



**PWYLLGOR DEDDFWRIAETH IECHYD MEDDWL
MENTAL HEALTH LEGISLATION COMMITTEE**

DYDDIAD Y CYFARFOD: DATE OF MEETING:	02 September 2025
TEITL YR ADRODDIAD: TITLE OF REPORT:	688 – Section 117 Policy for Approval
CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:	Andrew Carruthers, Chief Operating Officer
SWYDDOG ADRODD: REPORTING OFFICER:	Sarah Roberts, Mental Health Legislation Manager

Pwrpas yr Adroddiad (dewiswch fel yn addas)

Purpose of the Report (select as appropriate)

Ar Gyfer Penderfyniad/For Decision

**ADRODDIAD SCAA
SBAR REPORT**

Sefyllfa / Situation

The Mental Health Legislation Committee is asked to approve the following Policy:

688 – Section 117 Policy

This report provides assurance that Policy 190 – Written Control Documentation has been adhered to in the review of the Policies and that the documents are in line with legislation/regulations and can be implemented within the Health Board.

Cefndir / Background

It is imperative that Hywel Dda University Health Board has up to date and accurate written control documentation in order to comply with relevant legislation/regulations and minimise any associated risk.

Asesiad / Assessment

The Section 117 Policy has been updated as part of a 3 yearly review under the Written Control Document Group. It has been widely circulated for comment. There have been no legislative changes during the past 3 years which have affected the document, and I do not foresee any until implementation of the updated Mental Health Act which is currently in Parliament. An Equality Impact Assessment has also been updated.

A task and finish group met to look at the policy and meetings were held separately with older adult MH teams to discuss in further detail. The document was also tabled at Medical Staff Committee, Ward Managers Forum, Community Mental Health Team Meeting and sent separately for comment to WWAMH reading group, Mental Capacity Act Team and IMHA Service before it was circulated for 2 weeks global consultation via the Intranet.

The policy was approved by the Mental Health Written Control Document Group in August 2025.

Argymhelliad / Recommendation

- The Mental Health Legislation Committee is requested to approve the policy.

Amcanion: (rhaid cwblhau) Objectives: (must be completed)	
Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	3.16 Approve organisational policies, procedures, guidelines and codes of practice (policies within the scope of the Committee)
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Not applicable
Parthau Ansawdd: Domains of Quality Quality and Engagement Act (sharepoint.com)	7. All apply Choose an item. Choose an item. Choose an item.
Galluogwyr Ansawdd: Enablers of Quality: Quality and Engagement Act (sharepoint.com)	6. All Apply Choose an item. Choose an item. Choose an item.
Amcanion Strategol y BIP: UHB Strategic Objectives:	All Strategic Objectives are applicable Choose an item. Choose an item. Choose an item.
Amcanion Cynllunio Planning Objectives	Not Applicable Choose an item. Choose an item. Choose an item.
Amcanion Llesiant BIP: UHB Well-being Objectives: Hyperlink to HDdUHB Well-being Objectives Annual Report 2021-2022	10. Not Applicable Choose an item. Choose an item. Choose an item.

Gwybodaeth Ychwanegol: Further Information:	
Ar sail tystiolaeth: Evidence Base:	The content of this policy is developed utilising expert advice, with reference to legislation and guidance documentation.
Rhestr Termiau: Glossary of Terms:	Contained within the body of the policy
Partion / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Deddfwriaeth Iechyd Meddwl: Parties / Committees consulted prior to Mental Health Legislation Committee:	MH Scrutiny Group Written Control Documents Group Medical Staff Committee Ward Managers Forum Community Mental Health Team Forum Global email consultation WWAMH Reading Group

Effaith: (rhaid cwblhau) Impact: (must be completed)	
Ariannol / Gwerth am Arian: Financial / Service:	Not applicable
Ansawdd / Gofal Claf: Quality / Patient Care:	To support patients seeking advocacy support under the Independent Mental Health Advocacy service
Gweithlu: Workforce:	Direct legal responsibilities for staff associated with use of Mental Health Act
Risg: Risk:	HDdUHB must have an up to date and accurate written policies to avoid risk
Cyfreithiol: Legal:	Mental Health Act 1983 Mental Health (Wales) Measure 2010
Enw Da: Reputational:	Not applicable
Gyfrinachedd: Privacy:	Not applicable
Cydraddoldeb: Equality:	Equality Impact Assessments undertaken in collaboration with Senior Equality and Diversity Officer.

