NHS
Bath and
North East Somerset
Clinical Commissioning Group

# Individual Funding Requests, Prior Approval and Criteria Based Access Policy

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| **Document Author** | Individual Commissioning Team |
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**Implementation Plan:**

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| **Development and Consultation** | Senior Individual Commissioning Nurse<br>Individual Commissioning Nurse<br>IFR Clinical Lead<br>Director of Nursing and Quality<br>Medicines Optimisation Team<br>Consultant Public Health<br>Communications Team |
| **Dissemination** | The policy is available to all CCG staff, independent contractors and members of the public via the main CCG website and CCG clinical policies website. Information about the policy is provided by email notification to GP Practices and secondary care commissioners and is also available as documentation associated with the main provider contracts |
| **Training** | Training will be provided by the Individual Commissioning Team as required |
| **Monitoring** | Key data to be reported quarterly to Quality Committee and annually to CCG Board, as required to Audit Committee and Finance and Performance Committee |
| **Review** | Annually |
| **Equality, Diversity and Privacy** | Equality Impact Assessment – Privacy Impact Assessment completed |
| **Associated Documents** | Individual Funding Requests Form |
| **Documents Informing Paper** | • NHS Constitution 2012<br>• NHS Commissioning Board (2013) Commissioning Policy (ref NHSCB/CP/06) Experimental and unproven treatments<br>• NHS Commissioning Board (2013) Interim Commissioning Policy (ref NHSCB/cp/03): Individual Funding Requests |

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## 1.0 Introduction

**1.1** This policy defines the responsibilities of Bath & North East Somerset Clinical Commissioning Group (BaNES CCG) and the activities of the Individual Funding Request (IFR) team.

**1.2** Clinical Commissioning Groups (CCGs) commission local NHS health services, including primary care services. NHS England commissions highly specialised health services. CCGs and NHS England use national and local policies to prioritise treatments based on available resources and competing demands. This policy only relates to services commissioned by BaNES CCG.

**1.3** The NHS exists to serve the need of all its individuals but also has a statutory duty to be responsible and commission services within an agreed budget set out by the Government. BaNES CCG have a responsibility to provide health benefit for the whole of its population, whilst commissioning appropriate care to meet the clinical needs of individual individuals.

**1.4** There will always need to be a process for considering NHS funding for an individual based on either individual clinical circumstances or exceptional clinical circumstances. BaNES CCG have an Individual Funding Request team to perform this function. Clinicians are entitled to make a request to the CCG for treatment to be funded on grounds of individuality where an individual requires healthcare which falls outside the range of services and treatments the CCG has agreed to commission. The IFR team also considers requests for funding for individuals with more common conditions for which the CCG has commissioned care pathways, but where the individual does not fulfil the agreed criteria and is considered to be 'exceptional' to the care pathway and/or criteria.

**1.5** The NHS constitution (March 2012) informs individuals they have the right to expect local decisions on funding or drug and non-drug treatments to be made rationally following an appropriate clinical review of the evidence. It states "*If the local NHS decides not to fund a drug or treatment you and your doctor feel would be right for you, they will explain that decision to you"*.

**1.6** In order to ensure quality services are available to those individuals with the greatest need, it is necessary to restrict funding of procedures which have limited or no clinical benefit. These procedures may also be referred to as low priority treatments. Therefore BaNES CCG has a Prior Approval system in place which ensures that certain elective procedures are subject to threshold criteria. This will mean that some procedures will only be available for individuals who meet a defined set of criteria. Please see our webpage on what we do fund http://www.bathandnortheastsomersetccg.nhs.uk/documents/what-we-do-and-dont-fund

**1.7** The prior approvals process assesses the applications for such procedures against the set criteria. This ensures optimal clinical effectiveness and appropriateness in an individual's clinical pathway.

## 2.0 Equality and Health Inequalities

**2.1** Promoting equality and addressing health inequalities are at the heart of NHS values.

The CCG aims to design and implant services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the Human Rights Act 1998 and promotes equal opportunities for all. This policy has been assessed to ensure that no-one receives less favourable treatment on grounds of their gender, sexual orientation, marital status, race, religion, age, ethnic origin, nationality or disability.

## 3.0 The National Institute for Health and Clinical Excellence (NICE)

NICE is an independent organisation responsible for producing evidence based guidance and advice for health, public health and social care practitioners. They develop quality standards and performance metrics for those providing and commissioning health, public health and social care services. NICE also provide a range of information services for commissioners, practitioners and managers across the spectrum of health and social care.

## 4.0 Purpose

**4.1** Requests for non-commissioned care usually come under Individual Funding Requests and this policy is designed to provide assurance that the CCG processes are compatible with the requirements in the NHS Constitution.

**4.2** This policy will ensure a clear and transparent process is in place for decision making and provide reassurance to individuals and clinicians that decisions are made:

- fairly
- openly
- equitably
- in a consistent manner

## 5.0 Definitions

### 5.1 Criteria Based Access (CBA)

This applies to treatments that are considered appropriate for individuals in certain circumstances provided that specific pre-determined and evidence based access criteria have been met. Unlike Prior Approval procedures for CBA procedures, if a reviewing clinician can demonstrate that the individual meets the CBA criteria then the individual can proceed for treatment without any requirement from BaNES CCG IFR team. Secondary care providers must ensure that the Criteria Based Access evidence is included within the individual's medical records for audit purposes.

### 5.2 Prior Approval (PA)

Is a process in which clinicians demonstrate how an individual meets a set threshold criteria prior to referring to secondary care and/or by consultants prior to listing for surgery or performing a procedure which BaNES CCG routinely commissions and is within agreed contracts.

- Prior Approval means the General Practitioner and / or provider must seek the agreement of the responsible commissioner to fund a treatment for an individual for an intervention for which there is a CCG policy before that treatment is carried out.
- The Prior Approval process then compares requests for elective procedure against a set of threshold criteria for the Prior Approval Process
- On occasions individuals may not meet the PA criteria and clinicians may appeal by demonstrating how the individual is clinically exceptional. In these cases the request is then considered via the Individual Funding Request process.

### 5.3 Individual Funding Request (IFR)

This is a request from a clinician providing care to an individual for:

- A specific treatment that is not covered by existing policy or for a service which is not commissioned by BaNES CCG.
- Where the CCG is responsible for commissioning the service/treatment in question and /or a local policy is in place, however the individual does not meet criteria and is deemed to be clinically exceptional.

Exceptionality are requests where an individual is deemed to have ***exceptional clinical circumstances***. For example, an individual who has clinical circumstances which taken as a whole are outside the range of clinical circumstances presented by an individual within the normal population of individuals with the same medical condition and at a similar stage of progression as the individual.

### 5.4 Individual Funding Request Monthly Panel

This is the panel which represents the BaNES CCG that has been authorised to take decisions on its behalf on Individual Funding Requests (see Terms of Reference document – Appendix 1).

### 5.5 Cohorts

A cohort of similar individuals for the purposes of this policy has been defined as the number of requests received or likely to be received per year which will require consideration of a commissioning policy. In these circumstances the IFR process to funding may only be considered if the individual is clinically exceptional to the cohort.

