



London Choosing Wisely:

Improving health outcomes for all Londoners

Ethical Decision-Making Framework for London Choosing Wisely

1. Introduction

1.1 This Ethical Framework sets out the principles that London Choosing Wisely (LCW) Task & Finish Groups will apply in developing policies about access to certain treatments and interventions. In considering such policies for adoption and implementation, these groups will need to demonstrate that their decisions about health policy are based on sound principles, and recognise the legal duties of Clinical Commissioning Groups (CCGs). Clarity about how the Task & Finish Groups have consistently utilised fair and reasonable common principles should help ensure CCGs have confidence in the outputs of this work.

2. Purpose of the Ethical Framework

2.1 The purpose of an ethical framework is to:

- Demonstrate that decisions about policies are based on sound principles and have been made after careful consideration of all the relevant factors.
- Provide a coherent structure and framework for decision-making that ensures all the important aspects of each issue are considered.
- Promote fairness and consistency in decision-making from meeting to meeting and across different clinical topics.
- Have regard to the implications of the Human Rights Act.
- Provide a format for expressing and recording the reasons behind the decisions made.

3. Five core principles for decision-making

3.1 In line with the legal and ethical duties to CCG populations, it is expected that the following key principles will be applied to all decisions.

3.2 These key principles are the need for decisions to be

- rational;
- socially inclusive;
- clear and open to scrutiny;
- take economic factors into account; and
- promoting health for both individuals and the community.

Principle 1: Rational

3.3 Health bodies have a responsibility to make rational decisions and to act fairly in balancing competing claims on resources between different patient groups and individuals.

3.4 Aspects of this principle include:

- Ensuring that the decision is based on evidence of clinical effectiveness.
- Being logical in the way reason is applied to reach a decision.
- Making a realistic appraisal of the likely benefit to patients.
- Weighing up all the relevant factors, including risks and costs.

3.5 Where available, existing national standards, policy and authoritative guidelines must be considered; such as national directives, guidance from the National Institute of Health & Clinical Excellence, Department of Health directives etc. Local factors, including existing provisions must also be considered. Decisions should be taken within the political and legal context.

3.6 Decisions should be made on the basis of a reasonable evaluation of the available evidence of clinical effectiveness. Those involved in decision-making have an obligation to seek out the best evidence of clinical effectiveness to inform their decisions.

3.7 The approach to accessing the validity and credibility of evidence should be broad but maintain high standards of critical appraisal. Both qualitative and quantitative studies will be taken into consideration, with evidence from sources other than large-scale randomised clinical trials given appropriate weight.

3.8 Outcome measures should be considered in terms of their importance to the patients. This is particularly significant in the treatment of illness where no cure can be expected, in palliative care, and the care of people who are terminally ill. Rational decisions will weigh up likely outcomes, the wider contexts in which treatments can be provided, the implications for service delivery, clinical pathways, and the scale and nature of benefits, costs and risks.

Principle 2: Socially inclusive

3.9 The term inclusivity may be interpreted as including:

- Reinforcing the concept of equal opportunity of access to health care.
- Patient and public engagement in decision-making.
- Balancing the needs of individuals with those of the wider community.

Principle 3: Clear and open to scrutiny

3.10 The values and principles at all levels of decision-making must be consistent. Decisions and the way they are determined, will be clearly specified, consistent, and easy to understand.

3.11 Group members undertaking decision-making have a responsibility to work towards achieving these goals. Decision makers will provide the rationale for their decisions; and all facts that have influenced a decision will be clearly stated in the records of meetings.

3.12 The process of decision-taking will also be carefully documented, to show that it has conformed to the agreed process and to record consensus. Communication throughout a decision-making process is required to be clear and effective and communication about decisions need to be unambiguous and articulate.

Principle 4: Take economic factors into account

- 3.13 Resources are finite and must be managed responsibly. Investment in one area of healthcare will divert resources away from other areas of potential investment. Decisions should be based on careful consideration of the balance between costs and benefits; both in the short and longer term, but also recognise that this cannot necessarily be reduced to simple cost-benefit calculations.
- 3.14 Task & Finish Groups will consider the extent to which the individual or patient group will gain a benefit from the treatment; and will also balance the needs of each individual against the benefit that could be gained by alternative investment possibilities to meet the needs of the community. In general, low-cost treatments with high effectiveness will be preferred, whereas high cost treatments with low effectiveness are to be discouraged.

