**POLICY AUTHORISATION FORM**

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| --- | --- |
| **1****NAME OF POLICY:**  | Individual Funding Request (IFR) Policy |
| **JOB TITLE OF AUTHOR:**  | Associate Director of Commissioning – Elective Care |
| **SPONSOR:** | Executive Director Operational Planning and Performance |
| **NAME OF GROUP:**(if applicable) | System Quality Committee |
| **2****EQUALITY AND DIVERSITY** |
| An Equality & Diversity assessment has been completed*(Please contact the Equality & Diversity Lead)* | **Date Completed:** 18th October 2023 |  |
| **CONSULTATION**  |
| **NAME OF GROUP (S)** (complete where relevant) | **DATE CONSIDERED** |
| Name of Local Committee or Specialist Group? | \* |
| Name of Countywide Committee or Specialist Group?   | \* |
| Other relevant Forum/Individual? | \* |
| **3** **APPROVED BY**  |
| **NAME** ICB System Quality Committee | **DATE APPROVED** |
| 29th October 2020 |
| **TO BE REVIEWED BY: (Author)** | **DATE TO BE REVIEWED:** |
| Associate Director of Commissioning – Elective Care | October 2023 |
| **4*****TO BE COMPLETED BY CO-ORDINATOR*** |
| **POLICY NUMBER:**  | 48 |

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| --- |
| ***POLICY UPDATES/CHANGES*** *(AFTER APPROVAL)* |
| Date  | Summary of Changes  | Author/Editor  | Approved by  | Version |
|  |  |  |  |  |
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|  |  |  |  |  |

The Policy Authorisation Form is part of the overall policy template and forms the front of the document and must be completed in all cases

**Equality and Diversity** - Part 2 of the form (Appendix 1)

The policy should be checked to see if it has any adverse effect on any personal group covered by Discrimination Legislation. In order to do this an ‘Impact Assessment’ must be completed. Further advice can be obtained from the Equality and Diversity Lead.

**Approval & Review -** Part 3 of the form

Once the Policy has been approved the name of the group / individual and date of approval should be included. The policy document should be sent to the Policy Co-ordinator to log on the Policy Register.

Review and amendments are the responsibility of the Author and Director of the Policy and a date for review must be set and included on the form. However, the Policy Co-ordinator will give a reminder to an author when a policy is overdue a review. The review date must be at least annually.

If, after a review, changes are made the document must be resubmitted, by the Author, for approval and therefore the ‘Policy for Policies’ must be followed again. Any changes should be included in the necessary ‘Policy updates/changes’ section at the beginning of the document.

**ICB Policy Spreadsheet ‘Information Register’**- Part 5 of the form

The Policy Co-ordinator will input the approved policy onto the Policy Register and allocate a Policy Number which will be inserted onto the authorisation form and also communicated to the Author via email. The Policy Co-ordinator will also ensure that after a review a new version number is allocated and noted on the register.

**Individual Funding Request Policy**

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| --- | --- |
| **VERSION**  | **10.0** |
| **POLICY NO** | **48** |
| **AUTHOR** | **Associate Director of Commissioning Elective Care** |
| **SPONSOR** | **Executive Director of Operational Planning and Performance** |
| **APPROVED BY** | **ICB System Quality Committee** |
| **APPROVAL DATE** | **29th October 2020** |
| **REVIEW DATE** | **29th October 2023** |

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# INTRODUCTION

1.1 Gloucestershire Integrated Care Board (also known as the ICB) is responsible for making the best use of NHS funds allocated to it to meet the health needs of local people. The ICB decides which interventions it will invest in on an annual basis through its contracting and prioritisation process, so that as far as possible funding is shared fairly and appropriately, considering the competing demands on the ICB’s budget. The ICB uses national and local policies to make sure that the interventions it funds have a proven benefit in meeting the health needs of the population.

1.2 Some interventions are not routinely funded by the ICB for the population for a variety of reasons, including but not limited to:

* The ICB may believe that there is not enough evidence that the intervention provides sufficient clinical benefit and/or value for money compared to other priorities
* The ICB only funds the intervention for a defined group of patients, where the ICB believes there is the most evidence of benefit or value for money, rather than for the whole population
* There is a low probability of the intervention being required due to the rarity of the medical condition or clinical presentation
* A new intervention has become available but is not mandated through a NICE Technology Appraisal (TA) – as default these new interventions will not be routinely commissioned until they have been fully assessed through the ICBs prioritisation process.

