Guide to the processes of technology appraisal April 2018

Interim addendum

Procedures for the review of commercial and managed access requests

June 2021

NICE

Contents

Acknowledgements

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Introduction

1. This document describes the process and procedures that NICE follows when considering a commercial and managed access (C&MA) request from a company. It includes likely timescales and checkpoints for considering the request and liaising with the Commercial Medicines Directorate in NHSE&I. These arrangements are in line with the agreements made by the Department of Health and Social Care, NHSE&I and the Association of the British Pharmaceutical Industry as part of the 2019 voluntary scheme for branded medicines pricing and access.

2. This document should be read with:

   - NICE's process guides for technology appraisals and highly specialised technologies
   - NHS commercial framework for new medicines
   - NICE's arrangements for patient access schemes.

3. NICE develops guidance on the use of new and established technology and treatments (interventions) in the NHS. To resolve, reduce or address uncertainty in the clinical and cost effectiveness of technologies being reviewed, NICE's C&MA teams facilitate necessary discussions, aligned with NICE's technology appraisal and highly specialised technologies evaluation processes. C&MA activities include both the existing patient access scheme arrangements and arrangements that reflect the recently introduced commercial flexibilities outlined in the NHS commercial framework.

4. Through application of its standard processes of guidance production, NICE wishes to ensure that those who are bringing technologies forward for possible use in the NHS can make the best plausible case for the use of their product, to the ultimate benefit of the NHS and patients. Therefore, NICE works closely with relevant stakeholders at key stages of the NICE technology appraisal and highly specialised technologies evaluation processes to inform their commercial activities and enable timely discussions between NHSE&I and the company.

This interaction between NICE, NHSE&I and the company is key to ensuring the production of timely guidance and patient access to cost-effective technologies.

5. NICE endorses the principles outlined in the NHS commercial framework for new medicines in its C&MA activities.

6. All references to the NHS are to the NHS in England and Wales.

C&MA agreements

7. C&MA agreements are linked specifically to technologies being evaluated by NICE's technology appraisal and highly specialised technologies programmes. There are 3 options available to companies:

    - patient access schemes
    - commercial access agreements
    - managed access agreements (which also include a commercial agreement).

    These options provide mechanisms for companies to improve the likely cost effectiveness of a technology under evaluation beyond that which would be given by assessment at its list price.

8. There are 2 types of patient access scheme:

    - simple discount patient access scheme (confidential)
    - complex patient access scheme (transparent).

    The procedures for these are described in NICE's arrangements for patient access schemes, so are not considered further here.

9. C&MA agreements (which means both commercial access agreements and managed access agreements) are defined in the NHS commercial framework for new medicines. Unlike patient access scheme arrangements, these agreements are only expected to be used in specific circumstances. For further details please see the NHS commercial framework for new medicines.

10. Commercial access agreements provide companies with an additional confidential commercial mechanism to improve the likely cost effectiveness of a

technology and are especially likely to be a suitable option when NICE believes there is plausible potential for a treatment to be clinically and cost effective but there is significant uncertainty surrounding its clinical effectiveness, and therefore its cost effectiveness.

11. Managed access agreements are made when there is plausible potential for a technology to be clinically and cost effective, applying NICE's usual standards and processes, but high uncertainty in the evidence leads to low confidence in the cost-effectiveness analyses at the time of the evaluation. A C&MA request that contains a managed access agreement is very complex because it often includes:

    - a data collection agreement designed to reduce clinical uncertainty in advance of a re-evaluation and
    - a commercial access agreement (which will most often build on a simple patient access scheme) designed to reduce the financial risk while data are being collected.

C&MA requests

12. C&MA requests must follow these principles:

    - They must be clinically plausible, robust, reasonable and monitorable. For example, if based on a clinical response, there must be a relatively straightforward way to measure this.
    - They must be operationally manageable for the NHS without unduly complex monitoring, disproportionate additional costs and bureaucracy. Any burden for the NHS must be proportionate to the benefits for the NHS and patients. The exact duration of the agreement and the circumstances in which it might be terminated must be clear.
    - Commercial requests must be broadly consistent with existing financial flows in the NHS and with commissioning arrangements.

13. Priority is likely to be given to C&MA requests that deliver the greatest benefits to patients, for example in enabling the NHS to address a previously high unmet need. NHSE&I will take into account whether the cumulative administrative

burden of C&MA requests is manageable for everyone involved in their operation, including front-line NHS staff. Any resulting C&MA proposals will inform the NICE evaluation.

Submitting a request

14. A C&MA request is accepted at various times during the technology appraisal or highly specialised technologies evaluation process. These are called checkpoints.

15. A company (usually a life science company) interested in submitting a C&MA request should initially contact the commercial liaison team at NICE (CLPT@nice.nhs.uk). The company should also consult the Commercial Medicines Directorate at NHSE&I.

