**NHS Continuing Healthcare**

**Full Consent Form for Participating in the NHS Continuing Healthcare Process and for Information Sharing** **with** **Family / Friend(s) / Advocates**

This form is to enable ICB’s to satisfy the Common Law Duty of Confidentiality and for Medico-Legal reasons. Under the General Data Protection Regulation (GDPR) consent is not required for the processing of personal and healthcare data in the context of NHS Continuing Healthcare (NHS CHC).[[1]](#footnote-1) Under GDPR consent is also not required for inclusion of patient identifiable data (such as a patient’s NHS number) and special category data (such as a patient’s ethnic category) in the NHS CHC patient level dataset (PLDS).[[2]](#footnote-2)

|  |  |
| --- | --- |
| **Surname/Family name** **of individual being assessed** |  |
| **First name/s** |  |
| **Date of birth** |  |
| **NHS number (or other identifier)**  |  |
| **Permanent address** |  |
| **Telephone number** |  |
| **Responsible Professional[[3]](#footnote-3) Name** |  |
| **Job title** |  |
| **Organisation** |  |
| **Contact details for responsible professional**  | Email:Telephone: |
| **Date form completed** |  |

*To be retained in individual's records/notes. All relevant sections to be completed by the responsible professional.*

This form relates to consent for completion of the NHS Continuing Healthcare Checklist (screening tool), the completion of a full assessment for NHS Continuing Healthcare, and the sharing of personal health and social care information in order to[[4]](#footnote-4):

 a) determine eligibility for NHS Continuing Healthcare (CHC)[[5]](#footnote-5)

 b) assist in care and support planning[[6]](#footnote-6)

**If the individual is deceased, please continue to page 12.**

**Does the individual have any communication difficulties that may impact upon their ability to consent?** ☐ **Yes / ☐ No**

|  |
| --- |
| If yes, how have these been addressed? Describe what steps have been taken to enable the person to make the informed decision themselves (e.g. use of interpreter or communication aids, ensuring they have all the relevant information in an accessible form, considering times of day when their ability to understand is better, treating a medical condition which may be affecting their mental capacity, involving someone who knows them etc.) |

*N.B. Under the Mental Capacity Act a person must be assumed to have capacity unless it is established that they lack capacity; a person is not to be treated as unable to make a decision unless all practicable steps to help him or her to do so have been taken without success.*

## Assessment of Individual’s Mental Capacity

## Mental capacity should be assessed at the time the decision needs to be made, bearing in mind that mental capacity is always decision specific and time specific and can fluctuate.

Are there any issues arising that may lead you to suspect that the individual may lack capacity to give their consent to share information with family/friend(s)/ advocate as part of the NHS Continuing Healthcare assessment process?

☐ **Yes / ☐ No**

**If no, please complete Part 1.**

**If yes, i.e. there is evidence that the person has difficulty consenting or making decisions, proceed to Part 2.**

**PART 1**

**Consent for individuals that have mental capacity**

**Statement from responsible professional:**

☐ I have explained the process and purpose of the CHC assessment

☐ I have advised the individual of how their health and social care information may be used, and that it will be shared for this assessment process with a number of different health and social care professionals and, with agreement, relevant family/friend(s)/advocate.

☐ I have explained that if the Checklist indicates that a full CHC assessment is required, this does not mean they will necessarily be found eligible for CHC. Alternatively, where the Fast Track Pathway Tool is appropriate I have explained its purpose and implications.

☐ I have explained to the individual that they can withdraw or amend their consent at any time, should they decide to do so (as well as the potential consequences of doing this).

☐ Has the individual been given a copy of the NHS Continuing Healthcare and NHS-funded Nursing Care Public Information Leaflet? ☐ Yes / ☐ No

☐ The individual has given consent but is physically unable to sign the form on the next page for the following reasons:

|  |
| --- |
|  |

Signed……………………………….....................................

Name (PRINT) ………………………………........................

Date ………………………………........................................

**Statement of Consent from Individual:**

Please read this carefully (or ask someone to read it to you) and tick/confirm those statements below that you agree with. You have the right to change your mind or withdraw your consent at any time.