1.3 The ICB recognises that there may be exceptions to its normal rules and that occasionally a clinician may think that their patient’s clinical situation is so different from other patients with the same condition that it is appropriate for them to have access to an intervention that is not available to others. This policy, therefore, sets out the ICBs process for considering applications to fund an intervention for an individual patient that would not be routinely available to the wider population. These funding applications are referred to as ‘Individual Funding Requests’.

1.4 The policy aims to ensure the decisions made are equitable, represent value for money, are made rationally following proper consideration of the evidence and are in the interest of the whole population. It applies to any patient for whom the ICB is the Responsible Commissioner.

1.5. The policy will help clinicians, service users, and ICB team members to understand the principles and approach that the ICB uses to manage Individual Funding Requests.

# ROLES AND RESPONSIBILITIES

2.1. The System Quality Committee will ensure on behalf of the ICB Board that appropriate IFR processes are in place.

2.2. The Associate Director of Commissioning for Elective Care has overall responsibility for the day-to-day application of the IFR policy and for ensuring that the policy is reviewed, updated, and amended as necessary.

# WHEN WILL THE ICB CONSIDER AN INDIVIDUAL FUNDING REQUEST

3.1 Clinicians are entitled to make an Individual Funding Request for treatment to be funded by the ICB outside of its established contracts and policies where the patient presents with exceptional clinical circumstances, that is:

 *The ICB has no explicit policy in place for the management of the patient’s condition because the patient is suffering from a medical condition or clinical presentation that is rare or unusual to the extent that they cannot be considered part of a defined group of patients in the same or similar clinical circumstances.*

 **OR**

 *The patient is suffering from a presenting medical condition for which the ICB has a policy, but where the patient's particular clinical circumstances mean that they do not qualify for treatment under that policy. However, the clinician believes that the patient is in a substantially different clinical circumstance when compared to the typical patient population with the same condition, and because of this, they are likely to receive material additional clinical benefits from treatment than other patients with the same condition, which justifies giving them access to an intervention that is not available to others.*

3.2 In making an IFR funding application the clinician is asking the ICB to set aside the usual rules that govern access to the requested intervention. As such the onus is on the clinician requesting, to set out a clear and compelling case for funding to the ICB. The application must demonstrate the patient’s exceptional clinical circumstances, as defined above. To justify funding a treatment for a patient that is not available to other patients the ICB will need to be satisfied that the individual’s circumstances are very clearly different from others, and because of this difference the general rule should not be applied in their case.

3.3 Further guidance on the concept of clinical exceptionality is included in appendix 4. This guidance is based on NHS England’s definition and examples of clinical exceptionality.

3.4 The ICB has many published policies, which are set out on the Effective Clinical Commissioning Policies list. For the avoidance of any doubt, where the ICB has no published policy, the default position (in the absence of any statement to the contrary) is that the ICB does not routinely fund the intervention.

# THE DECISION-MAKING CRITERIA

4.1When deciding whether or not to agree to fund following an IFR application the ICB will consider the following factors:

1. Whether the application set out a clear and compelling case to demonstrate clinical exceptionality as set out in section 3
2. Whether there is likely to be a cohort of similar patients to the requesting patient, which would require a service development proposal (see appendix 3)
3. Whether there is sufficient evidence to show that for the proposed patient the proposed intervention is likely to be clinically effective, with an acceptable safety profile.
4. Whether there is sufficient evidence to demonstrate that the intervention is likely to be cost-effective and therefore a good use of NHS resources, in line with the assessment of value made by the ICB using the ICB Ethical Framework policy. When considering cost-effectiveness, the ICB may consider the costs of not proceeding with the proposed treatment with the cost of the proposed treatment, and with any alternative treatments, and this comparison may influence the ICB's decision.