16. In line with the NHS commercial framework for new medicines, initial discussions with NICE will focus on submission of a simple patient access scheme proposal, which is the default commercial proposal. A patient access scheme can cover most situations when a company needs to improve the cost effectiveness of a technology.

17. If NICE identifies that a technology is not likely to be cost effective with a simple or complex patient access scheme, NICE's commercial liaison team and the Commercial Medicines Directorate at NHSE&I liaise with the company to assess the potential for submitting a C&MA request. A C&MA request can only be submitted if a patient access scheme proposal has been fully explored.

18. In addition to the general requirements above, one or both of these circumstances has to be met for a C&MA request to be accepted by NHSE&I for processing:

    - The company proposes an enhanced offer to offset the risks involved with, and the burden of implementing, novel and complex agreements and for agreements that are highly likely to include additional data collection.
    - There are unusual or unique circumstances that mean adopting the technology in the NHS is particularly challenging or potentially commercially unviable.

Reviewing a request

19. NICE's commercial liaison team facilitates the review of C&MA requests by NICE and NHSE&I and their consideration by NICE technical teams and relevant advisory committees. The aim is to integrate the development and consideration of C&MA requests to allow timely and efficient discussion and information exchange between NICE, the company and NHSE&I.

20. Review of C&MA requests by NICE results in discussions with NHSE&I and preparation of a review commentary.

21. The review begins when a C&MA request is submitted to NICE. NICE can ask the company to clarify the information provided. NICE will not comment formally on any request before it is accepted by NHSE&I.

22. Substantial revisions to the C&MA request are not normally accepted. A substantial revision is one that needs time-consuming revalidation of the viability of the request. In exceptional circumstances, if a company needs to make a substantial revision, it should discuss this with NICE's commercial liaison team as soon as possible. The team can advise on the best course of action and liaise with the technology appraisal or highly specialised technologies programme and the Commercial Medicines Directorate at NHSE&I. Please note that substantial revisions to a C&MA request are likely to delay the technology evaluation process.

Participation of experts

23. If necessary, NICE selects experts to comment on aspects of a C&MA request.

24. Topic experts are identified based on their relevant experience and found through a search or recommendation from NHSE&I. They should:

    - have specialist expertise or experience, or both, in the disease area of the indication relevant to the request
    - have a good working knowledge of the NHS
    - agree to be bound by the terms and conditions of the confidentiality and acknowledgement undertaking agreement

- agree to their name and affiliation appearing in the commentary
- be prepared to declare any interests they have in the technology being considered
- have no conflicts of interest that would prevent them from providing advice (in line with NICE's policy for declaring and managing interests for advisory committees).

25. If needed, NICE seeks patient expert input on aspects of a C&MA request. Input would be from patients and bodies representing patients who have relevant experience of the indication for which the technology is being evaluated

Information handling

26. The details of the commercial terms of a C&MA request are confidential.

27. NICE adheres to the principles and requirements of data protection legislation, including the UK General Data Protection Regulation, Data Protection Act 2018 and the Freedom of Information Act when dealing with information received during a C&MA request review.

28. NICE will only release information on a C&MA request to those who are involved in the review process in the Commercial Medicines Directorate at NHSE&I. Any information is shared in line with each organisation's principles and confidentiality arrangements.

29. NICE will also release information to its technology appraisals or highly specialised technologies programmes so that it can determine the effect of implementing a C&MA request on the clinical and cost-effectiveness assessment of a technology. NICE understands that companies may suffer commercial harm if information on the commercial aspects of requests were made publicly available. There are no public consultation steps on a C&MA request and the public are not admitted to the parts of advisory committee meetings where the details of requests are discussed.

30. Companies should take care when submitting information relating to individual patients and clinicians as part of their C&MA request; no personally identifiable information should be submitted. Any depersonalised data should be underlined

and highlighted. Depersonalised data refers to data that is stripped of direct identifiers, but which could be used to indirectly identify an individual through combinations of information. Further information on depersonalised data and how to assess the risk of identification can be found in the Information Commissioner's Office guide to data protection.

31. Information submitted as part of the C&MA request must meet the requirements of copyright legislation. If journal articles are cited in the request, the full journal articles must be included and have copyright clearance. NICE can accept journal articles electronically through NICE Docs.

32. NICE requires the company to sign a statement declaring that:

- all material relevant to the C&MA request has been disclosed
- the company will treat all material received from NICE and NHSE&I as confidential and will not disclose any information or make public statements.

33. NICE will not comment publicly on a C&MA request until the technology evaluation to which it relates has been completed and the final appraisal or evaluation document has been agreed by the relevant committee. But please note:

- NICE reserves the right to make public comment if there has been an unauthorised disclosure from a confidential C&MA request. The decision will be taken by the chief executive of NICE. Companies will be informed of this decision as soon as possible.
- NICE reserves the right to issue a correction if a public comment that could mislead or misinform is made about the work of the commercial liaison team or NICE more broadly.