☐ I consent to participating in the NHS Continuing Healthcare (CHC) assessment as explained to me.

☐ I have been advised and understand that health and social care professionals involved in the assessment to determine eligibility for CHC will need to share information between them about my needs and will store this information securely.

☐ I understand that I can withdraw my consent to participating in the assessment process at any time, and that by withdrawing my consent this may affect the ability to provide me with appropriate services to meet my needs.

☐ I consent to family/friend(s)/advocate being involved in my assessment as considered appropriate and understand that my personal health and social care information may be shared with them for the purposes of this assessment.

**OR**

☐ I consent to the following family/friend(s)/advocate being involved in my assessment

|  |  |  |
| --- | --- | --- |
| Name | Relationship | Address and telephone number |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**OR**

☐ I do not consent to any family/friend(s)/advocate being involved in my assessment.

☐ I consent to all/some of my personal health and social care information being shared with the individuals named above as set out below

|  |  |  |
| --- | --- | --- |
| Name | Relationship | Information to be shared |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

☐ I understand that I can withdraw my consent to sharing information with specific family/friend(s)/advocate at any time.

………………………………........................ ………………………………........................

Individual's Signature Individual's Name (PRINT)

………………………………........................

Date

*N.B If the individual has given consent but is physically unable to sign the form please confirm and give reason on page 3 above.*

**PART 2**

**Where there is a** **reasonable belief that the individual concerned may lack mental capacity to consent**

1. **Assessor Details**

…………………………………………

Name of responsible professional completing the mental capacity assessment

………………………………………… ………………………………………….

Job Title Date of Assessment

Before assessing whether the individual lacks mental capacity to consent to participation in the CHC assessment process or the sharing of information with family/friends/advocates, you should consider:

* whether the individual might regain or acquire capacity to consent in the future and, if so,
* whether the NHS Continuing Healthcare assessment process can be delayed until they are able to give consent.
* whether advocacy services would be beneficial to the individual in order to support them in making or being involved in decision-making
1. **Mental Capacity Assessment**

On the date given above and in relation to the decision whether or not to share personal health and social care information with family/friend(s)/advocate for the purpose of assessing eligibility for NHS Continuing Healthcare:

1. **Is the person able to understand the information relevant to the decision?** *(i.e. Were you satisfied that the person could understand the nature of the decision, why the decision needed to be made at the time and whether they could understand the likely effects of deciding one way or another or making no decision at all?)* **☐ Yes / ☐ No**

|  |
| --- |
| Please give reasons: |

1. **Is the person able to retain the information long enough to use it to make the decision?** *(i.e. long enough to complete the decision-making process, including making and communicating their decision. Consideration should be given to the use of notebooks, photographs, videos, voice recorders, posters etc. to help the person record and retain the information)* **☐ Yes / ☐ No**

|  |
| --- |
| Please give reasons: |

1. **Is the person able to use or weigh up this information as part of the decision-making process?** *(e.g. to consider the consequences, benefits and risks, of making the decision one way or another or making no decision at all? Understand the pros and cons)* **☐ Yes / ☐ No**

|  |
| --- |
| Please give reasons: |

1. **Is the person able to communicate their decision?** *(Verbally, using sign language or by any other means?)* ☐ **Yes / ☐ No**

|  |
| --- |
| Please explain how the decision was communicated or give reasons if answer is ‘No’: |

*In order to establish that someone does not have the mental capacity to make a particular decision the assessor must have a* ***reasonable belief*** *(i.e. on the balance of probabilities) that they lack mental capacity. If the answer is ‘YES’ to* ***all*** *the above questions, the person must be assessed to have the mental capacity to make the decision themselves.*

*An answer of ‘NO’ to* ***any one*** *of the above four questions indicates that the person lacks mental capacity to make the decision in question if the reason for this is because they have an impairment or a disturbance in the functioning of their mind or brain.*

1. **Does the person have an impairment of, or a disturbance in the functioning of, their mind or brain?[[7]](#footnote-7)** ☐ **Yes / ☐ No**

|  |
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| **If yes,** please state the nature of the impairment (e.g. dementia, acquired brain injury, learning disability, acute confusional state, short-term memory loss, concussion, symptoms of drug / alcohol use) and the basis of this information (e.g. recent clinical assessments, established diagnosis etc.) |

Based on the above information, my judgement is that,

............................................................. *(Name of person being assessed)*

##### has the mental capacity / does not have the mental capacity *(delete as appropriate)*

##### to make a decision regarding the sharing of personal health and social care information with family/friend(s)/advocate in order for this assessment to take place.

