**Procedures and Guidance for the**

**Section 117 Joint Policy**

**V2.0**

Updated: 12th October 2022

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**GLOSSARY**

The glossary below is not an exhaustive list but covers the terminology covered in the S117 Joint Policy and the Procedures and Guidance for the S117 Joint Policy

|  |  |
| --- | --- |
| **Term/Acronym** | **Definition** |
| **Approved Mental Health Professional (AMHP)** | Approved Mental Health Professionals work on behalf of local authorities to carry out a variety of functions under the Mental Health Act. One of their key responsibilities is to make applications for the detention of individuals in hospital, ensuring the MHA and its Code of Practice are followed. |
| **Care Programme Approach (CPA)** | The approach used in secondary mental health care to assess, plan, review and coordinate the range of treatment and support needs for people in contact with secondary mental health services who have complex characteristicsThe CPA process is being refocused under NHS England “personalised care and support planning”  |
| **Eligibility and Entitlement** | Where eligibility for s.117 After-care is a consequence of being on a qualifying section and being entitlement is the package of s117 After care services they are entitled to receive.  |
| **Hospital Managers Review** | This has a similar function to the Tribunal service in that the patient can apply to a panel of at least three members who will consider whether the statutory criteria for detaining a patient continue to be met. In the event that the criteria are not met, the panel can discharge the patient. |
| **Lead Professional** | This is the professional appointed to ensure that the persons care is being co-ordinated and managed.Lead Professional covers the terms Care Co-ordinator, Named Nurse, Lead Practitioner. The Lead Professional will usually be a Social Worker or Registered Nurse |
| **Mental Health Act (MHA)** | The Mental Health Act (1983 as amended 2007) is the main piece of legislation that covers the assessment, treatment, and rights of people with a mental health disorder. |
| **Qualifying Section** | The qualifying section a person must have been placed on in order to be eligible for s117 After care is one (or more) of the following: s.3, s.37, s45, s.47 or s.48 |
| **Section Papers** | These are the legal forms required to detain a person in Hospital under the Mental Health Act. * For s.3 this will comprise of 2 medical recommendations (Form A7 or A8) and an application by an AMHP (form A6)
* For s.37 and 45A they will be Order's from the court
* For s.47 and s.48 these will be Transfer Orders from the Ministry of Justice
 |
| **Tribunal**  | The First Tier Tribunal (Mental Health) are an independent body who are responsible for considering the discharge from section of patients detained under the Mental Health Act. |
| **LCC** | Lincolnshire County Council |
| **LICB (ICB)** | NHS Lincolnshire Integrated Care Board  |
| **LPFT** | Lincolnshire Partnership NHS Foundation Trust  |

## S117 ELIGIBILITY & ENTITLEMENT

### Becoming Eligible and Entitled

A person is **eligible** for s.117 aftercare if they have ever been subject to any of the following '*qualifying sections'* of the Mental Health Act:

* + Section 3
	+ Section 37
	+ Section 45A
	+ Section 47
	+ Section 48

Once a person becomes eligible, they remain eligible for their lifetime regardless of:

* subsequently being admitted on another qualifying section
* subsequently being admitted voluntarily and then become subject to a qualifying section
* subsequently being admitted and remaining in hospital as a voluntary patient
* being subject to a CTO

Whilst ***eligibility*** lasts a person's lifetime their ***entitlement*** will be determined upon an assessment of s.117 needs and entitlement can be ended and restarted throughout a person's lifetime. Details of starting, ending, and reinstating s.117 entitlement is covered in 2.2 below.

## DETERMINING WHICH LOCAL AUTHORITY & INTEGRATED CARE BOARD IS RESPONSIBLE FOR S117

As stated at 7.2 of the s117 MHA Joint Policy it is the responsibility of the NHS Integrated Care Board and Lincolnshire County Council to fund eligible Lincolnshire individuals’ entitlement to section 117 aftercare. The determination is primarily based upon where the patient was **ordinarily resident** immediately prior to them being placed on section either 3, 37, 45A, 47 or 48. Section 7 2 to 7.2.3 of the Section 117 Mental Health Act Joint Policy provides information in respect of the responsible authorities. The Local Authority ordinarily residence has remained static, however determining the Responsible Health Commissioner (as from 01.07.2022 the ICB) has had changes since 2013, the current determination links the individual’s ordinary residence to the ICB area where the individual is registered with a General Medical Practitioner (GP).

