

APPENDIX A

THE LOCAL AUTHORITY AND NATIONAL HEALTH SERVICE COMPLAINTS (ENGLAND) 2009

- 13 Procedure before investigation.
 - (7) At the time it acknowledges the complaint, the responsible body must offer to discuss with the complainant, at a time to be agreed with the complainant –
 - (a) The manner in which the complaint is to be handled
 - (b) The period (“the response period”) within which –
 - (i) The investigation of the complaint is likely to be completed.
 - (ii) The response required by regulation 14(2) is likely to be sent to the complainant.

- 14 Investigation and response.
 - (1) A responsible body to which a complaint is made must –
 - (a) Investigate the complaint in a manner appropriate to resolve it speedily and efficiently.
 - (b) During the investigation, keep the complainant informed, as far as reasonably practicable, as to the progress of the investigation.
 - (2) The responsible body must send the complainant in writing a response, signed by the responsible person, which includes –
 - (a) A report which includes the following matters –
 - (i) An explanation of how the complaint has been considered.
 - (ii) The conclusions reached in relation to the complaint, including any matters for which the complaint specifies, or the responsible body considers, that remedial action is needed.

APPENDIX B

WHCCG: POLICY FOR THE MANAGEMENT OF COMPLAINTS

- 1.6 Complainants will therefore be invited to discuss the handling of their complaint in person or by telephone to agree a timescale and confirm their desired outcome.
- 3.6.3 At the time of acknowledging the complaint the complaints team must offer to discuss and agree a plan of action with the complainant for handling the complaint which includes:
 - When the investigation is likely to be completed
 - What reasonable outcome is desired.
 - When the response is likely to be sent.
 - Offer an early meeting if appropriate.
 - What the issues are that the complainant wants raised / addressed.
- 3.6.4 The agreed actions, questions and timescales for response will be confirmed in writing to the complainant.
- 3.10.2 The response will also:
 - Offer an explanation of how the complaint has been investigated, address the concerns expressed by the complainant and show that each element has been fully and fairly investigated.
- 4.1.2 It is the responsibility of all directorates and teams to adhere to the Complaints Policy.
- 4.2.2 The Director of Quality (Board Nurse) is responsible for overseeing the complaints management process, ensuring that complaints are handled in accordance with the policy.
- 4.2.5 Managers are responsible for ensuring that complaints are investigated in accordance with this policy.
- Appendix 5
 - The underlying approach promoted by the Principles for Remedy is for the service provider to restore the complainant to the position they would have been in if the maladministration or poor service had not occurred.
 - Remedies should be fair, reasonable and proportionate to the injustice of [sic] hardship incurred.
 - Decisions to make payments should be endorsed by the CCG Director of Finance / Chief Officer. Such decisions should take into account the following factors:
 - How much the complainant has demonstrably lost financially or what extra costs they have incurred.
 - The impact on the individual, for example whether the events contributed to ill health or led to prolonged or aggravated injustice or hardship.
 - The length of time taken to resolve a dispute or complaint.
 - The trouble the individual was put to in pursuing the dispute or complaint.

APPENDIX C

NATIONAL FRAMEWORK FOR NHS CONTINUING HEALTHCARE

- 44. Assessments of eligibility for NHS continuing healthcare and NHS – funded nursing care should be organised so that the individual being assessed and their representative understand the process, and receive advice and information that will maximise their ability to participate in informed decision-making about their future care. Decisions and rationales that relate to eligibility should be transparent from the outset for individuals, carers, family and staff alike.

APPENDIX D

NURSING AND MIDWIFERY COUNCIL: THE CODE – THE PROFESSIONAL STANDARDS OF PRACTICE AND BEHAVIOUR FOR NURSES AND MIDWIVES

- 2 Listen to people and respond to their preferences and concerns.
 - 2.1 Work in partnership with people to make sure you deliver care effectively.
- 3 Make sure that people’s physical, social and psychological needs are assessed and responded to.
 - 3.4 Act as an advocate for the vulnerable, challenging poor practice.
- 4 Act in the best interests of people at all times.
 - 4.2 Make sure that you get properly informed consent and document it before carrying out any action.
- 5 Respect people’s right to privacy and confidentiality.
 - 5.2 Make sure that people are informed about how and why information is used and shared by those who will be providing care.
- 6 Always practise in line with the best available evidence.
 - 6.1 Make sure that any information or advice given is evidence based.
- 10 Keep clear and accurate records relevant to your practice.
 - 10.3 Complete all records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements.
 - 10.6 Collect, treat and store all data and research findings appropriately.
- 13 Recognise and work within the limits of your competence.
 - 13.1 Accurately assess signs of normal or worsening physical and mental health in the person receiving care.
- 15 Always offer help if an emergency arises in your practice setting or anywhere else.
- 16 Act without delay if you believe that there is a risk to patient safety or public protection.
 - 16.2 Raise your concerns immediately if you are being asked to practise beyond your role, experience and training.
 - 16.4 Acknowledge and act on all concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so.
- 17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection.
 - 17.1 Take all reasonable steps to protect people who are vulnerable or at risk of harm.
- 20 Uphold the reputation of your profession at all times.
 - 20.1 Keep to and uphold the standards and values set out in the Code.
 - 20.2 Act with honesty and integrity at all times.
 - 20.3 Be aware at all times of how your behaviour can affect and influence the behaviour of other people.
 - 20.4 Keep to the laws of the country in which you are practising.
 - 20.5 Treat people in a way that does not take advantage of their vulnerability or cause them upset or distress.
 - 20.6 Stay objective.

