**NHS Continuing Healthcare**

**NHS England Continuing Healthcare (NHS CHC)**

**Consent Template for Information Sharing** **with** **Family, Friends, and Representatives.**

This consent template is for use with individuals who have been identified as requiring an NHS CHC Checklist and/or full assessment. It must be used to record their consent to share their health and care information with a third party.

Third parties (in relation to NHS CHC) could be anyone supporting an individual with their NHS CHC Checklist or full assessment but are likely to be:

* Family members of the individual
* Friends of the individual
* A representative or advocate supporting the individual in the assessment process

**Consent is not required from the individual for sharing their information with those who have a statutory involvement in the NHS CHC assessment process, for example Health and Social Care professionals. This is because there is a legal requirement for sharing to take place between organisations and professionals involved in the NHS CHC assessment process**.

**How to fill out the NHS CHC Consent Template: \*\*Access Links by “Ctrl and click”.**

*\*RP - Responsible Professional (see below).*

If additional space is required in any parts of this template, please provide this information in the box after Part 5.

**Annexe A: [Link to List of identity verification documents](#_Annex_A_-)**

**Annexe B:** **[Link to Information Leaflet](#_Annexe_B:_NHS)**

# [NHS Continuing Healthcare Consent Template - Individual’s Details:](#_NHS_Continuing_healthcare)

|  |  |
| --- | --- |
| **Surname/Family name**  **of individual being assessed for NHS CHC** |  |
| **First name/s** |  |
| **Date of birth** |  |
| **NHS number** |  |
| **Other identifier (please specify) if NHS number not known** |  |
| **Permanent address** |  |
| **Telephone number** |  |
| **Responsible Professional Name\*** |  |
| **Job title** |  |
| **Organisation** |  |
| **Contact details for responsible professional** | Email:  Telephone: |
| **Date form completed** |  |

**The completed consent form should be retained securely in the electronic records or notes (if paper based) of the individual who is being assessed.**

**\****All relevant sections to be completed by the responsible professional. In this context the ‘responsible professional’ means the professional who is responsible for obtaining consent to share with third parties, normally at Checklist stage. Since the Checklist can be completed by a range of professionals any of these could be the ‘responsible professional’ in terms of gaining consent for sharing information with Family, Friends and Representatives*

**Does the individual have any communication difficulties that may impact upon their ability to consent?** **Yes   /    No**

|  |
| --- |
| If yes, how have these been addressed? Describe what steps have been taken to enable the person to make the informed decision themselves:  (*e.g. interpreter, communication aids, relevant information in an accessible form, consider time of day when their ability to understand is better, treating a medical condition which may be affecting their mental capacity, involving someone who knows them etc*.) |

# Part 1 – Consent from Individuals Who Have Capacity.

**Statement of consent to share information with Family, Friends and Representatives**

[**(Please refer to part 5)**](#_Part_5:_The)

Please read this carefully (or ask someone to read it to you) and tick to confirm those statements below that you agree with. You have the right to change your mind or withdraw your consent at any time.

I consent to the people named in the table below being involved in my NHS CHC checklist/assessment process. I understand that relevant and necessary health and social care information about me may be shared with them for the purposes of this NHS CHC checklist/assessment process. I understand that I can withdraw or amend this consent at any time.

Provide details of who the individual has consented to access their health and care information.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name** | **Relationship** | **Address and telephone number** | **Notes (for example request for a specific piece of information to be withheld)** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**OR**

I do not consent to any family/friends/representatives being involved in my NHS CHC checklist/assessment process. I understand that I can change my mind at any time.

………………………………........................ ………………………………........................

Individual's Signature Individual's Name (PRINT)

Date

# Part 2 - Where the Responsible Professional has reason to believe that the Individual may lack capacity to consent for Information Sharing with Family, Friends, and Representatives

**Mental Capacity Assessment /** **Record of Determination:**

In relation to the decision whether or not to share personal health and social care information with family/friends/representatives for the purpose of assessing eligibility for NHS Continuing Healthcare:

1. **At the date and time of this assessment, is the person able to understand the information relevant to the decision?** *(i.e. Were you satisfied that the person could understand the nature of the decision, why the decision needed to be made at the time and whether they could understand the likely effects of deciding one way or another or making no decision at all?)*   **Yes   /    No**

Please give reasons:

|  |
| --- |
|  |

1. **At the date and time of this assessment, is the person able to retain the information long enough to use it to make the decision?**  *(i.e. long enough to complete the decision-making process, including making and communicating their decision. Consideration should be given to the use of notebooks, photographs, videos, voice recorders, posters etc. to help the person record and retain the information)*  **Yes   /    No**

Please give reasons:

|  |
| --- |
|  |

1. **At the date and time of this assessment, is the person able to use and weigh up this information as part of the decision-making process?**  *(e.g. to consider the consequences, benefits and risks, of making the decision one way or another or making no decision at all? Understand the pros and cons)*  **Yes   /    No**

Please give reasons:

|  |
| --- |
|  |

1. **At the date and time of this assessment, is the person able to communicate their decision?** *(Verbally, using sign language or by any other means?)*

**Yes   /    No**

Please explain how the decision was communicated or give reasons if answer is ‘No’:

|  |
| --- |
|  |

*If the answer to any one of the four above questions is ‘NO’, is the inability to understand, retain weigh up or communicate caused by an impairment or a disturbance in the functioning of their mind or brain?*

**Yes   /    No**

Please give details. NB the impairment can be temporary or permanent and does not need to be a formal diagnosis.