The number of individuals for whom the treatment will be requested per year is five or more individuals per year from the population served by CCG.

## 6.0 Scope

**6.1** This policy covers the following:

- All Individual Funding Requests (IFR) and Prior Approval (PA) requests for adults and children for which BaNES CCG has responsibility and excludes treatments that are the responsibility of NHS England.
- NHS England sets out the services it commissions and the services. https://www.england.nhs.uk/publication/manual-for-prescribed-specialised-services/
- The arrangements to consider funding requests that do not fall within existing contracts or are considered low priority.
- The processes in place to respond to these requests and appeals.
- The structure and function of the Individual Funding Request Team, and the
- Individual Funding Request Monthly panel.

**6.2 Criteria Based Access** – applies to treatments that are considered appropriate for individuals in certain circumstances provided that specific pre-determined and evidence based access criteria have been met. Unlike Prior Approval procedures, for Criteria Based Access, if a reviewing clinician can demonstrate that the individual meets Criteria Based Access then the individual can proceed for treatment without any requirement from BaNES CCG IFR team. Secondary care providers must ensure that the Criteria Based Access evidence is included within the individual's medical records for audit purposes.

**6.3** This policy applies to any individual for whom BaNES CCG is the Responsible Commissioner and who is registered with a BaNES General Practice. The CCG is responsible for commissioning services to meet the health needs of its population and is required to commission services which are evidence based, clinically and cost effective, improve health outcomes and reduce health inequalities whilst representing value for money.

**6.4** BaNES CCG commissions its Mental Health Services for adults from Avon & Wiltshire Mental Health Partnership NHS Trust (AWP) and for children from Oxford Health NHS Foundation Trust, CAMHS (Child & Adolescent Mental Health Services). Requests are sent by clinicians securely to the IFR team who will forward the information to a nominated mental health commissioning lead for consideration of individual funding. On occasions the mental health commissioner may request the IFR Monthly Panel to consider funding advice for complex and/or appeals. In such cases the mental health commissioner will be expected to present the case including all relevant history and clinical information to the IFR monthly panel. The IFR monthly panel will make a funding decision and/or provide advice in line with section 7.10 of this policy. The IFR team is responsible for the dissemination of the outcome.

## 7 Roles and Responsibilities

**7.1** Joint Commissioning Committee is responsible for approving this policy.

**7.2** Accountable Officer – has overriding accountability for Individual Funding Requests.

**7.3** Director of Nursing and Quality – has responsibility to ensure policy is applied and adhered and to escalate any serious risks and/or concerns to the CCG Board.

**7.4** The IFR Monthly Panel – has delegated authority from the CCG Board to make decisions in respect of funding for individual cases. Accountability for those decisions rests with the CCG representatives of the committee. Decisions will usually be made on the basis of consensus. The IFR Monthly Panel will report any significant issues and risks arising via the IFR bi-yearly report. The IFR Monthly panel will highlight any cohorts to the relevant commissioner to ensure services are reviewed in line with the CCG priorities.

**7.5** Public Health Consultant – provides support and advice to the IFR Monthly Panel. Their role is to give public health advice in relation to clinical appropriateness, clinical effectiveness and cost effectiveness of a treatment.

**7.6** The IFR administration team – are responsible for logging and monitoring all PA/IFR applications, co-ordinating responses within the set time frames and communicating with individuals and clinicians regarding the process and decisions. The IFR team will co-ordinate and prepare cases for the Individual Commissioning Nurse to review regularly and for weekly review by the CCG GP, and prepare for the IFR Monthly Panel meeting. The aim is to send the IFR Monthly Panel decisions to the referring clinician within 10 working days of the IFR Monthly Panel meetings, which is within the 30 day requirement stated within contracts and in line with the Standard Operating Procedures. If the IFR Monthly Panel decides not to fund a drug or treatment the decision letter will include an appropriate explanation.

## 8.0 Processes

**8.1** Information that is immaterial to the clinical decision which includes information about the social, economic or personal circumstances of the individual which does not have a direct connection to the individual's clinical circumstances shall not be considered.

**8.2** Psychological issues are not considered as grounds for exceptionality. This is in line with BaNES CCG guidance based on reviews of evidence http://www.bathandnortheastsomersetccg.nhs.uk/documents/what-we-do-and-dont-fund

**8.3** IFR does not generally fund equipment or on-going maintenance, or placements in long term care. Personal Health Budgets and voucher schemes are available through the Continuing Health Care Team (CHC team).

**8.4** BaNES CCG want the best care available for our residents. It is important that when an individual reaches a stage in their treatment pathway that requires a specialist intervention, we would expect them to be referred to officially designated, accredited Centres to ensure high quality of care. The CCG will not support specialised treatment at an un-designated, non-accredited centre.

**8.5** BaNES CCG do not make clinical decisions on treatments for individuals under its policies dependent on the individual's social or personal circumstances. Accordingly when making decisions as to whether treatment should be provided to an individuals which is either not NICE approved or unlicensed, the IFR Monthly Panel will not discriminate against the individual.

**8.6** The IFR Monthly Panel shall have a broad discretion to determine whether the proposed treatment is a justifiable expenditure of the CCG resources. The IFR Monthly Panel is however required to bear in mind that the resources requested to support the individual will reduce the availability of resources for other investments. The IFR Monthly Panel may make such approval contingent on the fulfilment of such conditions as it considers fit.

**8.7** Very occasionally an IFR presents a new issue which needs a substantial piece of work before the CCG can reach a conclusion upon its position. This may include a wider consultation with other CCGs/GPs/Consultants. When this occurs the IFR Monthly Panel may adjourn a decision on an individual case until that work has been completed.

**8.8** The IFR Monthly Panel shall take care to avoid adopting the approach described as the "the rule of rescue". The fact that an individual has exhausted all NHS treatment options available for a particular condition is unlikely to be sufficient to demonstrate exceptional circumstances. Should severity be cited by the requesting clinician as part of the argument for exceptionality, the application should make clear:

- Whether there is evidence that the individual's presentation lies outside the normal spectrum for that condition. Preferably a recognised scoring or classification system should be used to describe the individual's condition.
- Whether there is evidence that the individual has progressed to a very severe form of the condition much more rapidly than the range of progression that is documented and usually observed within the natural history of the condition.
- How the individual is expected to benefit from the treatment sought and in what quantifiable way.

**8.9** The IFR Monthly Panel will consider in the case of exceptional requests if there are likely to be similar individuals within the local population.

The exceptionality requests the clinician must also provide the case for treating the individual and not other apparently similar individuals.

**8.10** The IFR process is clinician-led and applications must be made by a clinician. Deliberations at IFR Monthly Panel will be based on evidence of individual clinical exceptionality and will not take into account issues relating to social or personal circumstances. It is therefore not appropriate for individuals to attend IFR Monthly Panel and the Commissioners are not legally bound to invite them. However individuals may submit a supporting statement but this needs to be limited to clinical issues i.e. what effect the condition has on the individual's activities of daily living.