APPENDIX E

HEALTH AND CARE PROFESSIONS COUNCIL: STANDARDS OF CONDUCT, PERFORMANCE AND ETHICS

- 1 Promote and protect the interests of service users and carers.
 - Treat service users and carers with respect.
 - 1.2 You must work in partnership with service users and carer, involving them, where appropriate, in decisions about the care, treatment or other services to be provided.

- 5 Respect confidentiality.
 - Using information.
 - 5.1 You must treat information about service users as confidential.
 - Disclosing information.
 - 5.2 You must only disclose confidential information if:
 - You have permission.
 - The law allows this.

- 6 Manage risk.
 - Identify and minimise risk.
 - 6.2 You must not do anything, or allow someone else to do anything, which could put the health or safety of a service user, carer or colleague at unacceptable risk.

- 9 Be honest.
 - Personal and professional behaviour.
 - 9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession.

- 10 Keep records of your work.
 - Keep accurate records.
 - You must keep full, clear, and accurate records for everyone you care for, treat, or provide other services to.

APPENDIX F

THE DATA PROTECTION ACT 1998

- Part II – Rights of data subjects and others.
 - 7.1 Subject to the following provisions of this section and to sections 8 and 9, an individual is entitled-
 - To be informed by any data controller whether personal data of which that individual is the data subject are being processed by or on behalf of that data controller.
 - If that is the case, to be given by the data controller a description of-
 - (i) The personal data of which that individual is the data subject
 - (ii) The purposes for which they are being or are to be processed, and
 - (iii) The recipients or classes of recipients to whom they are or may be disclosed.
 - 13.1 An individual who suffers damage by reason of any contravention by a data controller of any of the requirements of this Act is entitled to compensation from the data controller for that damage.
 - 13.2 An individual who suffers distress by reason of any contravention by a data controller of any of the requirements of this Act is entitled to compensation from the data controller for that distress if-
 - The individual also suffers damage by reason of the contravention, or
 - The contravention relates to the processing of personal data for the special purposes.
- Part V – Enforcement.
 - 40.2 In deciding whether to serve an enforcement notice, the Commissioner shall consider whether the contravention has caused or is likely to cause any person damage or distress.
 - 40.3 An enforcement notice in respect of a contravention of the fourth data protection principle which requires the data controller to rectify, block, erase or destroy any inaccurate data held by him and containing an expression of opinion which appears to the Commissioner to be based on the inaccurate data.
- Part VI – Miscellaneous and general.
 - 55 Unlawful obtaining etc. of personal data.
 - 55.1 A person must not knowingly or recklessly, without the consent of the data controller-
 - (a) Obtain or disclose personal data or the information contained in personal data, or
 - (b) Procure the disclosure to another person of the information contained in personal data
 - 55.3 A person who contravenes subsection (1) is guilty of an offence.
 - 60 General provisions relating to offences.
 - 60.2 A person guilty of an offence under any provision of this Act other than paragraph 12 of Schedule 9 is liable-
 - (a) On summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) On conviction on indictment, to a fine
 - 60.4 Subject to subsection (5), the court by or before which a person is convicted of-
 - (a) An offence under section 21(1), 22(6), 55 or 56,
 - (b) An offence under section 21(2) relating to processing which is assessable processing for the purposes of section 22, or
 - (c) An offence under section 47(1) relating to an enforcement notice,may order any document or other material used in connection with the processing of personal data and appearing to the court to be connected with the commission of the offence to be forfeited, destroyed or erased.
- 61.1 Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or similar officer of the body corporate or any person who was purporting to

LIFE THREATENING ● UNPREDICATABLE ● WITHOUT WARNING ● FLUCTUATING ● DANGEROUS

act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

- Schedule 1 – The Data Protection Principles – Part I: The Principles.
 - 1 Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless-
 - (a) At least one of the conditions in Schedule 2 is met, and
 - (b) In the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
 - 2 Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
 - 3 Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
 - 4 Personal data shall be accurate and, where necessary, kept up to date.
 - 6 Personal data shall be processed in accordance with the rights of data subjects under this Act.
 - 7 Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

- Schedule 1 The Data Protection Principles – Part II: Interpretation of the Principles in Part I.
 - The First Principle.
 - 1.1 In determining for the purposes of the first principle whether personal data are processed fairly, regard is to be had to the method by which they are obtained, including in particular whether any person from whom they are obtained is deceived or misled as to the purpose or purposes for which they are to be processed.
 - The Seventh Principle.
 - 10 The data controller must take reasonable steps to ensure the reliability of any employees of his who have access to the personal data.