Signature of responsible professional Name

Job Title Date and Time

**[PART 3a Lasting Power of Attorney or Court Appointed Deputy](#_PART_3a_Lasting)**

In cases where an individual lacks capacity, consent to share with family and friends on behalf of that person will need to be sought from any person holding lasting power of attorney (LPA) for the individual. A LPA must be approved and registered with the Office of the Public Guardian. Proof of this status will be required.

An individual may have a court-appointed deputy (CAD) to act for them. Evidence of the status of the CAD should be sought and the relevant court order produced.

A person holding either of these positions is entitled to make decisions about sharing the individual’s information with family and friends.

Where an individual does not have a LPA or CAD, then a [*best interests decision*](https://www.gov.uk/make-decisions-for-someone/making-decisions)must be made, as set out in the Mental Capacity Act 2005. This decision must take into account any previously stated wishes of the individual regarding information sharing (made at a time they had capacity), and whether the loss of capacity is temporary or permanent.

**Statement of consent to share information**

Please read this carefully and tick to confirm the statement below that you agree with. You have the right to change your mind or withdraw your consent at any time.

I consent to the people named in the table below to have access to [Insert individual’s name] health and care records, for the purpose of supporting them with the NHS CHC checklist/assessment process. I understand that I can withdraw or amend this consent at any time.

|  |  |  |  |
| --- | --- | --- | --- |
| Name | Relationship | Address and telephone number | Notes (for example request for a specific piece of information to be withheld) |
|  |  |  |  |
|  |  |  |  |

**OR**

I do not consent to any information being shared with [Insert individual’s name] family and friends. I understand I can change this decision at any time.

LPA/CAD’s Signature LPA/CAD Name (PRINT)

## [PART 3b: Best Interest Decision to Share Information with Family, Friends and Representatives:](#_PART_3b:_Best)

If the individual lacks mental capacity and there is no-one with an LPA or a Deputy with the relevant authority (i.e. to make health and welfare decisions), a best interest decision must be made by the responsible professional.

The Mental Capacity Act 2005: <http://www.legislation.gov.uk/ukpga/2005/9/contents> requires the best interest decision maker to consult with family/friends/representatives (and/or advocacy service if appropriate) before making a best interest decision. However, as noted in the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (see paragraph 92), “……The person leading the assessment is responsible for making this decision and should bear in mind the expectation that everyone who is potentially eligible for NHS Continuing Healthcare should have the opportunity to be considered for eligibility….”

Please give details of who has been consulted:

|  |  |  |
| --- | --- | --- |
| Name | Relationship | Address and telephone number |
|  |  |  |
|  |  |  |

Please confirm who (family, friends, representatives) the information can be shared with:

|  |  |  |  |
| --- | --- | --- | --- |
| Name | Relationship | Address and telephone number | Notes |
|  |  |  |  |
|  |  |  |  |

**Decision**

Is it in the Individual's best interests for information about their health and welfare to be shared for this purpose?  **Yes   /    No**

Reasons for decision:

|  |
| --- |
|  |

\*Signature of Responsible Professional Name Job Title

Date Time

## [Part 4 - Consent to Share a Deceased Person’s Information](#_Part_4_-)

This section relates to retrospective checklists/assessments for NHS CHC undertaken after the individual has passed away.

Once a person has passed away, someone will be appointed to manage their affairs. This person will be the Personal Representative (PR) of the deceased.

Anyone designated with ***n******ext of kin*** status does not have access rights to information relating to the deceased, unless they have permission from the PR.

The PR must provide two forms of ID [**(see Annexe A).**](#_Annex_A_-) The PR should **also** have an original version, or a certified copy, of one of the following documents, as proof of their PR status (the address of the PR should also be included in these documents):

* a redacted **copy of the will** - showing who the Executor/Administrator is **or**
* a sealed **Grant of Probate** **(GoP)** or a **grant of letters of administration** - which is confirmation the applicant is in the process of obtaining authority from the Probate Registry

Once a person has proved their PR status (as outlined above), they have the right to decide who the deceased’s information is shared with (and can change or amend that decision at any time).

|  |  |
| --- | --- |
|  | Record Document Type |
| Will/GOP/Letter of Administration |  |
|  | Record ID Document Type |
| Document 1 |  |
| Document 2 |  |

Name of personal representative (PR)

Signature of personal representative Date

If a request is received from anyone who is not the personal representative please find the links to the by guidance: **Access to health and care records of deceased people** [**here**](https://transform.england.nhs.uk/information-governance/guidance/access-to-the-health-and-care-records-of-deceased-people/)**:**

## Part 5: The below must be completed by the \*Responsible Professional obtaining consent for information sharing with family, friends, and representatives:

I have explained the NHS CHC process and purpose.

