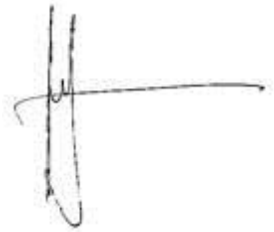
GENERIC COMMISSIONING STANDARDS POLICY 2017

Agreed at Cannock Chase CCG

Signature:
Designation: Chair of Cannock Chase CCG
Date: 14th December 2017

Agreed at South East Staffordshire & Seisdon Peninsula CCG



Signature:
Designation: Chair of South East Staffordshire & Seisdon Peninsula CCG
Date: 14th December 2017

Agreed at Stafford and Surrounds CCG

Signature:
Designation: Chair of Stafford & Surrounds CCG
Date: 14th December 2017

Agreed at East Staffordshire CCG

Signature:
Designation: Chair of Stafford & Surrounds CCG
Date:

Version number	2.4
Responsible individual	Barry Weaver
Author(s)	Barry Weaver
Date reviewed by Locality and Membership Boards	Cannock Chase Membership: 07/09/2016 Stafford Membership:04/04/2017 South East Staffs and Sesidon: Tamworth Locality: 09/08/2016 Seisdon Loclality: 10/08/2016 Lichfield & Burntwood Locality: 09/08/2016
Date reviewed by Joint Quality Committee	09 November 2017
Date ratified by Governing Body	See front cover
Date issued	02 November 2017
Review date	02 November 2020
Target audience	GPs, commissioners and patient groups

HISTORY OF CHANGES		
Old version number	**Significant changes**	**New version number**
V1	Individual policies agreed and advice given on policy statement wording.	V2
V2	5.4.11 Wording changed to read: Private prescriptions may be issued during any part of NHS commissioned care as the GMC and GP contract does allow a GP to issue a private prescription if requested by the patient. 5.5.1 Wording changed to read: Where a clinically appropriate treatment is not funded by the NHS patients should be informed of the option of seeking the treatment privately.	V2.4

SUMMARY

The policy sets out the generic standards of what is and what is not locally available for NHS funding, and provides a framework to deliver equitable access to health care within local, regional and national guidance. These include Guidance Produced by ICE, Choice, private healthcare providers, treatmenst not availblae on the NHS,

Patients may find that, when they move area, a treatment which they had been receiving in their old area of residence may not be routinely available in their new area of residence.

Where responsibility for providing NHS services to the patient has been transferred to the South Staffordshire CCGs funding commitments made by the patient's previous CCG for a period of up to 3 months will continue to be honoured.

A Prior Approval scheme is an intervention or treatment where the commissioners (CCG) and the Provider(s) have agreed access for patients based upon the patient meeting a set of approval criteria. The CCG will only give Prior Approval for agreed procedures when a patient meets the acceptance criteria of that Prior Approval scheme.

Contents

Section	Section title	Page number
1.0	Introduction	
2.0	Scope	
3.0	Definitions	
4.0	Roles and Responsibilities	
5.0	Commissioning Standards	
6.0	Equality Impact Assessment	
7.0	Quality Impact Assessment	
8.0	Training	
9.0	References	
10.0	Monitoring and Evaluation	
11.0	Review	
	Appendix 1: Checklist for Processing and Ratifying CCG Polices, Standards, Procurement and Clinical Guidelines	

This policy applies to Cannock Chase CCG, South East Staffordshire & Seisdon Peninsula CCG and Stafford and Surrounds CCG, and East Staffordshire CCG. Where the term CCG is used, this applies to all four CCGs listed above.

1.0 Introduction

NHS Commissioners are obliged to commission comprehensive, effective, accessible services which are free to users at the point of entry (except where there are defined charges) within a finite resource. To do this NHS Commissioners receive funding to commission health services for their resident population and have to make decisions within the context of statutes, statutory instruments, regulations and guidance.

