CHC funding, but also for those local authority and privately funded residents who need ancillary nursing care funded through FNC. Any loss of nursing capacity within the CHC care provision due to lack of sustaintable funding, will have an inevitable negative impact on nursing provision across all care home residents.

Clear guidance for CCGs must be provided promptly, not only to give direction to those CCGs who are failing/refusing to engage with their local market, but also for those who have taken some steps to engage, but who nevertheless continue to fail to resolve their provision of adequate support.

**NHS Policy Action**

In response, NHSEI has contacted a representative number of those CCGs Care England identified as providing some funding to our members, to enquire what methodology they used to arrive at their local settlement (including the mechanism for specifying additional costs in relation to individual residents) and what have been agreed as the terms for that settlement (i.e. commencement and curtailment arrangements). Although each CCG has the autonomy to set contract levels in their area, NHSEI are now working to create a framework which can be designed for the remainder of CCGs to be encouraged to adopt as a means of reaching a resolution with their own local providers. What became evident from NHSEI’s contact with the sample of CCGs who had provided some level of funding was that three variant approaches seem to be used to meet the additional costs incurred by social care providers of NHS CHC patients during the COVID emergency. These are:

* Providers are each formally invited to provide a schedule of additional costs (as an itemised invoice) for individually contracted NHS CHC funded placements. This can be up to a maximum of 10% of the placement price.
* As above but using a ‘proforma’ provided by the CCG. Also, with no upper limit to the additional costs payable but ‘proportionate’ to the number of people to whom Continuing Healthcare care is provided in their establishment.
* A ‘flat rate’ 5% ‘premium’ paid on all individually contracted placements.

In all cases these settlements commenced on the 17th March and are subject to review dates variously between the end of June and the end of July (meant to coincide with an overall analysis of the COVID emergency status). All the CCGs had a clear intention to continue to meet the additional costs by the means described above for the duration of the emergency. Two of the CCG’s reported that they had ‘block’ purchased additional placements and had negotiated contractual terms on the price which included (or anticipated) COVID related costs.

It is the intention of NHSEI to provide all CCG’s with these examples of how they can adopt similar approaches with their own contracted providers, including the example communications and proformas. This will be in addition to the more general ‘CHC COVID-19 related inflationary pressure’ guidance that was provided to CCGs in early June.

As to the difficulties reported by Care England members regarding the difficulties they experienced in trying to identify who, within each of the respective CCG, is responsible for this issue and who is the appropriate person to contact about it, we requested the details of each of the respective CCG lead commissioners in terms of their contact email addresses and telephone numbers.

**NHS Policy Action**

NHSEI disclosed a list of people who are believed to be the leads for local NHS organisations with responsibilities for continuing healthcare, although please note that some of those listed may well be undertaking different roles currently due to the pandemic. This list can be found on the Members Area of the Care England website <http://www.careengland.org.uk/members/covid-19>

**FNC**

If Care England members have difficulties regarding the back payment of 2019-20 FNC fees please contact info@careengland.org.uk . Care England worked with DHSC and NHSEI, who publishd letters around the back payment of the FNC.

<https://www.gov.uk/government/publications/nhs-funded-nursing-care-rates-for-2019-to-2021>

**CQUINs**

Although CQUIN schemes may have now been suspended for the whole of 2020/21, NHSEI makes it clear that CQUIN payments should be made in full regardless (except where “small value contract” exception has been properly applied).  In essence, unless contracts are explicit in stating that prices are already inclusive of CQUIN, commissioners should be paying the full 1.25% on top of the contract price.

In late January, Care England conducted research around the extent to which CCGs meet the requirement of allocating CQUIN funding to adult social care providers whom fulfil the criteria. The national guidance describes CQUIN as: “*a national framework for locally agreed quality improvement schemes. It makes a proportion of provider income conditional on the achievement of ambitious quality improvement goals and innovations agreed between Commissioner and Provider, with active clinical engagement. The CQUIN framework is intended to reward excellence, encouraging a culture of continuous quality improvement in all providers.”*

At that point we found that of those CCG’s who had replied, 76% did not pay CQUINs to adult social care providers. In turn, based on our simulations this would translate into £14,700,000 not being passed onto adult social care providers. However, despite the continuing pressures placed upon adult social care providers as a result of COVID-19, we continue to hear that CQUINs are not being paid.

CQUIN payments are designed to be paid to providers from commissioners to recognise and incentivise quality. CQUINs are supposed to be agreed upon between providers and commissioners, and are intended to be fair and achievable, while genuinely representing quality in provision. They can also be paid automatically as part of the contract “small value contract exemption” which is based upon the following premise and further detailed in the [2020-21 CQUIN Guidance](https://www.england.nhs.uk/nhs-standard-contract/cquin/cquin-20-21/):

“We recognise, however, that it may not always be a good use of resource for commissioners and providers to develop and agree detailed schemes for very low-value contracts. At their sole discretion, therefore, commissioners may choose simply to pay the percentage specified in sections 5.2 and 5.3 to providers where this value would be non-material, rather than develop a specific scheme.”