**8.11** The IFR team/monthly panel shall routinely screen IFR to see whether they represent a service development. The key question used to screen out service development will be: Are there more likely to be other similar individuals in the area? If there is evidence that this individual is representative of other similar people and forms a cohort, the request will be considered on an individual basis as per the clinical evidence but the provider will be requested to follow normal procedures for introducing new services by the submission of a fully costed business case.

**8.12** On occasions the IFR team may receive rare requests for treatments, drugs or services where the responsible commissioner is unclear, or there is no existing commissioned service. Such requests will be considered on an individual basis until commissioning responsibility can be ascertained. Should a cohort be identified the IFR team will treat this as a service development requiring consideration of a commissioning policy. Any emerging cohorts will be highlighted to the CCG Executive team. The IFR team will consider people within the cohort on their individual clinical circumstances in the interim, until a commissioning decision and/or policy has been developed. Should the person have an individual clinical circumstance which prevents them from utilising other existing commissioned services and the intervention is clinically appropriate, funding may be approved by the IFR team or behalf of the CCG.

## 9.0 How are IFRs for 'experimental treatments' considered and Funding for cases following Clinical Trial

**9.1** A treatment may be considered experimental where any of these points apply:

- The treatment is still undergoing clinical trials and/or is a drug yet to undergo a phase III clinical trial for the indication in question.
- The treatment does not have marketing approval from the relevant government body for the indication in question.
- The treatment does not conform to a usual clinical practice in the relevant field.
- The treatment is being used in a way other than that previously studied or that for which it has been granted approval by the relevant government body.
- The treatment is rarely used, novel or unknown and there is a lack of authoritative evidence of safety and efficacy.

**9.2** The experimental basis of the treatment will become relevant when the IFR Monthly Panel assesses the likely effectiveness of the treatment for the individual and then primarily when the IFR Monthly Panel considers the degree of confidence it has on the safety and efficacy of the treatment for the person and whether it would be an effective use of the CCG resources.

**9.3** Where evidence about the treatment is not yet available for public scrutiny or there is limited evidence for one of the reasons set out above, the IFR Monthly Panel may have limited confidence in the evidence that has been presented.

**9.4** The IFR Monthly Panel will not fund treatment in response to an IFR if it considers that it would be more appropriate for the treatment to be the subject of research trials. Primary research into novel treatments should be progressed through the usual research funding routes and will not be funded through this IFR policy.

## 9.5 Funding for cases following a Clinical Trial

A number of individuals are provided with treatments or devices through clinical trials which are not routinely commissioned by BaNES CCG. This includes drugs, devices and treatments which are either still in development or are established as a treatment but BaNES CCG has been unable to secure resources to fund the treatments.

There are three types of Trials and they are:-

- Commercially Funded - In order to assess the efficacy of treatments they are developing, commercial companies will often sponsor trials on individuals offering free access to the treatment for a limited time. Responsibility for providing on-going access to a treatment lies with those individuals or parties that have initiated and sponsored either the clinical trial or drug company sponsored treatment.
- Non-commercially funded - similarly to commercially funded trials, organisations such as charities will on occasion fund clinical trials in order to assess the efficacy of treatments by offering free access to the treatment for a limited time.
- Self-funded individuals, or their family and friends, will on occasion fund trials with treatments or devices in order to assess whether they will benefit from the treatment. This is often for treatments which are established and have been previously considered by the Commissioner but they have been unable to identify resources to routinely commission the treatments for a cohort of people.

## 9.6 Informed Consent Prior to Commencing a Trial

It is the responsibility of the organisation participating in the trial and the individual's clinician to ensure that people are fully informed about the circumstances in which funding for a trial is being provided. That is, that it will not be continued routinely by BaNES CCG; how long this funding will be provided for; and what will happen when it is withdrawn. The individual should agree to their management plan on cessation of treatment. Individuals should be made aware of this commissioning policy in advance of treatment commencing and their consent should be documented.

It is also the responsibility of the organisation participating in the trial and the individual's clinician to ensure that such arrangements are explicitly approved by the relevant governance body of the provider trust (Clinical Advisory Group).

It is the responsibility of the pharmaceutical/medical device company, the organisation conducting the trial (usually a provider trust), and the individual's clinician, to ensure that people are fully informed that funding for the continuation of treatment delivered as part of a clinical trial, that has been sponsored by a pharmaceutical or medical devices company, will not be provided unless it is agreed in writing by BaNES CCG and the sponsoring pharmaceutical/medical devices company at the outset of the trial.

### 9.7 Requests for "pick-up funding"

Commonly the timing of requests for funding for individuals who have been in clinical trials is around the time that a license for the drug/indication is granted. There is an assumption by some clinicians conducting clinical trials that once the drug is licensed then BaNES CCG should assume responsibility for funding the drug. This is incorrect.

BaNES CCG has a responsibility to consider and prioritise new treatments being made available but this in no way places any obligation on the commissioner to fund individuals already on treatment funded by industry by whatever route.

BaNES CCG will not routinely make funding available to enable continuing access to treatments provided under clinical trials. This includes where it can be shown that the individual has individually benefitted from the treatment provided during a trial. Responsibility for providing on-going access to a treatment lies with those individuals or parties that have initiated and sponsored either the clinical trial or sponsored treatment. BaNES CCG do not expect to provide funding for individuals to continue medication/treatment commenced as part of a clinical trial. In line with the Medicines for Human Use (Clinical Trials) Regulations 2004 and the Declaration of Helsinki, the responsibility lies with those conducting the trial to ensure a clear exit strategy from a trial AND that those benefiting from treatments provided within the trial setting will have ongoing access to those treatments. The initiators of the trial (provider trusts and drug companies) have a moral obligation to continue funding individuals benefiting from treatment until such time as NHS BaNES CCG agree to fund through the annual commissioning round. Where the treatment is not prioritised through the annual commissioning round, the responsibility remains with the trial initiators. The Research Ethics Committee should require this assurance as part of the approval for the trial.

Requests for the routine pick-up of funding will therefore be rejected.

### 9.8 Commissioning of Treatments or Devices

The appropriate time for a commissioner to assume responsibility for on-going funding is if, and when, a decision has been made to fund the service development, and access to the treatment is opened to all individuals meeting treatment criteria under the policy. This includes treatments mandated by NICE under a NICE Technology Appraisal or where services/treatments are explicitly commissioned by BaNES CCG.

### 9.9 Funding for cases following a Free of Charge (FOC) Medicines Scheme

A free of charge medicines scheme is defined as an arrangement where a UK licensed or unlicensed medicine is provided free of charge by the pharmaceutical company to an individual or an identified cohort of people.

BaNES CCG will only support Providers to undertake a free of charge scheme within the principles set out in the Regional Medicines Optimisations Committee FOC scheme July 2018 and where there has been local agreement.

BaNES CCG will not support Providers in signing up to a free of charge (FOC) scheme which is solely offering a licensed medicine free of charge in advance of NICE approval.

https://www.sps.nhs.uk/wp-content/uploads/2018/07/FOC-medicine-scheme-policy-v-1.0Final-1.pdf

### 10.0 Drug and Devices Requests

**10.1** The IFR team processes requests for Drugs / Devices which are not routinely commissioned, this would include:

- High cost drugs / devices which are excluded from contracts (payment by results (pbr) excluded). These are commissioned in line with NICE Technology Appraisal (TA) criteria and routinely from day 90 or in accordance with local STP policies where no NICE criteria exist.
- New treatments where no policies exist.
- Treatments that we as a CCG have decided we will not fund routinely, or only fund in certain circumstances. This may include primary care prescribing or requests from Trusts and other providers.

