



# Local Resolution Best Practice Guidance

NHS Continuing Healthcare

NHS England





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## Local Resolution Best Practice Guidance

### Purpose of Local Resolution Best Practice Guidance

1. To support Integrated Care Boards (ICB) to establish high quality Local Resolution (LR) processes.

### Purpose of Local Resolution

2. The ICB) is responsible for having in place a Local Resolution Process if an individual wishes to review an eligibility decision. This is set out in paragraph 214 (see Annex 1) of the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care 2022 (National Framework).

### Good Practice for Local Resolution

3. LR should be able to consider:
  - levels of need in disputed care domains,
  - the application of the 'primary health need (PHN) test' as set out in paragraphs 55 to 67 of the National Framework (see **Annex 1**), and
  - any process concerns.
4. Factors which may cause the patient/family experience of the LR process to fall below expected standards can often be avoided or overcome with transparency and good communication throughout the NHS CHC Checklist and Decision Support Tool (DST) assessment processes. Good joint working practices between the ICB and Local Authority, as well as other partners, are also essential, demonstrating mutual respect between all professionals and the individual and their family/representative.
5. It is important that whoever is completing the Checklist, explains that the Checklist threshold is set intentionally low and that only a minority of those who have a positive Checklist and then undergo a full assessment will be found eligible for NHS CHC. The rationale for the eligibility decision should be set out clearly. Challenges to a negative checklist should be addressed through the NHS complaints process and not the LR process.
6. Getting the assessment right and following the procedures and key principles set out in the NHS CHC National Framework reduces the need for use of a LR process.
7. Contact details of the ICB's team responsible for NHS CHC should be readily available to patients and families.

8. The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care 2022 (paragraph 215 ) sets out an overview of the process to be followed by ICBs for Local Resolution (See **Annex 2**).
9. It is important to provide individuals and their representative language and communications support should they require it. The LR should be delivered taking into account the Accessible Information Standard <https://www.england.nhs.uk/ourwork/accessibleinfo/>

## Core Principles of Local Resolution

- **A person-centred approach:** The attitude, behaviour and intent should be focused on understanding the concerns (and addressing these where appropriate) and that this is key to successful resolution. Individual/representative input should be actively encouraged during the assessment process.
- **Clarification is the key:** The process of discussion with the individual/representative needs to elicit a clear understanding by all parties of what the key areas of disagreement are.
- **Constantly check communication:** Practitioners need to ensure that they give clear explanations and confirm that these have been understood, keeping in mind the requirements of the Accessible Information Standard and providing communications support.
- **Don't delay:** ICBs should undertake LR in a timely way and aim to provide an outcome within 3 months.
- **Learn from the Process:** The ICB needs to reflect on the issues raised and decide whether there are any identified concerns in the process and/or a need for any additional training.
- **Other issues:** Any issues identified that are not appropriate for the LR need to be signposted appropriately, and the individual may need support to ensure they are dealt with elsewhere.

## Improving the Local Resolution Process

10. Individuals who are assessed as not eligible to receive NHS CHC funding will have the decision communicated to them/their representative in writing, normally within two working days of the decision being made. Within the written decision letter there should be information about how to request a review of the decision, the associated timeframes (allowing for any exceptional circumstances) and details of who to contact in the ICB regarding this. ICBs are reminded of the requirements of the Accessible Information Standard and providing communications support
11. For an individual or their representative to seek review of a decision with regard to eligibility for NHS CHC funding by the local ICB; the individual has a time limit of no

later than **6 months** from the date that the notification of the eligibility decision is given to the individual.

12. The ICB should deal with the request for a local review within **3 months** of receipt of the questionnaire regarding the associated request.
13. In the first instance individuals will be requested to contact the ICB to discuss their reasons for requesting a review of a 'not eligible' decision.

### Informal Local Resolution

14. An informal two-way meaningful discussion between the ICB CHC practitioner and the individual/representative should take place via a mutually agreeable means, for example, by telephone. A written summary of the discussion should be made available for both parties.
15. During the initial discussion there will be an opportunity for the individual to:
  - receive clarification of anything that they have not understood,
  - have an explanation from the ICB representative with regards to how the ICB has arrived at the decision of 'not eligible' to receive NHS CHC – this will reference the completed DST and the PHN test as described in the four key characteristics,
  - describe additional information that has not been obtained by the MDT that the individual believe needs to be considered, and
  - describe additional information that was available to the MDT that the individual believes was not given due consideration.
16. If the differences cannot be resolved informally through this initial discussion, or, if for some reason an individual declines an informal discussion, and requests to immediately proceed to the formal stage, the individual will be invited to attend a formal LR meeting.