………………………………………………… …………………………………………………

Name Signature of Assessor

………………………………………………… …………………………………………………

Job Title Date

1. **Where the individual, following a mental capacity assessment, is found not to have capacity to make a decision on sharing of personal health and social care information with family/friend(s)/advocate, please check and confirm whether either of the following have been appointed:**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Yes** | **No** | **Name / address / telephone** |
| Someone with a Registered Lasting Power of Attorney (Health and Welfare) |  |  |  |
| Court appointed Deputy (Health and Welfare)  |  |  |  |

*If either of the above have been appointed, the responsible professional must ask to see a certified copy of the relevant legal document (See Annex A) and a copy should be made and retained on the individual’s file.*

If yes to either of the above, then that person has the authority to give or decline consent on behalf of the individual and therefore must be contacted and their decision respected and recorded below:

Does the person with relevant authority give permission on behalf of the individual for their personal and healthcare information to be shared with family/friends/advocate as appropriate?

☐ **Yes / ☐ No**

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| --- |
| Reasons for decision: |

Also, has the individual with relevant authority been advised that information about the individual will be shared between professionals for the CHC assessment process?

☐ **Yes / ☐ No**

Signature of person with relevant authority ………………………………………

Name…………………………………………

Date…………………………………………..

Signature of responsible professional ………………………………………………

Name…………………………………………

Date…………………………………………..

*If a decision has been made by a court appointed deputy or by someone with lasting power of attorney (health and welfare) the remainder of this form should not be completed.*

If the individual lacks mental capacity and there is no-one with an LPA or a Deputy with the relevant authority (i.e. to make health and welfare decisions), a best interest decision must be made by the responsible professional.

The Mental Capacity Act requires the best interest decision maker to consult with family/friends (and/or advocacy service if appropriate) before making a best interest decision. However, as noted in the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (see paragraphs 77-81), it is likely that it will be in an individual’s best interest to have an assessment for CHC and for information about their health and welfare to be shared for this purpose.

|  |
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| Please give details regarding any consultation you have had with family/friends and the outcome of this: |

**Decision**

Is it in the individual's best interest for information about their health and welfare to be shared for this purpose?

☐ **Yes / ☐ No**

|  |
| --- |
| Reasons for decision: |

Signature of Assessor …………………………………………………..

Name………………………………………………….

Date……………………………………………………

Signature of relevant family member/representative……………………………………………

Name………………………………………………….

Date……………………………………………………

**For completion by the patient’s representative if the patient is deceased.**

Are you the personal representative of the deceased patient? YES NO

**You must provide the appropriate original or certified copy documentation of proof to act on behalf of the deceased as follows: -**

* **A redacted copy of the Will showing the Executor / Administrator or beneficiary**
* **A sealed Grant of Probate or Grant of Letters of Administration** or confirmation the applicant is in the process of obtaining authority from the Probate Registry(which will be required before the claim can be considered fully).
* **Legal evidence that a Will is being contested**

**(You must provide two proofs of identity (see Annex B))**

On the patient’s behalf I therefore consent to allow anyone involved in the Continuing Healthcare review process to have access to the patient’s relevant records, which may include medical details, in order to gather all the necessary information to complete the continuing healthcare assessment requested by me.

Signed……………………………………. Date……………………………………..

**Annex A**

**Legally accepted documentation may include**

**For living patients**

* Power of Attorney registered with the Court of Protection. (full copy required)
* Order confirming the individual as a receiver appointed by the Public Guardianship Office of the Court of Protection.
* An order confirming the Person as having been appointed by the Court of Protection.
* Lasting Power of Attorney registered with the office of the Public Guardian (full copy required).