**10.2** If a request meets routine commissioning criteria this will be sent to the Medicines Optimisation Team for processing. Drug requests will be considered in line with this policy on the grounds of clinical exceptionality and the same principles will be applied. The IFR Lead will work collaboratively with the senior pharmaceutical leads in responding to requests and draw upon their knowledge and expertise.

## 11.0 Urgent Treatment Decisions

**11.1** BaNES CCG recognise that there will be occasions when an urgent decision needs to be made to consider approving funding for treatment for an individual outside the CCG policies. In such circumstances the CCG recognises that an urgent decision may have to be made before the Monthly Panel can be convened. The following provisions apply to such a situation.

**11.2** An urgent request is one which requires urgent consideration and a decision because the individual faces a substantial risk of significant harm (the individual's life may be in danger) if a decision is not made before the next scheduled meeting of the IFR Monthly Panel. The IFR Lead and CCG Clinical Lead are responsible for agreeing whether a case requires urgent decision after considering the nature and severity of the individual's clinical condition. Urgency under this policy cannot arise as the result of a failure by the clinical team expeditiously to seek funding through the appropriate route and/or where the individual's legitimate expectations have been raised by a commitment being given by the provider trust to provide a specific treatment to the individual. In such circumstances the CCG expects the provider trust to go ahead with treatment; however funding will not be guaranteed and may be at their financial risk.

**11.3** Provider trusts must take all reasonable steps to minimise the need for urgent requests to be made through the IFR Monthly Panel process. If clinicians from any provider trust are considered by the CCG not to be taking all reasonable steps to minimise urgent requests to the IFR Monthly Panel, the CCG may refer the matter to the provider trust Chief Executive.

**11.4** When urgent decision needs to be made to authorise treatment for an individual, it is the responsibility of the IFR Clinical Lead to request a virtual discussion on the case. The time period within which the decision needs to be taken will be **five** working days of receiving the case request or earlier depending on the individual case.

**11.5** The urgent decision will be made by "virtual discussion" via email or phone between the IFR Monthly panel members.

**11.6** The "virtual discussion" will, as far as possible, be within the constraints of the urgent situation, follow the policy set out in making the decision. The IFR team shall collect as much information about the individual's illness and the treatment as is feasible in the time available.

**11.7** BaNES CCG Monthly Panel members shall be entitled to reach the view that the decision is not of sufficient importance that a decision needs to be made outside of the usual process.

**11.8** Decisions will be sent to the referring clinician and GP and the individual within **five** working days of receiving the case request for a virtual panel meeting. If the committee decides not to fund a drug or treatment, the decision letter will include an appropriate explanation.

## 12.0 Criteria Based Access Process

### 12.1 The Assessment Process

The Clinical Commissioning Policies list identifies all procedures that have Criteria Based Access (CBA) and provides details of the criteria that the individual will need to meet in order to proceed for treatment. The list can be found on our webpage http://www.bathandnortheastsomersetccg.nhs.uk/documents/what-we-do-and-dont-fund

**12.2 Assessment** of the individual against the relevant CBA criteria can be made at any point in the individual's pathway prior to treatment, but should be undertaken at the earliest possible stage in the pathway once the need for CBA procedure has been identified. This means that an assessment against the CBA criteria will either be made by the referrer prior to the referral, or by the secondary care clinician following triage or initial assessment in secondary care.

**12.3** Where the responsible clinician believes that an individual demonstrably meets the criteria set out in the Clinical Commissioning Policies list, the person can proceed for treatment. If the assessment is undertaken by a referring GP, that GP must ensure that details of this are included within their referral. Secondary care providers must ensure that evidence that the individual meets the CBA criteria is included within the individual's medical record for audit purposes.

**12.4** All providers of NHS care have a responsibility for ensuring that CBA procedures, as identified on BaNES CCG Clinical Commissioning Policy list, are only undertaken where the relevant clinical criteria are met.

**12.5** On any occasion where a provider undertakes CBA activity where the individual does not meet the relevant criteria, that provider will not be paid for the associated activity.

**12.6** BaNES CCG Process for Ensuring Compliance with CBA policy.

**12.7** BaNES CCG will undertake a quarterly audit process to review a representative sample of CBA procedures undertaken by providers to ensure relevant CBA criteria were met. The audit process will involve review of medical records, and an assessment of whether there is sufficient evidence to demonstrate that the CBA criteria were met.

**12.8** If the audit process identifies cases where the relevant criteria were not met, or where there is insufficient evidence to provide assurance that the criteria were met, the provider will not be paid for the associated activity.

**12.9** Providers will be given the opportunity to review any cases identified through the audit process, and if they are able to provide sufficient evidence within agreed timescales to demonstrate to BaNES CCG satisfaction that the CBA criteria were met, then the provider will be paid for the activity.

## 13.0 Prior Approval Process & Retrospective Funding

**13.1** BaNES CCG Primary and Secondary care clinicians are required to submit an application proforma to demonstrate how the individual meets current thresholds. Relevant clinical letters and/or objective data to support the individual's application can be useful and may be requested, for example x-ray reports, scan results, optician reports, medical evidence, clinical scores, clinic letters etc. http://www.bathandnortheastsomersetccg.nhs.uk/documents/what-we-do-and-dont-fund

See section 15.0 for photographic evidence

**13.2** Completed applications are sent electronically to the IFR Team. The case is recorded on an electronic IT system database.

The CCG aim to deal with all applications within a 30 working day turn around; this is within the contractually stated 30 day timeframe and is in line with Standard Operating Procedure. The Individual Commissioning Nurse determines whether or not the presenting condition requires prior approval and considers if any additional information is required. Requests which clearly do not meet criteria and where no additional information has been provided can be directly declined by the Individual Commissioning Nurse.

The Individual Commissioning Nurse will aim to

- Promote consistency, fairness and equity.
- Ensure effective use of resources but also ensure that the decisions are based on clinical evidence.
- Improve the processes ensuring decisions are rational, reasonable and transparent.
- The Individual Commissioning Nurse will be audited by senior nurse management and lead clinicians.

**13.3** Treatments and services referred to in this policy should not be undertaken or provided without Prior Approval being obtained as indicated. Where Prior Approval has not been appropriately obtained, then any treatments or services provided will not have been legitimately delivered, and will not be funded by BaNES CCG. Therefore funding will not be given in retrospect after the procedure has been carried out without Prior Approval funding in place.

**13.4** Where a Prior Approval application has been declined clinicians can appeal the decision by submitting new/ additional clinical evidence within 30 working days from the date of the decline letter to the IFR Team. This will be reviewed by the Individual Commissioning Nurse/ CCG GP. If the second request is declined after review of the new/additional information by the Individual Commissioning Nurse/CCG GP and the case is re-submitted for a third time within 30 working days, this will be considered an exceptional request and will be considered by the IFR Monthly Panel at the next IFR Monthly Panel meeting.

