NHS

Kernow Clinical Commissioning Group

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Revision date	Version no.	Summary of changes	Changes by
28/04/15	Two	The previous IFR policy was based on how the Primary Care Trust operated and included references to commissioning activities and structures which are now no longer relevant or do not exist. These have been removed. • The SCRP and LPT procedures have been strengthened to support decision-making. • The IPP procedure has been strengthened to include more robust procedures for handling disagreement; the reconsideration of funding decisions. • Duplication has been removed by integrating the POLCB policy into the new IFR policy and by adding an appendix of restricted treatments.	Drew Wallbank
09/11/16	Three	Removed appendix of treatment policies: A revised list of policies has been developed by Elective Care team and ratified by Governing Body 1 November 2016. This change to IFR policy therefore does not need separate ratification.	Drew Wallbank

NHS

Kernow Clinical Commissioning Group

Individual Funding Requests Policy and procedures

- Special Cases Review Panel
- Low Priority Treatments Panel
- Individual Patient Placement Panel – Adults
- Individual Patient Placement Panel – Children

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1.0 Introduction and background

1.1 The role and responsibilities of NHS Kernow in commissioning healthcare services

NHS Kernow is committed to improving the health of people living in Cornwall and the Isles of Scilly, and ensuring that patients receive the treatments they need at the right time, in the right place, to a high standard in order to give the best health outcome.

It is the statutory duty of the NHS and Clinical Commissioning Groups to provide comprehensive healthcare within the resources available. CCGs receive a fixed amount of money each year in order to provide health services for all their population. Not all treatments can be provided by the NHS and the decision to provide one treatment directly reduces the resources available for other treatments and services. Therefore there must be a process of prioritisation based on principles of clinical need, clinical and cost effectiveness and equity. This includes the responsibility to make decisions on the commissioning of healthcare services that do not fall under existing contracts, ensuring that these decisions are equitable and in the interest of the whole population.

Inevitably there will be occasions when it is both reasonable and legitimate for NHS Kernow to restrict or not commission a particular healthcare intervention. It may be neither feasible nor desirable for clinicians to have to make prioritisation decisions when treating individual patients. In that situation commissioners, public health and pharmacy specialists and clinicians not directly involved in the patient's care are required to make a funding decision. In such a circumstance, it is important that the process by which NHS Kernow came to that decision is transparent and explicit.

This policy document sets out the process and defines the framework within which these decisions are made.

1.2 The National Institute for Clinical Excellence (NICE)

The National Institute for Clinical Excellence (NICE) is an independent organisation responsible for providing national guidance on treatments and care. NICE guidance is available to healthcare professionals, patients and carers to help them make healthcare decisions.

The Managing Director of each NHS organisation is ultimately accountable for the implementation of NICE guidance.

When NICE recommends a treatment and publishes a Technical Appraisal Guidance (TAG) CCGs must make funding available within three months unless the Secretary of State directs otherwise. Healthcare professionals are expected to take it fully into account when exercising their clinical judgment. However, NICE guidance does not override the individual responsibility of health professionals to make decisions appropriate to the circumstances of the individual patient, in consultation with the patient and/or their guardian or carer.

The NHS constitution (2012) affirms this by saying "You have the right to drugs and treatments that have been recommended by NICE for use in the NHS, if your doctor says they are clinically appropriate for you."

The Defining Guiding Principles Report (2009) cites the Department of Health (DH) that "lack of positive NICE guidance is not in itself sufficient reason to withhold treatment." Therefore where there is no positive NICE guidance the CCG has to put in place processes and policies to address any requests.

1.3 Guidance on NHS patients who wish to pay for additional private care (Mar 09)

This national document provides guidance on how providers should proceed in situations where NHS patients want to buy additional secondary care services that the NHS does not fund. It states that no patients should lose their entitlement to NHS care they would have otherwise received, simply because they wish to purchase additional care for their condition. However patients who choose to buy additional care must bear the full costs of the private services associated with the treatment. It is also incumbent on providers to ensure that all reasonable avenues for securing NHS funding have been exhausted before suggesting a patient's only option is to pay for care privately. These avenues should include Individual Funding Requests.

As affirmed by the principles of the NHS Constitution:

- Access to NHS services is based on clinical need not on ability to pay.
- Public funds for health care will be solely to the benefit of the people that the NHS serves.
- The NHS provides a comprehensive service to all.

and the rights of patients:

"You have the right to expect local decisions on funding of other drugs and treatments to be made rationally following a proper consideration of the evidence. 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."

1.4 Summary

This document sets out the NHS Kernow framework for making individual funding decisions regarding healthcare interventions not normally funded for Cornwall and Isles of Scilly residents, in line with national guidance.

2.0 Principles and policies

The term 'treatment' used throughout this document includes all medicines, health technologies and interventions, including surgical procedures, investigative procedures and therapies.

2.1 Individual Funding Requests (IFR)

An Individual Funding Request (IFR) is "a request to fund health care for an individual who falls outside the range of services and treatments that the [CCG] has agreed to commission" (NHS Confederation 2008). Such a request must be made by a clinician or relevant professional. As stated within the NHS Confederation (2008) there are several reasons why treatments might not be commissioned. CCGs may:

- not be aware of the need for this service and so has not incorporated it into the service specification
- have decided to fund the intervention for a limited group of patients that excludes the person for whom the request is made.
- have decided not to fund the treatment because it does not provide sufficient clinical benefit and/or does not provide value for money

In fulfilling their role to commission health services, CCGs will from time to time take decisions not to fund certain treatments or interventions. Areas of non-commissioned services fall into a number of categories:

- Interventions for which there is currently insufficient evidence of clinical effectiveness.
- Interventions for which there is currently insufficient evidence of cost effectiveness.
- Treatments (usually but not exclusively drugs) not yet considered by the National Institute of Clinical Excellence (NICE) or considered and rejected by NICE.
- Interventions which, whilst they may be clinically effective, are seen to be of relatively low priority for NHS resources locally – aesthetic surgery would be an example of this.
- Eligibility criteria exist for a number of services – access to NHS funded IVF would be an example.