This policy supports the South Staffordshire CCGs and their members by setting out the generic standards of what is and what is not locally available for NHS funding, and provides a framework to deliver equitable access to health care within local, regional and national guidance.

The Clinical Commissioning Groups (CCGs) across South Staffordshire consist of: NHS Cannock Chase CCG, NHS Stafford & Surrounds CCG, NHS South East Staffs & Seisdon Peninsula CCG, and NHS East Staffordshire CCG

This policy supercedes the set of 2010 West Midlands Commissioning Policies published by the Strategic Commissioning Group and adopted by the former South Staffordshire Primary Care Trust. Updates and changes have been made to incorporate new policies and guidance from NHS England, the General Medical Council and the British Medical Association.

2.0 Scope

This policy applies to any patient for whom the CCG is the Responsible Commissioner.

3.0 Definitions

NICE	National Institute for Health and Care Excellence
TA	NICE Technical Appraisal, statuatory guidance from the Secretary of State whereby a treatment must be available within 3 months of publication
CCG	Clinical Commissioning group
NHSE	NHS England
Secondary Care	Acute Hospital Trust care providers
Elective Referral	non-urgent planned care referral
CQC	Care Quality Commission
GP	General Practitioner
EU	European Union
IFR	Individual Funding Request
Exceptional Funding	some unusual clinical factor (or factor affecting the clinical condition) about the patient that suggests that they are: • Significantly different to the general population of patients with the condition in question • Likely to gain significantly more benefit from the intervention than might be expected from the average patient with the condition
GMC	General medical Council, a public body that maintains the official register of medical practitioners within the United Kingdom
BMA	British Medical Association
CNST	Clinical Negligence Scheme for Trusts, a means for NHS Trusts to fund the cost of clinical negligence litigation

Prioritisation	the CCG process for ranking competing interventions to decide what investments should be made with limited resources
CPAG	Clinical Priorities Advisory Group, the CCG forum for prioritisation.

4.0 Roles and responsibilities

Not applicable

5.0 Commissioning Standards

5.1 Guidance produced by the National Institute for Health and Clinical Excellence

5.1.1 The CCG will implement NICE technology appraisals (TA) in line with the Secretary of State's Directions.

5.1.2 The CCG accepts that it has a legal duty to make treatments available to patients whose clinical conditions come within the definitions in the appraisals within 3 months of the date of publication of unless the treatments have been exempted by the Secretary of State. These treatments will receive the highest priority during prioritisation.

5.1.3 All other NICE Guidance is advisory and will be carefully considered when developing strategies, planning services and prioritising resources. The CCG reserves the right to depart from NICE Guidance, other than Guidance which relates to treatments for patients that are within the specific remit of the Secretary of State's Directions, if the CCG has good reasons to do so.

5.2 Choice

5.2.1 In 2010 The Government's White Paper, Equity and Excellence: liberating the NHS set out proposals which envisage a presumption of greater choice and control over care and treatment, choice of treatment and healthcare provider becoming the reality in the vast majority of NHS-funded services by no later than 2013/14.

5.2.2 The South Staffordshire Clinical Commissioning Groups (CCGs) will ensure that any person requiring an elective referral may choose any clinically appropriate secondary care provider for the first outpatient appointment with a consultant or a member of the consultant's team.

5.2.3 A secondary care provider is "clinically appropriate" if, in the opinion of the person making the referral, it offers services that are clinically appropriate for that person in respect of the condition for which that person is referred.

5.2.4 The CCG will offer choice within services normally commissioned by the CCG. This means that the CCG will offer a range of healthcare options and providers from which patients can choose.

5.2.5 Choice does not mean that a patient can change CCG commissioning policy by seeking to extend the range of treatments the NHS is prepared to fund for that patient or for patients generally.