34. It is the responsibility of all those involved with the C&MA review to make sure that information that is not otherwise available in the public domain remains confidential and secure at all times. NICE considers people in an organisation that submits a request or is involved in the review of a C&MA request, to be bound by the terms of the confidentiality agreement signed by the nominated contact.

35. Any organisation or person who does not work directly on a C&MA request is considered to be a third party. NICE or NHSE&I may release information to third parties when:

    - the third party has no conflicts of interest as per NICE's policies on declaring and managing interests and
    - it is necessary to enable the third party to contribute to the review and
    - the third party has seen and agreed to be bound by the terms of the NICE confidentiality and acknowledgement undertaking agreement.

    The confidentiality and acknowledgement undertaking form that stakeholders sign to participate in the technology appraisal and highly specialised technologies process will also apply to a C&MA request.

36. Legal advice will be sought by the NICE commercial liaison team on the C&MA request if necessary.

Correspondence

37. All correspondence from the company about a C&MA request should be sent to the commercial liaison team at NICE (CLPT@nice.nhs.uk).

38. NICE sends correspondence by email, to 1 key contact nominated by the company. It is therefore essential that the company tells NICE's commercial liaison team of any change in contact details during the C&MA review procedure and arranges for the nominated email address to be monitored during any periods of absence.

39. NICE Docs is our secure, web-based system for sharing confidential documents and information. A NICE Docs account will need to be created using the key contact's email address.

Interaction with technology evaluation processes

40. The activities of NICE's C&MA teams coincide with key steps in the technology appraisal and highly specialised technologies processes.

41. The C&MA request procedures and minimum timescales are summarised in figure 1. This information is for guidance only because the time needed for each stage can vary.

Checkpoint 1: Pre-invitation to submit

42. This checkpoint allows for early engagement. NICE's commercial liaison team, together with NHSE&I, uses this checkpoint to have informal discussions with a company about whether a C&MA request is needed. The team will:

- explore the need for submission of a simple discount patient access scheme
- explore any commercial challenges the company may have that mean a C&MA request might need to be submitted
- identify potential key uncertainties in the evidence that may require data collection after NICE has published its guidance.

Checkpoint 2: Invitation to participate and decision problem meeting

43. NICE's commercial liaison team reviews the decision problem meeting documentation the company submits to the technology appraisal or highly specialised technologies programme for details of a C&MA request. This review is usually a few weeks before the invitation to participate in the technology appraisal or highly specialised technologies programme. If necessary, the team informs NHSE&I of the company’s intention to submit a C&MA request. This may result in NHSE&I contacting the company directly.

Checkpoint 3: Company submission of evidence to NICE

44. When the company’s evidence submission to the technology appraisal or highly specialised technologies programme is made, NICE's commercial liaison team checks:

- that a simple discount patient access scheme proposal has been submitted
- whether additional C&MA requests have been submitted or may be needed
- whether any points need clarification.

45. If the request is incomplete or clarification is needed, the NICE team may ask for further information from the company. The company has a maximum of 5 working days to respond. Failure to respond within this time may delay the technology evaluation process.

46. NICE and NHSE&I review the C&MA request. The NICE team and NHSE&I may organise an informal meeting with the company to discuss any issues, especially if managed access data collection is proposed. This informal meeting may include potential data providers.

Checkpoint 4: Technical and C&MA engagement

47. NICE's commercial liaison team, together with NHSE&I, has informal discussions with the company to clarify aspects of the request. The company can revise its C&MA request, noting that any major changes could affect the timing of the technology appraisal.

48. The commercial liaison team may join the technology appraisal or highly specialised technologies team at the formal technical engagement meeting with the company. If so, the commercial liaison team gives an overview of its initial assessment of the C&MA request, which may include participation and feedback from NHSE&I. The team also outlines:

    - key uncertainties in the evidence
    - the outcome of the data collection and commercial arrangement feasibility assessment
    - if necessary, feedback about proposed treatment starting and stopping criteria (after engagement with topic and patient experts, if needed).

    The feedback is not binding and may change depending on the outcome of the technical engagement discussions.

49. After the technical engagement meeting, the company has 7 working days to revise its C&MA request. A substantial revision at this stage is likely to delay the technology evaluation process, especially if activities described in earlier checkpoints need to be done again.

Checkpoint 5: Preparation and release of C&MA request commentary

50. The commercial liaison team prepares a final request commentary based on the company's submitted final request and feedback from NHSE&I.

51. The C&MA final request commentary will be shared with the advisory committee team, company, and NHSE&I. It is anticipated that this commentary will be available approximately 4 weeks before the advisory committee meeting.