4.2 In deciding whether to approve funding, the ICB follows the principle that medical treatment is made available to patients generally based on their presenting medical conditions and on the likely benefits anticipated to accrue to a patient from a proposed treatment. The ICB does not discriminate on grounds of sex, age, sexual orientation, ethnicity, educational level, employment, marital status or religion. The ICB does not generally make treatment for patients under its policies dependent on the patient's social or personal circumstances. Such circumstances for example, but not limited to, age, sex, sexual orientation, ethnicity, educational level, employment, marital status or religion will not be taken into account in determining if exceptionality has been established.

4.3 When considering applications, the ICB takes care to avoid adopting the approach described in "the rule of rescue". The fact that a patient has exhausted all NHS treatment options available for a particular condition is unlikely to be sufficient to demonstrate exceptional circumstances. Equally, the fact that the patient has not responded to existing treatments is unlikely, of itself, to be sufficient to demonstrate exceptional circumstances. This is also the case where a recognised proportion of patients with the same presenting medical condition and at the same stage of progression have, to a greater or lesser extent, not responded to existing treatments and this is unlikely, itself, to be sufficient to demonstrate exceptional circumstances.

# THE IFR PROCESS

5.1 This section of the policy briefly summarises the IFR process. Full details of the IFR process are set out in the standard operating procedure for considering Individual Funding Requests (Appendix 1) which will be followed at all times.

5.2 All funding applications must be submitted on the standard IFR application form. Every section of the form must be fully completed to ensure that the ICB has sufficient information to make a decision. Application forms must be typewritten to ensure that the content is legible.

5.3 The ICB IFR team will initially review all applications to establish whether the request falls within the commissioning responsibility of the ICB and has sufficient clinical and other information for it to be properly considered. Where the team conclude that there is insufficient information the application will be returned to the requesting clinician highlighting where additional information is required and will only be considered further if resubmitted with the required information.

5.4 Providing the request contains sufficient clinical information it will be reviewed by a triage GP. The outcome of the triage GP review will be either that:

* The request is not supported due to a lack of an arguable case for exceptionality

Or

* The request is not supported as it should be considered a service development due to there being a cohort of patients (see appendix 3)

Or

* The case will proceed to the IFR panel for a decision on exceptionality

Or

* More information is needed before a decision can be reached

Or

* The treatment is covered by an existing contract or policy and does not require IFR funding approval

5.5 Where the triage GP concludes that the application contains sufficient evidence to present an arguable case for exceptionality the case will be forwarded to the IFR panel for a funding decision.

5.6 The IFR panel will apply the decision-making criteria set out in section 4 of this policy when considering funding applications. The panel has broad discretion to determine whether the proposed treatment is a justifiable expenditure of ICB resources. 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.

5.7 Where the application is to be considered by the IFR Panel, the patient will have a choice in how to be represented. A patient may choose to represent themselves (with support from a friend or family member) or be represented by their clinician or another chosen person (although not a legal representative acting in a professional capacity). Patients may also choose not to be represented. If a patient chooses to be represented, they are advised that the IFR panel meets on set dates and these cannot be changed to suit attendance (Reasonable adjustments may be agreed upon in line with DDA Guidance). If a patient or their representative is unable to attend on the allocated panel date, the patient can choose to delay their hearing until the next panel date or to allow the hearing to go ahead on the allocated date without representation. The patient may also submit a supporting written statement for consideration by the panel, regardless of whether they decide to attend or not.

5.8 A patient or representative will be allocated ten minutes at the panel meeting to present information to support their case to the panel followed by an opportunity for the panel to ask any questions. There will be no opportunity for the patient to question the panel during the meeting. Patients will have an identified point of contact throughout the application process.

5.9 The IFR Panel may make funding approval contingent on the fulfilment of any conditions as it considers fit, for example requiring a certain frequency of outcome reporting or involvement of a specialist unit in the management of the case.

5.10 Very occasionally an individual funding request presents a new issue which needs a substantial piece of work before the ICB can conclude 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.

5.11 Re-submissions to the IFR Panel are considered where, since the original IFR panel decision was taken, new information of material nature is available to the panel.

# URGENT CASES

6.1 The ICB 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 ICB's normal policies. In such circumstances, the ICB recognises that an urgent decision may have to be made before a panel can be convened. The following provisions apply to such a situation.