**For deceased patients**

* Grant of Probate or Grant of Letters of Administration

or confirmation the applicant is in the process of obtaining authority from the Probate Registry (which will be required before the claim can be considered)

* A redacted copy of the Will showing the Executor / Administrator or beneficiary
* Legal evidence that a Will is being contested

Please note ‘Next of Kin’ status does not give you access the patient’s personal data records and without appropriate authorisation your claim cannot proceed to investigation.

**Annex B**

**Verification of Identity**

To verify your identity, please provide a total of **three** documents. The document(s) supplied as verification of right to work in the UK may be included, however the following combinations must be supplied.

|  |  |  |
| --- | --- | --- |
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| Please provide**either:** |

 | * two forms of photographic personal identification and **one** document confirming your address

**or*** **one** form of photographic personal identification and **two documents confirming your address**
 |
| If you are genuinely unable to provide acceptable photographic personal identification, please provide: | * two documents confirming your current address, and
* **two** forms of non-photographic personal identification

**and*** A passport sized photograph of yourself – certified photo must be endorsed by a person of reputable authority.
 |
|  | A person of reputable authority can be defined as someone who works for a reputable organisation or has credibility through their work, for example a police officer, teacher/lecturer, civil servant etc. This person can be relied on as a trusted source. NHS Employers gives guidance on Counter Signatories: All Counter Signatories must: * work in (or be retired from) a recognised profession
* have known the applicant for at least two years, in a professional or personal capacity, and be able to confirm the identity of the individual

They should not: * be closely related to the applicant by birth or marriage
* be involved with the applicant e.g. in a relationship
* live at the same address as the applicant 1

For further information on what constitutes a recognised profession please follow this link: [**https://www.gov.uk/countersigning-passport-applications/accepted-occupations-for-countersignatories**](https://www.gov.uk/countersigning-passport-applications/accepted-occupations-for-countersignatories)This must be signed, dated and must include contact details, position held and employer details (if possible on the back of the photo, but if not, a note should be attached to the photo containing this info)  |

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| **Acceptable photographic personal identification**  |
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| * Valid UK (Channel Islands, Isle of Man or Irish) or EU/other nationalities passport.
* Valid UK full or provisional photo-card driving licence (if issued in the UK by the DVLA you are not required to see the paper counterpart. Licences issued in Northern Ireland by the DVA must be presented with the paper counterpart) Please note that this counts as one document and can be presented as either photographic personal identification **or** confirmation of current address documentation.
* HM Armed Forces identity card.
* Biometric Residence Permit (UK) card.
* EEA/EU Government issued identity cards, containing a biometric, that comply with Council Regulation (EC) No 2252/2004
* Identity cards carrying the PASS (Proof of Age Standards Scheme) accreditation logo (issued in the UK, Channel Islands and Isle of Man only). These can be applied for and obtained via http://www.pass-scheme.org.uk/card-suppliers when an individual reaches a certain age (12-15, 16-18, 18+). These have no expiry date, so it is at the ID checker’s discretion to accept providing the photo is recent and you can tell it is the same person. Organisation identity cards are not acceptable as they do not contain watermarks, holograms or other security marking.
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| **Acceptable confirmation of current address documents**  |
| * UK utility bill or letter from the service provider confirming the pre-payment terms of service at a fixed address dated within the last six months. More than one utility bill can be accepted if they are from two different suppliers and bills in joint names are also acceptable. Online statements can **only** be accepted if a photocard driving licence has been provided as photographic proof of identity and the address on the card matches the address on the statement.
* Local Authority tax statement (i.e. council tax bill) dated within the last 12 months. An online statement can **only** be accepted if a photocard driving licence has been provided as photographic proof of identity and the address on the card matches the address on the statement.
* UK full or provisional photo-card driving licence (if not already presented as personal photographic identification).
* UK full ‘old-style’ paper driving licence (not provisional).
* Most recent HMRC tax notification such as an assessment, statement of account or notice of coding (not P45 or P60), dated within the last 12 months. An HMRC annual tax summary cannot be accepted.
* A financial statement such as bank, building society, credit card, credit union, pension or endowment statement (UK or EEA) dated within the last six months. Statements issued outside of the EEA cannot be accepted. Online bank statements can **only** be accepted if a photocard driving licence has been provided as photographic proof of identity and the address on the card matches the address on the statement.
* Mortgage statement from a recognised UK lender dated within the last 12 months. Statements issued outside of the EEA cannot be accepted.
* Local council rent card or tenancy agreement dated within the last six months.
* Evidence of entitlement to Department for Work and Pensions (DWP) benefits dated within the last 12 months.
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| --- |
| **Acceptable non-photographic proof of personal identification documents**  |
| * Full birth certificate (UK, Channel Islands and those issued by UK authorities overseas, such as embassies, high commissions and HM Forces).
* UK full old-style paper driving licence (not provisional).
* Adoption certificate (UK and Channel Islands).
* Marriage or civil partnership certificate (UK and Channel Islands).
* Divorce, dissolution or annulment papers (UK and Channel Islands).
* Gender recognition certificate.
* Deed poll certificate.
* Firearms certificate/licence (UK, Channel Islands and Isle of Man).
* Police registration document.
* Certificate of employment in the HM Forces (UK).
* Evidence of entitlement to Department for Work and Pensions (DWP) benefits dated within the last 12 months.
* Work permit/residency permit (UK) valid up to the expiry date.
* Most recent HMRC tax notification such as an assessment, statement of account or notice of coding (not P45 or P60), dated within the last 12 months. An HMRC annual tax summary cannot be accepted.
* A document from a local/central government authority or local authority giving entitlement, such as Employment Services, Job Centre, Social Security Services (UK and Channel Islands) dated within the last 6 months.
 |