**13.5 Retrospective Funding**

Requests for funding must be submitted before treatment is initiated. Retrospective approval for individually funded requests will not normally be approved. However any request will be considered on its merits and in accordance with any separate policy in force at the time.

**14.0 Individual Funding Request Process**

**14.1** All applications to the IFR team must be on the approved request form (appendix 2). The form should be referred to for further detailed instructions on completing it. Written support and evidence should be provided by the clinician treating the individual using the request form and include any relevant research findings where appropriate. A personal statement from the individual can be included.

**14.2** On receipt of the funding request, the case is recorded on the IT electronic system. The Individual Commissioning Nurse will verify whether sufficient information is included in the request form and ask the referring clinician for more information if required.

**14.3** All the IFR cases will be screened by the Individual Commissioning Nurse on a daily basis. Complex cases will automatically be sent to a pre-screen panel meeting for discussion with CCG GP; any drug cases will be discussed with the relevant Senior Medicines Management Team member.

**14.4** Following the IFR Monthly Panel meeting the team will inform the applying clinician and GP of the decision via letter within the allocated turnaround times stated within the Standard Operating Procedure.

## 15.0 Photographic Evidence

**15.1** Photographs submitted to support an application will have all written individual identifiable information removed before the images are viewed by the clinician for Prior Approval or IFR Monthly Panel.

**15.2** Photographic evidence should only be submitted by the clinician and with the individual's consent. The clinician is responsible for informing the individual that the evidence may be viewed by the IFR Monthly Panel members. Where possible facial features or other identifiable features will be removed or blacked out of photos by the IFR Team prior to Prior Approval and IFR Monthly Panel meeting.

**15.3** Where photographs are submitted that are not medical photographs the clinician submitting them must ensure that quality of photography is such that the panel members can identify the relevant problem feature.

**15.4** Photographs to support applications will be emailed to panel members. The meeting agenda should indicate that there are photos to support the application so that members are aware when the case is being considered that there is photographic evidence.

**15.5** The photograph is kept with the application and will be held for a 12 month period as that is the length of time for which a decision is valid and the photographs may be required for any appeals.

## 16.0 IFR Monthly Panel

Refer to Appendix 1 for Terms of Reference for the IFR Monthly Panel

**16.1** The monthly panel meeting will usually consider cases where there is either

- Exceptional applications

OR

- Uncertainty about whether the treatment falls within existing policy

OR

- Evidence for exceptionality is unclear

OR

- Where complaints and appeals have been received in regards to a Prior Approval policy and the IFR monthly panel view is required

OR

- Where the referring clinician appeals against the decision made previously by the panel and there is new clinical information to consider.

In considering the funding requests, the panel will aim to:

- Promote consistency, fairness and equity.
- Ensure effective use of resources but also ensure that the decisions are based on clinical evidence.
- Improve the rigor of the processes ensuring decisions are rational, reasonable and transparent.
- Explore the grounds for any relevant clinical exceptionality presented and apply the IFR policy.

**16.2** Decisions will be reached by consensus where possible but if a consensus cannot be achieved, will be decided by a vote of the panel members. If the panel is equally split following extensive discussion then the chair of the panel will have the casting vote.

**16.3** The IFR Monthly Panel shall be entitled to approve/decline or defer Individual Funding Requests. The following will be considered:

- The IFR Monthly Panel is not authorised to approve funding for cases which are considered to form part of a service development. Providers are expected to seek funding for new treatments and services through commissioning managers by submitting a business case and not through the IFR system. However the committee can consider approving funding for individual cases where the individual is clinically exceptional to the cohort in question and the requested intervention has evidence of safety, efficacy and cost effectiveness. In addition, in rare circumstances if a new (first time) request for an un-commissioned service is received for an individual, consideration for individual funding may be appropriate whilst a business case is being developed for consideration of funding for the cohort. In these circumstances it must be demonstrated that the treatment for this individual would be safe, effective and cost effective, as demonstrated by critical review of the literature. In addition the CCG may decide that funding for a rare condition will only be considered individually rather than commissioning a service for a cohort. In these circumstances it would be expected that a commissioning policy is developed to support decisions.

- The IFR Monthly Panel is not required to accept the views expressed by the individual or the requesting clinicians concerning the likely clinical outcomes for the individual of the proposed treatment. The panel is entitled to reach its own views on the likely clinical outcomes for the individual of the proposed treatment; and the quality of the evidence to support that decision and/or the degree of confidence that the panel has about the likelihood of the proposed treatment delivering the proposed clinical outcomes for the individual.

- The IFR Monthly Panel shall be entitled, but not obliged to commission its own reports from any duly qualified or experienced clinician, medical scientist or other person having relevant skills concerning the case that is being made that the treatment is likely to be clinically effective in the case of the individual.

- The IFR Monthly Panel shall be entitled to approve requests on the basis of exception where the following condition is met:

The IFR Monthly Panel concludes that the criteria for exceptionality in the context of the relevant CCG policy/policies and guidance note(s) have been met.

In determining whether an individual is able to demonstrate exceptional circumstances the IFR Monthly Panel shall compare the individual to other people with the same presenting medical condition at a similar stage of progression. Based upon the evidence provided to it the panel shall determine whether the individual has demonstrated exceptional clinical circumstances. The evidence to show that, for the individual, the proposed treatment is likely to be clinically effective may be part of the case that the individual's clinical circumstances are asserted to be exceptional.

**16.4** The brief meeting notes will form the minutes for these cases.

The IFR Monthly Panel will make one of the following decisions:

- Approve the funding request
- Decline the funding request
- Defer the request and ask for more information from the referring clinician.

Funding decisions made by the team and/or IFR Monthly Panel on behalf of the organisation, may impact on various healthcare budgets within the organisation. IFR does not hold a specific budget.

**16.5** Where the request is agreed the letter may request that a report is provided on the individual's progress to determine whether the treatment is effective. The CCG may use this information to consider the continuation of treatment.

**16.6** Where the request is refused, a clear, accurate and comprehensive explanation must be given. The letter should state that the case could be reconsidered by the IFR Monthly Panel if **new /material evidence becomes available.**

**16.7** The refusal notification must include advice to the referring applicant about the terms on which they can make an appeal to the IFR Appeals Panel. It is the duty of the referring applicant to inform the individual about the appeals process.

**17.0 IFR Appeals Panel**

The IFR Appeal process enables applicants to appeal against the decision made by the IFR Monthly Panel. See appendix 3.

**17.1** The purpose of the Appeal Panel is to review decisions made by the IFR monthly Panel, where it was arguable that the decision was either not made in accordance with the CCG Clinical Policies or where it was made without adequately taking account of relevant information.

**17.2** Applicants or individuals wishing to complain about the decision itself should contact the relevant Individual Advice Liaison Service (PALS) for advice or complaints team to make a formal complaint.

**17.3** Appeal requests must be made by a clinician on behalf of the individual. The CCG will not accept appeals instigated by an individual, their family or other non-clinical representative (e.g. local MP).

**17.4** Appeal requests must be submitted in writing to the IFR Administrative Team within 30 days of the date of the decision letter to decline funding.

