



Equality Analysis

*National Framework for NHS Continuing
Healthcare and NHS-funded Nursing Care
(Revised November 2012)*

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Introduction

The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality, but doing so is an important part of complying with the general equality duty. It is up to each organisation to choose the most effective approach for them. This standard template is designed to help Department of Health staff members to comply with the general duty.

NHS Continuing Healthcare and NHS-funded Nursing Care

NHS Continuing Healthcare is a package of ongoing care that is arranged and funded solely by the NHS where the individual has been found to have a 'primary health need'. Such care is provided to an individual aged 18 or over, to meet needs that have arisen as a result of disability, accident or illness.

Eligibility for NHS Continuing Healthcare places no limits on the settings in which the package of support can be offered or on the type of service delivery.

NHS-funded Nursing Care is the funding contribution provided by the NHS to homes providing nursing to support the provision of nursing care by a registered nurse. Since 2007, NHS-funded Nursing Care has been based on a single band rate. In all cases, individuals should be considered for eligibility for NHS Continuing Healthcare before a decision is reached about the need for NHS-funded Nursing Care.

Equality analysis

Title: National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (Revised November 2012)

What are the intended outcomes of this work? *Include outline of objectives and function aims*

The Health and Social Care Act 2012 will create a new NHS framework and structure from 1 April 2013. We are therefore taking this opportunity to update the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care and consolidate it with supporting guidance, namely:

- NHS Continuing Healthcare Practice Guidance (2010);
- NHS Continuing Healthcare Refunds Guidance (2010);
- NHS Continuing Healthcare Frequently Asked Questions (2011).

The updated National Framework will reflect the new structures created by the Health and Social Care Act 2012 and bring this in line with the Standing Rules regulations issued under the National Health Service Act 2006 and directions issued under the Local Authority Social Services Act 1970. We are also taking this opportunity to:

- Remove inconsistencies and duplication;
- Create greater clarity without changing the policy;
- Where applicable, update information where related policy areas referenced in the Framework have changed.

This is an existing policy and is not subject to change under the new architecture set out in the Health and Social Care Act 2012.

Who will be affected? *e.g. staff, patients, service users etc*

NHS Continuing Healthcare is an existing policy which will continue under the new NHS framework and structures created by the Health and Social Care Act 2012. Any individual whose assessed health needs meet the eligibility criteria for NHS Continuing Healthcare is affected by this policy.

The Health and Social Care Act 2012 introduces a new commissioning structure from 1 April 2013, and clinical commissioning groups and the NHS Commissioning Board in their role as commissioners will need to be familiar with the policy framework.

Evidence *The Government's commitment to transparency requires public bodies to be open about the information on which they base their decisions and the results. You must understand your responsibilities under the transparency agenda before completing this section of the assessment. For more information, see the current [DH Transparency Plan](#).*

What evidence have you considered? *List the main sources of data, research and other sources of evidence (including full references) reviewed to determine impact on each equality group (protected characteristic). This can include national research, surveys, reports, research interviews, focus groups, pilot activity evaluations etc. If there are gaps in evidence, state what you will do to close them in the Action Plan on the last page of this template.*

The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care is not condition specific, nor is it dependent on diagnosis. Individuals will be assessed for eligibility across a range of 12 care domains set out in the Decision Support Tool (DST) for NHS Continuing Healthcare. If found eligible, the care package commissioned for that individual will be bespoke to that individual's needs.

The DST is designed to ensure that the full range of factors that have a bearing on an individual's eligibility are taken into account in reaching a decision irrespective of their client group or diagnosis. The tool provides practitioners with a framework to bring together and record the various needs in 12 'care domains', or generic areas of need. The domains are further sub-divided into statements of need, representing low, moderate, high, severe or priority levels of need, depending on the domain. The care domains are:

1. Behaviour
2. Cognition
3. Psychological and emotional needs
4. Communication
5. Mobility
6. Nutrition – food and drink
7. Continence
8. Skin (including tissue viability)
9. Breathing
10. Drug therapies and medication; symptom control
11. Altered states of consciousness
12. Other significant care needs.

Completion of the tool should result in an overall picture of the individual's needs that captures their nature, and their complexity, intensity and/or unpredictability and thus the quality and/or quantity (including continuity) of care required to meet the individual's needs.

The latest data available which indicates the number of people in receipt of NHS Continuing Healthcare in England is for Quarter 3 of 2012/13 and is 58,359. This data does not incorporate information on equality, including references to protected characteristics.