Section 117 Aftercare Procedure

Mental Health Act, 1983

Procedure information

Procedure number: 688

Classification:
Clinical

Supersedes:
Previous Version

Local Safety Standard for Invasive Procedures (LOCSSIP) reference:
N/A

National Safety Standards for Invasive Procedures (NatSSIPs) standards:
N/A

Version number:
3.0

Date of Equality Impact Assessment:
27/02/2025

Approval information

Approved by: Mental Health Legislation Committee

Date of approval:
Click or tap to enter a date.

Date made active:

Review date:
26/10/2025

Summary of document:

Section 117 of the Mental Health Act requires Local Health Boards and Local Authorities, in co-operation with other relevant non-statutory agencies, to provide, or arrange for the provision of, aftercare to persons detained in hospital for treatment under certain sections of the Mental Health Act who cease to be detained and leave hospital.

Scope:

It applies to people of all ages, including children who have been detained under relevant sections of the Mental Health Act.

To be read in conjunction with:

[625 - Community Treatment Order Policy](#) (opens in new tab)

[731 - Leave of Absence Policy](#) (opens in new tab)

[214 - Access to Independent Mental Health Advocacy Policy](#)

[141 - Mental Capacity Advocacy Service Policy](#)

Patient information:

Include links to [Patient Information Library](#)

Owning group:

Mental Health Written Control Document Group
03/10/2022

Executive Director job title:

Chief Operating Officer

Reviews and updates:

1.0 – *New Procedure*

2.0 – *Review*

3.0 - *Review*

Keywords

Section 117, Aftercare, Mental Health Act

Glossary of terms

Term	Definition
Care and Treatment planning (CTP)	A statutory plan prepared for the purpose of achieving the outcomes which the provision of mental health services for a relevant mental health patient are designed to achieve.
Care Coordinator	Care Coordinators are the principal source of information for the relevant patient and are responsible for seeking their active involvement and engagement in the care planning process.
Section 117 coordinator	CMHT Manager and manager from LA within CMHT/CTLD, with the exception of CAMHS

Community Mental Health Services	Community mental health services support individuals with mental health problems who are living in the community. Teams include a range of professionals drawn from the local National Health Service (NHS) and Local Social Services Authorities.
Community Treatment Orders (CTOs)	The legal authority for the discharge of a patient from detention in hospital, subject to the possibility of recall to hospital for further medical treatment if necessary.
Community Mental Health Team (CMHT)	A team of mental health professionals who support people with mental health problems living in the community.
Community Team Learning Disabilities (CTLD)	A team of mental health professionals who support people with learning disabilities living in the community.
Continuing Health Care (CHC)	A package of care arranged and funded solely by the NHS where it has been assessed that the individual's primary need is a health need. When an individual has been assessed as having a primary health need, and is therefore eligible for CHC, the NHS has responsibility for funding the full pack of health and social care.
Direct Payments	A direct payment is a monetary amount paid directly to the service user or their representative to pay for their own care or support
Independent Mental Capacity Advocates	Under the Mental Capacity Act (MCA), in certain circumstances NHS bodies or Local Authorities (as appropriate) are required to instruct Independent Mental Capacity Advocates (IMCA's) to represent people who have no family or friends who it would be appropriate to consult.
Independent Mental Health Advocates (IMHA)	An advocate independent of the team involved in patient care available to offer support to patients. The IMHA is not the same as an ordinary advocate or an Independent Mental Capacity Advocate (IMCA).
LAC	Local Authority Circular alerts convey important information for local authorities
Local Authorities Social Services (LASS)	At a local level, the country is divided into a series of local authorities or councils. These authorities are responsible for providing local services to the community such as education, adult and children social care, regeneration, support for carers, leisure, housing and environmental services.
Mental Health Act 1983 (MHA)	An Act of Parliament which governs the assessment, treatment and rights of people with a mental health disorder.
Mental Capacity Act (2005)	An Act of Parliament that governs assessments of capacity to make a decision at a particular time and decision-making on behalf of

people who lack capacity, both where they lose capacity to make a particular decision at some point in their lives.