**17.5** Supporting statements from the individual(s) and third parties can be submitted to accompany the request for consideration as part of the appeal, but no new evidence can be provided following a decision to decline funding. The correct procedure is to resubmit a request for reconsideration as an IFR.

**17.5** The appeal request must indicate the applicant's grounds for appeal. There are three grounds for appeal that can be considered

- Illegality: the refusal of the request was not an option that could lawfully have been taken by the IFR Monthly Panel.
- Procedural Impropriety: There were substantial and/or serious procedural errors in the way in which the IFR Process was conducted.
- Irrationality: Whether the decision was irrational in light of the information available to the committee.

**17.6** This decision of the Appeals Panel is final.

## 18.0 Complaints

**18.1** Individuals have the right to raise a formal complaint with the CCG via the NHS Complaints Procedure should they be unhappy with the CCG's handling of their case (i.e. staff attitude, communication, or the way in which the policy or procedure has been followed, adherence to procedure). The NHS Complaints Procedures is set out to address concerns over service provision and not funding decisions. It cannot be used to investigate or influence funding decisions and the appropriate process for appeals should be followed, which is the appeal from the referring clinician and not the individual.

# Individual Funding Requests, Prior Approval and Criteria Based Access Policy

## Appendix 1

## IFR Application Form

The following pages contain:

- Prior Approval Application Form
- Exceptional Funding Application Form

NHS Bath and North East Somerset Clinical Commissioning Group

NHS Swindon Clinical Commissioning Group

NHS Wiltshire Clinical Commissioning Group

**THIS PAGE MUST BE COMPLETED FOR ALL REQUESTS**

STRICTLY PRIVATE AND CONFIDENTIAL APPLICATION FOR **PRIOR APPROVAL** FOR CONSIDERATION OF:

**Nature of proposed treatment or intervention:**

| **A. Patient Information** | | | | | | |
|---|---|---|---|---|---|---|
| **Name** | | Male | ☐ | Female | ☐ | |
| **Address**<br><br>**Post Code** | | | | | | |
| **Date of Birth** | | **NHS Number** | | | | |
| **B. Referrer's Details (GP/Consultant/Clinician)** | | | | | | |
| **Name** | | Patient requested | ☐ | | | |
| **Address**<br><br>**Post Code** | | | | | | |
| **Telephone** | | **Email** | | | | |
| **GP Details (if not referrer)** | | | | | | |
| **Name** | | **Practice** | | | | |

By submitting this form you confirm that the information provided is, to the best of your knowledge, true and complete and that you have:

- Discussed all alternatives to this intervention with the patient
- Had a conversation with the patient about the most significant benefits and risks of this intervention
- Informed the patient that this intervention is only funded where criteria are met or exceptionality demonstrated
- Checked that the patient is happy to receive postal correspondence concerning their application where appropriate
- Checked that the patient understands spoken and written English

I understand that it is a legal requirement for fully informed consent to be obtained from the patient (or a legitimate representative of the patient) prior to disclosure of their personal details for the purpose of a panel/IFR team to decide whether this application will be accepted and treatment funded. By submitting this form I confirm that the patient/representative has been informed of the details that will be shared for the aforementioned purpose and consent has been given.

**Date: ……**

**Submission**

The completed form(s) should be sent electronically (from a nhs.net email address) in confidence with any other supporting documents to BSCCG.exceptionalfunding@nhs.net

I**n order to comply with information governance standards, emails containing identifiable patient data should only be sent securely, i.e. from an nhs.net account.**

**THIS PAGE MUST BE COMPLETED FOR ALL REQUESTS**

## C. Clinical Criteria

| |
|---|
| Nature of proposed treatment or intervention: |
| Please supply the background to your patient's care to date and your rationale to support the use of this treatment in place of any standard care available: |
| List of written supporting information – to include all relevant clinical details and copies of correspondence:<br>For example:<br>❑ GP Medical history record<br>❑ Extracts from Medical Records |

NHS Bath and North East Somerset Clinical Commissioning Group
NHS Swindon Clinical Commissioning Group
NHS Wiltshire Clinical Commissioning Group

**THIS PAGE MUST BE COMPLETED FOR ALL REQUESTS**

STRICTLY PRIVATE AND CONFIDENTIAL APPLICATION FOR **EXCEPTIONAL** FUNDING:

**Nature of proposed treatment or intervention:**

| **A. Patient Information** | | | | | | |
|---|---|---|---|---|---|---|
| **Name** | | Male | ☐ | Female | ☐ | |
| **Address**<br><br>**Post Code** | | | | | | |
| **Date of Birth** | | **NHS Number** | | | | |
| **B. Referrer's Details (GP/Consultant/Clinician)** | | | | | | |
| **Name** | | | | | | |
| **Address**<br><br>**Post Code** | | | | | | |
| **Telephone** | | **Email** | | | | |
| **GP Details (if not referrer)** | | | | | | |
| **Name** | | **Practice** | | | | |

By submitting this form you confirm that the information provided is, to the best of your knowledge, true and complete and that you have:

- Discussed all alternatives to this intervention with the patient
- Had a conversation with the patient about the most significant benefits and risks of this intervention
- Informed the patient that this intervention is only funded where criteria are met or exceptionality demonstrated
- Checked that the patient is happy to receive postal correspondence concerning their application where appropriate
- Checked that the patient understands spoken and written English

I understand that it is a legal requirement for fully informed consent to be obtained from the patient (or a legitimate representative of the patient) prior to disclosure of their personal details for the purpose of a panel/IFR team to decide whether this application will be accepted and treatment funded. By submitting this form I confirm that the patient/representative has been informed of the details that will be shared for the aforementioned purpose and consent has been given.

**Signed Referrer: .....** **Please also print name: …….**

**Date: ……..**

**Submission**

The completed form(s) should be sent electronically (from a nhs.net email address) in confidence with any other supporting documents to BSCCG.exceptionalfunding@nhs.net

I**n order to comply with information governance standards, emails containing identifiable patient data should only be sent securely, i.e. from an nhs.net account.**

**THIS PAGE MUST BE COMPLETED FOR ALL REQUESTS**

## C. Treatment requested

| |
|---|
| Nature of proposed treatment or intervention: |
| Brief history, including the patient's current health status and any other health care problems: |
| Why do you consider this patient to have exceptional clinical circumstances: |
| Is there any other relevant information that should be considered? (e.g. clinical factors/co-morbidities/relevant personal circumstances) |
| What are the anticipated clinical benefits in this individual case of the particular treatment requested over other available options: |
| How will the benefits of the procedure/treatment be measured? What are the intended outcomes and how will these be determined? What 'stopping' criteria will be in place if the treatment is ineffective? The CCG will require regular feedback on the outcome if the treatment is approved: |

D. Costs

| | |
|---|---|
| Cost of treatment requested:<br><br>(for drug therapy – cycle and annual cost) | |
| Details of any long-term cost implications and resultant needs that may be acquired from the proposed treatment: | |

E. Alternative Treatment Options

| Provide a full list of treatments for condition that have been tried or considered, please include dates: | | |
|---|---|---|
| Date: | Intervention drug/surgery: | Reason for stopping/response achieved: |
| | | |