If a CCG or the Board identifies any issues for particular groups or communities, it should take steps to address these. This is in line with the NHS Continuing Healthcare Practice Guidance. As part of the eligibility assessment process, the NHS CHC Checklist and DST incorporates an equality monitoring form and this is for completion by the individual being assessed, although staff should offer to help them complete it where support is required. The purpose of the equality monitoring form is to help the NHS Commissioning Board and CCGs identify whether individuals from different groups (in terms of disability, ethnicity, etc.) are accessing NHS

continuing healthcare on an equitable basis, including whether they are being properly identified for potential eligibility at Checklist stage and are being identified for the Fast Track process where appropriate.

The equality form will enable the Board or the CCG to monitor whether the Framework is being applied equitably in its area.

The data collected by the Department on the numbers in receipt of NHS CHC shows that variation has reduced significantly since the Framework was introduced. Whilst the Department only collects information on numbers eligible for NHS Continuing Healthcare, Currently, Strategic Health Authorities collect more detailed data and work with their PCTs to address variation issues. The NHS Commissioning Board and CCGs will assume responsibilities for NHS CHC from 1 April 2013 and SHAs are preparing transition arrangements to the new organisations. There is an expectation that the data arrangements under SHAs will continue under the NHS Commissioning Board and CCGs.

Disability *Consider and detail (including the source of any evidence) on attitudinal, physical and social barriers.*

NHS CHC is not condition specific nor is it dependent on diagnosis. The policy framework is intended to be inclusive in this respect with no individual being treated differently on the basis of their condition or diagnosis. The assessment process is designed to establish an individuals overall level of need and whether or not a 'primary health need' exists.

NHS CHC affects people who have serious healthcare needs, the vast majority of whom will be disabled within the definition of the Equality Act 2010 ("EqA"). There is an almost complete overlap between the definition of those adults entitled to NHS CHC and the definition of disability under the EqA. The NHS Continuing Healthcare (Responsibilities) Directions 2009 which will be revoked by The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012, state that NHS CHC will be provided to:

a person aged 18 or over to meet physical or mental needs which have arisen as a result of disability, accident or illness.

Section 6 of the EqA defines a disabled person as someone who:

- (a) *. . . has a physical or mental impairment, and*
- (b) *the impairment has a substantial and long-term adverse effect on [that person's] ability to carry out normal day-to-day activities.*

The interests of the disabled are, by definition, central to the NHS CHC policy framework. Any individual with any illness or disability may be entitled to NHS Continuing Healthcare, according to their assessed individual health needs. By its nature, recipients of NHS Continuing Healthcare have long-term complex health needs.

There is some evidence, that there is a lack of clarity where people with a learning disability fall in relation to NHS Continuing Healthcare. A national training tool is being developed for NHS CHC. Key issues are addressed as best practice guidance in relation to assessment/Decision support tool domain considerations and specific issues affiliated with specialty services for

example learning Disability and Mental Health. By utilising the clinical expertise of Continuing Health Care Assessors/specialist clinical practitioners in creating the basis of the information contained in the clinically based units, there will be engagement of those who work with the framework and understand its intricacies and where there is the need for clarification and support. This will also promote ownership of the training as an effective working model and give a workforce development route for clinicians to explore wider aspects of Continuing Health Care by their direct participation as opposed to a more directed approach. Consideration of issues such as mental capacity, safeguarding, DOLS, Best Interest decisions, consent etc. are being included within the training tool.

Sex Consider and detail (including the source of any evidence) on men and women (potential to link to carers below).

The NHS CHC policy framework is inclusive in its principles with no individual being treated differently on the basis of condition, diagnosis, sex etc. The assessment process is designed to establish an individuals overall level of need and whether or not a 'primary health need' exists.

Any individual with any illness or disability may be entitled to NHS Continuing Healthcare, subject to their assessed individual health needs. There is no perceived difference in the benefits that people will receive from this policy based on their gender.

Race Consider and detail (including the source of any evidence) on difference ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers.

The NHS CHC policy framework is inclusive in its principles with no individual being treated differently on the basis of condition, diagnosis, gender, race etc. The assessment process is designed to establish an individuals overall level of need and whether or not a 'primary health need' exists.

Any individual with any illness or disability may be entitled to NHS Continuing Healthcare, subject to their assessed individual health needs. There is no perceived difference in the benefits that people will receive from this policy based on their ethnicity or nationality.

There are known to be wider cultural factors (which may correlate to religion and/or ethnic origin) that may result in people having a different perspective on care being provided outside the family. The Postgraduate Medical Journal reported in 2005 that a combination of language barriers, lack of user awareness, cultural differences and differential provision from service providers resulted in poor access to healthcare among the UK's ethnic minority populations. (A Szczepura, 'Access to health care for ethnic minority populations', Postgraduate Medical Journal 2005).

