Previously Unassessed Periods of Care and Retrospective Reviews Operational Policy

NHS Devon

Proud to be part of One Devon: NHS and CARE working with communities and local organisations to improve people's lives

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Policy Sponsor	Chief Nursing Officer
Policy Lead	CHC Programme Manager
Approved by	Chief Nursing Officer, Chief Medical Officer
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December 2023	New Template	V10.0	
December 2024	Review and policy updates	V10.1	
December 2025	Policy reviewed, no changes	V11	

Equality, diversity and inclusion statement

NHS Devon ICB is committed to the promotion of equal opportunities, addressing health inequalities and fostering of good relations between people protected under the terms of the Equality Act 2010, the Health and Social Care Act 2012 and Human Rights legislation. We are equally committed to the elimination of unlawful discrimination, harassment and victimisation. To demonstrate this commitment, we develop, promote and maintain policies, strategies and operating procedures. Every effort is made to ensure that patients, employees, contractors or visitors do not experience discrimination; either directly or indirectly, because of their vulnerability; disadvantage; age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex (gender) or sexual orientation.

All staff must comply with this policy. Compliance must reflect our organisational commitment to and policy on, equality, diversity and inclusion. In addition, each manager and member of staff involved in implementing this policy must give due regard to the needs of those protected under law.

If you, or any other groups, believe you are discriminated against under the terms of the Equality Act, the Health and Social Care Act 2012 or Human Rights legislation by anything contained in this document; or you need this document in an alternative format, for example, large print, Braille, Easy read or other languages; please contact our Patient Advice and Complaints Team (PACT):

Tel: 0300 123 1672
Email: D-ICB.PatientExperience@nhs.net
Post: Patient Advice and Complaints Team,
NHS Devon
Aperture
Pynes Hill
Rydon Lane
Exeter
EX2 5AZ

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1. Introduction

1.1. NHS Continuing Healthcare (CHC) means a package of ongoing care that is arranged and funded solely by the National Health Service (NHS) where the individual has been assessed and found to have a 'primary health need' as set out in the National Framework for NHS Continuing Healthcare and NHS-Funded Nursing Care July 2022 (Revised) (National Framework). Such care is provided to an individual aged 18 or over, to meet health and associated social care needs that have arisen as a result of disability, accident or illness.

1.2. NHS Devon has a duty to take reasonable steps to ensure that an assessment for eligibility of CHC is completed. This is described in the NHS Regulations and Standing Rules 2012. If this was not completed, then a review of the Previously Unassessed Period of Care (PUPoC) should be undertaken.

1.3. This Operational Policy also incorporates retrospective reviews of CHC eligibility.

2 Purpose and Scope

2.1. The Purpose of this Policy is to:

2.2. Ensure all applications for PUPoC or retrospective reviews of CHC eligibility are reviewed in line with CHC policy. A PUPoC is an assessment of a previously unassessed period of care. A Retrospective review is looking back at an already assessed period.

2.3. Ensure consistency is applied to recommendations made to the ICB by the multidisciplinary teams (MDT) following a PUPoC or retrospective review of a person's eligibility for NHS CHC.

2.4. Ensure that robust governance arrangements are in place regarding reimbursement of care funds to clients or their representatives following a review of a PUPoC or a retrospective review of CHC eligibility.

3. Implementation

3.1. On receipt of a request, the NHS Devon ICB will acknowledge the request and send out an application form, consent form, leaflet and request proof of authority, which will help establish whether or not they are the responsible commissioner (Who Pays? establishing the Responsible Commissioner July 2022), that the applicant has the correct authority to act for the individual and has consent to share information. The request and all future contact with the applicant, assessments and outcomes will be recorded on the NHS Devon

ICB administration system. If the requested documents have not been returned within 20 working days, the ICB will send a reminding follow up letter. If these documents are then not returned within 20 working days of the reminding letter, no further action will be taken, and the case closed.

3.2. NHS Devon ICB will establish whether it previously fulfilled its responsibility to ensure a previous assessment was completed. If the individual had been previously assessed and the assessment was robust, clinically sound and was completed following the National Framework or previous tools used by the ICBs predecessors then the ICB will decline to consider the request.

