

**LINCOLNSHIRE JOINT AGENCY DISPUTE RESOLUTION POLICY FOR**

**MENTAL HEALTH SECTION 117 AFTERCARE**

1 Introduction

1.1 This Policy is the mechanism to be applied by the three partner organisations (noted above) for the application of section 117 aftercare,

1.2 There are three stages to the resolution of disagreements between the Partner Organisations in this Policy:

1.2.1 The prevention of disputes and the direction of resources towards the accurately and timely assessment of Service Users eligible for mental Health Act section 117 aftercare.

1.2.2 An informal dispute resolution procedure at operational level (stage1)

1.2.3 Every effort will be made to comply with the time limits set out in this Policy. The Partner Organisations may, by agreement, extend any of the time limits.

2 Service User Complaints

2.1 Complaints made by a Service User about a Partner Organisation, their performance and provision (or non-provision) of services should be responded to in accordance with that Partner Organisation’s complaints handling process. All such complaints should be addressed to the complaints officer of the relevant organisation in the first instance. Guidance on complaints is embedded in the Joint agency section 117 aftercare policy and procedure documents.

3 Stage One: Preventing Disputes

3.1 Formal dispute is a last resort, which should seldom if ever be necessary. Most disagreements can be resolved through discussion and negotiation. Partner Organisations should stay focussed on the key objective, which is to ensure that an individual’s needs are determined and met in a timely fashion.

3.2 Resources should be directed at that aim rather than being directed into the management of disputes. However, it has to be recognised that this is a complex, high-risk area of activity for all the parties and that there may well be issues of disagreement and difference between the Partner Organisations. It is therefore crucial that managers take steps to strengthen joint activity that focuses on agreement and aims to prevent conflict.

3.3 Partner Organisations will need to work through the following issues:

3.3.1 The Partner Organisations should ensure there is a clear and consistent message about the joint responsibility to solve problems and resolve disagreements purposefully and constructively before they develop into disputes

3.3.2 Partner Organisations should ensure there is a robust and comprehensive joint assessment process in place and that this is adequately resourced to enable a timely and proportionate assessment to be undertaken.

4 Funding During Disputes

4.1 Pending resolution of a Dispute, the Partner Organisations shall at all times act in the best interest of the Service User and, in the spirit of partnership and co-operation, will ensure that the Service User is being cared for in an appropriate environment and that their assessed needs are being met at all times.

4.2 Pending resolution of a Dispute, there should be no delay to the provision of appropriate care for the individual service user. At no point during the process may either NHS Lincolnshire Integrated Care Board or the Local Authority unilaterally withdraw from an existing funding arrangement without a joint reassessment of the individual, and without first consulting one another and informing the individual about the proposed change of arrangement. Any proposed change should be put in writing to the individual by the organisation that is proposing to make such a change. If agreement cannot be reached on the proposed change, the local disputes procedure should be invoked, and current funding arrangements should remain in place until the dispute has been resolved.

4.3 Where a dispute arises, the partner organisation funding the arrangements in place at the time that the service user is assessed by the MDT will continue with the funding on an interim basis (and without prejudice to their position) until the final resolution date.

4.4 If no funding arrangements are in place at the time that the service user is assessed by the MDT, the Partner Organisations will agree in writing responsibility for interim funding of the care required without prejudice to their position until the dispute is resolved. If neither organisation is currently funding or prepared to fund, this should be on a 50/50 basis between Local Authority (LCC) and the Integrated Care Board (ICB). This will avoid funding disputes detrimentally affecting an individual’s care or causing undue delay in discharging someone from hospital.

4.5 Unless otherwise agreed, costs incurred by either Partner Organisations (“Paying Partner”) pursuant to interim funding arrangements made in accordance with Paragraph 4.3 or 4.4 will be reimbursed by the other Partner Organisation no later than 28 days from the Final Resolution Date where that dispute is resolved in favour of the Paying Partner.

5 Stage 1: Informal Disputes Procedure

* 1. All attempts must be made to resolve the dispute informally in the first instance at Operational Level

Operational level would indicate discussion in the first instance at the identified Joint agency section 117 aftercare Quality assurance group, this would involve the Improvement and Delivery Manager or above for the Integrated Care Board and Head of LPFT Social Care or S75 Service Manager representing the Local Authority. If the dispute is not resolved it moves to stage 2

6. Stage 2: Formal Dispute Procedure

6.1 The operational staff should refer the matter to the senior line managers of each organisation. Nominated senior line managers are expected to contact their counterparts in the other partner organisation within 14 working days to negotiate a resolution of the issue.

6.2 In the absence of a resolution this then moves to the final stage 3,

7 Stage 3: Formal Dispute Procedure

7.1 Stage 3 of the disputes procedure involves the convening of a Disputes Panel.

7.2 A meeting of a Disputes Panel will be set up by the Authority receiving the dispute, within 14 working days of receiving a formal letter of dispute from the partner organisation, which should set out the grounds for the dispute.

7.3 The receiving dispute Department will provide all Dispute Panel members with documents to be considered by the Disputes Panel at least 2 working days before they are to convene.

7.4 It is in the interests of Partner Organisations to resolve disputes whether informal or formal as quickly and effectively as possible. It is recommended that whilst the Disputes Panel acts in an advisory role, which is described in Paragraph 8 below, Partner Organisations, should agree to accept the recommendations given by the Disputes Panel.

8 The Role of the Dispute Panel

8.1 To ensure fairness, there should be a balance between health and social care perspectives. Members of the disputes panel should place the Service User’s best interests in respect of the section 117 aftercare needs are at the heart of the decision.

9 Membership of the Disputes Panel

9.1 The Disputes Panel will have a minimum of 4 members with an understanding of the mental Health Act section 117 aftercare responsibilities, two individuals from the relevant partner organisations.

10 Attendance and Procedure at the Dispute Panel Meeting

10.1 Attendance at meetings is expected of all participants notified of the requirement to attend. Practitioners unable to attend will take responsibility for informing the Chair and sending another appropriate representative with delegated authority.

10.2 The meeting chair will be from the receiving dispute partner (There is always an option to have an independent chair)

10.3 The Dispute Panel members will reach a decision which partner organisations will accept.

10.4 The Chair will take the responsibility of appointing a clerk to take minutes of the meeting and record and issue the recommendations in writing to the partner organisations within 5 working days of the meeting.

(“Nominated Senior Managers”

means senior managers nominated by each Partner Organisation and whose identity and contact details have been notified to the other Partner Organisation).

11. Data protection and Caldicott guidelines will apply.

12 Review

12. 1 The partner organisations agree that this policy will be reviewed annually to ensure that it meets the needs of both partners. If any amendments are required, then they will be agreed by the partner organisations and this policy will be updated accordingly.

First draft

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For consideration by the Section 117 aftercare policy and procedure group.

Second Draft

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