However, NHS Kernow recognises that every patient is an individual and commissioning, by its very size and nature, focuses on the larger scale.

Therefore NHS Kernow will consider requests for treatment to be provided for a patient on an individual basis. When considering Individual Funding Requests, NHS Kernow will apply its Ethical Framework (see Section 4).

2.3 Individual Funding Request Panels

NHS Kernow operates four panels which review Individual Funding Requests: The Special Cases Review Panel (Section 7), the Low Priority Treatments Panel (Section 8) and the Individual Patient Placement Panels (Section 9).

The **Special Cases Review Panel** and **Low Priority Treatments Panel** make decisions based on the particular principle of 'exceptional clinical need'. Sections 2.4 – 8.0 apply to these Panels.

The **Individual Patient Placement Panels** make decisions based on clinical need. Section 9 applies to these Panels.

2.4 Defining Exceptional Clinical Need

It is not the role of these Panels to make commissioning policies on behalf of NHS Kernow. The Panels cannot make a decision to fund a patient where doing so creates a precedent that establishes new policy (because the patient's circumstances are not, in fact, exceptional, but representative of a group of patients who would be equally likely to benefit from the intervention).

If on the basis of a policy a treatment is not normally funded, NHS Kernow will consider requests for treatment to be provided to patients with an exceptional clinical need.

NHS Kernow recognise that every patient is exceptional to their loved ones and we are committed to providing individualised care. Therefore it is important to acknowledge that the term exceptional is applied in a different context.

NHS Kernow has adopted the statement of exceptional clinical need published in the NHS Confederation (2008). In making a case for special consideration it needs to be demonstrated by the requesting clinician that:

- The patient is significantly different to the general population of patients with the condition in question **and**

- The patient is likely to gain significantly more benefit from the intervention than might be normally expected for patients with that condition

The question the panels should therefore consider is:

‘On what grounds can NHS Kernow justify treatment for this patient when others from the same group are not being funded?’ Exceptionality does not require the patient’s circumstances to be unique.

2.4 Requests that are appropriate for the Panels are:

- Where a patient’s clinician requests funding for a treatment which is outside existing generic or treatment specific policies on the basis of an exceptional clinical need which applies specifically to that patient.
- Where NHS Kernow has no commissioning policy in place and NHS Kernow considers that the request for treatment will be so rare that it is not appropriate to put a specific policy in place for that treatment.

2.5 Requests that are not appropriate for the Panels are:

- Requests which represent service developments, for example, a group of IFRs relating to a newly licensed drug. These should be submitted via an appropriate business case.

2.6 NHS Kernow will utilise national guidance and policies to inform their decision making. When considering Individual Funding Requests, the NHS Kernow will apply the following policies and guidance.

2.7 NHS Kernow Service Level Agreements (SLAs) and Policies

Treatments not currently included in established pathways or identified for funding through the AOP process are ‘not routinely funded’.

For a number of treatments NHS Kernow has published specific policy statements setting out restrictions on access, based on evidence of effectiveness or relative priority for funding. These include, but are not limited to, interventions such as cosmetic surgery. These policies are available on the NHS Kernow website.

2.8 NICE

Technologies that are approved as a result of a NICE Technology Appraisal Guidance (TAGs) will be funded within three months of published TAG approval unless there are contraindications for doing so, for example, capacity issues.

The final appraisal decision by NICE is released three months prior to the TAG. Where appropriate the NHS Kernow will proactively assess the financial implications of funding positive final appraisals in advance of the TAG being published.

NICE Interventional Procedures Guidance (IPGs) take into account safety and efficacy but not cost-effectiveness. They do not constitute a recommendation that the procedure should be used, merely an indication of the circumstances in which it may be used.

2.9 Rare treatments not covered by NHS Kernow commissioning guidance

Patients with rare conditions and/or patients for whom established treatments are inappropriate for some reason are unlikely to have potential treatment options that are covered by NICE or by local policies. Such situations should be considered by the Special Cases Review Panel. Patients with rare conditions should neither be advantaged nor disadvantaged simply because their condition is uncommon.

2.10 Requests to continue funding of care commenced privately

Whilst patients have a right to revert to NHS treatment, patients who wish to continue their private care under the NHS will not be routinely funded where that treatment is not normally offered under the NHS. As stated within the national guidance: ‘As with any other patient who changes between NHS and private status, patients who pay for private care in these circumstances should not be put at any advantage or disadvantage in relation to the care they receive’ (DH Mar 2009). Where exceptional clinical need exists this may make such funding appropriate, subject to consideration by the appropriate Panel. NHS Kernow will not reimburse costs for private treatment undertaken without prior NHS Kernow approval.

2.11 Patients wishing to pay privately for additional care

In line with national guidance (DH Mar 2009) NHS Kernow will work closely with referring clinicians where NHS patients wish to pay for additional private care. This is to ensure timely decision making by Panels (especially when patients are seeking funding for end of life treatment). Patients who choose to purchase private care will have to pay the full costs of private care and should be informed by the provider of the benefits, risks and side-effects of treatments. NHS Kernow will not routinely fund procedures which have been commenced privately and patients will be advised to contact their private provider for aftercare.

2.12 Requests for referral to a specialist provider

The majority of referrals to specialist centres are made by secondary care consultants. NHS Kernow expects consultants to refer patients for tertiary/specialist care using established pathways and in line with national guidance on Patient Choice. Accordingly, requests for referrals to specialist providers, outside existing pathways, will usually only be considered after an assessment by appropriate specialists, within the existing pathway. Should a

local consultant decide that a referral outside existing pathways is a priority for a particular patient, the consultant should ask for the case to be considered as an Individual Funding Request.