5.2.6 The following services are not included:

- Services not routinely commissioned by the CCG
- accident and emergency services

- cancer services or services provided at rapid access chest pain clinics which are subject to the 2 week maximum waiting time
- maternity services
- any other services where it is necessary to provide urgent care

5.2.7 Patient choice will be offered in line with Department of Health policy and guidance but subject to the following:

- The CCG will not commission specified specialised services from either nominated or designated providers which are the commissioning responsibility of NHS England (NHSE).
- For any service, choice will be offered from those providers that are able to provide the CCG with sufficient evidence that they are able to provide the service in accordance with Care Quality Commission (CQC) standards.
- For particularly complex care, choice may be offered on the basis of the whole care pathway to ensure clinical continuity and optimum co- ordination of care between different organisations.
- Choice may need to be constrained either intermittently or continuously in order to maintain an efficient and effective supply of regional NHS services or where there are problems with matching supply and demand.
- Choice may need to be constrained on the grounds of value for money.

5.2.8 Where a patient seeks to exercise a choice which is constrained by the above, the CCG's commissioning lead for that service may agree a variation after consultation with the patient's clinician or GP.

5.2.9 The CCG will normally support a patient seeking a second opinion for the same condition but will not fund a third or subsequent opinions unless extenuating circumstances apply.

5.2.10 Patients and clinicians should ensure that they have checked any relevant treatment specific policy on the CCG's website as the treatment may not be routinely commissioned by the CCG.

5.3 Patients changing responsible commissioner

5.3.1 For a number of reasons, which include the different levels of funding CCGs receive, historical patterns of service developments and the different health needs of the population served, the range of services and treatments which are available to patients across CCGs can vary.

5.3.2 As a result patients may find that, when they move area, a treatment which they had been receiving in their old area of residence may not be routinely available in their new area of residence.

5.3.3 Where responsibility for providing NHS services to the patient has been transferred to the South Staffordshire CCGs funding commitments made by the patient's previous CCG for a period of up to 3 months will continue to be honoured. This also includes situations where a particular treatment is not routinely commissioned by the South Staffordshire CCGs, provided that continuation of the course of treatment is recommended by the clinicians providing NHS care to the patient.

5.3.4 However the South Staffordshire CCGs reserve the right to seek a formal clinical review of the patient's future healthcare needs and to consider whether the decision to provide the patient with any further courses of treatment of the type previously provided, and of any other nature, are equitable and appropriate.

5.3.5 These rights shall not apply in the following circumstances:

- Where the patient would **not**, for whatever reason, have continued to receive the treatment in question as NHS commissioned treatment from the patient's previous responsible commissioning CCG
  or
- Where there is evidence that the patient has, at any time, taken steps to change his or her responsible commissioner for the purpose of securing the requested NHS commissioned treatment
  or
- For patients who become the responsibility of the CCG, having been formerly provided with healthcare under private healthcare arrangements or pursuant to a state healthcare system anywhere else in the EU or in a non-EU country

5.3.6 This policy should be read in conjunction with the Department of Health's responsible commissioner guidance, currently: "Who Pays? Determining responsibility for payments to providers"

5.4 Defining the boundaries between NHS and Private Healthcare

5.4.1 NHS care is made available to patients in accordance with the policies of the CCG. However, individual patients are entitled to choose not to access the NHS care and/or to pay for their own healthcare through a private arrangement with doctors and other healthcare professionals.

5.4.2 An individual who is receiving treatment that is routinely commissioned by the CCG, but who has commenced that treatment on a private basis, can at any stage request to transfer to complete the treatment within the NHS. However patients will only ever be entitled to receive the same treatments and medicines which are available on the NHS, and they will be subject to the same access criteria and waiting times as other NHS funded patients. To adopt any other stance would result in the CCG approving funding differentially for persons who could afford to fund part of their own treatment.

5.4.3 When a patient wishes to pay privately for treatment **not** normally funded by the CCG, the patient will be required to pay all costs associated with the privately funded episode of care. This also includes complications of treatment where these are solely a consequence of the privately funded treatment.

