Clinical Commissioning Groups within Norfolk and Waveney

NHS Continuing Healthcare

Policy on Redress Payments

(This policy has been prepared for NHS North Norfolk Clinical Commissioning Group, NHS South Norfolk Clinical Commissioning Group, NHS Norwich Clinical Commissioning Group, NHS West Norfolk Clinical Commissioning Group and NHS Great Yarmouth and Waveney Clinical Commissioning Group)

In this policy the above Clinical Commissioning Groups are referred to as "the CCGs" or separately as the "relevant CCG".

This policy has been approved by the Governing Bodies of the CCGs on the following dates:

Name of CCG	**Date of Governing Body meeting approving this policy**
NHS North Norfolk Clinical Commissioning Group	19th November 2013
NHS South Norfolk Clinical Commissioning Group	5th November 2013
NHS Norwich Clinical Commissioning Group	22nd November 2013
NHS West Norfolk Clinical Commissioning Group	28th November 2013
NHS Great Yarmouth and Waveney Clinical Commissioning Group	28th November 2013

1 Scope

1.1 This policy applies to claims from individuals (or their representatives) for redress following the wrongful denial of NHS Continuing Healthcare by any of the CCGs or by Norfolk Primary Care Trust or Great Yarmouth and Waveney Primary Care Trust prior to 31 March 2012.

2 Background

2.1 In March 2007, in response to the Parliamentary and Health Service Ombudsman's report "*Retrospective Continuing Care Funding and Redress*", the Department of Health ("**DH**") published best practice guidance to help Primary Care Trusts (PCTs) to review the approach they took, to making redress where funding for NHS Continuing Healthcare (formerly known as NHS continuing care) had been wrongly withheld. This DH guidance, "*NHS Continuing Healthcare: Continuing Care Redress*"

(March 14th, 2007 (ref Gateway 7976)) ("**2007 Guidance**") is the most recent DH guidance applicable in this context.[1] The 2007 Guidance now applies to CCGs who have taken on many of the functions previously carried out by PCTs including the commissioning of NHS Continuing Healthcare.

2.2 The 2007 Guidance and this Policy apply to the review of cases dating back to 1 April 1996, where NHS Continuing Healthcare funding has been wrongly withheld and redress has yet to be made. All such claims should have been lodged with the CCGs or their predecessor bodies, Norfolk Primary Care Trust or Great Yarmouth and Waveney Primary Care Trust, on or before the following deadlines:

2.2.1 for claims where the majority of time is prior to April 2004, such claims should have been lodged by 30 November 2007;

2.2.2 for claims where the majority of time falls between 1 April 2004 and 31 March 2011, the deadline was 30 September 2012;

2.2.3 for claims where the majority of time falls between 1 April 2011 and 31 March 2012, the deadline was 31 March 2013.

Only in exceptional circumstances will claims made outside these deadlines be considered.

2.3 Claims arising after 31 March 2012 must be brought within six months from the date of notification of the eligibility decision. Such claims are not expected to include an element of redress and therefore this policy does not apply. Should such a claim arise it shall be reviewed in accordance with national guidance and the relevant CCG's policy.

2.4 The 2007 Guidance reversed the DH's previous position on redress payments for maladministration of fully-funded NHS Continuing Healthcare in respect of redress payments for losses incurred other than care costs. It reminds NHS commissioners of their responsibilities concerning maladministration and redress, and that where financial loss can be shown to be demonstrably attributable to the wrongful denial of NHS Continuing Healthcare funding, compensation payments should be aimed at returning the individual to the financial position they would have been in had the maladministration not occurred (ie calculated on a restitution basis).