- Schedule 2 – Conditions relevant for purposes of the first principle: Processing of any personal data.
 - 1 The data subject has given his consent to the processing.
 - 2 The processing is necessary-
 - (a) For the performance of a contract to which the data subject is a party, or
 - (b) For the taking of steps at the request of the data subject with a view to entering into a contract.
 - 3 The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.
 - 4 The processing is necessary in order to protect the vital interests of the data subject.
 - 5 The processing is necessary-
 - (a) For the administration of justice,
 - (b) For the exercise of any functions conferred on any person by or under any enactment,
 - (c) For the exercise of any functions of the Crown, a Minister of the Crown or a government department, or
 - (d) For the exercise of any other functions of a public nature exercised in the public interest by any person.
 - 6.1 The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interest of the data subject.
 - 6.2 The Secretary of State may by order specify particular circumstances in which this condition is, or is not, to be taken to be satisfied.

APPENDIX G

WHCCG: CONFIDENTIALITY POLICY – DATA PROTECTION ACT 1998

- Summary of key points to note.
 - Staff have a legal duty of confidence to keep personal confidential data private and not to divulge information accidentally. Staff may be held personally liable for a breach of confidence. Monetary penalties of up to £500k could be imposed upon the CCG, and/or employees, for non-compliance with relevant legislation and NHS guidance.
- Introduction.
 - 1.1 The NHS West Hampshire Clinical Commissioning Group (CCG) has a legal obligation to comply with all appropriate legislation in respect of confidentiality, data, information and IT security. It also has a duty to comply with guidance issued by NHS England, the Information Commissioner, other advisory groups to the NHS and guidance issued by professional bodies.
- Disclosure of information and information in transit.
 - 10.1 It is important that information about identifiable individuals (such as the general public and/or staff) should only be disclosed on a strict need to know basis. Strict controls governing the disclosure of identifiable information is also a requirement of the Caldicott recommendations.
- Disciplinary.
 - 15.1 A breach of the data protection requirements could result in a member of staff facing disciplinary action.
- Disclosure of personal and confidential information
 - 17.1 To ensure that information is shared appropriately, care must be taken to check that there is a firm legal basis in place.
 - 17.3 Information can be disclosed where consent (from the individual to whom the information relates) has been obtained.
- Staff responsibilities.
 - 19.1 All staff have a legal duty of confidence to keep personal confidential data private and not to divulge information accidentally.
- Abuse of privilege.
 - 20.1 It is strictly forbidden for employees to knowingly browse, search for or look at any information relating to themselves, their own family, friends or other person, without a legitimate purpose. Action of this kind will be viewed as breach of confidentiality and the Data Protection Act.

APPENDIX H

WHCCG: INFORMATION GOVERNANCE POLICY

- Introduction.
 - 1.4 The aims of this document are to maximise the value or organisational assets by ensuring that information is:
 - Held securely and confidentially.
 - Obtained fairly and efficiently.
 - Recorded accurately and reliably.
 - Used effectively and ethically.
 - Shared appropriately and lawfully.
 - 1.5 To protect the organisation's information assets from all threats, whether internal or external, deliberate or accidental. The CCG will ensure:
 - Information will be protected against unauthorised access.
 - Confidentiality of information will be assured.
 - Integrity of information will be maintained.
 - Regulatory and legislative requirements will be met.
 - All breaches of information security, actual or suspected, will be reported to and investigated by the South, Central & West Commissioning Support Unit (SCW CSU) Information Governance Team.
- Legal compliance.
 - 4.2 The CCG will establish and maintain policies to ensure compliance with the Data Protection Act, Human Rights Act and the common law duty of confidentiality.
- Responsibilities.
 - 8.3 CCG Caldicott Guardian.
 - 8.3.1 The CCG Caldicott Guardian is seen as the 'conscience' of the organisation regarding the use of personal confidential data. They are responsible for ensuring all personal confidential data is shared in an appropriate and secure manner.
 - 8.10 CCG Service Leads
 - 8.10.1 Service leads are responsible for ensuring that the policy and its supporting standards and guidelines are built into local processes and that there is on-going compliance.
 - 8.11 CCG Staff
 - 8.11.1 All staff, whether permanent, temporary, contracted, or contractors are responsible for ensuring that they are aware of the requirements of this policy and for ensuring that they comply with these of a day to day basis.