F. Clinical Evidence

| List of written supporting information – to include all relevant clinical details and copies of correspondence:<br>For example: GP Medical history record, extracts from Medical Records. |
|---|
| |
| |
| |
| |
| |
| |

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# Individual Funding Requests, Prior Approval and Criteria Based Access Policy

## Appendix 2

## IFR Monthly Panel: Terms of Reference

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# Individual Funding Request Monthly Panel

## Terms of Reference

## NHS Bath and North East Somerset Clinical Commissioning Group

### 1.0 Introduction

1.1 Individual Funding Request (IFR) Panel will consider individual requests for Bath and North East Somerset CCG (BaNES CCG) commissioned and funded treatment. The IFR Monthly Panel will work to the published NHS England IFR Standard Operating Procedures (SOP) https://www.england.nhs.uk/wp-content/uploads/2017/11/comm-policy-indivdual-funding-requests.pdf.
This will ensure that all requests are considered in a fair, consistent and transparent way, with decisions based on available clinical evidence presented by the treating clinicians and the NHS England commissioning principles.

1.2 The Individual Funding Request (IFR) Monthly Panel is the panel the CCG has authorised to take decisions on its behalf on individual/exceptional funding requests. The purpose of the IFR Monthly Panel is to consider funding requests on behalf of BaNES CCG. The IFR Monthly Panel will decide in each case whether funding should be approved or declined in line with the Individual Funding Request policy of BaNES CCG.

1.3 The IFR Monthly Panel will consider cases where there is uncertainty about whether the treatment falls within existing policy or where evidence for exceptionality is claimed. Or if the referring clinician appeals against the decision made by the panel and there is new clinical information to consider.

### 2. Membership

The membership of the IFR Monthly Panel will include:

- One GP IFR Clinical Lead – Chair
- Either the Senior Individual Commissioning Nurse or Individual Commissioning Nurse – Deputy Chair
- Two GP's representatives from BaNES CCG
- Other Clinical Leads / specialists as required on ad hoc basis (e.g. Doctor, Nurse specialist , Pharmacist, Public Health Doctor )
- One representative from Public Health

### 3.0 Quoracy

3.1 A quorum shall be four members. This should include 2 GP representatives, 1 Registered Nurse and 1 other representative. Any members unable to attend will be expected to leave their comments on each case for discussion at the IFR Monthly Panel meeting. Comments will be tabled at the meeting from members who are not present; these comments will be considered as part of the discussions but will not act as a voting decision.

3.2 No formal business shall be transacted where a quorum is not reached.

## 4.0 IFR Monthly Panel Process

4.1 In the event of the Chair of the Panel being unable to attend all or part of the meeting, a Deputy Chair will deputise for that meeting.

4.2 For particularly complex cases, other individuals with clinical expertise and skills may also be included on the IFR Monthly Panel and can also contribute to the work of the IFR Monthly Panel as required. They can attend IFR Monthly Panel as non-voting members.

4.3 Clinical Members of the IFR Monthly Panel who have had any clinical involvement with a particular case being discussed cannot be part of that discussion at the meeting nor have a vote on the decision due to a conflict of interest.

4.4 It is not appropriate to allow patients or carers to attend the IFR Monthly Panel meeting. The IFR process is clinician lead and all deliberations at the IFR Monthly Panel will be based on evidence of individual clinical exceptionality and will not take into account issues relating to social or personal circumstances. However, patients may submit a supporting statement but this needs to be limited to clinical issues i.e. *what effect the condition has on the patient's activities of day to day living.*

## 5.0 Duties of the IFR Monthly Panel

5.1 **Decision making at IFR Monthly Panel –** In considering the funding requests, the IFR Monthly Panel will aim to promote consistency, fairness and equity. Ensure effective use of resources, but also ensure that the decisions are based on clinical evidence. Improve the rigor of the processes ensuring decisions are rational, reasonable and transparent. Explore the grounds for any relevant clinical exceptionality presented and apply the IFR policy. Consider rare cases where no commissioning policy/service exists on an individual basis.

5.2 The panel is not authorized to make case by case decision making for service developments where the patient represents a cohort of patients who may benefit from the same treatment. The IFR Monthly Panel shall routinely screen individual funding requests to see whether they represent a service development. The key question used to screen out a service development will be "*are there likely to be other similar patients in the CCG?"* If there is evidence that this patient is representative of other similar patients and forms a cohort, the request will be considered on an individual basis (as per IFR policy) but the provider will be requested to follow normal procedures for introducing new services.

5.3 The IFR Monthly Panel is not required to accept the views expressed by the patient or the requesting clinicians concerning the likely clinical outcomes for the individual patient of the proposed treatment. The panel is entitled to reach its own views on the likely clinical outcomes for the individual patient or proposed treatment; and the quality of the evidence to support the decision and/or degree of confidence that the committee has about the likelihood of the proposed treatment delivering clinical outcomes for the individual patient.

5.4 The IFR Monthly Panel shall be entitled, but not obliged to commission its own reports from any duly qualified or experienced clinician, medical scientist or other person having relevant

skills concerning the case that is being made that the treatment is likely to be clinically effective in the case of the individual patient.

5.5 The panel shall be entitled to approve requests on the basis of exceptionality in line with the IFR policy.

**6.0 Frequency**

6.1 The IFR Monthly Panel will meet monthly in face to face meetings.

6.2 Documents will be sent at least one week prior to panel meetings to allow for circulation and consideration.

6.3 Members of the IFR Monthly Panel meeting should make every effort to attend the meeting. Any panel members who are unable to attend will be expected to send via email their comments at least two days before panel date, this then gives the IFR Team time to circulate the virtual comments to other panel members. Comments will be tabled at the meeting from members who are not present.

6.4 An IFR Co-ordinator will monitor attendance and will report annually.

**7.0 Voting Rights**

7.1 IFR Monthly Panel members will seek to reach decisions by consensus where possible, but if a consensus cannot be achieved, decisions will be taken by a majority vote with each panel member who is present having an equal vote. If the panel is equally split then the Chair of Panel will have the casting vote. Only panel members present at the IFR Monthly Meeting votes are counted.

8.0 **Authority**

8.1 The IFR Monthly Panel has delegated authority from the CCG to make decisions in respect of funding for individual cases. Accountability for those decisions rests with the panel. Decisions will be made on the basis of consensus with the Chair holding deciding vote

8.2 The IFR Monthly Panel is authorised to make the following conclusions:

- Approve the funding request
- Decline the funding request
- Defer the request and ask for more information from the referring clinician

8.3 Monitor the trends in individual patient treatment requests and make policy recommendations in the light of this to the Governing Body, via the STP Working Group.

**9.0 Out of Panel Decisions**

**9.1** Should a case need an urgent decision by the IFR Monthly Panel this will be made by virtual discussion, via email or phone between the committee members using the same quoracy principles set out in section 5. The exercise out of panel decisions shall be reported and minuted at the next panel meeting.

**10.0 Patient confidentiality and conflicts of interest**

10.1 All documentation in relation to the application will be completely anonymised and redacted to protect confidentiality and minimise the potential for identification bias as per NHS England guidance .