2.5 It also reminds NHS commissioners that:

2.5.1 an appropriate level of interest should be paid on the reimbursed fees;

2.5.2 payments can also be made in recognition of the inconvenience and distress caused to patients;

[1] The DH issued a revised National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care in November 2012 (which replaced the previous version of the National Framework, originally published in June 2007, and revised in 2009). The National Framework ostensibly concerns the process of assessing health needs; deciding on eligibility for NHS Continuing Healthcare and providing that care. As such, it does not directly address the issue of *redress* and the responsibilities CCGs have to provide redress where maladministration has resulted in fully funded NHS Continuing Healthcare being wrongly withheld. Equally, the NHS Continuing Healthcare Practice Guidance (incorporated into the 2012 version of the National Framework) does not address this issue. Equally, the NHS Continuing Healthcare Refunds Guidance (annexed to the November 2012 version of the National Framework), provides guidance on responsibilities when a decision on NHS Continuing Healthcare eligibility is awaited or is disputed, rather than addressing the issue of redress.

2.5.3 local authorities can offer deferred payment agreements to those not eligible for NHS funding who might have to sell their houses to fund their own care;

2.5.4 complainants need to provide causal evidence of financial loss; and

2.5.5 the amount of effort put into assessing the extent of the injustice and remedy should be proportionate.

2.6 The 2007 Guidance advises NHS commissioners that they should use a transparent rationale and clear calculations in making redress payments and to seek legal advice where necessary.

3 Objectives of this Policy

3.1 This policy has been prepared to ensure compliance with the 2007 Guidance by the CCGs.

3.2 It has been drawn up to guide the CCGs and any team with which the CCGs contract, to ensure clarity of process of making redress for the wrongful withholding of fully-funded NHS Continuing Healthcare.

3.3 It is for each CCG to determine both: the ways in which they will correspond with claimants; and the documentary evidence required to advance a claim. Should the Norfolk and Waveney Redress and Redress Panel consider it necessary to prescribe these terms, an annex will be added to this policy.

4 Content of this Policy

4.1 This Policy describes four elements that will be considered in calculating an appropriate redress payment:

4.1.1 **Reimbursement of care costs** - how the CCGs will calculate the level of any payment that ought to be made in respect of care costs met by patients or their families or carers that ought properly to have been paid by the NHS;

4.1.2 **Other financial compensation** – what other financial losses (other than care costs), ought to be compensated and how to calculate what an appropriate payment might be;

4.1.3 **Interest** – how much interest should be added to compensate for delay in making payment;

4.1.4 **Ex gratia payments –** when an ex gratia payment may be appropriate, for example sums in respect of extreme cases of maladministration and delay.

5 Reimbursement of care costs

5.1 The 2007 Guidance states that the amount of any reimbursement of care costs should be based on the following formula:

5.1.1 care costs incurred, eg nursing home fees which the patient or their family paid which ought to have been met by the NHS;

5.1.2 together with interest calculated at the County Court judgment debt rate applicable at the time the redress payment is calculated (currently 8%);

5.1.3 after deducting any retained benefits, ie benefits which the patient had continued to receive, but which they would not have continued to receive had they been awarded fully-funded NHS Continuing Healthcare.

Annex 2 to the 2007 Guidance sets out a list of state benefits and allowances that ought to be taken into account when calculating the amount of any reimbursement of care costs for adults in care homes or similar institutions. In each case the circumstances applicable to that individual should be taken into account.[2]

5.2 Where compensation has not yet been paid, reimbursement of care costs will be calculated, wherever possible, on the basis of the formula from the 2007 Guidance as set out above. However, where there is no available evidence as to the value of any retained benefits, the CCGs will assume that the patient would have received basic state pension and higher rate attendance allowance.

6 Other financial compensation

6.1 There are five main types of other financial compensation that may be claimed:

6.1.1 **Loss of asset value** resulting from having to liquidate assets early to raise funds to meet care costs that the NHS ought to have met – see paragraph 7 below;

6.1.2 **Additional financial costs** incurred because of the necessity of meeting care costs that the NHS ought to have met, eg the cost of insurance premiums – see paragraph 8 below;

6.1.3 **Loss of income** by a person who gave up work or reduced their working hours in order to look after a patient who continued to live in their own home – see paragraph 9 below;

6.1.4 **Reasonable costs** directly incurred in the pursuit of a claim for redress – see paragraph 10 below; and

6.1.5 **Damages for inconvenience or distress** suffered by the patient, their family or carers or their personal representatives or executors, as a result of the NHS not awarding NHS Continuing Healthcare funding or the process or making a claim for reimbursement of care costs paid – see paragraph 11 below.