APPENDIX I

THE DEPARTMENT OF HEALTH: CONFIDENTIALITY – NHS CODE OF PRACTICE

- The NHS is committed to the delivery of a first class confidential service. This means ensuring that all patient information is processed fairly, lawfully and as transparently as possible so that the public:
 - Give their consent for the disclosure and use of their personal information.
 - Gain trust in the way the NHS handles information.
- A duty of confidence arises when one person discloses information to another (e.g. patient to clinician) in circumstances where it is reasonable to expect that the information will be held in confidence. It –
 - Is a legal obligation that is derived from case law.
 - Is a requirement established within professional codes of conduct.
 - Must be included within NHS employment contract as a specific requirement linked to disciplinary procedures.
- [Patients] have the legitimate expectation that staff will respect their privacy and act appropriately.
- Information provided in confidence should not be used or disclosed in a form that might identify a patient without his or her consent.
- Whilst patients may understand that information needs to be shared between members of care teams and between different organisations involved in healthcare provision, this may not be the case and the efforts made to inform them reflect the breadth of the required disclosure.
- Consider whether patients would be surprised to learn that their information was being used in a particular way – if so, then they are not being effectively informed.
- In order to inform patients properly, staff must:
 - Make clear to patients when information is recorded or health records are accessed.
 - Make clear to patients when they are or will be disclosing information with others.
 - Check that patients have no concerns or queries about how their information is disclosed and used.
- The disclosure and use of confidential patient information needs to be both lawful and ethical.
- Common Law of Confidentiality
 - The key principle is that information confided should not be used or disclosed further, except as originally understood by the confider, or with their subsequent permission.
- Administrative Law
 - According to well-established rules a public authority must possess the power to carry out what it intends to do. If not, its action is “*ultra vires*”, i.e. beyond its lawful powers
- Key Questions for Confidentiality Decisions.
 - Is disclosure either a statutory requirement or required by order of a court?
 - Is the disclosure needed to support the provision of healthcare or to assure the quality of that care?
 - Have appropriate steps been taken to inform patients about proposed disclosures?
- Providing a Confidential Service: Detailed Requirements.
 - A1 Protect Patient Information.
 - Recognising that confidentiality is an obligation for all staff.
 - Breach of confidence, inappropriate use of health records or abuse of computer systems may lead to disciplinary measures, bring into question professional registration and possibly result in legal proceedings.

LIFE THREATENING ● UNPREDICATABLE ● WITHOUT WARNING ● FLUCTUATING ● DANGEROUS

- Recording patient information accurately and consistently.
 - Maintaining proper records is vital to patient care. If records are inaccurate, future decisions may be wrong and harm the patient.
- Patient records should:
 - Be factual, consistent and accurate.
 - Be written, wherever applicable, with the involvement of the patient or carer.
 - Be clear, unambiguous.
 - Provide evidence of actions agreed with the patient (including consent to treatment and/or consent to disclose information).
 - Include facts presented to the patient.
 - Include correspondence from the patient or other parties.
- A2 Inform Patients Effectively – No Surprises.
 - Make clear to patients when information is recorded or health records are accessed.
 - Make clear to patients when information is or may be disclosed to others.
 - Check that patients have no concerns or queries about how their information is used.
- Confidentiality Decisions.
 - Model B1 – where it is proposed to share confidential information in order to provide healthcare.
 - Is there a statutory requirement for, or a court order demanding, disclosure? No –
 - Is the use or sharing intended to support or audit the provision of “healthcare” to the patient concerned? Yes –
 - Is the patient competent to understand and give consent to proposed information sharing, or is someone with parental responsibility able to consent? Yes –
 - Has the patient concerned been made aware of who may see what information for what purposes and his/her right to object? No – [Yes, go to final bullet point]
 - Inform the patient about who may need to see what for information for purposes of his/her right to object.
 - Has the patient raised any concerns or objections?
- Health records are for healthcare.
 - It is still very important that reasonable efforts are made to ensure that patients understand how their information is to be used to support their healthcare and that they have no objections.
- Informing patients.
 - The Data Protection Act 1998 requires that patients be informed, in general terms, how their information may be used, who will have access to it and the organisations it may be disclosed to.
- Common Law and disclosure in the Public Interest.
 - The key principle of the duty of confidence is that information confided should not be used or disclosed further in an identifiable form, except as originally understood by the confider, or with his or her subsequent permission. NHS organisations should have, or be putting in place, procedures for reviewing the appropriateness and necessity of using confidential patient information to support specific purposes. They should also be developing staff codes of practice and putting in place information sharing protocols to govern working across organisational boundaries.