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

6.3 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 provider trust to provide a specific treatment to the patient. In such circumstances the ICB expects the provider trust to go ahead with treatment at the provider trust's expense.

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

6.5 Where an urgent decision needs to be made to authorise treatment for an individual patient outside the ICB's normal policies, the decision will be made by an Executive Director nominated by the Accountable Officer.

6.6 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 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 by relevant existing commissioning policies.

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

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

6.9 Where the Authorised Officer considers that there is sufficient time to consult the Chair and/or members of the IFR Panel before making an urgent decision, the Authorised Officer shall do so and shall consider any views before making a decision.

# THE APPEALS PROCESS

7.1 The appeals process only applies to the decision taken by the IFR panel. Where a request is declined by the triage GP the policy does not provide a right of appeal. The triage GP will reconsider cases where additional clinical information is provided by the requesting clinician. Where the patient disagrees with the commissioning policy they have a right to make a complaint under the NHS complaints procedure.

7.2 Appeals against decisions taken by the IFR panel should not be on the basis that the GP/Patient/Clinician does not like the decision. There should be a basis for the appeal. Appeal panels are held within 6 weeks of receiving an appeal. Decisions following an appeal panel are communicated within 15 days.

7.3 The Appeal Panel will determine whether in considering the case in question the IFR Panel has breached any of the principles listed below:

* Illegality – the refusal of the request was not an option that could lawfully have been taken by the IFR Panel. The IFR Panel should have reached a decision that was open to them acting as a reasonable IFR Panel
* Procedural impropriety – there were substantial and/or serious procedural errors in the way in which the IFR process was conducted. The IFR Panel should have acted in line with the operating procedures adopted by the ICB.
* Irrationality – the decision to refuse to fund the requested treatment was a decision which no reasonable IFR Panel could have reached on the evidence before the Panel. In reaching its decision the IFR Panel should have taken into account and weighed all the relevant factors and not taken into account any irrelevant factors.

Those wishing to appeal should demonstrate which of the above grounds they feel has been breached and how.

7.4 The ICB Appeals Panel operating procedure is set out in the Procedure for Considering Appeals to the ICB IFR Appeals Panel (Appendix 2). In the interests of natural justice – the Appeal Panel membership is different from that of the IFR Panel.

7.5 The Appeals Panel is part of the corporate governance process of the ICB. The role of the Appeals Panel is to determine whether the IFR Panel has followed its procedures, has properly considered the evidence presented to it and has come to a reasonable decision upon the evidence.

7.6 The Appeals Panel shall have the right to:

* Uphold the decision of the IFR Panel
* Refer the case to the Individual Funding Request Panel for reconsideration at its next scheduled meeting with or without a recommendation
* Overturn the decision of the IFR panel and agree to commission the requested treatment
* Defer a decision pending the submission of further information or advice

# CO-OPERATION OF PROVIDER TRUSTS

8.1 The ICB requires provider trusts and clinicians to take the ICB's commissioning policies into account in the advice and guidance given to patients before deciding to treat a patient, as set out in the NHS Contract. The ICB expects the Management of its provider trusts to have oversight of this process. The ICB would expect every individual funding request to be sanctioned by provider trust management and reserves the right to refer recurrent inappropriate funding requests to the Chief Executive of the relevant provider trust.

# REFERENCES

* 1. The documents which have informed this policy are:

|  |
| --- |
| * NHS England, Commissioning Policy: Individual Funding Requests
* Bristol, North Somerset, and South Gloucestershire, Exceptional Funding Requests Policy and Procedures
* The National Institute for Health and Care Excellence, Guide to the methods of technology appraisal <https://www.nice.org.uk/process/pmg9/resources/guide-to-the-methods-of-technology-appraisal-2013-pdf-2007975843781>
* The National Institute for Health and Care Excellence, Appraising life-extending, end of lie treatments <https://www.nice.org.uk/guidance/gid-tag387/documents/appraising-life-extending-end-of-life-treatments-paper2>
* Department of Health, The NHS Constitution for England, 2012 <https://www.gov.uk/government/publications/the-nhs-constitution-for-england>
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