2.13 Decisions inherited from other Clinical Commissioning Groups

Occasionally patients move in to the area after treatment has been approved by their previous CCG. NHS Kernow may honour such decisions, providing the care pathway has been initiated, for example, where an appropriate referral has already been made and approved).

3.0 Governance and communication

3.1 Decision making

The Panel has authority for decision making on behalf of the NHS Kernow and operates within the NHS Kernow formal governance framework.

3.2 Performance monitoring

Monthly and annual reports will be submitted to the Finance Committee

3.3 Transparency and communication

Education on IFRs will be offered to referrers, to enable greater understanding of decision making processes in regard to funding of treatments.

The NHS Kernow website will provide access to the following:

- Treatment policies
- Individual Funding Request Policy
- Individual Funding Request application forms
- Patient and referrer information leaflets

3.4 Confidentiality and Access to Records

The NHS Kernow Individual Funding Request Team and Panel members are bound by a duty of confidentiality. All person identifiable data is kept securely. Information is stored so that a funding decision can be made. If an application is funded, data is shared with the NHS Kernow Business Intelligence Team for the validation of any subsequent invoices for treatment.

Patients have the right to access the records held. They also have the right to object to us making use of their information, restrict what information we use and to correct information if it is not accurate.

4.0 Ethical framework

Clinical Commissioning Groups (CCGs) are under a statutory duty to promote the health of the local community. They are also under a duty not to exceed their annual financial allocation. These legal requirements inevitably mean that some hard choices have to be made. The courts recognise the need for prioritisation and the challenges it presents.

'Difficult and agonizing judgments have to be made as to how a limited budget is best allocated to the maximum advantage of the maximum number of patients' *(Court of Appeal in the case of Girl B 1995).*

The framework outlines the ethical principles NHS Kernow will consider when making decisions. This includes decisions about:

- New investment priorities as part of NHS Kernow's annual operational planning process.
- New healthcare technologies and drugs.
- Commissioning services or treatments in individual cases.

The purpose of the ethical framework is to support and underpin the decision making processes of panels by:

- Providing a coherent structure for discussion, ensuring all important aspects of each issue are considered
- Promoting fairness and consistency in decision making from meeting to meeting and with regard to different clinical topics, reducing the potential for inequity
- Providing a means of expressing the reasons behind the decisions made
- Improving accountability and reducing the risk of judicial review by implementation of robust decision-making processes

The Ethical Framework is especially concerned with the following:

- evidence of safety, clinical and cost effectiveness
- health care needs of the patient(s) and capacity to benefit
- needs of the community, equity and opportunity costs

4.1 Safety

In making commissioning decisions, NHS Kernow will need to be satisfied that any proposed treatment is safe and that each service provider has adequate quality and safety mechanisms in place. We will expect all standards set by the relevant health standards bodies to be met in full. It is accepted that there will be circumstances where treatments may be used outside of their licensed indication. In these circumstances, the ethical principles of beneficence

(benefiting patients) and non-malfeasance (not harming patients) should be carefully considered, and appropriate consent obtained.

4.2 Clinical effectiveness

NHS Kernow will seek to obtain the best available evidence of clinical effectiveness using an accepted hierarchy of clinical evidence as follows:

- Well-conducted meta-analysis of several, similar, large, well-designed randomised controlled trials (RCTs)
- Large well-designed RCTs
- Meta-analysis of smaller RCTs
- Case-control and cohort studies
- Case reports and case series
- Consensus from expert panels
- Clinical opinion

4.3 Cost effectiveness

We will compare the cost of the new treatment to the existing care provided and will also compare the cost of the treatment to its overall benefit, both to the individual and the community. This may include consideration of technical cost benefit calculations eg Quality Adjusted Life Years (QALYs) where relevant information is available. We will use as a guide the same benchmark for cost effectiveness as NICE.

4.4 Health care needs and capacity to benefit

Health care should be allocated justly and fairly according to need and capacity to benefit. NHS Kernow will consider the health needs of people and populations according to their capacity to benefit from health care interventions. So far as possible, it will respect the wishes of patients to choose between different clinically and cost effective treatment options, subject to the support of the clinical evidence.

Sometimes, difficult decisions need to be made when an expensive treatment produces little clinical benefit. For example, a treatment may produce only a small benefit or it may have only a small chance of significantly improving the patient’s condition or slowing the progression of the disease.

This approach leads to the following principles:

- In the absence of evidence of health need, treatment will not generally be given solely because a patient requests it.
- A treatment of little benefit will not be provided simply because it is the only treatment available.

- Treatment which effectively treats lifetime or long term chronic conditions will be considered equally to urgent and life-prolonging treatments

4.5 Exceptional clinical need

Where it has been decided that a treatment has a low priority and cannot generally be supported, a patient's doctor may still seek to persuade NHS Kernow that there are exceptional clinical needs which mean that the patient should receive the treatment. Each case of this sort will be considered on its own merits in light of the clinical evidence. The opinion of the doctor and/or the patient that this is the most appropriate treatment is not in itself sufficient to ensure that the patient will receive the treatment.

4.6 Equity

NHS Kernow believes that people should have access to health care on the basis of need. There may also be times when some categories of care are given priority in order to address health inequalities in the community.

The Individual Funding Request panels will not discriminate on grounds of personal characteristics, such as age, disability, including physical or cognitive function, gender reassignment, marriage and civil partnership, pregnancy and maternity, race – including nationality and ethnicity, religion or belief, sex, sexual orientation, lifestyle, social position, family, employment or financial status, intelligence, disability, physical or cognitive functioning.

4.7 Non-clinical factors

Individual Funding Requests should not be made on the basis of non-clinical factors. For example, the degree to which a person has, or is continuing to contribute to society through their employment.