APPENDIX J

THE CALDICOTT PRINCIPLES

- Principle 1 – Justify the purpose for using confidential information.
 - Every proposed use or transfer of personal confidential data within or from an organisation should be clearly defined, scrutinised and documented, with continuing uses regularly reviewed, by an appropriate guardian.

- Principle 2 – Don't use personal confidential data unless it is absolutely necessary.
 - Personal confidential data items should not be included unless it is essential for the specified purpose(s) of that flow. The need for patients to be identified should be considered at each stage of satisfying the purpose(s).

- Principle 4 – Access to personal confidential data should be on a strict need-to-know basis.
 - Only those individuals who need access to personal confidential data should have access to it, and they should only have access to the data items that they need to see.

- Principle 5 – Everyone with access to personal confidential data should be aware of their responsibilities.
 - Action should be taken to ensure that those handling personal confidential data – both clinical and non-clinical staff – are made fully aware of their responsibilities and obligations to respect patient confidentiality.

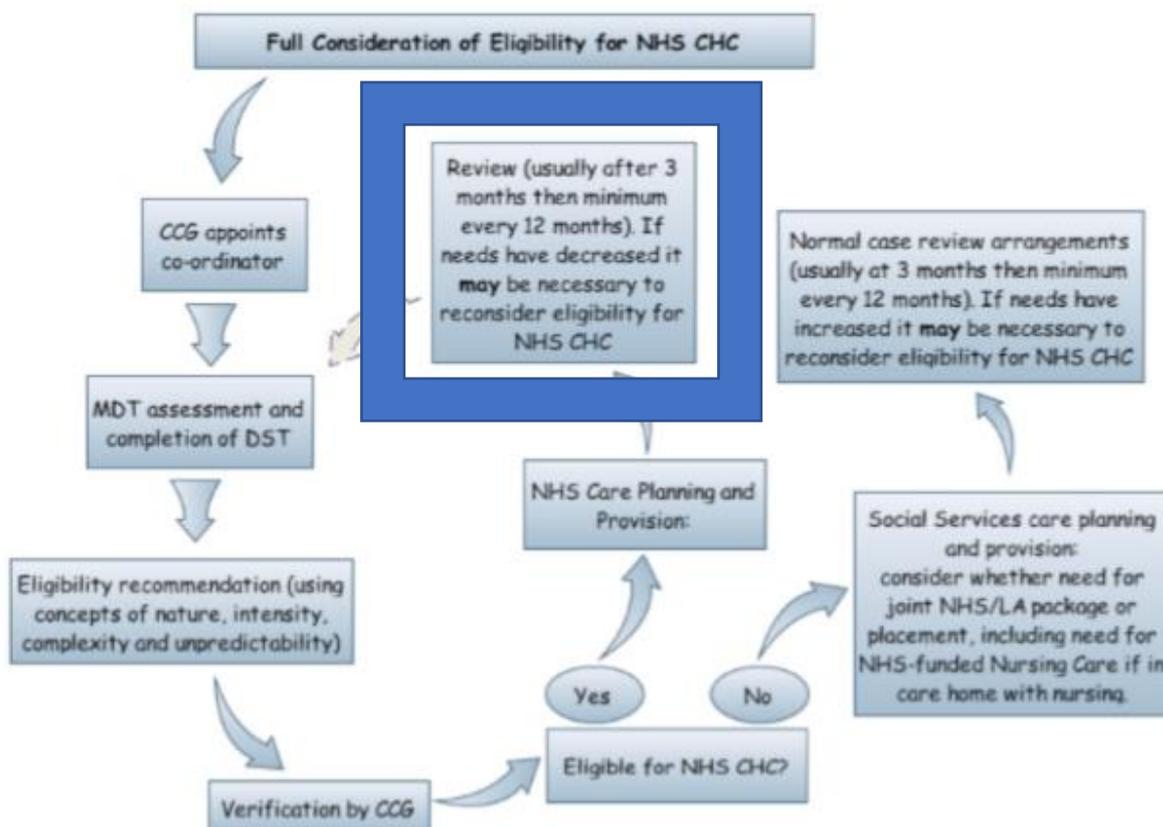
- Principle 6 – Comply with the law.
 - Every use of personal confidential data must be lawful. Someone in each organisation handling personal confidential data should be responsible for ensuring that the organisation complies with legal requirements.