Mental Health (Wales) Measure 2010	The Mental Health (Wales) Measure 2010 is a unique piece of legislation designed to provide a legal framework to improve mental health services in Wales
Multidisciplinary team (MDT)	A multidisciplinary team (MDT) is a group of professionals from diverse disciplines who come together to provide comprehensive assessment and consultation in cases.
NHS Funded Nursing Care	The money paid by the NHS for the nursing care component of a person's care package is known as the NHS Funded Nursing Care.
Primary Care	Primary Care is the care provided by people you normally see when you first have a health problem. For example, a doctor or dentist, an optician for an eye test, a pharmacist. NHS Walk-in Centres, and the phone line service NHS Direct, are also part of primary care.
Responsible clinician (RC)	A patient's Responsible Clinician is defined as the Approved Clinician with overall responsibility for the patient's case. All patients subject to detention or Community Treatment Order have a Responsible Clinician.
Social Services & Wellbeing (Wales) Act 2014	Act of Welsh Government providing the statutory framework for health and social care in Wales.
Section 17 Leave of Absence	Formal permission for a patient who is detained in hospital to be absent from the hospital for a period of time.
Section 117 Aftercare Responsibilities	Services provided following discharge from hospital; especially the duty of health and social services to provide after-care under Section 117 of the Act following the discharge of a patient from detention for treatment under the Act. The duty applies to CTO patients and conditionally discharged patients, as well as those who have been absolutely discharged.
Service user /Client/ Patient	A person receiving any health or social care services, from going to the family doctor, the pharmacist, to accessing social services such as home care or direct payments.

Contents

Procedure information	1
Approval information.....	1
Introduction	6
Procedure Statement.....	6
Scope	6
Aim	7
Objectives	7
Planning of Section 117 aftercare.....	7
Section 117 Register	8
Section 117 reviews	8
Ordinary Residence.....	8
Moving out of area and re-detention under the MHA.....	9
Discharge from S117 Aftercare.....	10
Charging for aftercare services.....	11
Accommodation Under S117	12
Direct Payments	12
Continuing NHS Healthcare and its relationship with section 117.....	12
Responsibilities.....	13
Monitoring of Section 117 Aftercare Arrangements	14
References.....	14
Appendix 1 – Discharge Proforma	15

Introduction

Section 117 of the Mental Health Act (MHA)1983, requires Health Boards and Local Authorities, in co-operation with voluntary agencies, to provide or arrange for the provision of after-care to patients detained in hospital for treatment who then cease to be detained or leave hospital on extended leave. Health and Social Care professionals should work together to facilitate discharge.

The Health Service Circular 2000/003 and Local Authority Circular 2000(3) states that:

Aftercare provision under S117 MHA does not have to continue indefinitely. It is for the responsible health and social services authorities to decide in each case when aftercare provided under S117 should end, taking account of the patient's needs at the time. It is for the authority responsible for providing particular services to take the lead in deciding when those services are no longer required. The patient, their carers, and other agencies should always be consulted'

Procedure statement

Hywel Dda University Health Board (UHB) is committed to arranging and providing appropriate aftercare services to eligible people according to need.

The Mental Health Act Code of Practice for Wales stipulates that “*aftercare services*” mean services which have the purpose of meeting a need arising from, or related to the patient’s mental disorder, and which reduce the risk of a deterioration of the patient’s mental condition (and accordingly, reduce the risk of the patient requiring admission to hospital again for treatment for mental disorder).

It is the intention of this procedure to provide a clear process by which care planning in the context of S117 should be undertaken to deliver these objectives, to ensure that S117 status is reviewed in a timely manner and that all decisions in respect of this are clearly documented.

Patients and their carers/representatives, where appropriate, should be included throughout this process. Patients will be eligible for the help and assistance of Independent Mental Health Advocates (IMHAs) or Independent Mental Capacity Advocates (IMCAs) while they are detained on relevant sections. However, people on S117 funding not under Section may still benefit from support from a community mental health advocate.