The Individual Funding Request panels have a duty to make fair and equitable decisions. They cannot make such decisions based on non-clinical factors. If factors such as these are included, the panel does not know if it is being fair to others who are denied such treatment and whose social circumstances are unknown.

The panel will therefore seek to consider funding treatment based on the clinical need rather than non-clinical circumstances.

4.8 Opportunity costs

Because NHS Kernow is duty-bound not to exceed its budget, the cost of each treatment must be considered. The cost of treatment is significant because investing in one area of health care inevitably diverts resources from other uses. This is known as opportunity costs and is defined as benefit

foregone, or value of opportunities lost, that would accrue by investing the same resources in the best alternative way.

4.9 Needs of the community

Sometimes the needs of the community may conflict with the needs of individuals. Whilst a patient's doctor has a responsibility primarily to the individual, NHS Kernow's responsibility is to the whole community. As such, clinicians not directly involved in a patient's care may be best placed to make a judgement on competing needs as part of the decision-making panels. NHS Kernow will seek to make decisions which promote the health of the entire community such that the health of the population is maximised within the resources available. NHS Kernow also supports effective policies to promote preventive medicine which help stop people becoming ill in the first place.

4.10 National policy

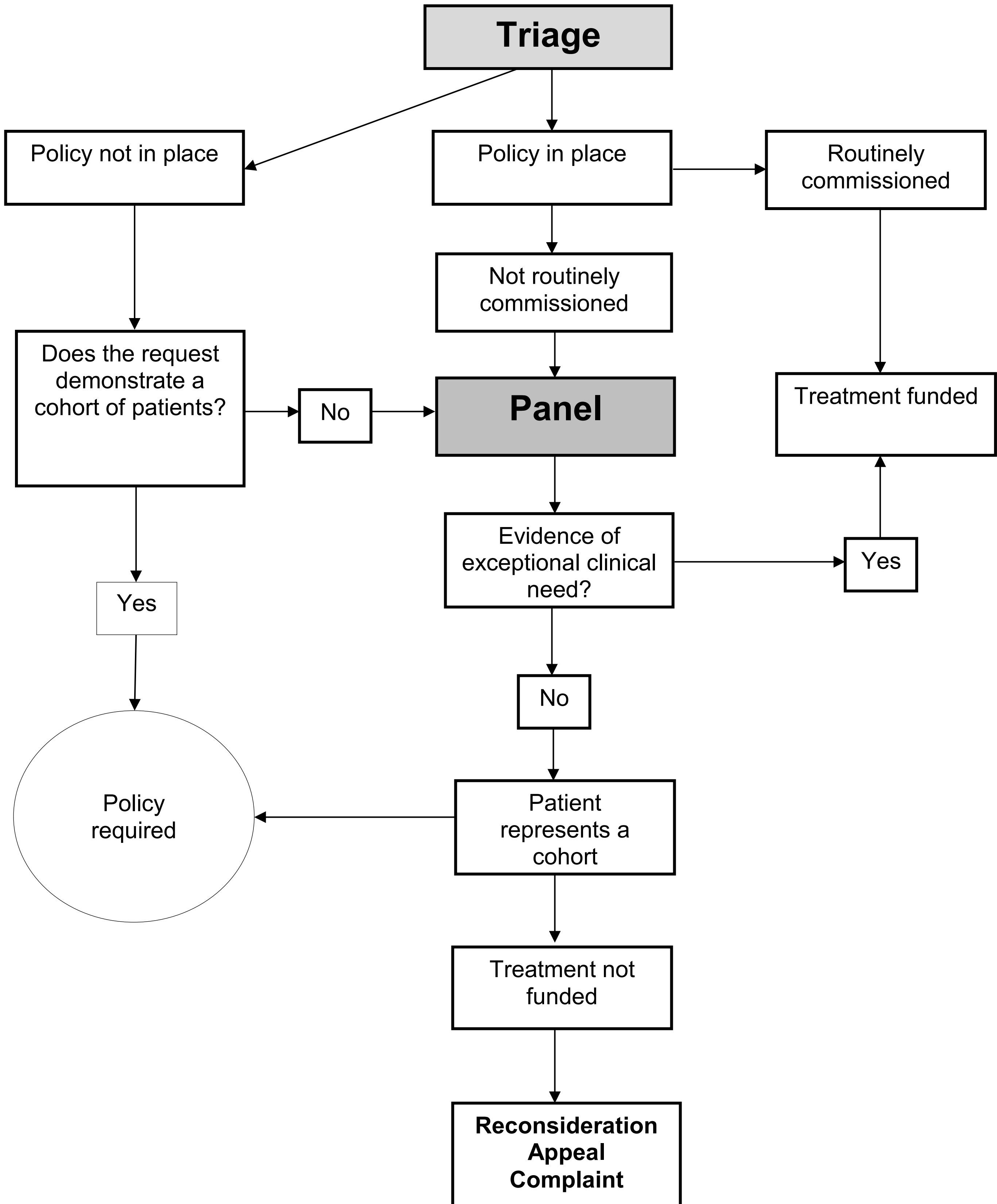
The Department of Health issues guidance and directions to NHS organisations which may give priority to some categories of patient, or require treatment to be made available within a given period. The National Constitution and Human Rights acts also provide fundamental guidance. The Trust will have regard to rights under the Human Rights Act, NHS Act and relevant legislation. These may affect the way in which health service resources are allocated by individual CCGs. The Panels operate with these factors in mind and recognise that their discretion may be affected by National Service Frameworks, NICE technology appraisal guidance, Secretary of State Directions to the NHS and performance and planning guidance.

4.11 Communication

As a matter of natural justice and in line with the NHS Constitution, full reasons for funding decisions will always be given, so that patients and other interested parties can understand the basis upon which these decisions have been made:

> You have the right to expect local decisions on funding of other drugs and treatments to be made rationally following a proper consideration of the evidence. 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.