APPENDIX K

NATIONAL FRAMEWORK FOR NHS CONTINUING HEALTHCARE

- 44. Assessments of eligibility for NHS continuing healthcare and NHS – funded nursing care should be organised so that the individual being assessed and their representative understand the process, and receive advice and information that will maximise their ability to participate in informed decision - making about their future care. Decisions and rationales that relate to eligibility should be transparent from the outset for individuals, carers, family and staff alike.
- 81. The evidence and the decision-making process should be accurately and fully recorded.
- 139. Reviews should then take place annually, as a minimum. It is expected that any previously completed DST will normally be available at the review and each of the domains and previously assessed need levels considered by the reviewer. This should be done in consultation with the person being reviewed and any other relevant people who know the person who are present at the review. However, the focus of the review should not just be on whether the individual remains eligible for NHS continuing healthcare but on whether needs are being met and whether the package of care remains appropriate.
- 162. CCGs are responsible for:
 - ensuring consistency in the application of the national policy
 - implementing and maintaining good practice
 - ensuring that quality standards are met and sustained.
- PG26.4. The coordinator should ensure that this takes place, including... helping the individual to understand the eligibility process as it progresses.

Flow Chart – Full Consideration Using DST



APPENDIX L

WHCCG: POLICY FOR THE MANAGEMENT OF COMPLAINTS

- Appendix 5
 - The underlying approach promoted by the Principles for Remedy is for the service provider to restore the complainant to the position they would have been in if the maladministration or poor service had not occurred.
 - Remedies should be fair, reasonable and proportionate to the injustice of [sic] hardship incurred.
 - Decisions to make payments should be endorsed by the CCG Director of Finance / Chief Officer. Such decisions should take into account the following factors:
 - How much the complainant has demonstrably lost financially or what extra costs they have incurred.
 - The impact on the individual, for example whether the events contributed to ill health or led to prolonged or aggravated injustice or hardship.
 - The length of time taken to resolve a dispute or complaint.
 - The trouble the individual was put to in pursuing the dispute or complaint.

APPENDIX M

WHCCG: JOINT OPERATIONAL POLICY

- 12. 1 Case reviews will be undertaken for individuals no later than three months following the eligibility decision and thereafter on an annual basis, unless a change in need or circumstance identifies an earlier review is required. This will ensure that individual is receiving the care they need and that they remain eligible for NHS CHC funding. Should a review show that following a change in need the individual may no longer meets criteria then a reassessment of eligibility must be undertaken following the DST process.

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APPENDIX N

NATIONAL FRAMEWORK FOR NHS CONTINUING HEALTHCARE

- PG11.1 In applying the principle of well-managed need, consideration should be given to the fact that specialist care-providers may not routinely produce detailed recording of the extent to which a need is managed.

APPENDIX O

JOINT OPERATIONAL POLICY

- 12. 1 Case reviews will be undertaken for individuals no later than three months following the eligibility decision and thereafter on an annual basis, unless a change in need or circumstance identifies an earlier review is required. This will ensure that individual is receiving the care they need and that they remain eligible for NHS CHC funding. Should a review show that following a change in need the individual may no longer meets criteria then a reassessment of eligibility must be undertaken following the DST process.

APPENDIX P

NHS: CARE RECORD GUARANTEE

- We have a duty to:
 - Maintain accurate records.
- It is good practice for people in the NHS who provide your care to:
 - Discuss and agree with you what they are going to record about you.
- Our 12 commitments to you.
 - 8 We will take appropriate steps to make sure information about you is accurate. You will be given opportunities to check records about you and point out mistakes. We will normally correct factual mistakes. If you are not happy with an opinion or comment that has been recorded, we will add your comments to the record. If you feel you are suffering distress or harm as a result of information currently held in your record, you can apply to have the information amended or deleted.
- Six things you can do in return.
 - Tell us if any information in your record is wrong.

APPENDIX Q

THE DATA PROTECTION ACT: PRINCIPLE 4

- Part II – Rights of data subjects and others.
 - 14.1 If a court is satisfied on the application of a data subject that personal data of which the applicant is the subject are inaccurate, the court may order the data controller to rectify, block, erase or destroy those data and any other personal data in respect of which he is the data controller and which contain an expression of opinion which appears to the court to be based on the inaccurate data.
 - 14.4 If a court is satisfied on the application of a data subject-
 - (a) That he has suffered damage by reason of any contravention by a data controller of any of the requirements of this Act in respect of any personal data, in circumstances entitling him to compensation under section 13, and
 - (b) That there is a substantial risk of further contravention in respect of those data in such circumstances,the court may order the rectification , blocking, erasure or destruction of any of those data.
- Part V – Enforcement.
 - 40.2 In deciding whether to serve an enforcement notice, the Commissioner shall consider whether the contravention has caused or is likely to cause any person damage or distress.
 - 40.3 An enforcement notice in respect of a contravention of the fourth data protection principle which requires the data controller to rectify, block, erase or destroy any inaccurate data held by him and containing an expression of opinion which appears to the Commissioner to be based on the inaccurate data.
- Part VI – Miscellaneous and general.
 - 60 General provisions relating to offences.
 - 60.2 A person guilty of an offence under any provision of this Act other than paragraph 12 of Schedule 9 is liable-
 - (a) On summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) On conviction on indictment, to a fine
 - 61.1 Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- Schedule 1 – The Data Protection Principles – Part I: The Principles.
 - 4 Personal data shall be accurate and, where necessary, kept up to date.

