NHS
Somerset
Clinical Commissioning Group

COMMISSIONING POLICY – INDIVIDUAL FUNDING REQUESTS

1 INTRODUCTION

1.1 Somerset Clinical Commissioning Group aims to commission and provide high quality clinical care accessible to the whole population that is equitable and consistently based on clinical need. This is achieved by commissioning clear patient pathways across primary, secondary and sometimes tertiary care.

1.2 Somerset Clinical Commissioning Group accepts that there may be individual cases where a patient's needs may not be met through existing care pathways. The Somerset Clinical Commissioning Group has set up an Individual Funding Requests Panel to consider these cases.

1.3 The role of the Somerset Clinical Commissioning Group Individual Funding Requests (IFR) Panel is to consider individual applications from health professionals requesting funding for clinical interventions not routinely commissioned.

1.4 Patient confidentiality will be maintained at all times, in accordance with Caldicott guidance. All information considered by the Somerset Clinical Commissioning Group Individual Funding Requests Panel is strictly confidential and should be sent to the Individual Funding Requests Panel at Somerset Clinical Commissioning Group, using the appropriate safe haven contact details.

2 WHEN TO APPLY THE POLICY

2.1 This policy applies to any patient where Somerset Clinical Commissioning Group is the responsible Commissioner.

2.2 Before an application is put forward every patient should have had a discussion about treatment options and choice of provider with their General Practitioner or Consultant.

2.3 Clinicians or clinical teams on behalf of their patients are entitled to put forward an application (an "individual funding Request") to the Commissioner for treatment to be funded outside of the Commissioner's established policies on one of two grounds, namely:

The patient is suffering from a presenting medical condition for which treatment is not routinely commissioned and the Commissioner has no policy

or

The patient is suffering from a presenting medical condition for which the Commissioner has a policy but where the patient's particular clinical circumstances falls outside the clinical pathway that the Commissioner has agreed to fund.

Second Opinion Referral

2.4 Patients requiring a second opinion for procedures routinely funded by Somerset CCG do not require approval from the Panel.

2.5 Patients need to discuss a second opinion referral with their GP who if they consider it is appropriate may refer their patient to a Provider on the Choice Menu of Choose and Book. The Provider may be one with whom the Somerset Clinical Commissioning Group has a contract with or a non contractual NHS treatment Provider.

2.6 Patients requiring a second opinion for procedures and treatment not routinely funded by the Somerset Clinical Commissioning Group should be referred to the Panel for consideration.

2.7 Requests for assessment will normally be authorised for one outpatient appointment only, with subsequent further assessment and/or treatment, subject to authorisation by the Somerset Clinical Commissioning Group Individual Funding Requests Panel.

2.8 Somerset Clinical Commissioning Group Individual Funding Requests Panel will not reimburse funding retrospectively for private referrals either to an outpatient clinic or for inpatient treatment. All such referrals must have prior authorisation by the Panel.

3 THE IFR PROCESS

3.1 The flow diagram at ***Appendix 1(a)*** describes in full the process that each application will take.

4 THE APPLICATION

4.1 All applications must be accompanied by written support and evidence provided by the clinical team treating the patient as required in the Somerset CCG Individual Funding Requests Panel Application Form at ***Appendix 1 (b)*** explaining:

The clinical circumstance of the patient

The Clinical Team is required to present a full application to the commissioners which sets out a comprehensive and balanced clinical

picture of the history and present state of the patient's medical condition, the nature of the treatment Requested and the anticipated benefits of the treatment.

The planned treatment and the expected benefits and risks of treatment
The Clinical Team shall describe the anticipated clinical outcomes for the individual patient of the proposed treatment. This should include the degree of confidence of the Clinical Team that the outcomes will be delivered for this particular patient and any risks associated with the proposed treatment.

The evidence on which the clinical opinion is based
The Clinical Team shall refer to, and include, copies of any clinical research material which supports, questions or undermines the case that is being made that the treatment is likely to be clinically effective in the case of the individual patient.

The costs of treatment
The Clinical Team shall set out the full attributable costs of and connected to the treatment. The IFR Panel shall be entitled but not obliged to commission its own reports from any duly qualified or experienced clinician or other duly qualified person concerning the full attributable costs of and connected to the treatment.