5.0 Individual Funding Request procedure



6.0 Triage

All IFR requests are immediately reviewed by the Triage team. The Triage team includes the Exceptional Treatments Manager and the Exceptional Treatments Officer. A direct line manager will replace either of these in their absence.

An NHS Kernow reference number is given as an identifier. The application is logged on the IFR database.

All person identifiable information is kept secure. The Triage team have sight of patient name and contact details for correspondence, although these are anonymised at Panel. The Triage team and Panel have sight of relevant medical information, for example, medication, test results and photographs.

It is the responsibility of the requesting clinician to make the case for exceptional clinical need.

6.1 Information required by the Triage team

The relevant application form must be completed electronically and in full, including any relevant published papers (complete, not abstracts). Documents which are illegible or not fully completed will be returned.

Clinical opinion should be supported by evidence, including:

Photographs
These help the Panel determine exceptional clinical need and act as evidence to support applications. If it is felt appropriate, photographs should be submitted with patient consent. Where possible, the face should be excluded.

Measurements
Please see individual policies for specific details.

BMI
BMI and other co-morbidities for some patients will be a key consideration when making clinical decisions. Reducing the BMI in some cases may resolve the problem encountered by the patient. In addition, the risks associated with surgery are known to be significantly higher in those patients with a BMI over 30.

Other
In cases where the patient is suffering from significant or persistent pain, please include details of this and any medication that is being prescribed.

Where the patient is under the on-going care of any psychology/psychiatric services, an up-to-date report can also be submitted. However, referrals to

these services should not be made specifically in order to support the request for funding. Such a referral should only be made where it is appropriate for the patient to receive on-going psychological/psychiatric care.
Any other relevant information, including specialist/consultant reports where these have been obtained prior to the request for funding.

6.2 Decisions made by the Triage team

The Triage team screens the request to determine whether it is appropriate for Panel. The result of the screening may result in the request being:

- **Agreed**: This is only an option where there is a duty, or a policy or pathway with explicit clinical criteria which is routinely commissioned.
- **Refused**: Where there is a clear policy and no information indicating exceptional clinical need.
- **Returned**: Where further information may assist a Panel decision.
- **Submitted**: To Panel

6.3 Preparing a case for Panel

The Exceptional Treatments Officer will inform the referrer and patient (if appropriate) of the date when the application will be considered at Panel.

The application will be anonymised and passed to Panel members one week before the Panel date.

6.4 Consideration of urgent requests

A request can be considered urgently if the referrer presents evidence that a delay may cause significant harm to the patient's health. Only a small minority of requests are expected to be dealt with in this way and these will usually involve life-threatening conditions. The correct process will be followed, however there will be flexibility in how the Panel meeting is held, for example, by teleconference.

If this is not possible, or if a quorum cannot be obtained. A decision on exceptional clinical need may be made out of process by the Director responsible for Individual Funding Requests. A record of the rationale for this decision shall be made and presented to the next Panel for ratification.

7.0 Special cases review panel

Terms of Reference and Procedure

7.1 Special Cases Review Panel

The Special Case Review Panel (SCRP) will consider requests to fund treatments which are not routinely commissioned and for which there is no current NICE guidance, and only those cases where there maybe particular clinical circumstances in the context of the definition of exceptional clinical need.

The Panel will take account of any existing guidance, or other information relating to the requested treatment which is made available, together with the evidence demonstrating exceptional clinical need in each individual case, in reaching their decision.

The Panel members must ensure that they apply the terms of the policy in an unprejudiced, impartial and equitable manner and in line with the ethical framework.

In the case of new drugs and treatments for which there is no published NICE guidance, it is intended that no more than the two requests will be considered by the Special Cases Review Panel. Following the second request to the Panel, the issue will be referred on to the Cornwall Area Prescribing Committee (CAPC) for their consideration, and clinical recommendation. Subsequent to a positive recommendation, the NHS Kernow will need to reach a decision regarding the commissioning arrangements for the drug/treatment. In the case of a negative decision any future requests for funding due to exceptional clinical need will be considered through the Special Cases Review process.

7.2 Membership

The Panel will consist of five members:

- Lay person (Chair, with casting vote)
- General Practitioner
- NHS Kernow Director or delegated authority
- Public Health clinician
- Senior pharmacist

Members will be trained in the legal and ethical implications of decision-making.

All members must be present in order for the Panel to be quorate. The Panel will not proceed if it is not quorate.

In exceptional circumstances, to prevent undue delay, a Panel member may delegate responsibility for attendance. The delegate must have the appropriate skills and competencies to make informed decisions. This must be documented.

Members must declare any conflict of interest prior to discussion of individual cases. Such a member would not be able to vote in any decision which required such action and in such a case the application would need to be deferred to another Panel. Any conflict of interest must be recorded in the minutes.

7.3 Procedure

All members of the Panel will have been provided with a complete copy of all documentation relating to each individual case. It is expected that a decision will be reached the Panel meeting, unless further information is required.

The Panel can consider supporting information from the patient, however information will not be presented to Panel in person by either referrer or patient.

All factors relevant to an individual's case will be considered individually and together in order to decide whether funding should be granted.

The Panel will apply the principle of exceptional clinical need as well as considering clinical and cost-effectiveness.

The Panel may defer consideration of a case if they require further information or expert advice.

The referrer will be informed of the Panel decision in writing, within five working days.

7.4 Reconsideration

Referring clinicians can request reconsideration of an individual case if they disagree with the panel decision and consider that there is new clinical information which the panel did not see. The panel will not reconsider cases where there is no new information. It is the responsibility of the referrer, not the patient to ensure that this information is provided.

7.5 Frequency

The Panel will meet monthly, or in response to an urgent request.