Given the burdensome nature of COVID-19 upon the financial sustainability of providers this is even more important to ensure providers receive the offer of these payments. In addition, it is our understanding that CQUINs are largely implemented for NHS providers, versus, the adult social care sector. This reasserts Care England’s view regarding the inequities between how adult social care and the NHS providers are respectively treated.

In broad terms, Care England’s report identified a number of particular themes from the Freedom of Information requests it made to CCGs:

1. Some CCG’s simply stated that they did not apply CQUINs. In such cases, members should state to local commissioners that the offer of CQUINs is in fact mandatory and should be offered to providers. In addition, providers should ask commissioners why they didn’t actually feel the need to do so.
2. Many commissioners stated that they had incorporated CQUINs into the gross fee levels, but at the same time failed to provide evidence of when the CQUIN was actually incorporated into the overall fee structure. In such cases, providers should respond by asking commissioners to provide evidence of when the fee was increased to include a CQUIN. This should include a juxtaposition with the previous year’s fees (when CQUIN) was not included – to articulate this. Such evidence could include the original letter which was sent by commissioners to demonstrate this change.

This above evidences that CQUINS are an area poorly addressed by CCGs. Further, even if you are receiving a CQUIN here from a CCG the situation also poses additional complications. From member feedback we have become aware that CCGs have not agreed CQUIN payment arrangements for 2020/21 and often will not even agree to pay CQUINs at all. Through our correspondence with NHSEI, they have made clear that CQUIN payments for existing care home CHC resident contracts are payable from 1st April 2020 if they are referenced in Schedule 3A of the NHS CHC Contract or the CCG has an agreed CQUIN programme with the Care Home that covers the national defined indicators for 2020/21.

Clarity was also provided around whether new CQUIN arrangements are suspended for new admissions April 2020 going forward until new CHC assessments can take place. Due to the current easement with NHS CHC and local changes to commissioning arrangements with the Local Authority leading in many situations, it means the Service User may not be placed under the NHS Contract. However, this would depend on the local contractual agreement with the Care Home. If placed under the NHS CHC contract (which sometimes has the CQUIN built in to the weekly costs (recorded in Schedule 3A of the Contract) for the Service User) it would be difficult not to provide it.

NHS Policy Action

NSHEI are not aware of any plans to review CQUIN arrangements that are specific to Care Homes but the ‘Revised arrangements for NHS contracting and payment during the COVID-19 pandemic’ are due for review.

**Next steps**

As of 1st September new guidance has been issued on Hopsital Discharges and CHC and ‘Who Pays’ see links below:

1. Hospital discharge service: action cards - "The action cards summarise the responsibilities of health and care staff in the hospital discharge process."
2. Reintroduction of NHS continuing healthcare - "Sets out how clinical commissioning groups (CCGs) will restart NHS continuing healthcare (CHC) assessment processes from 1 September 2020."
3. Hospital discharge service: policy and operating model - "Sets out how health and care systems should support the safe and timely discharge of people who no longer need to stay in hospital."

In addition, a summary can be found at the following link in the members area under the COVID-19 tab: <http://www.careengland.org.uk/members/covid-19>

**Determining responsibility for NHS payments to providers**

The update addresses various long-standing issues, but particularly aims to make changes to support the new guidance on hospital discharge and resumption of CHC assessments - especially the “discharge to assess” approach. The basic rule in updated ‘Who Pays?’ remains that CCG responsibility is determined on the basis of current GP registration – but there are various exceptions to this, particularly where there are long-term residential placements being made across CCG boundaries, including for CHC. For those cases, the premise is generally that the “placing CCG” has to continue to pay, even where a patient then registers with a GP belonging to a different CCG.

Who Pays? tries to make arrangements to make sure that providers do not get caught in the middle of payment disputes between CCGs. The document makes clear, in the Executive Summary, that “no necessary assessment, care or treatment should be refused or delayed because of uncertainty or ambiguity as to which NHS commissioner is responsible for funding an individual’s healthcare provision”, and – where there are disagreements between the CCGs – the rules now require them to agree to split the costs of care equally between them on a “without prejudice” basis and enter into a national dispute resolution process to sort out which CCG is to pay on an ongoing basis.

Who Pays? deals with how to determine which CCG has to pay for a patient’s care – it’s not about the distinction between what a CCG has to pay for and what a local authority has to pay for.

Found at: NHS England

**Care England**

**September 2020**

We would appreciate comments on this briefing to info@careengland.org.uk