Whether or not there are likely to be similar patients either within the Commissioner's area or across the region
The clinician must also provide the case for treating this patient as exceptional to the cohort of similar patients.

5 CRITERIA FOR DECISION MAKING

5.1 The Chair of the IFR Panel/ Commissioning Representative shall routinely screen individual funding requests to consider 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 area. If there is evidence the patient is a representative of other similar patients then in these cases, the individual funding requests will be sent back to the provider with a request to follow normal procedures for proposal for a service development through the Somerset CCG Clinical Commissioning Policy Forum. It is recognised however, initial applications for a new approach may legitimately be considered by the Panel.

5.2 The IFR Panel shall be entitled to approve requests for funding for treatment for individual patients where the following conditions are met:

- The IFR Panel confirms that there is not an identifiable cohort of similar patients to the requesting patient and that exceptionality is demonstrated.
- Taking into account all relevant considerations, and evidence of

likely effectiveness of the requested treatment and benefit to the individual patient, the IFR Panel deem the funding to be appropriate.

6 RELEVANT IFR PANEL CONSIDERATIONS

6.1 The panel will consider the following areas, if relevant, when making a decision on individual cases:

- Consideration of exceptionality
- Clinical effectiveness and cost effectiveness
- Health needs of the patient and the anticipated impact of the intervention on the patients' health.
- Alternative options that the patient may have and any contraindications to the alternatives.
- Equity
- Absolute affordability

7 CONSIDERATION OF EXCEPTIONALITY

7.1 The IFR Panel will consider exceptionality in the context of the relevant clinical commissioning policy/policies and guidance notes and in particular the reasons why the intervention is not normally funded or why the particular criteria have been set.

7.2 In determining whether a patient is able to demonstrate exceptional circumstances the IFR Panel shall compare the patient to other patients with the same presenting medical condition at the same stage of progression.

* are there other factors that need to be considered in making a decision? For exceptional funding to be agreed there must be some unusual or unique clinical factor that suggests that the patient is:

* significantly different to the general population of patients with the condition in question; or

* likely to gain significantly more benefit from the intervention than might be expected from the average patient with the condition.

7.3 The IFR Panel shall determine, based upon the evidence provided to the panel, whether the patient has demonstrated exceptional circumstances.

7.4 Where a case has been judged as exceptional, the panel shall then consider all other factors including cost effectiveness and clinical effectiveness. When considering cost effectiveness, the panel will consider the appropriate mechanism for doing so. Such an approach should generally be less restrictive than the case for funding a drug through the business planning cycle.

8 CLINICAL EFFECTIVENESS AND COST EFFECTIVENESS

8.1 There is sufficient evidence from relevant NICE guidance, national sources and research to show that, for the individual patient, the proposed treatment is likely to be clinically effective and cost-effective.

8.2 The IFR Panel shall, based on the information before it, take a view on whether the treatment is both effective and cost-effective.

8.3 The IFR Panel shall consider but is not required to accept the views expressed by the patient or the clinical team concerning the likely clinical outcomes for the individual patient of the proposed treatment. The IFR Panel is entitled to reach its own views on the likely clinical outcomes for the individual patient of the proposed treatment; and the quality of the evidence to support that decision and/or the degree of confidence that the IFR Panel has about the likelihood of the proposed treatment delivering the proposed clinical outcomes for the individual patient.

8.4 The Commissioner does not generally commission treatment for patients under its policies dependent on the patient's social or personal circumstances. Clinical Commissioning Policy is based on identified health need. Accordingly, when making decisions as to whether treatment should be provided to a patient which is not provided to patients generally, the IFR Panel shall adopt the same approach.

9 HEALTH NEEDS OF THE PATIENT AND ANTICIPATED HEALTH BENEFIT OF THE INTERVENTION

9.1 In deciding whether to approve funding, the IFR Panel shall remind itself that the policies of the Commissioner provide that medical treatment is made available to patients generally on the basis of their presenting medical conditions and on the likely benefits and improved health outcome anticipated for a patient from a proposed treatment.

10 EQUITY

10.1 Access to services shall be governed as far as practicable, by the principle of equal access for equal clinical need. Individual patients or groups shall not be unjustifiably advantaged or disadvantaged on the basis of age, gender, sexuality, race, religion, lifestyle, occupation, social position, financial status, or intellect.