### Who is responsible for Identifying Ordinary Residence?

There are different agencies who, in general, will be responsible for determining Ordinary Residence as below as follows:

* For Section 3 it will be the AMHP making the application
* For Section 37, 45A it will be the Court
* For Section 47 or 48 it will be the Ministry of Justice.

The place of Ordinary Residence will be the home address of the patient that is put on the AMHP application, the Court Order, or the Transfer Direction from the Ministry of Justice.

If there is a dispute about Ordinary Residence or that the AMHP application, Court Order or the Transfer direction do not include a home address then the care co-ordinator is to determine the Ordinary Residence based upon 7.2 of the policy.

### Determining if an individual is eligible for s.117 (for RiO users)

It is the responsibility of all health and social care professionals to ascertain if a person under their care is subject to s117.

LPFT and staff who have access to RiO can see if someone has a been subject to a qualifying section by viewing the section history on RiO in the following way.

Whilst in the 'Clinical Portal – Client View' for the patient follow these steps:

1. Click on the icon next to ‘MHA’ which is a ‘clock symbol’ and select ‘Section History’ ***see screenshot below***



1. You will then be presented with the Patient Section History (Search) window. Click on  and you will then be presented with the section history page ***see screenshot below***. NB If the search history displays no results, please also check archived records on ‘Stalis’.



1. If no results are found on the above search, as indicated you will need to search archived records on ‘Stalis’. To view this, Go back to the ‘Clinic Portal – Client View’. Under the section ‘Stalis Record’ if the tick is **Green** then there are archived records to view, if the tick is **Red** then there are no archived records. ***See screenshot below.***

1. If there are archived records you will get to the Stalis homepage. Click on ‘Mental Health’ tab and then subsequently the ‘Mental Health Act’ tab. ***See screenshot below.***

1. Once in the ‘Mental Health Act’ tab section, this will display the archived **Section History.** If you click on the ‘Review Type’ in the left-hand side of the window, this will display the ‘Section Details’ on the right-hand side. ***See screenshot below.***



### Determining if an individual is eligible for s.117 (MOSAIC USERS)

1. Bring up the persons 'Summary page' on Mosaic
2. This will bring up the legal history if it has 117-Aftercare or any qualifying section (s.3, 37 etc.) then the person is eligible.



1. Click on the Legal Status

If there is no indication in the legal status that the person is eligible the following steps should be taken.

  

1. View all 'Adult Mental Health Act Assessment (AMHP)' then select it.
2. Click on 'Documents' Status
3. If s3 or CTO shows, then the person is 117 eligible.
4. Click on 'Outcome'

 

### Determining if an individual is eligible for s.117 (Non RiO or Mosaic Users)

A **master list** for all Lincolnshire residents who are eligible for s.117 is managed by the MHA Office (MHA) at LPFT. If you do not have access to RiO then you can ask the MHA office if the individual is on the s.117 **Master- List**. You can request this information by emailing the MHA office on lpft.mha@nhs.net.

The MHA office will only provide the requested information where the requestor provides a reason as to why they want the information and will only process a request received from the following email addresses:

* + - @nhs.net
		- @Lincolnshire.gov.uk
		- @lpft.nhs.uk

## THE SECTION 117 MASTER LIST

The S.117 Master list is a list of Lincolnshire patients who have been subject to a qualifying section of the Mental Health Act 1983 as set out in 1.1 It holds the following information:

Name / DoB / Patient ID Number (NHS Number or Mosaic No.) / GP Registration at time of detention / Residence at time of detention / Location of detention / Date added to Master List

The MHA Office at LPFT have responsibility for maintaining the **S.117 Master list.**

### Evidence required to prove s.117 eligibility

In order for a person to be added to the S.117 Master list, one of the following pieces of evidence must be located and saved to the clinical systems to confirm if a person is eligible:

* A copy of the complete set of 'section papers' for a qualifying section where possible to obtain. In the absence of a complete set of ‘section papers’, a copy of transfer order / court order under Part III
* A copy of the Mental Health Act Assessment completed by the Approved Mental Health Professional for a qualifying section

In the absence of these documents the following can be considered as evidence if they relate to a qualifying section (however it must be agreed by the funding decision makers):

* Sufficiently detailed, relevant medical and social care records such as the Clinician and/or Nursing reports and ultimate decision provided for or by a Mental Health Tribunal.