**Please Note:**

* All documents provided must be original, valid and in date to be accepted.
* Documents downloaded from the internet cannot be accepted.
* Documents can only be accepted in a different name if provided in conjunction with evidence of the name change such as marriage or civil partner certificate, decree absolute or civil partnership dissolution certificate, deed poll certificate or recognition certificate.

The information provided in this guidance is not exhaustive.

1. The lawful basis for the processing of personal and healthcare data for NHS Continuing Healthcare is contained within article 6 (1) (e) and 9 (2) (h) of the General Data Protection Regulation (GDPR) as enacted by the Data Protection Act 2018. [↑](#footnote-ref-1)
2. We collect information about individuals who undergo the NHS CHC assessment process (including personal data), for the NHS CHC PLDS, to help achieve better patient outcomes, better experience, and better use of resources in NHS CHC. The lawful basis for collecting this information is Article 6 (1) (c) of the GDPR enacted by the Data Protection Act 2018. Please note that NHS CHC PLDS data is pseudonymised for analysis purposes. Detailed information about the use of individual’s identifiable data is publicly available at <https://digital.nhs.uk/about-nhs-digital/our-work/keeping-patient-data-safe/gdpr/gdpr-register> [↑](#footnote-ref-2)
3. In this context the ‘responsible professional’ means the professional who is responsible for obtaining consent, normally at Checklist stage. Since the Checklist can be completed by a range of professionals any of these could be the ‘responsible professional’ in terms of gaining consent. [↑](#footnote-ref-3)
4. Consent is not required to share information within and between Health and Social Care Organisations, because the Quality and Safety Act 2015 puts a legal duty on these Organisations to share information where it is needed for the direct care of that patient, or to facilitate the provision of care. [↑](#footnote-ref-4)
5. ‘Determine eligibility’ includes resolving any dispute regarding eligibility at local level or, where necessary,

 through the Independent Review Process operated by NHS England. [↑](#footnote-ref-5)
6. Including care and support planning in situations where the individual is not found eligible for CHC but

requires some other publicly funded care. [↑](#footnote-ref-6)
7. In the case PC & Anor v City of York Council (2013) EWCA Civ 478 it was clarified that it is important to

 assess whether the person is able to make the decision in question before considering whether they have an

impairment of the mind or brain. [↑](#footnote-ref-7)