10.2 Any IFR Monthly Panel members who believe they may have had any clinical involvement or has a personal knowledge of the patient will excuse themselves from the case. Link to Standards of Business Conduct Policy https://www.bathandnortheastsomersetccg.nhs.uk/documents/policies-and-governance/10478

**11.0 Reporting arrangements to the Governing Body**

11.1 The IFR Monthly Panel will report any significant issues and risks arising to the executive team.

**12.0 Annual review of the IFR Monthly Panel**

12.1 The IFR Monthly Panel will undertake yearly self-assessment to:

- Review that these Terms of Reference have been complied with and whether they remain fit for purpose

**13.0 Panel Administration**

13.1 The IFR Monthly Panel shall be supported administratively by an IFR administrator (or other nominated representative), whose duties in this respect will include:

- Preparing clinical cases for the meeting
- Take minutes and keep a record of matters arising and issues to be carried forward
- Produce a single document to track panels agreed actions and report progress to the panel
- Produce draft notes with which to inform decision letter for approval within five working days of the meeting

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# Individual Funding Requests, Prior Approval and Criteria Based Access Policy

## Appendix 3

## IFR Appeals Panel: Terms of Reference

NHS
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Clinical Commissioning Group

# NHS Bath and North East Somerset CCG

# Individual Funding Request Appeal Panel

# Terms of Reference

## 1 Governance Arrangements

1.1 The Individual Funding Request (IFR) Appeals Panel will be accountable to the Clinical Commissioning Group (CCG) Governing Body via its committee structure, reporting to the Quality Committee.

## 2 Duties and Responsibilities

2.1 An IFR administrator will receive and acknowledge the letter of appeal. The IFR appeal will be reviewed by the Senior Nurse Individual Commissioning Nurse or the Individual Commissioning Nurse to determine whether new evidence has been received and if the case should be sent back to the IFR Monthly Panel. If no new evidence has been received, the case should be passed to an IFR Appeal Panel.

2.2 The purpose of the Appeals Panel is to consider whether there are grounds for appeal by reviewing whether the process followed by the IFR Monthly Panel was consistent with that detailed in the IFR Standard Operating Procedure and whether the decision reached by the IFR Monthly Panel was:

- Consistent with NHS England Commissioning Principles
- Taken into account and weighed all the relevant evidence
- Not taken into account irrelevant factors
- Indicates that members of the panel acted in good faith
- Was a decision which a reasonable IFR Monthly Panel was entitled to reach.

The IFR Appeals Panel will be able to reach only one of two decisions:

- Uphold the decision reached IFR Monthly Panel
- Refer the case back to the IFR Monthly Panel with detailed points for reconsideration.

2.3 An IFR Appeal Panel will not consider new evidence. New evidence must be considered as an IFR resubmission and reviewed by the IFR monthly panel.

2.4 If the IFR Appeal Panel upholds the original IFR monthly panel decision, the appellant will be advised that if they wish to take the matter further this must be done through the NHS Complaints process.

2.5 If the Appeals panel consider the IFR monthly panel did not consider all the evidence provided the application can be directed back to the IFR monthly panel for re-consideration. The referring clinician will be advised that the application has been sent back to the IFR monthly panel for re-consideration.

## 3.0 Constitution

3.1 IFR Appeal Panel meetings will be held in private. It is not appropriate to allow patients or carers to attend the IFR Appeal Panel meeting. The IFR Appeals Panel process is clinician lead and all deliberations will be based on evidence of individual clinical exceptionality and will not take into account issues relating to social or personal circumstances. However, patients may submit a supporting statement but this needs to be limited to clinical issues i.e. *what effect the condition has on the patient's activities of day to day living.*

3.2 The IFR Appeal Panel will adopt the consensus method of decision making where unanimous view cannot be reached on an individual case.

## 4.0 Membership

4.1 IFR Appeal Panel will include the following members:

- Director of Nursing and Quality (or Deputy) who will act as the chair of this Panel
- A CCG GP Clinical Lead or Senior Clinician
- A GP

4.2 All IFR Appeal Panel members must be independent of any of the original decision making processes and not have been a member of the IFR monthly panel involved in the original decision. The members must be familiar with all relevant policies and procedures.

4.3 IFR Appeal Panel members who believe they may have had any clinical involvement or has a personal knowledge of the patient will excuse themselves from the case. Link to Standards of Business Conduct Policy https://www.bathandnortheastsomersetccg.nhs.uk/documents/policies-and-governance/10478

Any conflict of interest must be declared as a standing item of the commencement of every meeting and the Chair will decide the appropriate action, including requesting that members withdraw from the meeting.

## 5.0 Frequency of Appeals Panel

5.1 The numbers of appeals that may be received are difficult to predict and therefore arrangements for IFR Appeals Panel meetings will be flexible and will be arranged to ensure that appeals are considered within a minimum of 20 working days of an appeal being received by the IFR Team.

## 6.0 Quorum Arrangements

6.1 All three members of the Panel must be present and decisions will be taken through achievement of consensus.

## 7.0 Confidentiality

7.1 All documentation in relation to the application will be completely anonymised and redacted to protect confidentiality and minimise the potential for identification bias.

7.2 Depending upon individual clinical circumstances it may be necessary to re-introduce information on patient's age and/or sex for consideration. When cases are considered which require access to confidential clinical information implied consent to disclosure of such information to all members of the IFR Appeal Panel will be assumed.

## 8.0 Review

9.1 The IFR Appeal Panel's Terms of Reference will be reviewed annually or in light of changes in organisational re structuring, legislation, practice or local/national guidance.

## Individual Funding Requests, Prior Approval and Criteria Based Access Policy

## Appendix 4

## Individuals Changing Responsible Commissioner

Where the commissioner has assumed responsibility for exercising the Secretary of State's function under the NHS Act 2006 in respect of individuals where

- The individual has been previously provided with one or more particular treatments by another NHS commissioning body and wishes the CCG to continue to commission those treatments for the individual
- An individual in the same clinical circumstances would not routinely have been provided with those particular treatments by the commissioner.

The policy of the commissioner is that it will operate a presumption in favour of continuing to provide the particular treatments to the individual.

The Commissioner reserves the right not to continue funding for all or any of the treatments if, in the circumstances of the case, the commissioner has a good reason for refusing to commission a particular treatment for the individual. A good reason could include where the commissioner considers that:

- The particular treatment is likely not to be clinically effective; or
- The particular treatment is likely not be cost effective for the individual; or
- That the commissioner had a concern an individual had arranged or may have arranged to change their responsible commissioner wholly or partly in order to obtain the requested treatment; or
- Where the continuation of the funding for this particular treatment may create a level of inequity with other local individuals so that the commissioner considers that the particular treatment should not be funded.

The commissioner reserves the right to seek a formal clinical review of the individual's future healthcare needs and to consider whether the decision to provide the individual with any further courses of treatment of the type previously provided, and of any other nature, are equitable and appropriate.

The individual's future healthcare needs, including consideration of whether to provide the individual with any further courses of treatment of the type previously provided, will be determined through the commissioner's usual local decision making mechanisms.