However, it is the responsibility of commissioners and those referring, for example, as part of hospital discharge planning or local authority referrals, to ensure that individuals needs are identified and assessed appropriately, and where this might include assessment for NHS CHC eligibility.

Local PCTs (from April 2013, CCGs) are responsible for promoting NHS Continuing Healthcare in their local population, and providing information in a range of languages and formats to help overcome these barriers to access. Additionally, the Department of Health and National Statistics' annual report of Overall Patient Experience was expanded in 2010 to address BME

variation, and to identify changes in patterns or trends among different ethnic minority groups.

Age Consider and detail (including the source of any evidence) across age ranges on old and younger people. This can include safeguarding, consent and child welfare.

The NHS CHC policy framework is inclusive in its principles with no individual being treated differently on the basis of condition, diagnosis, age etc. The assessment process is designed to establish an individuals overall level of need and whether or not a 'primary health need' exists.

Any individual with any illness or disability may be entitled to NHS Continuing Healthcare, subject to their assessed individual health needs. Anecdotal evidence indicates that individuals eligible for NHS Continuing Healthcare are predominantly older people, as this group is most likely to have health needs that have arisen because of disability, accident or illness. The projected increase in the percentage of the population over 65 means that there may be a higher demand for NHS Continuing Healthcare. The House of Commons Library Research Paper 'The Ageing Population' estimates that, by 2050, one in four people will be aged 65 or over.

The National Framework relates to adults. Separate arrangements exist for children and young people; the main guidance for professionals is the National Framework for Children and Young People's Continuing Care.

Gender reassignment (including transgender) Consider and detail (including the source of any evidence) on transgender and transsexual people. This can include issues such as privacy of data and harassment.

The NHS CHC policy framework is inclusive in its principles with no individual being treated differently on the basis of condition, diagnosis, gender reassignment etc. The assessment process is designed to establish an individuals overall level of need and whether or not a 'primary health need' exists.

Any individual with any illness or disability may be entitled to NHS Continuing Healthcare, subject to their assessed individual health needs. There is no perceived difference in the benefits that people will receive from this policy based on gender reassignment.

Sexual orientation Consider and detail (including the source of any evidence) on heterosexual people as well as lesbian, gay and bi-sexual people.

The NHS CHC policy framework is inclusive in its principles with no individual being treated differently on the basis of condition, diagnosis, sexual orientation etc. The assessment process is designed to establish an individuals overall level of need and whether or not a 'primary health need' exists.

Any individual with any illness or disability may be entitled to NHS Continuing Healthcare, subject to their assessed individual health needs. There is no perceived difference in the benefits that people will receive from this policy based on their sexual orientation.

Religion or belief Consider and detail (including the source of any evidence) on people with different religions, beliefs or no belief.

The NHS CHC policy framework is inclusive in its principles with no individual being treated differently on the basis of condition, diagnosis, religion etc. The assessment process is

designed to establish an individual's overall level of need and whether or not a 'primary health need' exists.

Any individual with any illness or disability may be entitled to NHS Continuing Healthcare, subject to their assessed individual health needs. There is no perceived difference in the benefits that people will receive from this policy based on their religion or beliefs.

Pregnancy and maternity *Consider and detail (including the source of any evidence) on working arrangements, part-time working, infant caring responsibilities.*

The NHS CHC policy framework is inclusive in its principles with no individual being treated differently on the basis of condition, diagnosis, pregnancy etc. The assessment process is designed to establish an individual's overall level of need and whether or not a 'primary health need' exists.

Any individual with any illness or disability may be entitled to NHS Continuing Healthcare, subject to their assessed individual health needs. There is no perceived difference in the benefits that women will receive from this policy in terms of their maternal status.

Carers *Consider and detail (including the source of any evidence) on part-time working, shift-patterns, general caring responsibilities.*

Any individual with any illness or disability may be entitled to NHS Continuing Healthcare, subject to their assessed individual health needs.

When the NHS Commissioning Board or a CCG decides to support a home-based package of care, where the involvement of a family member/friend is an integral part of the care plan then the Board or CCG should give consideration to meeting any training needs that the carer may have to carry out this role. In particular, the Board or CCG may need to provide additional support to care for the individual whilst the carer(s) has a break from his/her caring responsibilities and will need to assure carers of the availability of this support when required. This could take the form of the cared-for person receiving additional services in their own home or spending a period of time away from home (e.g. a care home). Consideration should also be given to referral for a separate carer's assessment by the relevant LA. CCGs have been allocated funding to support carers and through their strategic commissioning they should consider how this funding can best be used to support carers of people eligible for NHS continuing healthcare.