7.6 Accountability

The Panel is accountable to the NHS Kernow Governance and Assurance Committee.

7.7 Special Cases Appeal Panel

Where the Special Cases Review Panel has made a decision not to fund treatment and the treating doctor feels that all relevant clinical information has been provided and considered, the patient or their doctor may appeal against the original Panel decision. An appeal may be made where it is believed that due process has not been correctly followed. Any appeal should state why this is the case.

The Appeals Panel provides a procedural review of the original Panel decision.

7.8 Membership

The Appeal Panel will consist of four members, none of whom sat on the original Special Cases Review Panel which considered the case:

- Lay person (Chair, with casting vote)
- Two NHS Kernow clinicians (one of whom must be a GP)
- NHS Kernow Director or delegated authority

All members must be present in order for the Panel to be quorate. The Panel will not proceed if it is not quorate.

In exceptional circumstances, to prevent undue delay, a Panel member may delegate responsibility for attendance. The delegate must have the appropriate skills and competencies to make informed decisions. This must be documented.

The chair and clinical expert from the original Panel may be invited to attend at the start of the meeting to provide clarification but will not be present for the decision making process.

7.9 Procedure

Appeals must be made to an Appeal Panel directly by the patient or referrer, within three months of the date of the decision having been communicated in writing to the referring clinician.

The patient and/or the referrer will be notified of the date of the appeal hearing and be invited to submit supporting statements to the Appeals Panel.

The patient may attend to provide information on why the process was not followed, but will not be present for the decision making process

The patient may be accompanied by a relative or friend but not a legal representative

The Appeal Panel will have access to all relevant documentation about the application, including any correspondence, the evidence base, and minutes which summarise the basis of the original decision. The Appeal Panel does not consider new evidence. The Appeal Panel will be sent the relevant documentation at least seven days before meeting.

The Appeal Panel will consider:

- Was due process followed?
- Did the CCG follow its own policies and procedures?
- Did the original Panel take into account all of the relevant information available at the time?
- Was the decision reasonable and in line with the evidence?
- Due process will involve questioning the clinician expert and/or the Chair of the original panel.

The Appeal Panel may decide to:

- uphold the original decision
- refer it back to the Special Cases Review Panel for reconsideration

The Chair of the Appeal Panel or designated officer will inform the patient and referrer of the Panel decision. This will be done verbally within two working days of the Panel and in writing within five working days.

If the patient is dissatisfied with the Panel decision they may choose to make a complaint using the NHS complaints procedure. Details of this procedure will be given them.

7.10 Frequency

The Appeal Panel will convene within eight weeks of a written request unless there is clinical urgency which indicates an urgent need.

7.11 Accountability

The Panel is accountable to the NHS Kernow Governance and Assurance Committee.

8.0 Low Priority Treatments Panel

Terms of Reference and Procedure

8.1 The Low Priority Treatments Panel (LPT) will consider requests to fund low priority treatments and where there is information suggesting an exceptional clinical need.

The Panel will take account of any existing guidance, or other information relating to the requested treatment which is made available, together with the evidence demonstrating exceptional clinical need in each individual case, in reaching their decision.

The Panel members must ensure that they apply the terms of the policy in an unprejudiced, impartial and equitable manner and in line with the ethical framework.

8.2 Membership

The Panel will consist of four members:

- Lay person (Chair, with casting vote)
- General Practitioner
- Public Health clinician (optional)
- NHS Kernow Director or delegated authority

Members will be trained in the legal and ethical implications of decision-making.

All members must be present in order for the Panel to be quorate. The Panel will not proceed if it is not quorate.

In exceptional circumstances, to prevent undue delay, a Panel member may delegate responsibility for attendance. The delegate must have the appropriate skills and competencies to make informed decisions. This must be documented.

Members must declare any conflict of interest prior to discussion of individual cases. Such a member would not be able to vote in any decision which required such action and in such a case the application would need to be deferred to another Panel. Any conflict of interest must be recorded in the minutes.

8.3 Procedure

All members of the Panel will have been provided with a complete copy of all documentation relating to each individual case. It is expected that a decision will be reached the Panel meeting, unless further information is required.

The Panel can consider supporting information from the patient, however information will not be presented to Panel in person by either referrer or patient.

All factors relevant to an individual's case will be considered individually and together in order to decide whether funding should be granted.

The Panel will apply the principle of exceptional clinical need as well as considering clinical and cost-effectiveness.

The Panel may defer consideration of a case if they require further information or expert advice.

The referrer will be informed of the Panel decision in writing, within five working days.

8.4 Reconsideration

Referring clinicians can request reconsideration of an individual case if they disagree with the panel decision and consider that there is new clinical information which the panel did not see. The panel will not reconsider cases where there is no new information. It is the responsibility of the referrer, not the patient to ensure that this information is provided.

8.5 Frequency

The Panel will meet monthly, or in response to an urgent request.

8.6 Accountability

The Panel is accountable to the NHS Kernow Governance and Assurance Committee.

8.7 Low Priority Treatments Appeal Panel

Where the Low Priority Treatments Panel has made a decision not to fund treatment and the treating clinician feels that all relevant clinical information has been provided and considered, the patient or their clinician may appeal against the original Panel decision. An appeal may be made where it is believed that due process has not been correctly followed. Any appeal should state why this is the case.

The Appeals Panel provides a procedural review of the original Panel decision.

8.8 Membership

The Appeal Panel will consist of four members, none of whom sat on the original Low Priority Treatments Panel which considered the case:

- Lay person (Chair, with casting vote)
- Two NHS Kernow clinicians (one of whom must be a GP)
- NHS Kernow Director or delegated authority

All members must be present in order for the Panel to be quorate. The Panel will not proceed if it is not quorate.

In exceptional circumstances, to prevent undue delay, a Panel member may delegate responsibility for attendance. The delegate must have the appropriate skills and competencies to make informed decisions. This must be documented.