Scope

This procedure applies to the agreed working arrangements of Hywel Dda UHB with a duty to assess, plan and deliver aftercare services under S117 and to all persons entitled to receive it.

S117 is applicable to people who meet the criteria for S117 aftercare and those that provide services to them. Although the duty to provide aftercare begins when the person leaves hospital, the planning of aftercare should commence whilst the person is in hospital aiming to reduce the risk of deterioration of the persons mental health and ultimately reduce the risk of readmission to hospital.

Section 117 applies to anyone who has been detained under one of the following sections of the MHA:

- Section 3 - compulsory admission to hospital for treatment
- Section 37- detention in psychiatric hospital under a court order
- Section 37/41 – detention in psychiatric hospital under a court order with restrictions
- Section 45A - detention in hospital under a court order

- Section 47- transfer to hospital from prison
- Section 47/49 – transfer to hospital from prison with restrictions
- Section 48 - transfer of a remand prisoner
- Section 17A - Community Treatment Orders

S117 can apply when a patient is granted section 17 leave but only where the nature of that leave signifies the likely conclusion of the patient's period of acute inpatient care. (see R (CXF) v Central Bedfordshire Council [2017] EWHC 2311)

Aim

This document aims to give staff an understanding of their responsibilities with respect to planning, providing, reviewing and ending aftercare services. It also gives guidance on the duties of practitioners involved in the management of those people eligible to receive such aftercare.

Objectives

The aim of this document will be achieved by the following objectives:

- To describe the following with regards to S117 aftercare:
 - The purpose of S117 aftercare
 - The process for eligibility for S117 aftercare
 - The duties of the practitioners and agencies involved in the management of people eligible to receive S117 aftercare

Planning of Section 117 aftercare

The UHB and the Local Authority (LA), in consultation with the patient, their family or carer, Care Coordinator and other members of the Multi-Disciplinary Team (MDT), identifies appropriate aftercare services for the person in good time for their eventual discharge from hospital, or release from prison.

The S117 aftercare plan should normally be considered at an MDT care and treatment planning (CTP) meeting; this meeting will also identify the Care Coordinator (if not already identified). The MHA Code of Practice for Wales contains detailed guidance about the people who should be involved in this process and the points to be considered.

A CTP is the framework for care coordination and resource allocation within mental health and should be an effective and transparent process of care coordination and care delivery that encompasses all the relevant responsibilities of the UHB and LA. It must be based on a full assessment of the person's needs, which specifies S117 aftercare arrangements and must be in place before:-

- Discharge from hospital
- A period of S17 leave - except for short periods of leave, when "a less comprehensive review may suffice, but the arrangements for the persons care should still be properly recorded". Any period of leave which includes an overnight stay necessitates a full aftercare plan.
- A Mental Health Review Tribunal or Hospital Managers Hearing. The Hospital Managers must ensure that the UHB and the LA are aware of the hearing so that they are able to consider aftercare arrangements in all cases; however, this is particularly important when discharge is a strong possibility and appropriate aftercare is a key factor in the decision.

Section 117 register

The UHB maintains a record of people entitled to S117 aftercare. The S117 Administrator within the Mental Health Act Administration Team, alongside CMHT and LA Administrations and the Commissioning Team will ensure that this information is accurate and kept up to date. The information is shared regularly with the three Local Authorities. The register will be reviewed by relevant staff within the MH & LD Clinical Care Group.

Section 117 reviews

The Care Coordinator will arrange an initial review of the CTP within an appropriate timescale (to be determined on a case-by-case basis according to need). CTPs for persons receiving S117 should be reviewed as often as required but once every twelve months as a statutory minimum, within the CTP process and clearly tagged as a S117 review and not just a CTP review.

All CTPs should specify which services are to be provided under S117 and must clearly identify the interventions that are related to S117 entitlement and those that are not. On Care Partner staff should set an alert on the front page under personal details to reflect the persons S117 status.

Persons who are subject to S117 and receiving community services should be offered a community mental health advocate to support them at reviews by their Care Coordinator.

Each review must include an explicit decision on whether the person continues to be eligible for S117 and what services are required to support them, and this must be recorded within the persons records and within their CTP. Representation from both Health and LA must attend the meetings, those experienced staff should understand what the implications are for making S117 decisions.