[2] The 2007 Guidance provides that "the amount of effort put into assessing the extent of the injustice and remedy should be proportionate" and recognises that "There may be cases where it is not reasonable, or possible, to calculate the exact extent of loss" (paragraph 12). The CCGs will: firstly, examine their records for evidence of the value of any retained benefits and will request claimants to confirm any information already provided to the CCGs or their predecessor PCTs; secondly, request evidence of the value of any retained benefits from the claimant where no evidence is available from the CCGs' own records; thirdly, seek such evidence from the Department of Work and Pensions (DWP) where no evidence is available from either the CCGs' records or the claimant.

6.2 In all cases where the relevant CCG may be required to provide compensation, it will proceed on the basis that compensation should be awarded so as to put the claimant into the financial position he or she would have been in had the maladministration not occurred. There is an expectation that claimants will mitigate their losses. Where a claimant has not taken steps to mitigate their loss the relevant CCG is entitled to calculate the claimant's losses on the basis that the claimant had taken reasonable steps to keep their losses to a minimum.

6.3 There may be cases where it is not possible to determine with any certainty what the claimant's position would have been had the maladministration not occurred. In these cases the relevant CCG will seek to agree with the claimant what the most likely position would have been. However, where agreement cannot be reached, the Norfolk and Waveney Continuing Healthcare Redress Panel (see below) will make an assessment of the chances of the patient or the claimant taking a particular step or action, had they been awarded fully-funded NHS Continuing Healthcare, and the relevant CCG will make an offer of compensation based on a 'loss of chance' basis.

6.4 This is in accordance with guidance given by the House of Lords in relation to the assessment of damages which states:

> "*…in assessing damages which depend upon … what will happen in the future or would have happened in the future if something had not happened in the past, the court must make an estimate as to what are the chances that a particular thing will or would have happened and reflect those chances, whether they are more or less than even, in the amount of damages which it awards.*" (Lord Diplock in *Mallett v McMonagle [1970]* AC 166 at 176 (emphasis added)

6.5 Accordingly, for example, if it is claimed that, had a property not had to be sold to meet care costs, it would have been developed prior to sale and its value would have increased, and the chance of this occurring is assessed by the Norfolk and Waveney Continuing Healthcare Redress Panel to be 65%, the relevant CCG will offer compensation based on the value of the property without such development plus 65% of the increase in value of the property with such development. The CCGs will use a retained estate agent to conduct an independent drive-by valuation of the property, if required, on behalf of the relevant CCG.

6.6 However, where the chance of an event occurring is assessed to be less than 20%, no additional compensation on the loss of a chance basis will be offered, due to the unlikelihood of such an event having occurred. Each case would be considered on an individual basis, taking specialist legal advice, by the Norfolk and Waveney Continuing Healthcare Redress Panel.

7 Loss of asset value

7.1 A claim for loss of asset value arises most frequently as a result of the premature sale of a residential property (though it could relate to the disposal of other assets, eg investments, antiques, heirlooms, etc).

7.2 **STEP 1 :** A claim for loss of asset value will only arise:

7.2.1 where an asset was disposed of earlier than would otherwise have been necessary, in order to raise funds to pay care costs that the NHS ought to have met; and

7.2.2 where the asset was disposed of at a lower price than might have been obtained had it been disposed of at a later date and consequently a loss has been incurred.

7.3 *Disposal of an asset to meet future care costs*

7.3.1 The relevant CCG must be satisfied that the disposal of the asset was directly linked to the need to meet care costs and that the disposal did not take place at that time wholly or partly for other reasons, eg to pay debts related to care costs incurred before the patient became eligible for fully-funded NHS Continuing Healthcare.