The chair and clinical expert from the original Panel may be invited to attend at the start of the meeting to provide clarification but will not be present for the decision making process.

8.9 Procedure

Appeals must be made to an Appeal Panel directly by the patient or referrer, within three months of the date of the decision having been communicated in writing to the referring clinician.

The patient and/or the treating doctor will be notified of the date of the appeal hearing and be invited to submit supporting statements to the Appeals Panel.

The patient may attend to provide information on why the process was not followed, but will not be present for the decision making process

The patient may be accompanied by a relative or friend but not a legal representative

The Appeal Panel will have access to all relevant documentation about the application, including any correspondence, the evidence base, and minutes which summarise the basis of the original decision. The Appeal Panel does not consider new evidence. The Appeal Panel will be sent the relevant documentation at least seven days before meeting.

The Appeal Panel will consider:

- Was due process followed?
- Did the CCG follow its own policies and procedures?
- Did the original Panel take into account all of the relevant information available at the time?
- Was the decision reasonable and in line with the evidence?
- Due process will involve questioning the clinician expert and/or the Chair of the original panel.

The Appeal Panel may decide to:

- uphold the original decision
- refer it back to the Low Priority Treatments Panel for reconsideration

The Chair of the Appeal Panel or designated officer will inform the patient and referrer of the Panel decision. This will be done verbally within two working days of the Panel and in writing within five working days.

If the patient is dissatisfied with the Panel decision they may choose to make a complaint using the NHS complaints procedure. Details of this procedure will be given them.

8.10 Frequency

The Appeal Panel will convene within eight weeks of a written request unless there is clinical urgency which indicates an urgent need.

8.11 Accountability

The Panel is accountable to the NHS Kernow Governance and Assurance Committee.

9.0 Individual Patient Placement (IPP) Panel

Policy, Terms of Reference and Procedure

9.1 IPP policy

- To deliver a needs-led service to patients
- To ensure safe, quality care which is as close to home as possible
- That care is evidence-based, appropriate and cost-effective
- To maximise the use of appropriate local services
- To provide robust and ethical decision-making which promotes equitable access to non-commissioned mental health services
- To make recommendations for alternative provision of treatment, demonstrating least restrictive care and treatment options

- To facilitate prompt and effective discharge and repatriation to local services
- To make effective use of the NHS Kernow budget, without compromising the quality of an individual's care

9.2 Terms of Reference

The NHS Kernow IPP Panel is responsible for agreeing individual funding requests for adult, child and adolescent specialist mental health and learning disability needs which cannot be met by currently commissioned services and has authority for decision making on behalf of NHS Kernow. It reports to the Finance, Performance & Quality Committee.

Requests that are appropriate for Panel include:

- Where current services are not commissioned to deliver the specialist health intervention required by the individual
- Where additional time limited specialist health intervention is required on top of existing commissioned services
- Where there is no commissioning policy in place; NHS Kernow considering that the treatment is so rare that a policy would be inappropriate

Also:

- Health funding for extended Section 17 leave periods (above three months)

The Panel does not consider:

- Service developments
- Funding for Residential Placements except for s17 leave

9.3 Ethical framework

The Panel works within an ethical decision-making framework which:

- Provides a coherent structure for decision-making
- Promotes fairness and consistency in decision-making
- Takes into account service user and carer views
- Expresses the rationale behind decisions
- Improves accountability and reduces the risk of judicial review

It especially concerns itself with:

- Evidence of safety, clinical and cost-effectiveness

9.4 Equity

NHS Kernow believes that people should have access to health care on the basis of assessed need.

The IPP panel will not discriminate on grounds of personal characteristics, such as age, disability, including physical or cognitive function, gender reassignment, marriage and civil partnership, pregnancy and maternity, race – including nationality and ethnicity, religion or belief, sex, sexual orientation, lifestyle, social position, family, employment or financial status, intelligence, disability, physical or cognitive functioning.

9.5 Requests to continue funding of care commenced privately

Whilst patients have a right to revert to NHS treatment, patients who wish to continue their private care under the NHS will not be routinely funded where that treatment is not normally offered under the NHS. As stated within the national guidance: 'As with any other patient who changes between NHS and private status, patients who pay for private care in these circumstances should not be put at any advantage or disadvantage in relation to the care they receive' (DH Mar 2009). NHS Kernow will not reimburse costs for private treatment undertaken without prior NHS Kernow approval.

9.6 Mental Health Act

Any course of action taken under the Mental Health Act 1983 (MHA'83) (as amended) must be done with consideration to the Guiding Principles contained within chapter one of the Code of Practice 2008 (CoP).

The Guiding Principles are:

- Purpose Principle
- Least Restriction Principle
- Respect Principle
- Participation Principle
- Effectiveness, Efficiency and Equity Principle.

It is the duty of all persons who are involved in the care and treatment of those detained under the Mental Health Act 1983 (MHA'83) (as amended) to work within the legal framework of the Act, apply the principles of the CoP and unless there are cogent reason for doing so, not depart from the guidance contained in the Mental Health Act 1983 Code of Practice 2008. This duty extends to the care and treatment of patients who are liable to be detained i.e. may not be continuously in hospital but are granted leave of absence from hospital under s17.

9.7 Procedure

9.8 Triage

All IPP applications are reviewed within one week of receipt by the Triage team, comprising of at least two of the following:

- Exceptional Treatments Manager
- Clinical Review Officer
- Programme Lead (Mental Health and Learning Disability)
- Programme Lead (Maternity and Children)
- Exceptional Treatments Officer

A NHS Kernow reference number is given as an identifier. The application is logged on the IFR database.

9.9 Information required by the Triage team

The IPP application must be completed electronically and in full, from a relevant professional, with supporting information including provider assessment reports. Documents which are illegible or not fully completed will be returned. Supporting information may also be submitted by the service user. All information should be emailed securely to the Individual Funding Requests mailbox.