It is important to distinguish within CTP and S117 documentation those items of care and support that relate to mental health needs and are provided free of charge, and those items that relate to community care needs unrelated to the relevant mental disorder, which may be subject to a financial assessment by the LA. It is therefore important that the Care Coordinator in the aftercare planning arrangements is fully aware of the legal position and any funding commitments that may result.

Ordinary residence

Section 117(3) defines ordinary residence as the place where a person lived "lawfully, voluntarily, and for settled purposes". This means they were living there as part of their regular life, not just temporarily.

In this section "the clinical commissioning group or Local Health Board" means the Local Health Board and "the Local Social Services Authority" means the local social services authority –

- a. if, immediately before being detained, the person concerned was ordinarily resident in England, for the area in England in which they were ordinarily resident; or*
- b. if, immediately before being detained, the person concerned was ordinarily resident in Wales, for the area in Wales in which they were ordinarily resident; or*
- c. in any other case, for the area in which the person concerned is resident or to which they are sent on discharge by the hospital in which they were detained.*

Identifying the responsible LA and LHB should be established as soon as the requirement to provide s117 aftercare services is established.

The LA responsible for aftercare is the one within the area where the person was ordinarily resident before being detained.

Health determines ordinary residence by person's address. These are historical arrangements that are in place and this system will remain.

Where two or more LA's are in dispute over a person's ordinary residence in respect of their responsibilities under s117 then s195 SSWBA 2014 and the Care and Support (Disputes about Ordinary Residence) (Wales) Regulations 2015 provide that the question (if not resolved beforehand having taken legal advice at the earliest opportunity) is to be determined by the Welsh Ministers. The SSWBA 2014 Part 11 Code of Practice provides that : -

- That it is 'critical that the person does not go without the care they need' during the dispute process;
- That one of the authorities involved in the dispute must provisionally accept responsibility for the person at the centre of the dispute and be providing services.
- Where LA's cannot agree which authority should accept provisional responsibility for the provision of services , the LA in which the person is living or is physically present must accept responsibility until the dispute is resolved.

Moving out of area and re-detention under the MHA

If a person subject to 117 is placed out of county, then the UHB and LA who placed that person out of county will continue to be responsible for their 117 needs. However, if when placed out of county the person is re-sectioned under a Section 3 or other qualifying section then responsibility for 117, when the person leaves hospital following the re-section, falls on the LA and UHB where the person now resides.

The Supreme Court's judgement in R (On the Application of Worcestershire County Council v Secretary of State for Health and Social Care [2021] EWCA Civ 1957 confirmed that if a patient is ordinarily resident in Local Authority 'A' immediately before detention under the MHA and after discharge from hospital moves to Local Authority 'B', then Local Authority 'A' will remain responsible for the provision of after-care services under S117.

That statutory duty remains even if the patient, whilst living in area 'B', is subsequently re-detained under a qualifying MHA section. Local Authority 'A' retains that responsibility unless and until there is a joint review and determination that the patient is no longer in need of after-care services and the S117 entitlement is formally ended.

If the S117 entitlement is ended and the patient, having become ordinarily resident after discharge in Local Authority 'B' is subsequently detained in hospital for treatment again, the Local Authority in whose area the person was ordinarily resident immediately before that subsequent admission will be responsible for the patient's after-care when they are discharged from hospital ie: that would be Local Authority 'B' if the patient had continued to remain ordinarily resident there up to the time of their admission.

It should be noted that the rules for determining the responsible LA applies to children and young people as well as adults.

The Worcestershire judgement did not affect the NHS responsibilities for determining detention and aftercare.

Discharge from S117 aftercare

Aftercare provision under S117 does not have to continue indefinitely. It is for the UHB and LA to decide in each case when aftercare provided under S117 should end, taking account of the person's needs at the time following an assessment. It is for the authority responsible for providing particular services to take the lead in deciding when those services are no longer required. The person, their carers, and other agencies should always be consulted.