7.3.2 In most cases, any disposal of assets will have taken place during the period of eligibility for fully-funded NHS Continuing Healthcare. However, in some cases assets may have been disposed of *before* the patient became eligible in anticipation of the need to meet future care costs.

7.3.3 The CCGs have decided that:

(i) a disposal that occurs up to 3 months before a period of eligibility for fully-funded NHS Continuing Healthcare will normally be considered as a disposal made *in anticipation* of the need to meet care costs; and

(ii) a disposal that occurs 6 months or more before a period of eligibility will normally be assumed to have occurred for reasons other than the need to meet costs that ought to have been met by the NHS.

Where a disposal occurs between 3 and 6 months before a period of eligibility and where the patient or their family provides evidence to support a claim that the disposal occurred in anticipation of a future need to meet care costs, the Norfolk and Waveney Continuing Healthcare Redress Panel (see below) will consider the individual circumstances and adjudicate as to whether there is a claim or not.

7.4 *Disposal of residential property – deferred payment arrangements*

7.4.1 In relation to claims in respect of the premature disposal of residential property, where property has been sold since 1 October 2001, the CCGs will consider whether the deferred payment scheme was offered and applied by the relevant local authority. If not, the CCGs will encourage the patient or their family to discuss with the local authority whether the patient was eligible to enter into a Deferred Payment Agreement and, if so, whether this was considered before the sale.

7.4.2 If the patient/claimant was eligible for the scheme but the local authority did not offer any deferred payment arrangement, the CCGs will recommend to the patient or their family that the local authority was wholly or partly responsible for any financial losses suffered and the CCGs' view as to the extent of that responsibility.

7.4.3 If the claimant was offered a deferred payment arrangement but declined it, the CCGs will consider whether the sale of the property was in fact caused by the failure to award fully-funded NHS Continuing Healthcare. The Panel may decide that in that case the sale was caused by the claimant's failure to enter into a deferred payment arrangement with the local authority and that the relevant CCG is not responsible for compensating the claimant for any losses incurred.

7.5 **STEP 2:** The CCGs will require documentary evidence of the actual disposal of the asset and the price achieved.

7.6 *Disposal of residential property- evidence of the actual sale price*

7.6.1 In the case of a residential property, if the claimant is unable to produce evidence of the sale price:

(i) in the case of a property sold since 1 April 2000, the CCGs may be able to obtain details of the sale price of the property from www.mouseprice.com or a similar website; or

(ii) in the case of a property sold before 1 April 2000, the CCGs may treat, as the sale price, the average sale price of similar property, calculated using evidence of the sale price of other similar properties and average changes in house prices over the relevant period, obtained from the House Price Index from the Halifax Group Plc or similar;

(iii) where the sale price of a residential property cannot be ascertained and agreed with the patient or their family using either of the above methods, the CCGs may conduct a search at the Land Registry to obtain evidence of the sale of the property and the price achieved.

7.7 **STEP 3:** The CCGs will then consider at what later date the asset would otherwise have been sold.

7.7.1 The CCGs will normally assume:

(i) that the asset would ordinarily have been sold 6 months after the death of the patient (this allows a reasonable period of time for probate or administration, marketing and sale of the asset); or

(ii) if the patient is still living and continues to be eligible for fully-funded NHS Continuing Healthcare, that the asset would not yet have been sold.

7.7.2 However, where the patient ceased to be eligible at any time before death, the CCGs will consider what the value of the asset would have been had it been sold at a later time, determined by the period of eligibility, or 6 months after the date of death, whichever occurs first.

For example: if an asset was sold on 1 January 2002 and the patient was retrospectively held to have been eligible for fully funded NHS Continuing Healthcare for a period from 1 September 2001 to 28 February 2003 (ie 18 months), but then ceased to be eligible for the remainder of their life until their death in June 2005, the CCGs will assume that the sale of the asset would have been postponed for 18 months after the date of actual sale (in January 2002) and will consider what the sale value of the asset would have been: in this example, in July 2003.