11 ABSOLUTE AFFORDABILITY

11.1 The IFR Panel shall have a broad discretion to determine whether the proposed treatment is a justifiable expenditure of the Commissioner's resources.

11.2 The IFR panel is however required to bear in mind that the resources

requested to support the individual patient will reduce the availability of resources for other investments.

11.3 The IFR Panel shall take care to avoid adopting the approach described as the “the rule of rescue”. The fact that a patient has exhausted all NHS treatment options available for a particular condition is unlikely, of itself, to be sufficient to demonstrate exceptional circumstances. Equally, the fact that the patient is not responding to existing treatments where a recognised proportion of patients with same presenting medical condition at this stage are, to a greater or lesser extent, not responding to existing treatments is unlikely, of itself, to be sufficient to demonstrate exceptional circumstances.

11.4 In reaching a decision the IFR panel must consider the expected clinical outcome and benefit to the patient in the context of the relevant cost and other comparable treatment available.

12 PUBLIC SECTOR EQUALITY DUTY

12.1 When taking decisions around the care packages, the IFR Panel will always give due consideration to the Public Sector Equality Duty. This requires that it must have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

12.2 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

13 NEW CLINICAL POLICIES

13.1 Very occasionally an individual funding request presents a new clinical treatment or approach which needs a substantial piece of work before the

Commissioner can reach a conclusion upon its position. This may include wide consultation. Where this occurs the IFR Panel may adjourn a decision on an individual case until that work has been completed.

13.2 The IFR panel may in some circumstances decide that an expert opinion is necessary; in these circumstances the panel may appoint their own expert, to provide either a verbal or written opinion. This may impact the timeframe for consideration of the case, and lead to the standard timeframe being exceeded on a small number of occasions.

14 COMMUNICATION OF DECISIONS

14.1 The decision will be communicated in writing to the applicant (GP/Consultant), and copied to the patient or parent/guardian when indicated as appropriate on the application form. The decision and the reasons for the decision will be outlined in this letter. The letter will be produced and sent to the applicant within 5 – 10 working days of the panel meeting.

14.2 The Commissioner is not obliged to discuss the decision with the applicant, the patient or any other parties prior to the release of the letter of decision; however the Commissioner may release this information at their discretion. The detailed reason for the decision will not be communicated verbally, but will form part of the decision letter.

14.3 Minutes of the Panel meetings shall be taken and shall record both the decisions taken and the basis on which these decisions have been reached. The Chair will take minutes of the meeting should administrative support be unavailable.

15 EXPERT ADVICE

15.1 The Somerset Clinical Commissioning Group Individual Funding Requests Panel will consider whether it requires expert advice on any interventions in question and/or the condition being treated and shall obtain such advice where it considers appropriate. This advice may be in respect of any aspects of the decision including clinical effectiveness, cost effectiveness and exceptionality. It will on occasion request advice from the Somerset Prescribing Forum on the clinical and cost effectiveness of individual pharmaceutical treatments. The Somerset Clinical Commissioning Group Individual Funding Requests Panel is not the forum to look at Payment by Results excluded drugs.

16 NEW DRUGS OR TECHNOLOGIES

16.1 The Somerset Clinical Commissioning Group does not support the introduction of new drugs or technologies on an ad hoc basis through the funding of individual cases through the Individual Funding Requests Panel. This risks inequity and may prevent those with equal clinical need from accessing a service.

16.2 The Somerset Clinical Commissioning Group would expect the introduction of new drugs or technologies to be considered using the existing due process of application to local NHS providers drugs and therapeutics committees and the Somerset Prescribing Forum. Under the existing planning framework, after consideration by the appropriate Panels i.e. Somerset Prescribing Forum would consider requests for new drugs where introduction of use would be a service development.

17 RE-CONSIDERATION OF APPLICATIONS

17.1 Following a decline of funding outcome an application may be reconsidered by the Panel only where additional information is provided to support the application. The Chair of the Panel will determine if the additional information is additional to the information previously reviewed and considered by the Panel and warrants a re-consideration. Additional information can be put forward by the patients GP/treating consultant or the patient with the support of the patient's clinician

18 TERMS OF REFERENCE OF THE IFR PANEL

18.1 The role of the Individual Funding Requests Panel and the makeup of the panel are outlined in ***Appendix 1(c): Terms of Reference of IFR Panel***.