### Maintaining the S.117 Master list

It is the responsibility of the departments set out below to provide information to the MHA Office so that the **S.117 Master list** is kept up to date. This information must be reported to the MHA Office on a monthly basis and the data for the preceding month must be with the MHA office by the **5th of each month.**

|  |  |  |
| --- | --- | --- |
| **Team**  | **Information Required**  | **Reporting Method** |
| MHA Office | Details of newly eligible LPFT patients who were subject to a qualifying section. | Directly onto the **master list** |
| NHS Lincolnshire ICB | Details of **SPECIALIST and REHABILITATION** patients who are placed outside of Lincolnshire or at non- LPFT site on qualifying sections. | The non-LPFT Hospitals will be notified by the ICB on a patient’s admission of their responsibility to inform LPFT’s MHA Office when qualifying sections applied |
| LPFT Bed Management | Details of **PICU and ACUTE** patients who are placed outside of Lincolnshire on qualifying sections. | The non-LPFT Hospitals will be notified by LPFT Bed Management on a patient’s admission of their responsibility to inform LPFT MHA Office when qualifying sections applied  |
| NHS Lincolnshire ICB&LCC Finance Office | Details of patients who are receiving funded s. 117 aftercare in the community. | Monthly data reconciliation exercise(See Appendix A) |
| LPFT Informatics Team | Details of deceased LPFT patients who were subject to a qualifying section  | Bespoke analysis completed after MHA Office submit the Master list to the Business Intelligence Team on 15th of each month. |

If a team becomes aware of a newly eligible or deceased patient at a later date, then they must inform MHA office in the next reporting period.

The information **MUST** be sent to the secure MHA office email account lpft.MHA@nhs.net.

If you are sending any patient identifiable lists **from** anywhere other than from an nhs.net account to an nhs.net account, then you must ensure the email is sent either Encrypted (LCC) or password protected with the password being sent separately.

### Sharing the S.117 Master list

The MHA Office will share the complete **S.117 Master list** with Lincolnshire County Council (LCC) Finance and NHS Lincolnshire Integrated Care Board (ICB) on the first working day of each month so that LCC and ICB have an up-to-date record of all eligible s.117 individuals.

The MHA office will send it to:

* The ICB on licb.mhldateam@nhs.net
* LCC Finance on AdultCareFinance@lincolnshire.gov.uk & gail.kirk@lincolnshire.gov.uk

Please see Appendix A for Data Reconciliation Process

### LCC & ICB Responsibility

Lincolnshire County Council Finance Department and Lincolnshire Integrated Care Board will use the **S.117 Master list** to ensure:

* Patients who are eligible for s.117 services are not being charged for those services
* Patients who are not eligible for s117 services, but who are (incorrectly) in receipt of s.117 services, are identified and that the funding decision makers

### S117 INFORMATION SHARING AGREEMENT

An Information Sharing Agreement has been approved by the 3 organisations (LPFT, CCG now Lincolnshire Integrated Care Board (ICB) and LCC) in order to share all relevant s.117 information. A copy of this information sharing agreement can be viewed at appendix B.

## S.117 AFTER-CARE NEEDS

### Assessing s.117 After-care needs

The requirements of assessing S117 After-care are set out in 4.2 of the S117 Joint Policy and Chapters 33 and 34 of the Mental Health Act Code of Practice 2015. In summary the care programme approach (CPA) is the current framework which governs the assessment of needs and planning[[1]](#footnote-1) of care of mental health patients. The CPA process is being refocused under NHS England “personalised care and support planning” Services are developing more personalised approaches to their care and support processes. This includes patients who are entitled to s.117 aftercare.

The following documents must be completed when assessing s.117 After-care Needs.

* S.117 Lincolnshire Joint Agency Section 117 Assessment and Guidance (Appendix C)
* The flow chart in section 5 below identifies the process and the lead professional’s role from the point of detention.