3.3. If the client is alive and has never been assessed, the ICB will refer the client to the appropriate team, beginning with the application of an NHS CHC Checklist in line with the National Framework and local policy.

https://onedevon.org.uk/our-work/services-and-support/all-age-continuing-care/chc/

3.4. If the ICB agrees to consider the application, they will request all available documentation required to help establish whether the individual may have had a Primary Health Need. If the applicant would like access to the records used by the PUPoC team, an application will need to be made to the Data Protection Team. Contact details can be found on the following website:

https://onedevon.org.uk/nhs-devon/information-governance/

3.5. NHS Devon, may at its choosing, outsource this process or parts of the process to other providers, external contractors, or agencies as appropriate and required.

3.6. If the claim period spans a number of years, the Decision Support Tool (DST) will be used to review needs, as needs may change over time. The Checklist is a national screening tool used to help practitioners identify people who require a full assessment for NHS CHC. A positive Checklist leading to a DST is not an indication of the outcome of the eligibility decision. A Checklist is not always required to be completed.

3.7. If the client is assessed as not meeting or partially meeting the criteria for further assessment for the period under review, the applicant will be informed in writing with a copy of the Checklist and the rationale for the decision. The letter will contain details for The Patient Advice and Complaints Team should they disagree with this decision. For a positive Checklist period, the ICB will arrange for a Care Needs Portrayal (CNP) and / or DST to be completed.

3.8. The CNP document will be used to collate all available evidence of health and social care needs. There may be times when this is not necessary and will depend on the on available evidence received.

3.9. The clinical review team will use the evidence from the records and the CNP (if completed) in order to determine the levels of need in the completion of a

DST. The DST is a national tool used to bring together evidence and information drawn from a variety of sources to facilitate consistent, evidence-based decision- making regarding NHS CHC eligibility.

3.10. For an application relating to care received at end of life which would have met the eligibility criteria for a fast-track decision, the ICB has agreed that at this stage the completed Fast Track Tool and supporting documentation can be considered locally by the Quality Assurance Leads (QALs) within the ICB. If the QALs agree that the individual met the criteria for NHS CHC, for the whole period, the applicant will be informed in writing with a full rationale for the decision and reimbursement will be arranged in line with the NHS England NHS Continuing Healthcare Refreshed Redress Guidance 2015.

3.11. The CNP and/or the DST will be completed by experienced staff who are fully trained and conversant with the National Framework. This is a desk top process, which when completed will be shared with the applicant for comment.

3.12. The applicant will receive a copy of the CNP upon which they will be required to add any additional comments. The comments received by post or email will be considered alongside and at the same time as the completion of the DST.

3.13. The review processes are summarised on flowcharts at Appendix 1 and 2.

4. Recommendation

4.1. An indicative recommendation of eligibility will be made directly by the ICB, and will include the four key characteristics - Nature, Intensity, Complexity and Unpredictability - to determine evidence of a Primary Health Need (PHN)

4.2. The MDT will consist of a minimum of two professionals, at least one of whom will be a health professional, other members of the MDT should be experienced in health and/or social care and have a good knowledge of the National Framework. Adult social care is invited to attend as part of the MDT. Additional professional input may be required as indicated by the needs of the case.

4.3. The MDT will review all the documentation (including contributions made by the applicant) and apply the primary health needs test to the evidence.

4.4. The MDT's discussions will be noted and the levels of need in each domain on the DST will be agreed. Any disagreement will be documented.

4.5. The MDT will then agree a recommendation using the four key characteristics of a Primary Health Need – Nature, Intensity, Complexity and Unpredictability, clearly indicating which characteristic either alone, or in combination are indicative of a Primary Health Need.

5. Decision

5.1. The MDT's indicative recommendation and the applicant's contributions will be considered by the ICB who may accept the recommendation or defer for further information.

5.2. Once a recommendation has been accepted by the ICB, an outcome letter along with a copy of the CNP (if used) and the DST will be sent to the applicant giving a clear rationale for the decision.

5.3. If an individual does not agree with the decision, information of how to appeal will be included in the decision outcome letter.