Aftercare services under S117 should not be withdrawn solely on the grounds that:

- The person has been discharged from the care of specialist mental health services back to the care of their GP;
- An arbitrary period has passed since the care was first provided;
- The person is deprived of their liberty under the Mental Capacity Act 2005;
- The person may return to hospital informally or under Section 2;
- Or the person is no longer on a community treatment order or S17 leave
- The person is now settled in the community or a care home, unless the agencies agree there is no longer a need for continued CTP aftercare services

Individuals are not legally obliged to accept aftercare services offered but any decisions they make to decline services they should be fully informed of any discussions or decisions made relating to the reviews. A person's unwillingness to accept services does not mean they have no need for them; neither does it relieve the statutory agencies of their responsibility to offer aftercare.

If the person disengages with mental health services but remains subject to S117, attempts should be made to invite the person to a review meeting. If the person does not attend this, a review meeting between the UHB and LA representatives must be held to facilitate a clinical decision whether the entitlement to aftercare should continue. This review should evidence the efforts that have been taken to ascertain the person's current mental state along with any identified needs, also whether the opinions of their family/carer and GP have been sought where appropriate. In the absence of any information being available, the decision to close to S117 should be based on clinical decision making and analysis of risk.

When considering discharging a person from S117 both authorities are required to jointly review the aftercare plan, even if the aftercare services are provided by a single authority. In practice, this is likely to be a decision made by the person's MDT. There must be a joint formal statement of the agreement to discontinue aftercare services, made by representatives of the UHB and LA.

The decision to end S117 can only happen with the agreement of both the UHB and the LA. Any such decision must be recorded in writing in line with this policy on the Proforma at [Appendix 1](#).- opens in a new tab.

The decision to end S117 must only be taken at an MDT meeting and must include people able to represent the UHB and the LA and make a recommendation on their behalf, this may be as a minimum:

- RC/Consultant Psychiatrist for health
- Registered Social Worker or Approved Mental Health Practitioner for LA

Wherever possible the person should be fully involved in the decision-making process and their involvement recorded.

The rationale behind the decision to discharge from S117 must be fully justified and preceded by a proper reassessment of the person's needs. The decision must be clearly recorded in the patient's records giving reasons as well as details of who was involved in the decision making and signed by UHB and LA representatives.

The following people must be notified in writing (usually by the Care Coordinator), Service user, Carer/s, RC, GP, S117 administrator, nearest relative (with their consent) and IMHA.

If S117 aftercare ends, it cannot be reinstated if the person becomes in need of further mental health services. The person can only receive further S117 services if they are readmitted to hospital under a qualifying Section.

Where both the UHB and LA are satisfied upon re-assessment of the persons current needs that aftercare is no longer necessary, and can be appropriately discharged, there is scope thereafter for the UHB and/or LA to look to other community care provisions which are more relevant. This is provided the authorities are satisfied that such other services are available to the person; that they are appropriate having regard to the Social Services and Well-being (Wales) Act 2014 and Parts 3 and 4 of the Code of Practice.

In the event that a decision cannot be reached by the MDT then the recommendation shall be made by both the LA Lead and an appropriate lead clinician from mental health services. In cases where a decision cannot be reached then S117 should continue.

Charging for aftercare services

Aftercare services provided under S117 must be provided free of charge. The regular sharing of the register and notification processes should reduce the likelihood of charges being made against S117 aftercare provision.

It is important to recognise that an individual may have care and/or health needs that fall outside the scope of S117. For example, this may relate to physical disability or illness that has no direct bearing on the person's mental health. It can therefore be the case that an individual may be S117 eligible, as well as having additional care and support needs (that generally fall outside S117) that will be met under the Social Services and Wellbeing (Wales) Act 2014 (SSWBA), or NHS continuing health care subject to eligibility criteria being met.

The provision of aftercare services under S117 should not be confused with providing essentials such as food, clothing and heating. These remain the responsibility of the individual except in the very special cases where accommodation heating is provided as part of a residential placement and are an inseparable part of the aftercare plan.

If the aftercare to be provided includes housing-related support that would normally be funded by Housing Support grants, this will be paid by the LA.