### S117 Lincolnshire Joint agency aftercare planning and review document.

The 'S117 Lincolnshire Joint Agency Section 117 aftercare planning and review document must be completed after the adult’s needs have been assessed.

As staff are required to take a holistic approach when assessing after-care needs they must complete the s.117 joint agency aftercare plan specifying what will be provided to meet an individual's s.117 need.

The Joint agency aftercare plan must clearly identify the interventions that are related to section 117 after-care entitlement and those that are not.

Section 117 needs: -

* Needs arising from or related to the patient’s mental disorder
* Needs that reduce the risk of a deterioration of the patient’s mental condition (and, accordingly, reducing the risk of the patient requiring admission to a hospital again for treatment for mental disorder.
* Identified and unmet non-section 117 aftercare needs, and any referrals arising from these unmet needs. (Appropriate referrals may be required for non-section 117 needs)

The Section117 Lincolnshire Joint agency aftercare planning and review document. Embedded at Appendix E.

The identified Lead Professional is responsible for ensuring section 117 after-care needs are reviewed at the agreed timescale, recording progress towards the patient’s independence, and supported with a focus on promoting recovery and wherever possible independent living. The Joint Quality Assurance Group are also able to recommend additional review timeframes where it is deemed appropriate.

Aftercare reviews should take place at intervals of 72 hours post discharge, 6 weeks post discharge, 6 months post discharge and annually thereafter, ad hoc reviews can be convened as required, progress with each aftercare need should be recorded, and where applicable adjusted, any funding implications would need ratification by the Joint agency section 117 (respective discipline) Quality assurance group. It is at review meetings that consideration to end section 117 will be discussed.

For individuals on identified in the transforming care process an additional review at 3 months will be convened to establish the on-going appropriate Lead agency for Commissioning as outlined in 6.1.4 below

Records must be managed in accordance with the law. Health and care professionals also have professional responsibilities, for example, complying with the Caldicott Principles and records keeping standards set out by registrant bodies.

Good record keeping is an essential part of the accountability of organisations to those who use their services. Maintaining proper records is vital to individuals care and safety.

An accurate written record detailing all aspects of patient monitoring is important because it contributes to the circulation of information amongst the different teams involved in the patient's treatment or care.

### Introduction to Direct Payment (Social Care) and Personal Health Budgets (NHS Health Care)

People who are eligible for Section 117 aftercare, following assessment a Social Worker and an NHS Health worker can offer a Social Care Direct Payment and a Personal Health Budget.

The extension of the legal right to a personal health budget for those eligible for aftercare services under section 117 of the Mental Health Act (1983) was, in part, a result of a national personal health budget evaluation (2014).

The Local Authority and the Integrated Care Board are integral partners in the effective delivery of personalisation through Direct Payments (Social Care) and Personal Health Budgets (Health). Lincolnshire County Council and Integrated Care Board work closely with each other to ensure processes are aligned for any individuals who receive a Direct Payment via Social Care and a Personal Health Budget from the ICB (through a jointly funded package).

Lincolnshire County Council and NHS Lincolnshire Integrated Care Board, Direct Payment Policy and Personal Health Budget policy is embedded at Appendix I of these procedures.

### S.117 Lead Professional

Where the patient's care is being delivered under the CPA then the care coordinator will be the s.117 Lead Professional otherwise it can be the Social Worker/ Nurse/ key worker/ etc… involved in the patient's case who the MDT determine is best placed to be the s.117 Lead professional

The s.117 Lead Professional is the individual responsible for completing the S117 Joint Health and Social Care Plan for all adults who are eligible for s117. It must be completed for all eligible patients on either RiO or on MOSAIC. The s.117 Lead Professional must ensure that a copy of the completed document is available on both systems. That is if the s.117 Lead Professional has completed the form on RiO then a copy of that form must be printed off and uploaded into documents in MOSAIC and called S117 Joint Health and Social Care Plan or *vice versa*.

### Recording s.117 Joint Health and Social Care Plan on Clinical Systems

The ‘Lincolnshire Joint Agency Assessment section 117 aftercare document’ and the ‘Lincolnshire Joint agency section 117 needs, care and support plan’ will be embedded into the RIO, MOSAIC and Broadcare systems.

## ADULT - STARTING, REVIEWING, ENDING AND RE-INSTATING s.117 ENTITLEMENT

#### S117 Process for patients admitted

**Patient Admitted to Hospital**

Is patient eligible for s117 aftercare?