5.4. The appeal process will follow the ICB's NHS Continuing Healthcare and Funded Nursing Care Appeal Review Procedure – including Previously Un-assessed Periods of Care (PUPoC) December 2024.

5.5. The outcome of the Stage 2 appeal of a PUPoC will be sent to the applicant giving a clear rationale for the decision. If the applicant does not accept the decision, they will be given information about how to refer to NHS England for Independent Review Process (IRP).

5.6 NHS Devon ICB reserves the right to refer an appeal directly to NHS. England.

5.7. If the applicant accepts the eligible / partial eligibility decision; proof of payment is required for any reimbursement that may be due within that eligibility period.

6. Approval of payments

6.1. The payment will be approved in accordance with the ICBs Standing Financial Instructions.

6.2. The ICB will request proof of expenditure. Acceptable forms of evidence include invoices, bank statements or care home receipts.

6.3. Once all relevant proof has been received these will be passed to the finance team to arrange a reimbursement and in line with the NHS Continuing Healthcare Refreshed Redress Guidance 2015. (Appendix 3).

6.4. Payments should be made to the established legal applicant.

6.5. Where proof of expenditure is not available the ICB will advise the applicants that the case will be closed unless the individuals wish to complain setting out the reasons why the case should be considered in the absence of a total lack

of financial information. They will also need to consider that when the request for an assessment of a previously unassessed period of care was first made, the ICB notified the applicants that proof of payment would be required.

6.6. The ICB would also advise that whilst you have the right to seek legal advice, this should not be necessary and can incur a significant cost to yourself which the NHS will not reimburse.

7. Complaints

7.1. If a patient or their families/carers are unhappy with an aspect of processing their claim, based upon this policy then the Patient Advice and Complaints Team within the ICB will manage and investigate their complaint in line with the ICB's concerns and formal complaint handling policy. Further detail on how to provide feedback or raise a formal complaint can be found on NHS Devon ICB 's Patient Advice and Complaints Team webpage: https://onedevon.org.uk/contact-us/patient-advice-and-complaints/

8. Distribution

8.1. Staff will be advised of this policy through the ICB's electronic newsletters and the ICB website.

8.2. Managers are responsible for ensuring that staff read and are aware of how to access this policy.

8.3. The policy will be widely available to all staff and volunteers via their line manager and NHS Devon ICB website.

9. Accountabilities, Duties and Responsibilities

Chief Executive Officer	The Chief Executive Officer has ultimate accountability for the strategic direction and operational management of NHS Devon, including compliance with all legal, statutory and policy requirements.
Policy Sponsor	The Policy Sponsor is responsible for: • ensuring that policy is appropriate for consideration for approval. • endorsing this policy ahead of submission for approval. • with the Policy Lead, maintaining and updating procedures/protocols and other supporting documents for this policy;
Policy Lead / Author	It is the responsibility of the Policy Lead / author to:

	• ensure as far as possible that the policy is in line with Department of Health and Social Care guidance, legal requirements, and advice from clinical bodies. • to complete a QEIA and Implementation Plan where required • undertake a fair and proportionate consultation period with the relevant stakeholders as part of the document's development. • to ensure that the policy is in alignment with NHS Devon's strategy and values. • ensure that the policy is developed, approved, disseminated, and monitored as set out in the document. with Policy Sponsors, maintaining and updating procedures / protocols and other supporting documents for this policy.
Title of any other relevant Officer	N/A
Titles of any Committee	N/A
Line Managers	Line managers have a responsibility to ensure their staff comply with NHS Devon policies and standards within their areas of responsibility.
All Staff	Employed or engaged staff have a duty to comply with NHS Devon policies and standards as outlined in their contracts of employment and codes of conduct.

10. Approval and Review

10.1 This policy will be reviewed annually, or sooner if required, in order to ensure that it is current, relevant and reflects the strategic aims, objectives, organisational structures and responsibilities of NHS Devon.