Principle 5: Promote health for both individuals and the community

- 3.15 Policies that promote health and avoid people becoming ill are considered alongside curative treatments and other interventions. There may be times when it is appropriate to target some demographic groups or health issues in order to reduce inequalities and promote the well-being of the community as a whole (to seek to improve equity).

4. Considerations

4.1 When making decisions, the following considerations should be taken into account:

- The standard treatment options available to the patient.
- The clinical needs of the patients.
- The scientific evidence of clinical effectiveness of the proposed intervention and where in doubt, normative practice.
- The cost effectiveness of the intervention.
- The balance of risk and benefit for the patient and the capacity to benefit.
- The impact of provision of this treatment on resources and whether needs can be met in other ways.
- Consistency in decision-making and the impact of providing similar treatment to other patients with similar needs.
- The impact of the decision on other services or interventions for which investment is then not available.
- Patient views.
- Potential human rights considerations and proportionality.
- Procedural propriety in decision-making, transparency and probity.
- The legality of the decision.

5. Legal Duties

5.1 CCGs have certain legal duties as public bodies and their decisions and actions should be able to withstand scrutiny with regards to:

- Meeting statutory duties;
- Legality;
- Reasonableness;
- Proportionality;

- Procedural Propriety;
- Legitimate expectations; and
- Equality and non-discrimination.

6. Equality Statement

6.1 CCGs have a duty to have regard to reduce health inequalities in access to health services and health outcomes achieved as enshrined in the Health and Social Care Act 2012.

6.2 London CCGs are committed to ensuring equality of access and non-discrimination, irrespective of age, gender, disability (including learning disability), gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) or sexual orientation. In carrying out their functions, CCGs will have due regard to the different needs of protected equality groups, in line with the Equality Act 2010.

6.3 This document is compliant with the NHS Constitution and the Human Rights Act 1998. This applies to all activities for which they are responsible, including policy development, review and implementation.

References

1. *South West London CCGs Ethical Framework.*

<http://www.lambethccg.nhs.uk/your-health/Information-for-patients/Documents/Appendix%20F%20Ethical%20Decision%20Making%20Framework%20for%20IFRs.pdf>

2. *North West London CCGs Ethical Framework*

[http://www.westlondonccg.nhs.uk/media/14695/06.3.f\)%20Appendix%205%20-%20Ethical-framework.pdf](http://www.westlondonccg.nhs.uk/media/14695/06.3.f)%20Appendix%205%20-%20Ethical-framework.pdf)

3. *Thames Valley CCGs Ethical Framework*

<http://www.fundingrequests.cscsu.nhs.uk/wp-content/uploads/2015/08/Ethical-Framework-March-2016-final.pdf>

Ethical Framework Application Sheet

Task and Finish Group Chairs have a responsibility to ensure the Ethical Framework is used. To do this, Chairs may wish to pose and answer the following series of questions. This will also help ensure that meeting notes can accurately reflect the reasons behind decisions, and the extent of consensus behind the decisions.

Principles & Considerations	Questions
Rational	<i>To what extent has the Group been able to base decisions on evidence of clinical effectiveness?</i>
	<i>Has the validity and credibility of available evidence been considered?</i>
	<i>Have decisions been made that are in line with such evidence?</i>
	<i>How does the intervention compare to alternate options available to the patient?</i>
	<i>Have existing national standards, policy and authoritative guidelines been considered?</i>
Socially inclusive	<i>To what extent could the decision impinge on principles of equal opportunity of access to healthcare, or discrimination between groups?</i>
Clear & open to scrutiny	<i>Are all group members confident that all have had equal opportunity to have their views heard and considered?</i>
Taking economic factors into account	<i>To what extent has the Group been able to take economic factors into account?</i>
	<i>Has the balance between the likely benefits, risks and costs of the treatment been considered?</i>
	<i>Have lower-cost treatments with high effectiveness been considered preferentially compared to those of higher costs and lower effectiveness?</i>
Promote health	<i>Where relevant, have interventions that promote health been fairly considered alongside those that treat ill health?</i>