5.4.4 The CCG will not reimburse the patient for any treatment received as a private patient before a request is made to move back into the NHS.

5.4.5 The CCG will not make any contribution to any privately funded care to cover the cost of treatment that the patient could have accessed via the NHS.

5.4.6 If a patient commences a course of treatment not available on the NHS or that the CCG would not normally fund, the CCG will not pick up the costs of the patient either completing the course of treatment or to receive ongoing treatment. The fact that the patient may have demonstrated a benefit from the treatment is not a basis for the CCG to agree to support funding.

5.4.7 A clinical opinion recommending or supporting treatment which is not routinely commissioned by the CCG does not create any entitlement to NHS funding for that treatment. However if there are exceptional circumstances surrounding the case then an Individual Funding Request (IFR) can be submitted, subject to the rules of exceptional funding. If funding is approved by the IFR panel, the CCG will not reimburse the patient for any treatment received as a private patient before the IFR request was made.

5.4.8 Co-funding and forms of co-payment other than those limited forms permitted by Regulations are currently contrary to NHS policy. The CCG will not fund requests of this nature.

5.4.9 NHS care is free of charge to patients unless regulations have been brought into effect to provide for a contribution towards the cost of care being met by the patient. Such charges include prescription charges and some clinical activity undertaken by opticians and dentists. These charges are not "co- funding" but constitute a rarely permitted form of "co-payment". The specific charges are set by Regulations. These charges have always been part of the NHS.

5.4.10 A patient is not entitled to "pick and mix" elements of NHS and private care within NHS funded treatment provided as part of the same episode of care. Private and NHS funded care cannot be provided to a patient in a single episode of care at an NHS hospital.

5.4.11 Private prescriptions may not be issued during any part of NHS commissioned care as the GMC and GP contract doesnot allow a GP to issue a private prescription even if requested by the patient.

5.5 <u>Patients seeking access to treatments not available on the NHS</u>

5.5.1 Where a clinically appropriate treatment is not funded by the NHS patients should be informed of the option of seeking the treatment privately.

5.5.2 Whenever a patient wishes to access treatments that are not routinely commissioned they should always be aware of the option to privately funding that treatment themselves. If treatment is *only* available privately, patients should be told that.

5.5.3 If patients specifically ask for information about alternatives, including private care, doctors can respond but particular care is required. The codes of conduct for private practice in England and Northern Ireland state explicitly that consultants should not, in the course of their NHS duties, *initiate* discussions about providing private services for NHS patients or ask other NHS staff to initiate discussions on their behalf.

5.5.4 Doctors cannot be compelled to arrange treatment where it is not clinically indicated, even if a patient is demanding a referral, and GMC guidance states that investigations or treatment must be arranged and provided on the basis of clinical judgement.

5.5.5 GPs may not charge their NHS patients for private referrals, nor may they charge for the provision of relevant information to other doctors providing care for the patient.

5.5.6 When patients seek specialist treatment privately, the private consultant may prescribe any necessary medication. Often, however, consultants recommend a particular medication and patients ask their GP to issue a NHS prescription rather than paying for it privately. Even though individuals opt for private treatment or assessment, they are still entitled to NHS services. Where the GP considers that the medication recommended is clinically necessary:

- he or she would be required under the NHS terms of service to prescribe that medication within the NHS, even if the assessment from which the need was identified was undertaken in the private sector; however

- if the medication is specialised in nature and is not something GPs would generally prescribe, it is for the individual GP to decide whether to accept clinical responsibility for the prescribing decision recommended by another doctor. (The same principles apply to requests to undertake diagnostic tests or other procedures within the NHS.)