Yes

MHA Office updates RiO legal status and '**Master list'** and send patient s117 Factsheet

No

Ward informs or allocates a person to be the **s.117 Lead Professional**

**Follow Inpatient discharge process**

s.117 Lead Professional ensure that Health and Social needs assessments are completed

s.117 Lead Professional completes a **s.117 Health & Social Care Plan** on either RiO or Mosaic

**Pre-discharge MDT**

In preparation for pre discharge meeting **Key Nurse** goes through s117 factsheet with patient and documents in progress notes.

S117 After-care provided (Additional Funding **NOT** required)

S117 After-care provided (Additional Funding required)

s.117 Lead Professional finalises **s117 Health & Social Care Plan** on either RiO or Mosaic and ensures copy is available on both RiO and Mosaic systems. ICB updates Broadcare data base

Outcome funding **Not** Approved

Outcome Funding Approved

s.117 Lead Professional carries out recommendations of Health and Social Care Reps

s.117 Lead Professional inputs evidence in progress notes (email /MDT attendees list)

**Patient discharged from Hospital – s117 Entitlement starts**

**Follow s.117 Review Process**

#### 5.0.2 S.117 Review Process

**Section 117 Review**

Reviews will be undertaken post hospital discharge at the following intervals: 72 hours, 6 weeks, 6 months and annually thereafter. For individuals on CPA the existing review process will remain. Reviews must be held if there has been a change in circumstances (including when a request has been received to reinstate an ended s.117 aftercare).

s.117 Lead Professional ensure joint agency section 117 aftercare care planning document is completed and creates a new **s117 Health & Social Care Plan** on RiO or Mosaic.

Change in S117 After-care (Additional Funding **NOT** required)

Change in s.117 After-care (Additional Fundingrequired)

S. 117 services remain the same

Implement the new s117 Health & Social care plan

s.117 Lead Professional finalises **s117 Health & Social Care Plan** on either RiO or Mosaic and ensures copy is available on both RiO and Mosaic systems, ICB updates Broadcare data base Mental Health act administrators informed of the review.

Funding **Not** Approved

Funding Approved

s.117 Lead Professional carries out recommendations of Health and Social Care Reps

s.117 Lead Professional inputs evidence in progress notes and care planning document is updated.

**s.117 Lead Professional to organise the reviews as per the review timescales.**

There are no s.117 aftercare needs

**See ending and reinstating s.117 process**

s.117 Lead Professional arranges **s117 review meeting** and sends patient a copy of s117 factsheet in advance

#### Ending and Re-instating S.117 Process

**Section 117 Review**

Lead professional creates new joint agency s**117 Health & Social Care Plan** on RiO or Mosaic

Lead Professional forwards review documentation to the Joint agency Quality assurance group, for consideration for ending section 117 entitlement

Ending s.117 **Not** Approved

Ending s.117Approved

Care coordinator/lead professional carries out recommendations of LCC and LICB

Care coordinator / lead professional updates the care record.

Care coordinator / lead professional finalises **s117 Health & Social Care Plan** indicating s.117 entitlement has ended on either RiO or Mosaic, Broadcare updated and ensures copy is available on both RiO and Mosaic system. Outcome letters sent to interested parties including Mental Health Act Administrators.

**S117 Eligibility Process**

**Reinstating an Ended s.117**

Requests to reinstate s.117 can come from patients or health and social care professionals

Is patient still open to CMHT?

YES

NO

UNKOWN

**Request from Health Professionals**

Contact SPA Telephone: 0303 123 4000
Email: Lincs.spa@nhs.net

**Requests from service user**

Contact your G.P

Contact CMHT to inform them of request.

**Follow s.117 review process**

**Follow referral procedure**

### Process for Ending Section 117 Aftercare

The duty to provide after-care services under section 117 exists until both LCC and the LICB are satisfied that the patient no longer requires them.

The Code of Practice also states (paragraph 27.3) that the ‘duty to provide after-care services continues as long as the patient is in need of such services’ and confirms (in paragraph 27.19) that ‘the duty to provide after-care services exists until both the Lincolnshire Integrated Care Board and Lincolnshire County Council are satisfied that the patient no longer needs them. Circumstances in which it is appropriate to end such services vary by individual and the nature of the services provided.

