

## Example for NHS Continuing Care Seminar

John, who is now aged 42, was injured in a road traffic accident in 2012, when riding a motorbike and was hit by an oncoming car. He suffered serious musculoskeletal and neurological injuries. He was admitted to an NHS hospital and had lifesaving surgery.

Six months later he was transferred to “The Croft” specialist neuro rehabilitation centre where he has been receiving care ever since. Prior to the accident, John was married and lived with his wife, Rebecca, and their 3 children in a mortgaged property worth £400,000. John worked as a surveyor and had an insurance policy connected to his work. This policy funded lawyers who sued the driver. Proceedings were settled on the basis of a 25% contributory element because John was held to be driving negligently at the time of the accident. He received a payment of £1.5M which is managed by Rebecca, as his Court of Protection appointed Deputy.

John made steady progress since he was first admitted to The Croft. By 2018 the cost of the package was £175,000 per year. He was assessed as being eligible for NHS Continuing Healthcare in 2014. This was confirmed on review in 2016. In 2017 a new NHS Continuing Healthcare Manager was appointed by the CCG with a clear brief to reduce the cost of high-value packages.

In 2018, John was ready to return home but needed a substantial package of care. The cost of supporting an individual package of care for John at home would be £200,000. The CHC Manager has expressed the view that patients with large personal injury settlement should fund care for themselves at home and should not look to the state to fund the cost of injuries which they have received compensation through the courts.

She arranged for John’s eligibility to be reviewed by a MDT which consisted of a CCG appointed nurse who shared her view on compensation payments. The other members of the team were the lead nurse from The Croft and a local authority social worker. The social worker expressed the view that she would only take a peripheral interest in the case because, whatever the outcome, the local authority would not be providing funding. The MDT disagreed about the scores in the various domains, with the CCG nurse scoring John down and the nurse from the Croft scoring at a higher level, with the social worker siding with the CCG nurse. The DST was completed on the basis of the majority view. Based purely on the domain scores (1 severe and 3 High), the recommendation in the DST was that John should not continue to be eligible for CHC but the minority view of the Croft Nurse was noted that he continued to have complex and unpredictable medical needs and therefore should remain eligible for CHC.

The CCG panel met, chaired by the CHC manager. Her views about the overall position concerning patients who had personal injury pay outs were relayed to the panel members but not included in the minutes of the meeting. The panel went through each domain to make its own decisions about the severity of John's needs and reached a scoring (1 severe and 2 Highs) which would have entitled the panel to reach either decision. However, looking at the overall position including the resources available to John from his personal injury settlement, the panel decided John should cease to be eligible for CHC.

Rebecca sought to appeal the decision and it was reviewed by the CCG manager who confirmed the early decision.

Rebecca then sought to appeal to NHS England. The NHS England panel took 12 months to reach its decision. They looked at up-to-date evidence which indicated that John's condition had slightly deteriorated and decided that John should be treated as being eligible for CHC. In the light of that decision, the panel decided it was not appropriate to reconsider whether the CCG had been correct in its earlier decision.

The CHC manager responded to this decision by offering to commission a place for John at the Croft but refused to fund any part of his care package at home. Rebecca responded to this by offering to fund overnight care for John from his personal injury settlement, so reducing the cost to below £175,000. However the CHC manager rejected that, saying that the NHS was not allowed to co-fund care packages.

**Have the CCG and NHS England made lawful decisions?**