7.8 *Disposal of residential property – property that would have been retained as an investment*

7.8.1 The CCGs will accept that the property would not have been sold where:

(i) before the sale, the property was used partly for the purposes of a family business; or

(ii) before the sale, the property had been a family home owned by the family for at least two generations; or

(iii) the claimant is able to provide evidence that the property would have been kept as an investment property and let out, eg clear contemporaneous evidence of previous experience of an investment property business or of enquiries made at the time about the property's suitability as an investment property.

7.8.2 The CCGs may accept other claims that a property would not have been sold by way of exception only and where the patient or their family are able to provide contemporaneous evidence of an intention to keep the property for a specified purpose.

7.8.3 If, in such an exceptional case, the CCGs accept that a property would not have been sold but would have been kept by the family and the claimant claims that the property would have been let as an investment property, the CCGs will consider further claims for loss of rental income only on production of evidence of loss of business opportunity: ie evidence that the property could have been let out at the relevant time and the rents that it might have achieved over the relevant period. In determining the amount of any claim for loss of rental income the CCGs will take into account reasonable landlord's costs of

finding suitable tenants, insurance, maintenance, property letting management fees and all other costs that would have been incurred by the claimant on a letting of the property and any income tax or other tax liability that would have arisen in respect of any rental profits.

7.9 **STEP 4:** Having determined when the asset would otherwise have been sold (or that it would have been retained as an investment), the CCGs will then consider the likely change in value of the asset between the date of actual sale and the date when it would otherwise have been sold (or, in the case of assets that would have been retained, the present date). The CCGs will require evidence of the likely sale price that would have been achieved at that later time.

7.10 *Disposal of residential property- evidence of the likely sale price at the later date*

7.10.1 The CCGs will obtain a professional open market valuation of the property as at the likely date of sale or the present time. The CCGs will supply the valuer with all the available information relating to the property, eg number of bedrooms, state of repair at the time of sale, etc, together with the price achieved at the date of actual sale.

7.11 **STEP 5:** Where there was an increase in value of the asset over the relevant period, the CCGs will make an offer of compensation to the claimant but in calculating any losses incurred, the relevant CCGs will deduct from the amount of compensation offered a sum in respect of "mitigating interest" calculated on the basis that the patient could have earned interest on the sale proceeds of the asset for the period between the date of actual sale and the date to which the compensation offer is calculated.

7.12 The payment of financial compensation for loss of asset value may give rise to a liability, or an additional liability, of the claimant or a deceased patient's estate for Capital Gains or Inheritance Tax. Any such tax liability falls on the claimant or the deceased patient's estate and accordingly is not a liability of the CCGs. No deduction for any such liability will be made from the settlement sum, but claimants are advised to seek advice from their own financial or legal advisers as to the extent of any additional tax liability that may arise from receipt of financial compensation.

8 Additional financial costs incurred

8.1 The CCGs will:

8.1.1 request documentary evidence of the other financial costs incurred; and

8.1.2 consider the context in which the costs were incurred, i.e. are the CCGs satisfied that the costs were directly linked to the need to meet care costs or is there evidence that they were incurred wholly or partly for other reasons – the Norfolk and Waveney Continuing Healthcare Redress Panel (see below) will consider and adjudicate on this issue where relevant.

8.2 The CCGs will not reimburse travelling expenses incurred in order to attend meetings with the relevant CCG or any panel of the CCGs, or the regional commissioning body (from 1st April 2013 the National Health Service Commissioning Board, known as NHS England) that considered the patient's claim for fully-funded NHS Continuing Healthcare.