### Formal Local Resolution Meeting

17. Formal LR should include the following:
  - a **senior representative** nominated by the ICB from outside the original MDT should be involved in the LR meeting to enable an objective review of the original assessment and subsequent decision,
  - the individual should be given the opportunity to bring a **representative** to the LR meeting,
  - the ICB should have relevant **core information** such as GP summary records, care provider records, local authority records and any other information deemed important for the completion of the NHS CHC recommendation,

- If the individual believes that there is **other or new relevant information** available and informs the ICB of this, the ICB will make reasonable and proportionate effort to obtain it (see paragraphs 18 and 19 below),
  - **Areas of concern**-there should be open discussion that clarifies why the individual remains dissatisfied with the decision of the ICB e.g. whether specific domains are the issue and, if so, the ICB should refer to the relevant notes/assessments pertaining to those domains. It is of particular importance to outline the discussion relating to such specific issues in the subsequent LR decision letter, and
  - the **outcome** of the Local Resolution Meeting should be communicated in writing to the individual in line with published timescales. The written information will include notes taken by an ICB note taker at the meeting and will include the specific areas of dispute and actions to be taken.
18. New Information should not normally be accepted as part of the formal LR i.e. information that was not made available to the MDT (and is therefore information that may not have been considered by the MDT when making its recommendation). This may exceptionally require the case to be returned to the MDT for a review of their recommendation.
19. Additionally, formal Local Resolution meetings should incorporate due consideration of information that was available to the MDT but the individual believes they were not given a clear explanation as to why it was not acknowledged or deemed to be of significance.
20. If agreement is not achieved at the LR Meeting, the decision letter should inform the individual of their right to request an Independent Review (IR) by NHS England, including the relevant contact details.
21. It is important that, before a case comes to NHS England for an IR, all appropriate steps have been taken by the ICB to resolve the case locally. NHS England are, therefore, unable to accept an application for IR until the responsible ICB has completed the local resolution process, unless there are exceptional circumstances.
22. The ICB should use the IRP Standard Index as the outline for the Local Resolution file. All the information used at Local Resolution in the ICB will form the file that is sent to NHS England if an IR is requested. This ensures that the (IR) case will consider all available information and reduces the delay in sending the file when it is requested by NHS England.

## Annex 1

### Purpose of Local Resolution

Paragraph 214 of the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care 2022 (National Framework) sets out that,

“Where an individual or their representative asks the ICB to review the eligibility decision, this should be addressed through the local resolution procedure, which is normally expected to resolve the matter. ICBs should deal with requests for review in a timely manner...”

## Annex 2

### The National Framework Local Resolution Process

The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care 2022 (paragraph 215) sets out that,

“All ICBs must have an NHS Continuing Healthcare local resolution process. They should therefore develop, deliver and publish a local resolution process that is fair, transparent, includes timescales and takes account of the following guidelines:

(a) There should be an attempt to resolve any concerns initially through an informal two-way meaningful discussion between the ICB representative and the individual and/or their representative. There should be a written summary of this for both parties. The discussion should be an opportunity for the individual or their representative to receive clarification of anything they have not understood. The ICB should explain how it has arrived at the decision regarding eligibility, including reference to the completed DST and primary health need assessment. Where required this should also be an opportunity for the individual or their representative to provide any further information that had not been considered.

(b) Where a formal meeting involving the individual and/or their representative is required, this should involve someone with the authority to decide next steps on behalf of the ICB (e.g. to request further reports, or seek further clarification/reconsideration by the MDT). The individual should be able to put forward the reasons why they remain dissatisfied with the ICB’s decision.



There should be a full written record of the formal meeting for both parties.  
The ICB will agree next steps with the individual or their representative.

(c) Following the formal meeting and outcome of the next steps, the ICB will either uphold or change the original eligibility decision.

(d) A key principle of the local resolution process is that, as far as possible, if the ICB does not change the original decision, the individual or their representative has had a clear and comprehensive explanation of the rationale for the ICB decision.

(e) Where individuals wish to move straight to a formal meeting this should be considered. ICBs should use every opportunity to learn from these meetings, and should consider how they share their learning with other ICBs.

(f) ICBs may choose to prioritise cases for individuals currently in receipt of care.”



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