The interface between NHS and private treatment: a practical guide for doctors in England, Wales and Northern Ireland
Guidance from the BMA Medical Ethics Department
May 2009

5.6 Patients Seeking NHS Funded Hospital Treatment in the European Union, European Economic Area or Switzerland

5.6.1 Treatment through the EU scheme only available to patients who:

- have been recommended for treatment by a duly authorised clinician and
- would have access to that treatment as it is routinely commissioned by their CCG and
- that the patient is resident in the UK, and registered to a General Practice within the CCG

5.6.2 The CCG will consider funding requests sent through from the NHSE EU for medical charges in line with the policy: Who Pays? Determining responsibility for payments to providers August 2013

5.6.3 Patients can exercise their rights to access treatment within the EEA, under the terms of Directive 2011/24 EU on the application of patients' rights in cross-border healthcare and the accompanying regulations.

5.6.4 Patients choosing to exercise this right will receive reimbursement for eligible costs, according to their entitlement and the terms of the Directive. The responsible commissioner in each case will be required to fund the reimbursement, whilst NHS England are responsible for administering the application and reimbursement processes for all requests.

5.6.5 For services commissioned by CCGs, NHS England will reimburse patients on behalf of the responsible CCG, who will in turn be required to repay NHS England for the patients' eligible costs. Where approval is granted, the CCG is liable to pay costs equivalent to those of treatment in UK, or the actual cost of treatment, whichever is the lower.

5.6.6 The CCG will not fund a patient who has sought and received treatment abroad where that patient does not meet the local access criteria of any policy relevant to that treatment.

5.6.7 Authorisation for funding does not make the CCG liable for the clinical negligence of practitioners or clinicians in the host country. Any liability of the provider would have to be established in accordance with the legislation of the host state. The NHS does not accept any legal liability for the quality of providers outside the UK, on the basis that the choice of provider is for the patient and the UK neither oversees nor regulates such providers. Patients must make their own inquiries about the level of insurance held by the proposed providers and the level of any liability within the country where the treatment is to be provided. Patients seeking treatment outside of the UK are not covered by the Clinical Negligence Scheme for Trusts (CNST).

5.7 In-Year Service Developments and the CCG's approach to treatments not yet assessed and prioritised

5.7.1 An in-year service development is any aspect of healthcare, other than one which is the subject of a successful Individual Funding Request (IFR), which the CCG agrees to fund outside of the annual commissioning round. The CCG's process for considering and agreeing to fund in-year service developments can be found in its operational policy.

5.7.2 Until a service development has been assessed and a policy decision has been taken as the result of prioritisation, whether in-year or during the annual commissioning round, the CCG default policy will be not to fund.

5.7.3 In deciding whether to introduce a service "in year" the CCG will apply the principles of priority setting. The CCG will require considerable evidence of both the clinical effectiveness and cost effectiveness of the proposed service development before agreeing to change CCG policy in-year so as to make the treatment available.

5.7.4 The CCGs will consider:

- What are the proven benefits of the treatment? The proven benefits must be substantial.
- What is the overall cost of the service development and does it represent good value for money?
- How many patients are likely to be treated and what will the part year effect of funding be?
- What is the CCG's financial position – can the CCG afford it?
- What service development proposals were not funded in the last annual commissioning round or have been refused in-year funding by the CCG
- Does the proposed treatment have a clear higher priority than those proposals or can the CCG identify opportunities to disinvest to fund the treatment?

5.7.5 Having considered the above the CCG can then either:

- Approve to the proposed service development
  or
- Commission such further analysis of, or other work on, the proposed service development as the CCG may consider appropriate
  or
- Conclude that the proposed service development does not have sufficient merit to justify supporting it and formulate a policy to reflect this
  or
- Conclude that there is merit in funding the requested treatment, but consider that the CCG should delay funding because the development does not have sufficient priority.

5.7.6 All in-year service developments will be subject to the above procedure and prioritisation process of the Clinical Priorities Advisory Group (CPAG). This applies even when only a small number of patients across the CCG area will be affected.

