Defining the boundaries between NHS and Private Healthcare

• The information below applies to any patient in circumstances where NHS Warrington CCG is the responsible commissioner for their NHS care.

Entitlement to NHS Care

• NHS care is made available to patients in accordance with the policies of the NHS. However, individual patients are entitled to choose not to access NHS care and/or to pay for their own healthcare through a private arrangement with doctors and other healthcare professionals. Save as set out in this policy, a patient’s entitlement to access NHS healthcare should not be affected by a decision by a patient to fund part or all of their healthcare needs privately.

• An individual who has commenced treatment that would have been routinely commissioned by the CCG (NHS-commissioned care) on a private basis can, at any stage, request to transfer to complete the treatment within the NHS. In this event, the patient will, as far as possible, be provided with the same treatment as the patient would have received if the patient had had NHS treatment throughout. However, the CCG will not reimburse the patient for any treatment received as a private patient before a request is made to move back into the NHS.

• Patients are entitled to seek part of their overall treatment for a condition through a private healthcare arrangement and part of the treatment as NHS commissioned healthcare. However, the NHS-commissioned treatment provided to a patient is always subject to the clinical supervision of the NHS treating clinician. There may be times when an NHS clinician declines to provide NHS commissioned treatment if he or she considers that any other treatment given, whether as a result of privately funded treatment or for any other reason, makes the proposed NHS treatment clinically inappropriate.

• An individual who has chosen to pay privately for an element of their care is entitled to access other elements of care as NHS commissioned treatment, provided the patient meets the CCG commissioning criteria for that treatment. However, at the point that the patient seeks to transfer back to NHS care the CCG/GP is at liberty to request the patient be reassessed by an NHS clinician; the patient will not be given any preferential treatment by virtue of having accessed part of their care privately, AND the patient will be subject to standard NHS waiting times

• A patient whose private consultant has recommended treatment with a medication normally available as part of NHS-commissioned care can ask his or her NHS clinician to prescribe the treatment as long as:
  • the clinician considers it to be medically appropriate in the exercise of his or her clinical discretion
  • the drug is normally funded by the CCG, AND
  • the clinician is willing to accept clinical responsibility for prescribing the medication
• There may be cases where a patient’s private consultant has recommended treatment with a medication which is specialised in nature and the patient’s GP is not prepared to accept clinical responsibility for the prescribing decision recommended by another doctor. If the GP does not feel able to accept clinical responsibility for the medication, the GP should consider whether to offer a referral to an NHS consultant who can consider whether to prescribe the medication for the patient as part of NHS funded treatment. In all cases there should be proper communication between the consultant and the GP about the diagnosis or other reason for the proposed plan of management, including any proposed medication.

• Medication recommended by private consultants may be more expensive than the medication options prescribed for the same clinical situation as part of NHS treatment. In such circumstances, prescribing advice from the CCG should be followed by the NHS GP without being affected by the privately recommended medication. This advice should be explained to the patient who will retain the option of purchasing the more expensive drug via the private consultant.

• The CCG will not make any contribution to the privately funded care to cover the cost of treatment that the patient could have accessed via the NHS.

Parallel provision of NHS and privately funded care

• NHS care is free of charge to patients unless regulations have been brought into effect to provide for a contribution towards the cost of care being met by the patient. Such charges include prescription charges and some clinical activity undertaken by opticians and dentists. These charges are not “co-funding” but constitute a rarely permitted form of “co-payment”. The specific charges are set by Regulations. These charges have always been part of the NHS.

• Patients are entitled to contract with NHS acute trusts to provide privately funded patient care as part of their overall treatment. It is a matter for NHS trusts as to whether and how they agree to provide such privately funded care. However, NHS trusts must ensure that private and NHS care are kept as clearly separate as possible. Any privately funded care must be provided by an NHS trust at a different time and place from NHS commissioned care. In particular:
  • Private and NHS funded care cannot be provided to a patient in a single episode of care at a NHS hospital
  • If a patient is an in-patient at a NHS hospital, any privately funded care must be delivered to the patient in a separate building or separate part of the hospital, with a clear division between the privately funded and NHS funded elements of the care, unless separation would pose overriding concerns regarding patient safety
  • A patient is not entitled to “pick and mix” elements of NHS and private care within NHS funded treatment provided as part of the same episode of care (e.g. a patient undergoing a cataract operation as an NHS patient cannot choose to pay an additional private fee to have a multi-focal lens inserted during his or her NHS
surgery instead of the standard single focus lens inserted as part of NHS commissioned surgery)

- Private prescriptions may not be issued during any part of NHS commissioned care.

- When a patient wishes to pay privately for additional treatment not usually funded by the NHS, the patient will be required to pay all costs associated with the privately funded episode of care. The costs of all medical interventions and care associated with the treatment include the costs of assessments, inpatient and outpatient attendances, tests and rehabilitation. The patient will be required to pay all costs associated with the privately funded episode of care. This also includes complications of treatment where these are solely a consequence of the privately funded treatment, except where the patient is admitted under emergency care.

- Any privately funded arrangement which is agreed between a patient and a healthcare provider (whether a NHS trust or otherwise) is a commercial matter between those parties. Except for in those circumstances as set out above, the NHS is not a party to those arrangements and cannot take any responsibility for the terms of the agreement, its performance or the consequences for the patient of the treatment.

**Co-funding**

- Co-funding and forms of co-payment, other than those limited forms permitted by Regulations, are currently contrary to NHS policy. The CCG will not usually consider any funding requests of this nature.

**NHS continuation of funding of care commenced on a private basis**

- NHS policies define which treatment the NHS will and thus, by implication, will not fund. Accordingly, if a patient commences a course of treatment that the NHS would not usually fund, the NHS (CCG) will not pick up the costs of the patient either completing the course of treatment or receiving on-going treatment.

- A patient, via their GP or secondary clinician is entitled to apply for funding by means of an individual funding request. However, where the NHS (CCG) has decided not to fund a treatment routinely, the fact that the patient has demonstrated a benefit from the treatment to date (in the absence of any evidence of exceptionality) would not be a proper basis for the NHS to agree to support the application. To adopt any other stance would result in the NHS approving funding differentially for persons who could afford to fund part of their own treatment. If funding is granted, the CCG will not reimburse the patient for any treatment received as a private patient before the exceptional request was successful.

**Other**

- Individual patients who have been recommended treatment by an NHS consultant that is not routinely commissioned by the NHS under its existing policies are entitled to ask their GP
for referral for a second opinion, from a different NHS consultant, on their treatment options. However, a second opinion supporting treatment which is not routinely commissioned by the CCG does not create any entitlement to NHS funding for that treatment. The fact that two NHS consultants have recommended a treatment would not usually amount to exceptional circumstances.

- Patients should provide written consent to receive private care which should include an explanation of the costs associated with the private care (including any associated costs), the likely outcome of the treatment and the proposed exit strategy should the patient be unable to fund on-going private treatment. Ideally a standard document should be used for this purpose.

**Documents which have informed this policy**

- The NHS Commissioning Board’s Generic Commissioning Policy (reference): Ethical Framework to underpin priority setting and resource allocation
- Department of Health’s 2004 Code of Conduct for Private Practice
- Department of Health, Guidance on NHS patients who wish to pay for additional private care, Guidance on NHS patients who wish to pay for additional private care, March 2009