9.10 Decisions made by the Triage team

The Triage team screens the request to determine whether it is appropriate for Panel. The result of the screening may result in the request being:

- **Forward** the application to the IPP Panel
- **Return** the application to the referrer for further information
- **Refuse** the application (where there is evidence of existing local commissioned services which will meet the service user’s needs)

9.11 Preparing a case for Panel

The Exceptional Treatments Officer will inform the referrer and patient (if appropriate) of the date when the application will be considered at Panel.

The application and associated information will be passed to Panel members one week before the Panel date.

9.12 Consideration of urgent requests

It is expected that all applications should be made in a timely and planned manner. However it is recognised that urgent decisions may occasionally be required. At such times the Panel may make decisions via teleconference and/or email.

Where it is not possible to urgently convene a Panel, the Director with responsibility for mental health and learning disabilities may agree a placement outside of procedure. The decision will be recorded by the Exceptional Treatments Officer and relayed to the Panel at the next meeting.

9.13 Individual Patient Placement Panel

The Panel will take account of any existing guidance, or other information relating to the requested treatment which is made available, together with the evidence demonstrating clinical need in each individual case, in reaching their decision.

9.14 Membership

The Panel will consist of three voting members:

- Chair-layperson
- Programme Lead - Mental Health and Learning Disability (voting member for adult IPP applications) or delegate **or**
- Programme lead - Maternity and Children (voting member for children and adolescent IPP applications) or delegate
- General Practitioner

Advisory members:

- Associate Director Community Mental Health Service or delegate – Cornwall Foundation NHS Trust **or**
- Associate Director Children’s Services or delegate – Cornwall Partnership Foundation NHS Trust
- Care co-ordinator/referring practitioner
- Clinical Review Officer – NHS Kernow (also acts as delegate voting member in the absence of either Programme Lead)

Administration:

- Exceptional Treatments Manager
- Exceptional Treatments Officer

The required quorum for reaching a decision is three voting members.

Panel members should declare any potential conflict of interest and abstain from decision making if necessary.

9.15 Decision-making

The Panel bases its decisions on the:

- Legal obligations under the Mental Health Act
- Guiding Principles contained within chapter one of the Code of Practice 2008 (CoP).
- Safeguarding obligations
- Nature, extent and significance of the health gain
- Possible adverse effects of treatment
- Availability and clinical effectiveness of alternative approaches to care which are comparable and more cost effective
- National guidance (NICE)
- Evidence of cost effectiveness
- CQC reports
- Proposed provider assessment reports
- Evidence that all local options and treatments have first been explored and excluded
- Understanding that patients and carers have been appropriately involved in decision-making
- Understanding that placements are reviewed for appropriateness and effectiveness after three months and six months, by the Community Mental Health Team /Care Coordinator or CAMHs clinician as appropriate
- Evidence that Community Mental Health Teams will remain engaged with the service user to develop exit care pathway options
- Understanding that NHS Kernow is assured that the provider is compliant with CQC Essential Standards
- Knowledge that the NHS Kernow Clinical Review Officer will be involved where appropriate

9.16 Panel outcomes

There are four possible decisions that the Panel may reach:

- **Agree** to fund the request
- **Defer** the decision pending further information/change in clinical circumstance
- **Decline** to fund the request, however fund an alternative
- **Decline** to fund the request

Decisions will be conveyed to the referrer verbally within two working days.

Written confirmation, with reasons for when funding is refused, shall be made to the referrer within five working days. It is the responsibility of the referrer to inform the service user of the Panel decision.

9.17 Reconsideration

Referrers can request reconsideration of an individual case if they disagree with the Panel decision and consider that there is new clinical information which the Panel did not see. The Panel will not reconsider cases where there is no new information. It is the responsibility of the referrer, not the patient to ensure that this information is provided.

9.18 Frequency

The Panel will meet monthly, or in response to an urgent request.

9.19 Accountability

The Panel is accountable to the NHS Kernow Governance and Assurance Committee.

9.20 Funding arrangements

The Exceptional Treatments Officer will inform the relevant officer responsible for contracts of each Panel decision to fund treatment. That person shall complete a funding agreement and commission the placement using the NHS bi-lateral contract.

9.21 Individual Patient Placement Appeal Panel

Where a decision has been made not to fund a healthcare intervention and the referrer feels that all relevant clinical information has been provided and considered, the patient or the referrer may appeal against the Panel decision. An appeal may be made where it is believed that due process has not been correctly followed. Any appeal should state why this is the case.

The Appeal Panel provides a procedural review of the original Panel decision.

9.22 Membership

The Appeal Panel will consist of different members to the original Panel:

- Chair - layperson (voting member with casting vote)
- NHS Kernow Director or delegated authority (voting member)
- General Practitioner (voting member)

The Chair and Joint Programme Lead from the original Panel may be invited to attend at the start of the meeting to provide clarification, but will not be present for the decision making process.

9.23 Procedure

An appeal can be made by the patient or referrer within three months of the decision being communicated in writing to the referrer.

The patient and/or referrer will be notified of the date of the Appeal Panel and be invited to submit supporting statements.

The Appeal Panel will have access to all relevant documentation about the application, but will not consider new evidence.

The Panel will consider whether:

- Due process was followed
- All information available at the time was taken into account
- The decision was reasonable

The Appeal Panel can:

- Uphold the original decision
- Refer the application back to the Individual Patient Placement Panel for reconsideration

9.24 Frequency

The Appeal Panel will convene within eight weeks of a written request unless there is a clinical urgency which indicates an urgent need.

9.25 Accountability

The Appeal Panel is accountable to the NHS Kernow Governance and Assurance Committee.

9.26 Complaint

The service user has the right to use the NHS Complaints Procedure at any point in the IPP process.