11. Monitoring Compliance and Effectiveness

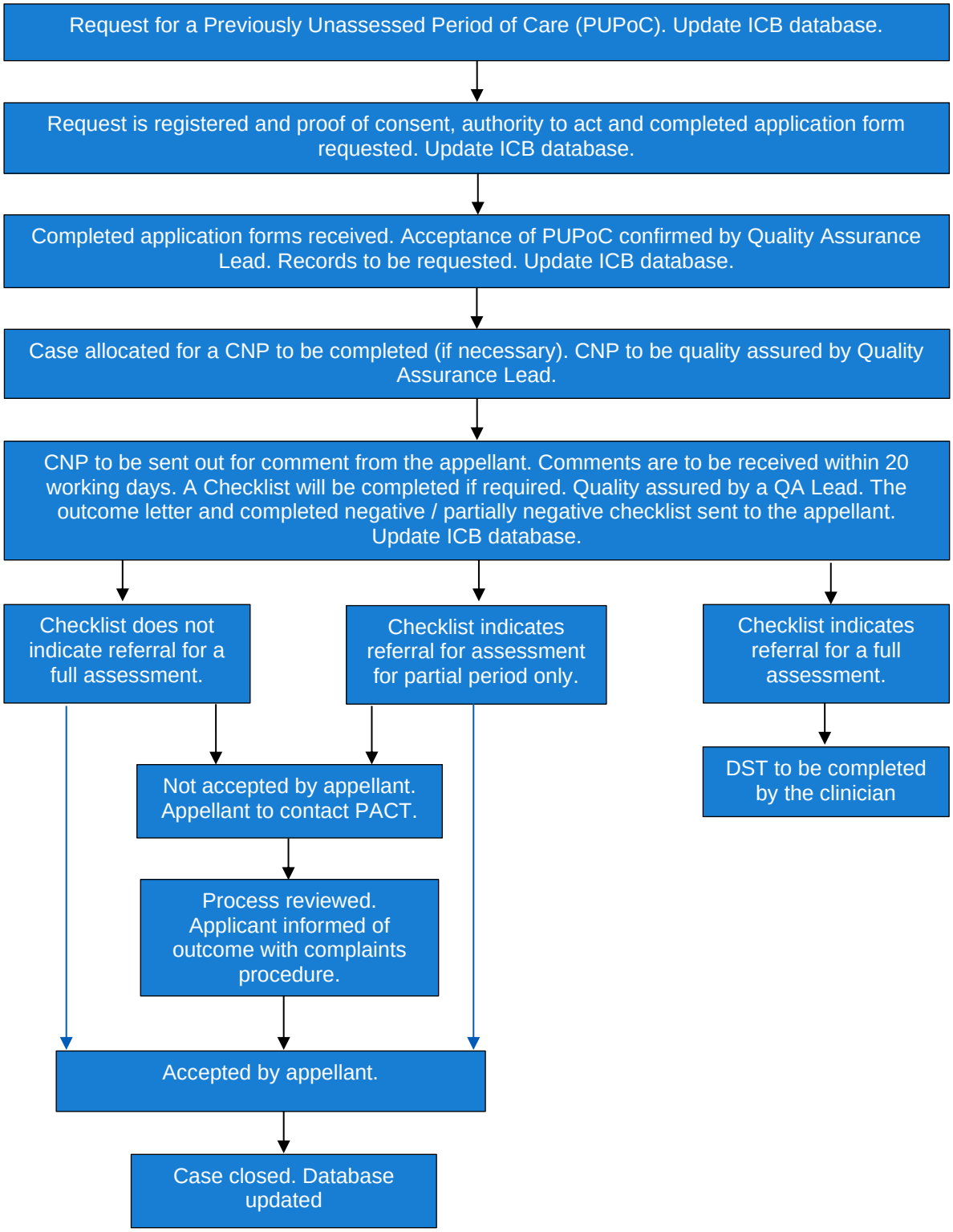
11.1 There is ongoing data collection by the business intelligence team to evidence number of PUPOCs within Devon Footprint. The oversight of PUPOCs is also undertaken by the Head of Quality Assurance and any issues reported through the CHC assurance reporting processes.

