

## **Continuing Healthcare Placements Policy Final Equality Impact Assessment**

### **About this document**

This final equality impact assessment (EIA) takes account of the activities Barking and Dagenham, Havering, and Redbridge CCGs have undertaken since the original proposal of the Continuing Healthcare (CHC) Placements Policy was published. The CCGs have undertaken a public consultation on this proposal to introduce a written policy for CHC placements to support how decisions are made as to where patients receive their individual packages of care (e.g. at home or in a care or nursing home).

As part of the analysis of the feedback from the consultation, the initial published EIA is reviewed and updated here.

The assessment table on page 4 combines the considerations of the initial EIAs and the results of the subsequent work undertaken by the CCGs.

An equality impact assessment (EIA) is the process of assessing the impact of a proposal and its consequences for equality. There is a legal obligation to undertake EIAs to assess the impact of proposals on equality groups identified by the Equality Act 2010 (called protected characteristics):

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex
- Sexual orientation.

Equality analysis is a way of considering the effect on different groups and serves to:

- consider if there are any unintended consequences for some groups
- consider if the policy will be fully effective for all target groups.

It involves using equality information, and the results of engagement with protected groups and others, to understand the actual effect or the potential effect of functions, contracts, policies or decisions.

Barking and Dagenham, Havering, and Redbridge CCGs are subject to the public sector equality duty required by Section 149 of the Equality Act 2010.

This states that the CCGs must “have due regard to the need to:

1. Eliminate discrimination, harassment, victimisation, and any other conduct prohibited by the Act;
2. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

This involves:

- Removing or minimising disadvantages experienced by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Carrying out an equality impact assessment helps the CCGs to make sure it has considered the needs of people with protected characteristics. This means it can:

- identify unintended consequences and mitigate them as far as is possible.
- actively consider how the proposed change might support the advancement of equality and fostering of good relations.

## Background

The proposed policy will ensure that CHC packages meet the reasonable requirements of individuals and take into account patient choice where possible, whilst also ensuring decisions balance the CCGs’ duties to the individual and to the wider population that it commissions services for. This will help to ensure consistency, fairness and transparency in the decision-making and appeals processes.

The proposed policy will apply to all new patients who are eligible for CHC, and in a few cases to existing patients whose care needs have changed considerably since their last CHC review. This could be, for example, if a person’s condition has deteriorated and they require significant extra care.

**The eligibility to receive CHC will not change** and all new and existing patients will continue to receive the most clinically appropriate care for their assessed needs. There will be a discussion about where the care is provided, although it may not always be possible for this to be with a person’s preferred provider or at their preferred location.

The policy will not apply to anyone under the age of 18 years or those who are assessed as needing ‘fast-track’ CHC (in other words, care which is provided to people who have a rapidly deteriorating condition and may be approaching the end of life).

The CCGs invited patients, their families and carers, the public, health and social care professionals and stakeholders to provide feedback on the proposed policy.

### A brief description of the current service:

Barking and Dagenham, Havering, and Redbridge (BHR CCGs) commission care packages for patients who qualify for CHC under The National Framework for NHS Continuing Healthcare and NHS funded Nursing Care (revised 2018) [hereafter referred to as ‘the National Framework’]. They do not currently have a formal policy in place for how CHC placement decisions are made, nor how patients and their families/carers can appeal decisions.

### A brief description of proposed service changes:

The CCGs are seeking to introduce a written ‘placements policy’ to support how decisions are made as to where patients receive their individual packages of care. In addition, the policy will outline how patients and their families/carers can appeal decisions.

The proposed CHC placements policy aims to balance the clinical needs of patients, the wishes of patients, and the limited financial resources available to the local NHS. This will help to ensure consistency, fairness and transparency in the decision-making and appeals processes

## Updated assessment

The table below identifies the considerations from the initial EIA and updates those by taking account of the consultation feedback and activities undertaken by the CCGs. The consultation activities reached out to residents, carers, staff and relevant stakeholders over a 12 week period from 8 July to 30 September 2019. Included in the consultation questionnaire were voluntary questions relating to respondents age, gender and ethnicity. The demographic breakdown of the respondents demonstrated the following breakdown, however it is noted that not all respondents provided this information.