9 Loss of income

9.1 The CCGs will:

9.1.1 request documentary evidence of the carer's position and salary/wages immediately before the date of leaving work or reducing working hours and positions and salary since that date and also since the date when the patient died or ceased to be eligible for fully-funded NHS Continuing Healthcare for any other reason;

9.1.2 request claimants to authorise the release of data by any relevant employers;

9.1.3 consider the extent of the carer's loss of income taking into account direct loss of earnings and implied loss of career prospects and formulate a proposal for any sum that ought to be paid to compensate for that loss - the Norfolk and Waveney Continuing Healthcare Redress Panel (see below) will consider and adjudicate on this issue where relevant.

10 Reasonable costs

10.1 The CCGs will:

10.1.1 request clear and detailed statements and invoices showing what costs have been incurred and what they related to (including, in the case of legal costs incurred, detailed timelines of time spent advising the claimant in relation to the redress claim);

10.1.2 consider the extent of the carer's costs and expenses and whether they are reasonable taking into account the value of any care costs paid or assets sold and formulate a proposal for any sum that ought to be paid to compensate for those costs and expenses - the Norfolk and Waveney Continuing Healthcare Redress Panel (see below) will consider and adjudicate on this issue where relevant; and

10.1.3 formulate an offer on this basis, such offer to cover only those costs and expenses directly linked to claiming redress for the wrongful denial of fully-funded NHS Continuing Healthcare.

11 Damages for inconvenience or distress

11.1 In respect of damages for inconvenience, **there is no general legal liability for damages for inconvenience** except in rare circumstances where:

11.1.1 there is a relationship giving rise to **a duty of care**, the nature of which includes an implied or express obligation, on the part of the party with that duty, **to provide freedom from distress and inconvenience**; and

11.1.2 **that duty has been breached**; and

11.1.3 there has actually been **physical inconvenience** as a result.

Consequently there are unlikely to be many, if any, circumstances where a legal liability to pay compensation for inconvenience has arisen.

11.2 In the case of claims for damages for distress, the relevant CCG will:

11.2.1 request documentary evidence of distress suffered by patients or their carers as a result of the patient wrongfully being denied fully-funded NHS Continuing Healthcare;

11.2.2 such documentary evidence may include, but will not be limited to, medical evidence of physical or mental illness, including stress, suffered by the patient or their carer which was primarily caused:

(i) in the case of the patient, by having to arrange or meet the costs of care that ought properly to have been arranged or met by the NHS; or

(ii) in the case of the carer, by having to provide, arrange or meet the costs of care that ought properly to have been provided, arranged or met by the NHS

in each case, when compared to illness that might otherwise have arisen as a result of stress, concern or worry about the patient's state of health or their care.

11.3 The CCGs will require evidence that the patient, their family or their carer:

11.3.1 suffered distress over and above that which was to be expected taking into account the patient's state of health and need for care at the time – this recognises that a degree of distress is to be expected when a member of the family or a close friend is very ill and/or coming to the end of their life; and

11.3.2 that such higher level of distress was as a direct result of the patient being wrongly denied fully-funded NHS Continuing Healthcare.

11.4 The Norfolk and Waveney Continuing Healthcare Redress Panel (see below) will consider and adjudicate on this issue where relevant and make a decision on the level of distress experienced and the level of compensation to be paid to the claimant, if any, taking into account any legal damages that might be awarded to the claimant if he or she brought such a claim in a court of law.

12 Interest

12.1 The Norfolk and Waveney Redress and Redress Panel set out in 14.1 will set the % interest level paid over any given period. This will be reviewed from time to time in response to any changes in national guidance and/ or county court rates. Guidance will be taken from the ombudsman's position at any given time period and legal advice sought in setting any interest rate. The interest rate starting point for this policy period is 8% based on current custom and practice and national guidance.

13 Ex gratia payments

13.1 Ex gratia payments are payments made in cases where there is **no obligation or legal liability** but where, in all the circumstances, the payer considers it is responsible for loss or damage that ought properly to be compensated or desires to address a hardship that the payee has had to suffer as a result of failure or delay on the part of the payer. In the same way that it is difficult to envisage circumstances in which a party would be legally liable for inconvenience, the CCGs have been advised that it is equally difficult to determine circumstances where an ex gratia payment would be justified. Therefore only in extreme and rare cases, will the CCGs consider that the award of an additional ex gratia payment is appropriate.