11.2 Any agreement to make a payment of back dated payment for care is overseen by NHS Devon's finance team.

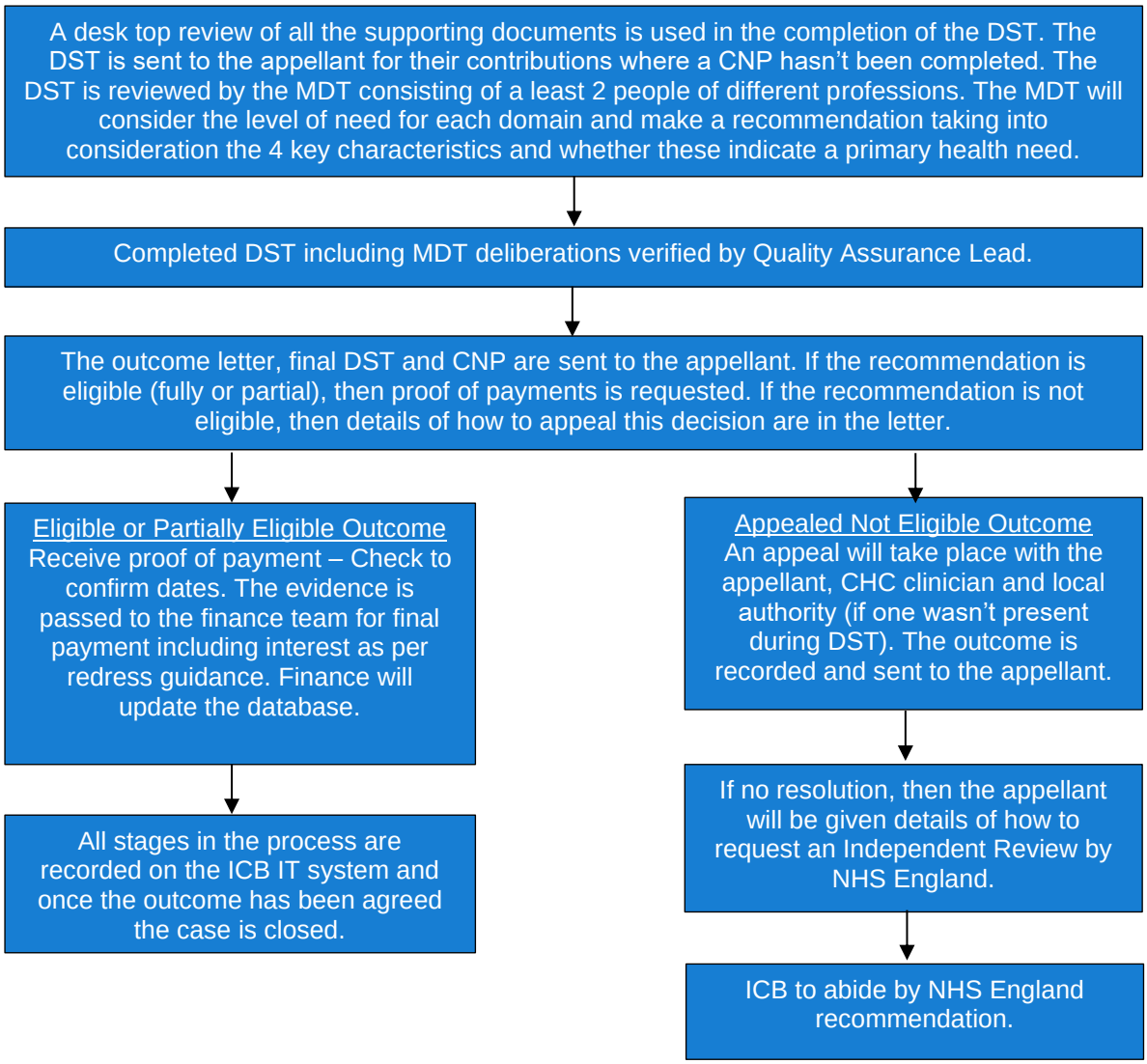
12. Quality & Equality Impact Assessment (QEIA)

12.1 A QEIA should be completed for all new policies and where significant amendments are made. This is an updated policy.