Accommodation under S117

A person's CTP may involve the provision of accommodation where this meets the primary purpose of S117 i.e. this usually means provision of supported accommodation. Where accommodation is provided as aftercare it must not be charged for and therefore this must be made clear in the CTP/annual review. Accommodation under S117 must not be indirectly charged for by way of welfare benefits.

Where the cost of the preferred accommodation is more than the expected cost, the person or a third party must agree to pay (top up) the additional cost.

Direct payments

Direct payments involve the LA making regular financial payments to the person (or their representative) so that they can choose how to use the money to meet the needs that the LA has agreed to meet. Anyone who requests a Direct Payment must be provided with a Direct Payment so long as they have the capacity to request it; and where there is a nominated person agrees to receive the payment and is capable of managing it, and it is believed that it will meet the person's personal outcomes.

Where a LA is under a duty to provide aftercare services for a person under S117 and the person is eligible to receive such payments under Section 50, 51 and 52 of the SSWBA, then it may make direct payments to discharge its duty.

The LAs duty to offer direct payments to anyone receiving services under S117 is subject to the exception of persons detailed in the schedule to Regulation 14(1) The Care and Support (Direct Payments) (Wales) Regulations 2015, where the LA may provide direct payments subject to certain conditions.

Continuing NHS Healthcare and its relationship with S117

Responsibility for the provision of Section 117 is shared between LAs and LHBs, although this does not necessarily mean there should be a 50/50 split in all cases. Where a patient is eligible for services under Section 117 these should be provided under Section 117 and not under CHC.

It is not appropriate to assess eligibility for CHC if all the services in question are to be provided as after-care under Section 117. However, an individual in receipt of after-care services under Section 117 may also have additional needs which are not related to their mental disorder. For example, an individual may be receiving services under Section 117 and develop separate physical needs, for example following a stroke, which may then mean they are eligible for CHC or Funded Nursing Care. In such cases, the general approach set out in this Framework of considering the totality of need in assessing eligibility for CHC still applies. The individual may as a result, have the services required to meet their total care needs funded by the NHS, but this does not necessarily remove the shared duty under Section 117. The Section 117 shared duty remains unless a joint assessment and agreement by both the LA and the LHB determines that those arrangements are no longer needed.

Where an individual in receipt of Section 117 services develops physical care needs resulting in a rapidly deteriorating condition which may be entering a terminal phase (or a catastrophic health event which clearly requires CHC), consideration should be given to the Fast Track process.

Transfer to and from other areas

Responsibility for providing S117 services may be formally transferred if the authorities agree. Formal transfer should be recorded through exchange of correspondence stating that agreement has been

reached between the respective authorities for formally transferring responsibility, the date and time the transfer is effective and a statement that the person would be informed by the accepting team. The contact names from UHB and LA where patient is coming from must be recorded within the person's records and details forwarded to the S117 administrator.

If a person moves out of the area, their entitlement to S117 continues. It is the responsibility of the Care Coordinator to ensure that appropriate transfer arrangements are made, and that the receiving authority is aware of the service user's entitlement to care and services under S117. There is an obligation on the Care Coordinator/health LA to review the service provision annually. (Guidance contained in HSC2000/03: LAC (2000)3 reminds authorities that a person who was resident in that area because of detention under the Act).

If a person is placed in a residential resource outside the area which is responsible for providing aftercare, that responsibility continues, although arrangements for some aspects of the CTP to be provided in the new area (for example, psychiatric follow-up) may be negotiated, particularly if the placement is a significant distance from the responsible authority. That person should register with a GP in their new area of residence.

Resolving disagreements

Where two or more LA's are in dispute over a person's ordinary residence in respect of their responsibilities under S117 then s195 SSWBA 2014 and the Care and Support (Disputes about Ordinary Residence etc) (Wales) Regulations 2015 provide that the question (if not resolved beforehand having taken legal advice at the earliest opportunity) is to be determined by the Welsh Ministers. The SSWBA 2014 Part 11 Code of Practice provides that: -

- That it is 'critical that the person does not go without the care they need' during the dispute process;
- That one of the authorities involved in the dispute must provisionally accept responsibility for the person at the centre of the dispute and be providing services.
- Where LA's cannot agree which authority should accept provisional responsibility for the provision of services, the LA in which the person is living or is physically present must accept responsibility until the dispute is resolved.