APPENDIX R

JOINT OPERATIONAL POLICY

- 12. 1 Case reviews will be undertaken for individuals no later than three months following the eligibility decision and thereafter on an annual basis, unless a change in need or circumstance identifies an earlier review is required. This will ensure that individual is receiving the care they need and that they remain eligible for NHS CHC funding. Should a review show that following a change in need the individual may no longer meets criteria then a reassessment of eligibility must be undertaken following the DST process.

APPENDIX S

DECISION SUPPORT TOOL FOR NHS CONTINUING HEALTHCARE

- 22 The descriptions in the DST are examples of the types of need that may be present. They should be carefully considered but may not always adequately describe every individual's circumstances. The MDT should first determine and record the extent and type of need in the space provided. The descriptions may not always exactly describe the individual's needs so if there is difficulty in placing their needs in one or other of the levels, the MDT should use professional judgement based on consideration of all the evidence to decide the most appropriate level. If, after considering all the relevant evidence, it proves difficult to decide or agree on the level, the MDT should choose the higher of the levels under consideration and record the evidence in relation to both the decision and any significant differences of opinion. Please do not record an individual as having needs between levels. It is important that differences of opinion on the appropriate level are based on the evidence available and not on presuppositions about a person's need or generalised assumptions about the effects of a particular condition.

LIFE THREATENING ● UNPREDICATABLE ● WITHOUT WARNING ● FLUCTUATING ● DANGEROUS

APPENDIX T

DECISION SUPPORT TOOL FOR NHS CONTINUING HEALTHCARE

- 25 It should be remembered that the DST is a record of needs and a single condition might give rise to separate needs in a number of domains. For example someone with cognitive impairment will have a weighting in the cognition domain and as a result may have associate needs in other domains, all of which should be recorded and weighted in their own right.

APPENDIX U

NATIONAL FRAMEWORK FOR NHS CONTINUING HEALTHCARE

- 44 Assessments of eligibility for NHS continuing healthcare and NHS – funded nursing care should be organised so that the individual being assessed and their representative understand the process, and receive advice and information that will maximise their ability to participate in informed decision-making about their future care. Decisions and rationales that relate to eligibility should be transparent from the outset for individuals, carers, family and staff alike.

APPENDIX V

WHCCG: RECORDS MANAGEMENT POLICY

- 1.7 It is the responsibility of all staff including those on temporary or honorary contract, agency staff and students to comply with this policy.
- 3.1 The aims of our records management system are to ensure that:
 - Records are available when needed – from which the CCG is able to form a reconstruction of activities or events that have taken place.
 - Records can be trusted – the record reliability represents the information that was actually used in, or created by, the business process, and its integrity and authenticity can be demonstrated.
- 4.1 Part of records management involves ensuring records are of sufficient quality. To ensure the CCG has good quality data it must be:
 - Complete (in terms of having been captured in full).
 - Accurate (the data must be recorded factually, legibly and consistently).
 - Relevant (the degree to which the data meets current and potential user's needs).
- 5.2 Nurses doctors and other clinicians (such as physiotherapists) will also have professional obligations under bodies such as the Nursing and Midwifery Council (NMC) and General Medical Council (GMC) who they are accountable to. Their Codes contain professional standards that registered clinicians (such as nurses and doctors) must uphold which include details on keeping clear and accurate records.

APPENDIX W

WHCCG: POLICY FOR MANAGING COMPLAINTS

- 3.6.4 The agreed actions, questions and timescales for response will be confirmed in writing to the complainant.
- 3.18.1 The PHSO (Parliamentary and Health Service Ombudsman) have published the Principles of Good Complaints Handling which encompasses:
 - Getting it right.
 - Being customer focused.
 - Being open and accountable.
 - Acting fairly and proportionally.
 - Putting things right.
 - Seeking continuous improvement.
- 4.1.2 It is the responsibility of all directorates and teams to adhere to the Complaints Policy.
- 4.2.2 The Director of Quality (Board Nurse) is responsible for overseeing the complaints management process, ensuring that complaints are handled in accordance with the policy.