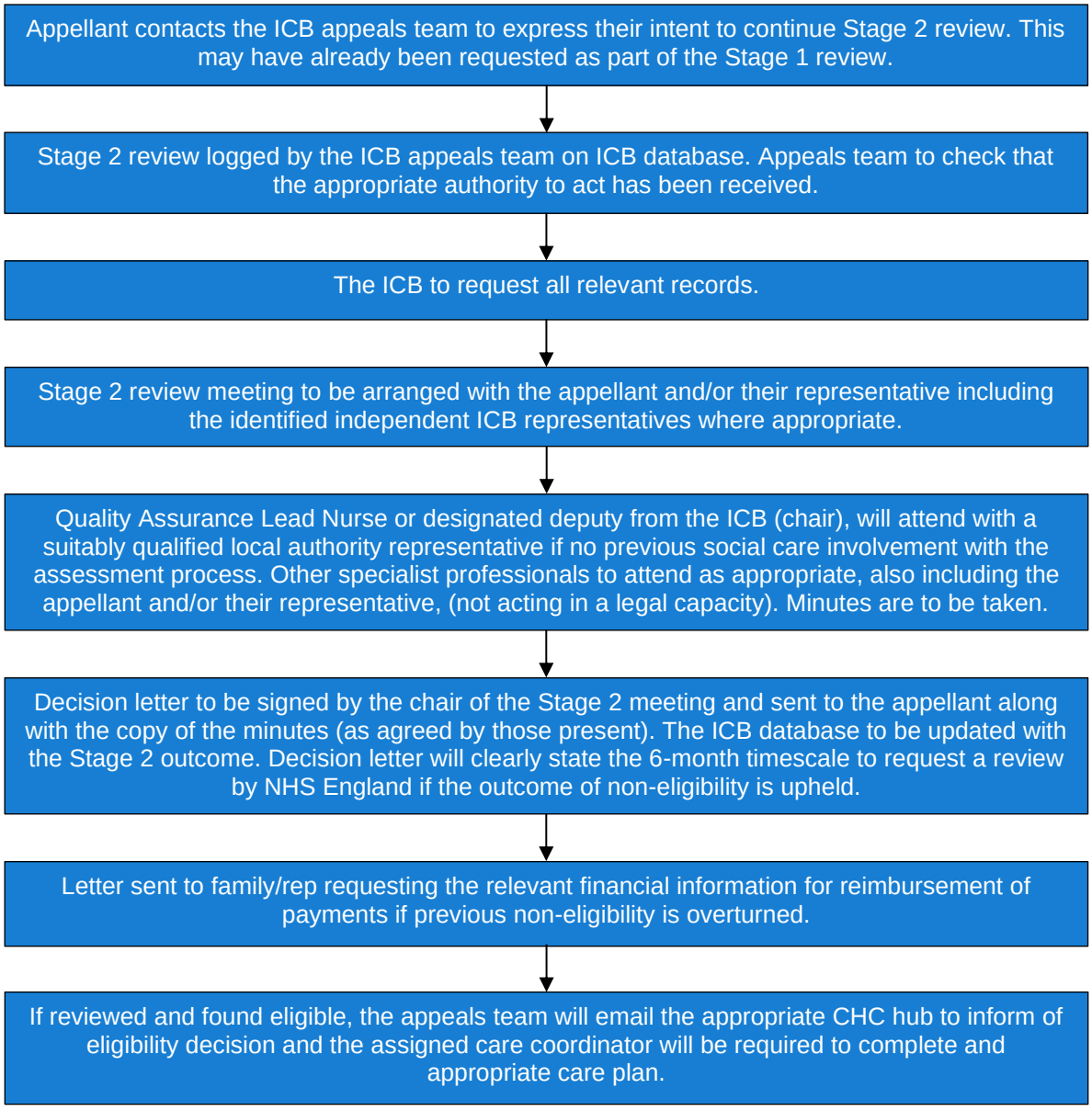
Appendix 1 Care Needs Portrayal (CNP) / Checklist (CL) Process Flow



Appendix 2 Decision Support Tool (DST) Process



Appendix 3 Stage 2 Local Review Process (Inc PUPOC)



Appendix 3 NHS England Independent review