14 Continuing Healthcare Redress Panel

14.1 The CCGs have set up The Norfolk and Waveney Continuing Healthcare Redress Panel consisting of:

- a legal adviser;
- a senior level representative from each of the following:
    - Norwich Clinical Commissioning Group
    - North Norfolk Clinical Commissioning Group
    - South Norfolk Clinical Commissioning Group
    - Great Yarmouth and Waveney Clinical Commissioning Group
    - West Norfolk Clinical Commissioning Group
- a clinical member of the NHS Continuing Healthcare redress and restitution team

14.2 The Norfolk and Waveney Continuing Healthcare Redress Panel will:

14.2.1 review the evidence provided by the claimant of financial loss, costs and expenses incurred or distress suffered;

14.2.2 consider what settlement should be offered to the claimant in accordance with this Policy;

14.2.3 make a recommendation to the relevant CCG on the settlement to be offered;

14.2.4 formulate an offer or a negotiating position; and

14.2.5 if all offers are rejected by the claimant, decide on an action plan.

14.2.6 Ensure responsible commissioners are identified in each case and ensure appropriate use and monitoring of any shared risk budget for redress and restitution spend.

15 Agreeing a settlement

15.1 Once the Norfolk and Waveney Continuing Healthcare Redress Panel has approved the basis of settlement of each claim and made a recommendation to the CCGs, the relevant CCG will write to the claimant to propose an agreed settlement of the claim. The offer will be calculated to include interest to the date of the offer.

15.2 In the case of claims where a residential property has been sold to meet care costs, the valuation of the property obtained by the CCGs will be used as the basis for the calculation of the relevant CCG's offer to the claimant.

15.3 Offers will be open for acceptance by the claimant for a period of 14 days and claimants will be advised in the offer letter that they should notify the relevant CCG within the 14 day period if they do not accept either the valuation obtained by the CCGs or any other basis of calculation of the CCG's offer.

15.4 Claimants who wish to dispute the residential property valuation or the CCGs' calculation may do so at their own expense and should obtain their own valuation and/or provide evidence to the CCGs of their reasons within the 14 day period. The CCGs will give due consideration to such valuations and/or other evidence at the next Norfolk and Waveney Continuing Healthcare Redress Panel meeting. However, no further interest will be applied to the CCG's offer unless the Norfolk and Waveney Continuing Healthcare Redress Panel accepts the evidence provided by the claimant and issues a revised offer to the claimant.

15.5 If for any other reason the CCGs are unable to reach agreement with the claimant as to any settlement of their claim, the case will be referred back to the Norfolk and Waveney Continuing Healthcare Redress Panel to consider any representations made by the claimant as to why the settlement offered is unacceptable. The Norfolk and Waveney Continuing Healthcare Redress Panel will recommend a further offer or negotiating position to the CCGs. Cases will normally be considered at the next Norfolk and Waveney Continuing Healthcare Redress Panel meeting but, in order to speed up the settlement of claims, cases may be discussed by the Panel members by other means, eg email or telephone conference, and decisions or recommendations may be made in this way between Redress Panel meetings.

15.6 Any such further recommendation or decision of the Norfolk and Waveney Continuing Healthcare Redress Panel will be final and will be communicated to the

claimant by the relevant CCG. If the claimant is not willing to accept the CCG's offer of settlement, he or she may refer the matter to the CCG's complaints procedure in the normal way.

16 Precedents

16.1 It is important that the CCGs are consistent in respect of their decision making and negotiation stance for each claim considered. The CCGs recognise that their decisions and any settlements made with claimants will form a precedent for other similar decisions or settlements they might make or negotiate in the future.

16.2 Therefore, the CCGs will review this Policy regularly in the light of decisions made in respect of redress and will make any necessary changes to this Policy to reflect those decisions.

16.3 This policy is effective from 1 December 2013.