19 APPEALS

19.1 The patient shall be entitled to lodge an appeal against the decision of the IFR panel within 28 days of the IFR Panel meeting. The details of the ***Appeals Process are at Appendix 1(d), with Flow chart at Appendix 1(e).***

20 REPORTING ON ACTIVITY OF THE IFR PANEL

20.1 The Commissioner will submit a report annually to the Chair of the Individual Funding Requests panel which will include:

- Information on the number of applications received and approved
- The number and type of appeals, and
- Details of any ad hoc audits.

21 CO-OPERATION OF NHS PROVIDERS

21.1 The Commissioner requires NHS providers and clinicians to take the commissioning policies into account in the advice and guidance given to patients prior to making the decision to treat a patient, as set out in the NHS Contract.

21.2 The Commissioner expects the Management of its NHS providers to have oversight of this process, with accountability resting with the Chief Executive of the provider organisation. The Commissioner would expect

every individual funding request to be sanctioned by the NHS provider's management and reserves the right to refer inappropriate funding requests to the Chief Executive of the relevant NHS provider.

22 URGENT TREATMENT DECISIONS

22.1 The Commissioner recognises that there will be occasions when an urgent decision needs to be made to consider approving funding for treatment for an individual patient outside the Commissioner's normal policies. In such circumstances the Commissioner recognises that an urgent decision may have to be made before a panel can be convened. The following provisions apply to such a situation.

22.2 An urgent request is one which requires urgent consideration and a decision because the patient faces a substantial risk of significant harm or death if a decision is not made before the next scheduled meeting of the IFR Panel.

22.3 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 patient's legitimate expectations have been raised by a commitment being given by the NHS provider to provide a specific treatment to the patient. In such circumstances the Commissioner expects the NHS provider to go ahead with treatment at no cost to the Commissioner.

22.4 NHS providers must take all reasonable steps to minimise the need for urgent Requests to be made through the IFR process. If clinicians from any NHS providers are considered by the Commissioner not to be taking all reasonable steps to minimise urgent requests to the IFR process, the Commissioner may refer the matter to the NHS providers Chief Executive.

22.5 Where an urgent decision needs to be made to authorise treatment for an individual patient outside the Commissioner's normal policies, and the panel cannot collectively reach a decision in the 5 day timeframe the decision will be made by one of the senior staff delegated to make this decision (the Authorised Officers).

22.6 The Authorised officers who have been delegated in the team to make decisions within the team are:

- The Chair of the Individual Funding Requests Panel
- The Deputy Chair of the Individual Funding Requests Panel
- The Director of Quality and Patient Safety

22.7 The Authorised Officer shall, as far as possible within the constraints of the urgent situation, follow the policy set out above in making the decision. The Authorised Officer shall consider the nature and severity of the patient's clinical condition and the time period within which the decision needs to be taken. The Authorised Officer shall collect as much

information about both the patient's illness and the treatment as is feasible in the time available and shall consider the request for funding in accordance with relevant existing commissioning policies.

22.8 The Authorised Officer shall be entitled to reach the view that the decision is not of sufficient urgency or of sufficient importance that a decision needs to be made outside of the usual process.

22.9 The Authorised Officer shall be entitled to reach the view that the request is, properly analysed, and that where a request is for a service development and so should be refused and/or appropriately referred for policy consideration.

22.10 Where the Authorised Officer considers that there is sufficient time to consult members of the IFR Panel before making an urgent decision, the Authorised Officer shall do so and shall take any views into consideration before making a decision.

22.11 When an 'urgent' decision has been made this will be reported and recorded at the next IFR panel meeting.

23 RETROSPECTIVE, PROSPECTIVE AND PART FUNDING

23.1 The Commissioner does not fund retrospectively or prospectively (where a patient may in future benefit from a treatment that is not currently needed). The Commissioner does not part-fund treatment or fund equipment ordered prior to the panel's approval.

24 DATE OF ADOPTION

24.1 May 2014

25 DATE FOR REVIEW

25.1 To be reviewed annually, or as required.