52. The C&MA final request commentary includes:

    - a summary of the company's C&MA request
    - a view as to whether the request can be considered by the committee.

    NICE will inform the company of the outcome of the review of its request.

Checkpoint 6: Advisory committee meeting

53. Once the C&MA request has been accepted as above, it can be considered by the technology appraisal or highly specialised technologies committee. After this, there is no opportunity for a company to change the structure of its C&MA request or make substantial revisions. In exceptional cases, minor revisions to the structure of an existing C&MA request can be considered.

Checkpoint 7: After the advisory committee meeting

54. If a company wants to make a minor revision to a C&MA request, this must be made within 15 working days of the committee meeting. Companies should note these points:

    - The commercial liaison team prepares a post-committee request commentary within 5 working days of the committee meeting and sends it to NHSE&I and the company. This includes the technology appraisal or highly specialised technologies committee's preferred assumptions for the evaluation.
    - The company has a maximum of 5 days after receiving details of the committee's preferred assumptions to notify NICE that it intends to revise its

C&MA request. This notification must include the date by when the revised request will be sent to NICE.

- Revisions must be in line with the committee's preferred assumptions in the post-committee request commentary.
- If a revised request is received, the timing of release of the consultation or final guidance document on the technology will be adjusted accordingly.

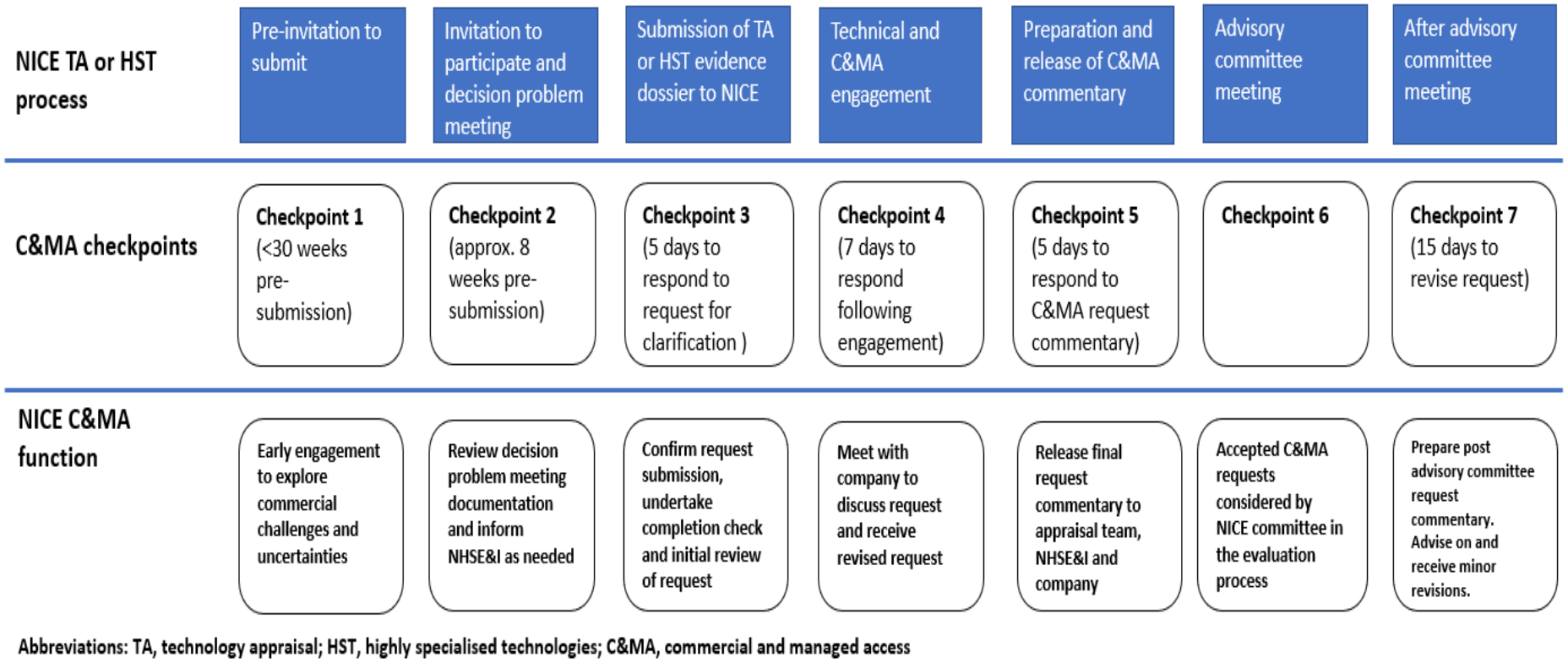

Figure 1 How NICE's C&MA activities interact with the technology appraisal and highly specialised technologies processes