Other identified groups *Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access.*

Any individual with any illness or disability may be entitled to NHS Continuing Healthcare, subject to their assessed individual health needs. Since its introduction in 2007, the National Framework has done much to improve access to NHS Continuing Healthcare.

Eligibility for NHS Continuing Healthcare is based upon the individual's health needs. However, it is recognised that different levels of education, articulacy, awareness and confidence are known to collate closely with economic status, background and these factors may be important in relation to the processes around NHS Continuing Healthcare and appealing eligibility decisions. However, the Board and CCGs have a role in ensuring that the process of

assessment and decision-making for NHS CHC is person centred and this means placing the individual, their perception of their support needs, and their preferred models of support at the heart of the assessment and care-planning process. When deciding on how their needs are met, the individual's wishes and expectations of how and where the care is delivered should be documented and taken into account, along with the risks of different types of provision and fairness of access to resources.

Engagement and involvement

Was this work subject to the requirements of the cross-government [Code of Practice on Consultation](#)? (Y/N) Yes (consultation was undertaken in 2007 when the Framework was established).

How have you engaged stakeholders in gathering evidence or testing the evidence available?

There is no change to the existing policy for NHS Continuing Healthcare in the 2012 update of the National Framework. However, we have worked closely with the NHS CHC Small Working Group which has SHA and LA representation, on this update.

We have also invited comments on the National Framework in its draft form from the NHS CHC Stakeholder Group (including The Association of Directors of Adult Social Services (ADASS), Age UK, the Alzheimers Society, Spinal Injuries Association, Parkinsons UK and Marie Curie Care) and the Parliamentary Health Service Ombudsman. We also shared it with the ADASS Reference Group.

How have you engaged stakeholders in testing the policy or programme proposals?

PCTs were asked for their input and thoughts on the National Framework and potential points of clarification. Common themes emerged which the NHS CHC Small Working Group considered as part of a wider update of the Framework.

As described above, we also invited our Stakeholder Groups to test and comment on the revised Framework.

The Department of Health works very closely with the NHS Continuing Healthcare Stakeholders Group on all matters relating to NHS Continuing Healthcare, particularly when reviewing guidance involving specialist knowledge.

For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs:

The Stakeholder group incorporates a range of stakeholder organisations, including the Association of Directors of Adult Social Services (ADASS), Age UK, the Alzheimer's Society, the Spinal Injuries Association, Parkinson's UK and Marie Curie Care. Regular meetings were held where the NHS Continuing Healthcare Stakeholders Group inputted to the revised guidance. The NHS CHC Small Working Group led on the drafting of the revised National Framework and this involves both LA and SHA representation.

Summary of Analysis

Considering the evidence and engagement activity you listed above, please summarise the impact of your work. Consider whether the evidence shows potential for differential impact, if so state whether adverse or positive and for which groups. How you will mitigate any negative impacts. How you will include certain protected groups in services or expand their participation in public life.

Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups.

Eliminate discrimination, harassment and victimisation *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

By the nature of the healthcare provided, there is a tendency for recipients of NHS Continuing Healthcare to be older and/or disabled in some way. The core values and principles of the Framework are aimed at addressing inconsistency in the application of the policy, and so should improve access to funded care for these groups.

Access to assessment, decision-making and provision should be fair and consistent. There should be no discrimination on the grounds of race, disability, gender, age, sexual orientation, religion or belief, or type of health need (for example, whether the need is physical, mental or psychological). CCGs are responsible for ensuring that discrimination does not occur and should use effective auditing to monitor this matter. This may be achieved through the use of monitoring data to identify and address variations between areas and client groups (including use of the equality monitoring forms). Additionally, the CCGs will provide effective equality, diversity and human rights training and development, with a particular emphasis on understanding the cultures of the people they are most likely to encounter in their local area.

Advance equality of opportunity *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

The updated Framework brings together and updates the following existing documents:

- a) National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (2009)
- b) NHS Continuing Healthcare Practice Guidance (2010)
- c) NHS Continuing Healthcare Refunds Guidance (2010);
- d) NHS Continuing Healthcare Frequently Asked Questions (2011)

The National Framework is intended to achieve consistency in eligibility for NHS Continuing Healthcare so the same level of needs would result in eligibility.

The revised guidance provides greater clarity and consistency to the decision making process, making it more transparent and easier to understand, reduce any ambiguity around interpretation, which should ensure that each individual's needs are met in the most appropriate way.