5.8 Prior Approval

5.8.1 A Prior Approval scheme is an intervention or treatment where the commissioners (CCG) and the Provider(s) have agreed access for patients based upon the patient meeting a set of approval criteria.

5.8.2 The CCG will only give Prior Approval for agreed procedures when a patient meets the acceptance criteria of that Prior Approval scheme.

5.8.3 The CCG have delegated responsibility for Prior Approvals to the Individual Funding Request team, who will ensure that the Provider furnishes them with the clinical information required to decide if the patient meets the access criteria.

5.8.4 It is the referring clinician's responsibility to ensure that patients are fully informed of and agree to their personal information being shared with the IFR team, and that only patients' meeting the access criteria are put forward for Prior Approval.

5.8.5 It is the referring clinician's responsibility to supply the information required to decide if a patient meets the agreed criteria of a prior approval scheme. Failure to provide that information will result in funding being declined.

5.8.6 Should the patient not meet the acceptance criteria of the Prior Approval scheme the patient can be referred to the IFR team as an Individual Funding request if there is a basis for exceptionality.

5.8.7 In the absence of a prior approval scheme or any guiding policy a requested treatment will be considered a service improvement in the usual annual commissioning intentions.

5.9 Ongoing access to treatment following clinical trials

5.9.1 The CCG will not pick up funding of treatments, at the end of clinical trials or when company sponsored funding is withdrawn, without prior agreement of an NHS commissioning organisation (past or present). Providers trusts will need to provide evidence of any such agreement.

5.9.2 It is the responsibility of the clinician involved in the trial to ensure that patients are fully informed of and agree to their management plan at the end of the trial. This includes making patients aware of this commissioning policy. The patient's consent will be documented.

5.9.3 The CCG will not have any liability to pay the provider under the acute services contract where the patient has been initiated on treatment or received a temporary before funding approval was sought from the CCG.

5.9.4 Should the CCG agree to pick up funding it does not represent a policy decision in relation to that treatment and, as such, sets no precedent for the funding of other patients. The treatment in question will be assessed and prioritised as a service development in the normal way.

5.9.5 The patient has the right to apply to the individual funding panel for consideration of the continuation of the funding. Such applications will be considered by the IFR Panel under the IFR policy subject to the rule of exceptionality.

6.0 Equality Impact Assessment

Not applicable

7.0 Quality Impact Assessment

Not applicable

8.0 Training

None required

9.0 References

Internal references

http://sesandspccg.nhs.uk/news-and-information/individual-funding-requests-ifr

External references

https://www.nice.org.uk/
http://www.gmc-uk.org/
http://www.nhs.uk/pages/home.aspx
https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england
https://www.england.nhs.uk/wp-content/uploads/2014/05/who-pays.pdf
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:088:0045:0065:EN:PDF
http://www.nhs.uk/NHSEngland/Healthcareabroad/countryguide/Pages/EEAcountries.aspx
https://www.gov.uk/government/publications/guidance-on-attributing-the-costs-of-health-and-social-care-research
The interface between NHS and private treatment: a practical guide for doctors in England, Wales and Northern Ireland, Guidance from the BMA Medical Ethics Department, May 2009:
http://www.google.co.uk/url?url=http://www.bma.org.uk/-/media/files/pdfs/practical%2520advice%2520at%2520work/ethics/interfaceguidanceethicsmay2009.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ved=0ahUKEwiAuejfzdTLAhXGtRoKHSN-BcgQFggUMAA&usg=AFQjCNHUZrE8YLPStI9jggsAD8ymu1GDzQ

10.0 Monitoring and Evaluation

This policy is to be used as a supporting tool for GPs, commissioners and patient groups and therefore does not require monitoring, however this policy will be reviewed on an annual basis.

11.0 Review

This policy is to be reviewed in 6 months due to the impending exit from Europe and the effect this will have on the policy for Patients Seeking NHS Funded Hospital Treatment in the European Union, European Economic Area or Switzerland (5.6)