Lincolnshire County Council and the NHS Lincolnshire Integrated Care Board remain the responsible authorities irrespective of where the individual lives, if, the section 117 entitlement remains in place. Only once the entitlement has been ended does the responsible commissioning authorities revert to the Local Authority under ordinarily residence and origination ICB under the GP registration, should there be a further eligible section detention.

Aftercare under Section 117 may not continue indefinitely, and each person’s needs and circumstances should be reviewed regularly. The MHA Guidance makes it clear that even if the person is settled well in the community, they may still need Section 117 services to reduce the likelihood of a relapse, or to stop their condition deteriorating. Section 117 after-care services should therefore end only if someone has been functioning well for a sustained period and no longer needs services that meet the statutory definition for S117.

Eligible patients are under no obligation to accept the aftercare services they are offered following assessment, but any decisions they may make to decline them should be fully informed. An unwillingness to accept services does not mean that the individual does not need to receive services, nor should it preclude them from receiving services later under section 117 should they change their mind.

When a person becomes disengaged with services or refuses to accept aftercare services, the entitlement does not automatically lapse and the care team should ensure that needs and risks are reviewed and, where possible, communicated to the person.

Aftercare services under s117 should not be withdrawn solely on the grounds that:

• The patient has been discharged from the care of specialist mental health services.

• An arbitrary period has passed since the care was first provided.

• The individual is deprived of liberty under the MCA.

• The individual has returned to hospital informally or under section 2 or

• The individual is no longer on a CTO or section 17 leave. Even where the provision of after-care has been successful in that the individual is now well settled in the community, the person may still continue to need aftercare services to prevent a relapse or further deterioration in their condition.

The initial consideration to end s117 would be made at a multi-disciplinary s117 review,

A Section 117 multidisciplinary discharge meeting must be convened when discharge from Section 117 is considered, and all decisions must be recorded as evidence of the outcome. The views of the person and their family or carers should form an important part of the discussion. If there is agreement that section 117 can be ended, this will be recommended to the relevant Joint agency section 117 Quality assurance group for ratification.

Only when representatives from the Lincolnshire ICB and Lincolnshire County Council agree, can s117 eligibility be ended.

The Mental Health Act Administrators must be informed of any section 117 eligibility ending.

### 5.2 Reinstating Section 117 Aftercare

Where it is determined that someone who is eligible for s117 has had their entitlement ended prematurely, and there is a need to reinstate care in respect of; “meeting a need arising from or related to the patient’s mental disorder and reducing the risk of a deterioration of the patient’s mental condition and, accordingly, reducing the risk of the patient requiring admission to a hospital again for treatment for mental disorder”. Reinstatement should only be considered in the short term and should not be continued indefinitely.

The Lead Professional assess the urgency of the need to reinstate eligibility for section 117 and takes action to meet urgent need via interagency communication and agreement or, via the agreed process for securing section 117 aftercare if of a non-urgent nature. The relevant Joint Agency Quality Assurance Group will be furnished with all relevant information and will review the case for learning points, and the Mental Health Act Administrators must be informed of the change in status.

## Joint Agency Section 117 Aftercare Adult Quality Assurance Group Roles and Responsibilities

3.1.1 The Quality assurance group decision makers have representation from both Health (Integrated Care Board) and Social Care (Lincolnshire County Council) and have responsibility for:

* Determining if there is sufficient evidence that someone is eligible for s117 (see 1.2.1 above)
* To confirm that the correct Local Authority and Integrated Care Board who have responsibility for s.117 After-care has been identified
* Approving the Quality of the care provision and funding for s.117 packages of care or to make recommendations for Lead Professional to undertake when care quality or funding is not approved.
* To identify (if not already identified) any element of care that should be referred to Continuing Health Care (CHC).
* To identify (if not already identified any care needs that require onward referral.
* To resolve any disputes with regards to funding of S117 After-care packages or to escalate via the disputes prescription.
* To offer pro-active advice to relevant individuals/groups in respect of section 117 aftercare.

The Quality Assurance Group can be contacted via licb.mhldateam@nhs.net. Please ensure all correspondence has **S117** in the subject of the email.