Promote good relations between groups *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

This area is not relevant to this work.

What is the overall impact? *Consider whether there are different levels of access experienced, needs or experiences, whether there are barriers to engagement, are there regional variations and what is the combined impact?*

The eligibility criteria for NHS Continuing Healthcare will not be changed. Ultimately,

individuals who are eligible for NHS Continuing Healthcare who are being refused it unnecessarily will be more likely to be eligible as a result of clearer guidance.

The updated Framework will help eliminate regional variations through bringing together the four documents specified above. However, CCGs can consider collaborative commissioning for cost-effective specialist provision. Care should be taken to ensure models exist that enable personalisation and choice, particularly for socially excluded, vulnerable and hard to reach groups.

Addressing the impact on equalities *Please give an outline of what broad action you or any other bodies are taking to address any inequalities identified through the evidence.*

CCGs will be responsible for promoting awareness of NHS Continuing Healthcare, and promoting this awareness will encourage individuals to apply for NHS Continuing Healthcare. CCGs will ensure equality of opportunity, which may be achieved by:

- providing public information leaflets in appropriate formats and languages at key locations,
- providing information on CCG websites,
- using existing networks, for example LINks (Local Involvement Networks), to promote better understanding of NHS Continuing Healthcare,
- working with independent and/or voluntary organisations to promote awareness of NHS Continuing Healthcare.

Action planning for improvement *Please give an outline of the key actions based on any gaps, challenges and opportunities you have identified. Actions to improve the policy/programmes need to be summarised (An action plan template is appended for specific action planning). Include here any general action to address specific equality issues and data gaps that need to be addressed through consultation or further research.*

Please give an outline of your next steps based on the challenges and opportunities you have identified. *Include here any or all of the following, based on your assessment*

- *Plans already under way or in development to address the **challenges** and **priorities** identified.*
- *Arrangements for continued engagement of stakeholders.*
- *Arrangements for continued monitoring and evaluating the policy for its impact on different groups as the policy is implemented (or pilot activity progresses)*
- *Arrangements for embedding findings of the assessment within the wider system, OGDs, other agencies, local service providers and regulatory bodies*
- *Arrangements for publishing the assessment and ensuring relevant colleagues are informed of the results*
- *Arrangements for making information accessible to staff, patients, service users and the public*
- *Arrangements to make sure the assessment contributes to reviews of DH strategic equality objectives.*

Transition:

The revised framework sets out the principles and processes of the National Framework for NHS continuing healthcare and NHS-funded nursing care (the National Framework). It reflects the new NHS framework and structures created by the Health and Social Care Act 2012 effective from 1 April 2013. DH will work with the NHS Commissioning Board to ensure an effective transition plan is in place including consideration of equality issues.

Data collection, evidence and analysis:

DH will work with the NHS Commissioning Board and The Information Centre for Health and Social Care to ensure that national data sets continue to be collected and published. This will assist CCGs in understanding the demand for NHS CHC in their localities.

Monitoring, reviewing and evaluation:

There is an equality monitoring form in both the Checklist, Decision Support Tool and the Fast Track Pathway Tool. Completion of the form can help CCGs identify whether individuals from different groups are accessing NHS continuing healthcare on an equitable basis, including whether they are being properly identified for potential eligibility at Checklist stage and are being identified for the Fast Track process where appropriate. If the CCG identifies any issues for particular groups or communities it should take steps to address these.

For the record**Name of person who carried out this assessment:**

John Doran, NHS Continuing Healthcare Policy Lead, DH

Date assessment completed:

4 December 2012

Name of responsible Director/Director General:

Shaun Gallagher

Date assessment was signed:

Action plan template

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your policy.

Category	Actions	Target date	Person responsible and their Directorate
Transition – system architecture change from 1 April 2013	DH to work with NHS Commissioning Board to ensure an effective transition plan is in place including consideration of equality issues.	End of March 2013	DH Policy Team and NHS Commissioning Board
Data collection, evidencing and analysis	DH to work with NHS Commissioning Board and The Information Centre for Health and Social Care to ensure national data sets continue to be available to assist CCGs in their planning.	End of March 2013	DH Policy Team, NHS Commissioning Board and The Information Centre for Health and Social Care
Monitoring, evaluating and reviewing	The equality monitoring form will help CCGs identify whether individuals from different groups are accessing NHS continuing healthcare on an equitable basis, including whether they are being properly identified for potential eligibility at Checklist stage and are being identified for the Fast Track process where appropriate. If the CCG identifies any issues for particular groups or communities it should take steps to address these.	Ongoing	CCGs supported by the NHS Commissioning Board