Disputes over a person's ordinary residence between a LA in Wales and a LA in England will be determined according to arrangements between the Welsh Ministers and the Secretary of State for Health.

Responsibilities

Chief Executive

The Chief Executive has overarching responsibility for ensuring that the UHB is compliant with the law in relation to the MHA.

Executive Lead for UHB

The Executive Director of Operations for the UHB has overarching responsibility for ensuring compliance with the contents of this Procedure.

Community Team Managers/Service Managers Health in collaboration with Care Coordinators are responsible for:

- Ensuring that this procedure is brought to the attention of all their staff, and that they understand and adhere to the guidance contained therein.
- Ensure that all staff involved in the care and treatment of people who meet the criteria for S117 aftercare are competent to carry out these functions.
- Monitoring the S117 aftercare arrangements for service through caseload/ management/S117 Register/CTP.
- They must ensure that all aspects of this procedure are adhered to including training and appraisal and should report any problems or concerns to the appropriate mental health service manager.

Monitoring of Section 117 aftercare arrangements

Care co-ordinators are responsible for the ongoing reviews of those subject to S117 and those patients who are in commissioned placements are reviewed by the MH Commissioning Team on a regular basis.

References

- Mental Health Act 1983 – www.legislation.gov.uk/ukpa/1983/20/contents (opens in new tab)
- Code of Practice to the Mental Health Act 1983, 2016 [Mental Health Act 1983: Code of practice](#)
- Mental Health Wales Measure (2010) [Mental Health \(Wales\) Measure 2010](#)
- Mental Capacity Act, 2005 [Mental Capacity Act 2005](#)
- Social Services and Wellbeing (Wales Act), 2014 [Social Services and Well-being \(Wales\) Act 2014](#)
- Mental Health Review Tribunal for Wales – www.justice.gov.uk/tribunals/mental-health
- Human Rights Act 1998 – www.legislation.gov.uk/ukpga/1998/42/contents (opens in new tab)
- Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment)(Wales) Regulations 2008 [MH Regulations 2008](#)
- NHS (Wales) Act 2006 [National Health Service \(Wales\) Act 2006](#)
- The Partnership Arrangements (Wales) Regulations 2015 [The Partnership Arrangements \(Wales\) Regulations 2015](#)
- The Health Service Circular 2000/003 and LSSA Circular 2000(3)
- NAFWC 09/2002 <http://wales.gov.uk/pubs/circulars/2002/english/NAFWC09-02Guidance-e.pdf?lang=en>. (opens in new tab)
- Continuing NHS Healthcare. The National Framework for Implementation in Wales (Apr 22) [Continuing NHS Health Care](#)
- NICE Guideline NG197 - Shared Decision Making (17 June 2021) [Shared Decision Making NICE](#)
- <https://supremecourt.uk/cases/uksc-2022-0022>
- [R \(CXF\) v Central Bedfordshire Council \(2017\) EWHC 2311 \(Admin\)](#)
- [Shah v London Borough of Barnet \[1983\] 1 All ER 226](#)

Appendix 1 – Discharge Proforma



Discharge from Section 117 Aftercare

Persons Name		Patient Identifier	
Home Address		Date of Birth	

The following people have been consulted regarding the ongoing need for the above named to receive aftercare under Section 117 of the Mental Health Act 1983.

Following consultation, it has been determined that with effect from _____ (date), this person shall cease to be subject to section 117 aftercare because:

Signed: _____ *Representative of Hywel Dda UHB*

Print name: _____ Designation: _____ Date: _____

Signed: _____ *Representative of: Carms LA / Cered LA / Pembs LA*

Print name: _____ Designation: _____ Date: _____

Signed: _____ Service User Date: _____

This decision has been reviewed and accepted by the following:

Signed: _____ *Team Manager – Hywel Dda UHB Representative*

Print name: _____ Designation: _____ Date: _____

Signed: _____ *Team Manager - Representative of: Carms LA / Cered LA / Pembs LA*

Print name: _____ Designation: _____ Date: _____

On completion, please forward a copy to: Sec 117 Administrator by Email -: S117MHA-HDD@wales.nhs.uk