I have advised the individual and/or their Personal Representative of how their health and social care information may be used, and that it will be shared for this assessment process with a number of different health and social care professionals and, with agreement, relevant family/friends/representatives.

I have explained that if the Checklist indicates that a full CHC assessment is required, this does not mean they will necessarily be found eligible for CHC. Alternatively, where the Fast Track Pathway Tool is appropriate, I have explained its purpose and implications.

I have explained to the individual and/or their Personal Representative that they can withdraw or amend their consent (to share information with family/friends/representatives as part of the NHS Continuing Healthcare assessment process) at any time, should they decide to do so, as well as the potential consequences of doing this.

I have provided the individual and/or their Personal Representative with a copy of the NHS Continuing Healthcare and NHS-funded Nursing Care Public Information Leaflet.

Signed by responsible professional Date

## [Annexe A - List of identity verification documents](#_Annex_A_-)

**Verification of identity:**

To verify your identity, please provide a total of **two** documents:

* **one** form of photographic personal identification and **one** document confirming your address

A full list of documents that can be used to verify your identity can be found on the [gov.uk](https://www.gov.uk/government/publications/proof-of-identity-checklist/proof-of-identity-checklist#proof-of-identity-checklist-for-individuals) website.

## [Annexe B: NHSE CHC Consent Template Information Sheet - for Sharing:](#_Annexe_B:_NHS)

**This sets out the basis on which information is shared for the NHS CHC process.**

**NHS CHC and Information Governance:**

**NHS CHC Consent: The Legal Basis**

The ​Legal Basis ​to ​process​ data ​for ​NHS CHC ​is ​covered​ in ​UKGDPR in the following articles:

* Article ​6 ​–​ Public Task/Official Authority

​ *“The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller”*

NHS CHC ​assessments ​are ​based on ​the ​NHS ​Commissioning ​Board ​and ​CCG Regulations ​2012\*\*, ​which create ​the ​official authority vested in the controller.

* Article ​9 ​–​​ Provision of care and support to a person ​​

*“The processing is necessary for the purposes of medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services......"*

​

NHS CHC assessments​ can ​determine​ the ​provision​ of ​health and ​social care ​to ​a ​person and help manage ​health and care systems.

**NHS CHC and Common Law Duty of Confidentiality (CLDC)​**

**Personal​ Data ​+​Healthcare​ data ​=​CLDC**

Confidential​ Patient information ​is ​required ​for ​NHS ​CHC ​assessment, ​so​ CLDC ​needs ​satisfying.

CLDC is ​satisfied on ​the ​basis ​that NHS ​CHC ​assessments ​are ​a​ statutory​ requirement​ (as ​laid ​out ​in the ​2012 ​NHS ​Commissioning ​Board ​and ​CCG Regulations ​2012\*\*)

Sharing ​information ​with ​family, friends or a third sector representative or advocate, supporting the individual, ​is ​not ​covered ​by​ the ​ NHS ​Commissioning ​Board ​and ​CCG Regulations ​2012 \*\*, ​so​ consent​ is ​required.

\*\*[*The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (legislation.gov.uk)*](https://www.legislation.gov.uk/uksi/2012/2996/part/6/made) *(Refer to Part 6)*

**Patient Level Data Set (PLDS):**

NHS England and Integrated Care Boards collect information about individuals who undergo the NHS CHC assessment process (including personal data), for the NHS CHC PLDS, to help achieve better patient outcomes, better experience, and better use of resources in NHS CHC.

The lawful basis for collecting this information is Article 6 (1) (c) of the GDPR enacted by the Data Protection Act 2018.

Please note that NHS CHC PLDS data is pseudonymised for analysis purposes.

Detailed information about the use of individual’s identifiable data is publicly available at

<https://digital.nhs.uk/about-nhs-digital/our-work/keeping-patient-data-safe/gdpr/gdpr-register>

*For free, independent advice about NHS Continuing Healthcare please contact:*

[*Beacon CHC | Free Information & Advice - Beacon CHC*](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.beaconchc.co.uk%2Fhow-we-can-help%2Ffree-information-and-advice-on-nhs-continuing-healthcare%2F&data=05%7C01%7Cnhsei.chcworkforcedevelopment%40nhs.net%7C898b05ffccac4d5a370b08db4009c79f%7C37c354b285b047f5b22207b48d774ee3%7C0%7C0%7C638174182958617483%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=SS1U2qW24HUBNIrf%2FDELQt9omShPtFTomq79kumerr4%3D&reserved=0)

[National framework for NHS continuing healthcare and NHS-funded nursing care - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care)

## Further Information can be recorded here (If required)