APPENDIX X

WHCCG: POLICY FOR THE MANAGEMENT OF COMPLAINTS

- 1.1 West Hampshire CCG is committed to providing an accessible and impartial complaints service to those people personally affected by services provided.
- 1.6 Complainants will therefore be invited to discuss the handling of their complaint in person or by telephone to agree a timescale and confirm their desired outcome.
- 3.6.3 At the time of acknowledging the complaint the complaints team must offer to discuss and agree a plan of action with the complainant for handling the complaint which includes:
 - When the investigation is likely to be completed
 - What reasonable outcome is desired.
 - When the response is likely to be sent.
 - Offer an early meeting if appropriate.
 - What the issues are that the complainant wants raised / addressed.
- 3.6.4 The agreed actions, questions and timescales for response will be confirmed in writing to the complainant.
- 3.9.1 The investigation into a complaint must:
 - Be undertaken by a suitable person.
- 4.1.2 It is the responsibility of all directorates and teams to adhere to the Complaints Policy.
- 4.1.3 Staff will be made aware of the complaint and asked to prepare written or verbal statements as part of the investigation.

APPENDIX Y

THE LOCAL AUTHORITY SOCIAL SERVICES AND NHS COMPLAINTS (ENGLAND) REGULATIONS 2009

- 13 Procedure before investigation.
 - (7) At the time it acknowledges the complaint, the responsible body must offer to discuss with the complainant, at a time to be agreed with the complainant –
 - (a) The manner in which the complaint is to be handled
 - (b) The period (“the response period”) within which –
 - (i) The investigation of the complaint is likely to be completed.
 - (ii) The response required by regulation 14(2) is likely to be sent to the complainant.

- 14 Investigation and response.
 - (1) A responsible body to which a complaint is made must –
 - (a) Investigate the complaint in a manner appropriate to resolve it speedily and efficiently.
 - (b) During the investigation, keep the complainant informed, as far as reasonably practicable, as to the progress of the investigation.
 - (2) The responsible body must send the complainant in writing a response, signed by the responsible person, which includes –
 - (a) A report which includes the following matters –
 - (i) An explanation of how the complaint has been considered.
 - (ii) The conclusions reached in relation to the complaint, including any matters for which the complaint specifies, or the responsible body considers, that remedial action is needed.
 - (b) Confirmation as to whether the responsible body is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken.

APPENDIX Z

WHCCG: POLICY FOR THE MANAGEMENT OF COMPLAINTS

- 1.5 It is essential that all complaints... are investigated thoroughly and promptly, and responded to in an open and sympathetic manner, with action taken, where appropriate, to prevent a recurrence of the circumstances leading to the complaint.
- 1.6 Complainants will therefore be invited to discuss the handling of their complaint in person or by telephone to agree a timescale and confirm their desired outcome.
- 3.6.3 At the time of acknowledging the complaint the complaints team must offer to discuss and agree a plan of action with the complainant for handling the complaint which includes:
 - When the investigation is likely to be completed
 - What reasonable outcome is desired.
 - When the response is likely to be sent.
 - Offer an early meeting if appropriate.
 - What the issues are that the complainant wants raised / addressed.
- 3.6.4 The agreed actions, questions and timescales for response will be confirmed in writing to the complainant.
- 4.1.2 It is the responsibility of all directorates and teams to adhere to the Complaints Policy.
- 4.2.2 The Director of Quality (Board Nurse) is responsible for overseeing the complaints management process, ensuring that complaints are handled in accordance with the policy.
- 4.2.5 Managers are responsible for ensuring that complaints are investigated in accordance with this policy.
- Appendix 5
 - The underlying approach promoted by the Principles for Remedy is for the service provider to restore the complainant to the position they would have been in if the maladministration or poor service had not occurred.

APPENDIX AA

THE LOCAL AUTHORITY SOCIAL SERVICES AND NHS COMPLAINTS (ENGLAND) REGULATIONS 2009

- 3 Arrangements for the handling and consideration of complaints.
 - (2) The arrangements for dealing with complaints must be such that –
 - (a) Complaints are dealt with efficiently.
 - (b) Complaints are properly investigated.
 - (g) Action is taken if necessary in the light of the outcome of a complaint.

- 13 Procedure before investigation.
 - (7) At the time it acknowledges the complaint, the responsible body must offer to discuss with the complainant, at a time to be agreed with the complainant –
 - (a) The manner in which the complaint is to be handled
 - (b) The period (“the response period”) within which –
 - (i) The investigation of the complaint is likely to be completed.
 - (ii) The response required by regulation 14(2) is likely to be sent to the complainant.

- 14 Investigation and response.
 - (1) A responsible body to which a complaint is made must –
 - (a) Investigate the complaint in a manner appropriate to resolve it speedily and efficiently.
 - (b) During the investigation, keep the complainant informed, as far as reasonably practicable, as to the progress of the investigation.