The majority indicated their gender with 71 (66%) respondents identified as female and 31 (29%) as male. Most indicated their age with the majority (34 respondents, 31%) aged 75 or over. No one under the age of 25 responded.

Over a third (35%) of respondents stated they have a disability and respondents are a carer for a family member, partner or friend with an illness or disability.

In regards to ethnicity, 74 (69%) respondents identified themselves as 'any white background'. 14 (13%) respondents identified as 'any Asian background', five (5%) respondents identified as 'any black background', one (1%) respondent identified as 'any mixed ethnic background' and one (1%) respondent as 'other'.

The proposed changes have been analysed against the protected characteristics to understand any unequal impacts on particular groups. This table sets out the findings of that analysis, the processes for developing mitigating strategies and the results of the consultation.

Protected groups	Initial EIA considerations	Initial EIA recommendations/ mitigating actions	Update following consultation
<b>Age</b>	No change: The policy applies to adults aged 18 years of age or older who are eligible to receive CHC. Children will not be affected by this.	N/A	The feedback identified that this policy is more likely to affect older adults, given the nature and function of the services it relates to. This therefore identifies a higher likelihood of affecting service users whose circumstances require a proportionately higher level of support to access the services the policy relates to and also linking age and disability. It is also noted that the majority of the respondents identified their age as 65 and over.
<b>Marriage/ civil partnership</b>	No impact	N/A	Feedback did not raise any specific issues relating to marriage/civil partnership status.

<b>Disability</b>	Potential negative impact: Patients in receipt of NHS CHC services are more likely to have a physical disability than the rest of the adult population therefore are more likely to be affected by this policy.	BHR CCGs will consult with service users, the public and stakeholders on the proposed policy to seek their views. The consultation feedback, alongside other information and evidence, will inform a recommendation to the CCGs' joint committee of governing bodies for a final governing bodies decision which will determine the final changes to our CHC placements policy in Barking and Dagenham, Havering and Redbridge.	The feedback firstly demonstrated a higher proportion (compared to local demographics) of respondents identifying with a disability. Feedback identifies the concerns that service users are more likely to have more complex conditions and therefore require a proportionately higher degree of support to access and navigate the services the policy relates to.
<b>Race and ethnicity</b>	No impact	N/A	Feedback did not raise any specific issues relating to marriage/civil partnership status.
<b>Gender</b>	No impact	N/A	Feedback did not raise any specific issues relating to marriage/civil partnership status.
<b>Sexual orientation</b>	No impact	N/A	Feedback did not raise any specific issues relating to marriage/civil partnership status.
<b>Religion</b>	No impact	N/A	Feedback did not raise any specific issues relating to marriage/civil partnership status.
<b>Gender reassignment</b>	No impact	N/A	Feedback did not raise any specific issues relating to marriage/civil partnership status.
<b>Pregnancy/maternity</b>	No impact	N/A	Feedback did not raise any specific issues relating to marriage/civil partnership status.

### **Additional relevant questions**

Does this proposal have the potential to cause unlawful direct or indirect discrimination?

Yes, but the CCGs will mitigate this risk and ensure the policy is applied in a lawful manner: The initial EIA identified that some disabled patients with complex physical needs may not be able to receive care in their own home if the cost is significantly higher than an equivalent care package in a nursing home.

BHR CCGs are aware of their responsibilities under the Equality Act 2010 and have considered this in drafting the policy. The policy does not compromise clinical care and as far as is reasonably practicable a person-centred approach is taken by the CCGs in making decisions about a care package to be funded by the CCGs for that individual, taking into account choices expressed by the individual, their family or a representative and cost. In order to continue to meet their statutory duties, the CCGs, must consider the support that is made available to all service users is proportionate to ensure equitable access to the services the implementation of this policy offers.

Does this proposal have the potential to exclude certain group of people from obtaining services, or limit their participation in any aspect of public life?

No

### **Next steps**

This is the updated EIA, taking into account the feedback from the consultation activities. This will be included, along with the report on the consultation feedback, to form part of the decision making evidence. It will be included in the CCGs' decision making business case for presentation to its joint committee of governing bodies.