### Lincolnshire County Council and NHS Lincolnshire Integrated Care Board section 117 aftercare Funding Agreements.

There is an interim agreement between Lincolnshire County Council and the NHS Lincolnshire ICB that **all** s.117 cases (since May 2018) are funded on a 50:50 funding split. Shadowing in respect of the agreements below are currently in place.

#### Funding agreement Working age adults and Learning Disability

An agreement has been reached in shadow form that from 1 April 2022 for Lincolnshire individuals, mental health working age adults and learning disability individuals, the funding percentage split 65/35 is as follows:

* Care packages below £1,500 will be costed at 65% social and 35% health
* Care packages of £1,500 and above will be costed at 65% health and 35% social

Any deviation from the above agreement for individuals eligible for section 117 aftercare would need Senior Manager approval from both agencies. Remain at 50/50

It is anticipated this will be formally agreed as from for all new packages from 1 November 2022.

#### Funding agreement Adult Frailty Over 65

For adult frailty over 65 years of age, financial work is on-going, and it is anticipated the outcome will take effect in shadow form from 1 April 2023. The funding for this cohort will continue to be at the 50% for each responsible authority.

#### Funding agreement individuals subject to transforming care.

For transforming care section 75 individuals the lead and funding agency for three months post discharge from hospital will be the Integrated Care Board, a three-monthly review will identify a trigger point of the care package cost falling below £1,500 the lead agency will transfer to Lincolnshire County Council, unless a fully funded Continuing Healthcare package is in place in which case the case would remain health managed and funded.

#### Lincolnshire section 75 Learning Disability s.117 aftercare individuals.

For Lincolnshire learning disability service there is a partnership arrangement under Section 75 of the NHS Act 2016, the arrangement shall comprise “the delegation by NHS Lincolnshire ICB to Lincolnshire County Council of the NHS Functions in respect of those Lincolnshire individuals eligible for Mental Health Act section 117 aftercare, so that it may exercise the NHS Functions alongside the Council Functions and act as commissioner of the Services, with a pooled fund for the services therefore the Local Authority will maintain the funding arrangements for these individuals.

#### Transforming Care

Transforming Care relates to people who have a learning disability, autism, or both and especially focuses on people with behaviour that challenges, or a mental health condition.

In February 2015, NHS England publicly committed to a programme of closing inappropriate and outmoded inpatient facilities and establishing stronger support in the community.

NHS England has rolled out a programme of Care and Treatment Reviews (CTRs) of individual patients’ care to prevent unnecessary admissions and avoid lengthy stays in hospital.

Individuals in hospital on the transforming care, care and treatment review process, and are on one of the eligible mental health act sections, will be entitled to section 117 aftercare upon discharge from the section.

The Lead Commissioner at the point of discharge from the section will be Lincolnshire Integrated Care Board, the section 117 aftercare process of assessment, Care Planning and review as outlined in section 4.2 above is followed, with an additional three-monthly review, to establish the appropriate Lead agency for Commissioning. A decision tree process is included within the guidance and procedure documents at appendix N.

### Disputes regarding Section 117 Aftercare

Providers, commissioners, and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental health care services are of high quality and are given equal priority to physical health and social care services.

Whilst all relevant services should work together to facilitate a timely, safe and supportive discharge from detention, in order to facilitate s.117 after-care disputes may arise. Any disputes that arise with regards to s.117, within the 3 organisations, are to be managed by each organisations local disputes policy.

#### Interagency Disputes Process

Where there is a dispute regarding funding and/or commissioning the jointly agreed interagency disputes resolution process will be followed, including the provision of ‘without prejudice’ funding by the authority with the primary duty of care at the time, pending resolution of the dispute, and if neither is currently funding or prepared to fund, this should be on a 50/50 basis between the Local Authority and the Integrated Commissioning Board (ICB). This will avoid funding disputes detrimentally affecting an individual’s care or causing undue delay in discharging someone from hospital.

Neither the ICB nor LCC should unilaterally withdraw from an existing funding arrangement without a joint re-assessment 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.

Where a dispute arises, if it is a dispute by the Local Authority, the ICB or a Service Provider, the interagency dispute process will be implemented. All relevant information should be provided to enable informed discussion towards a resolution.

#### Dispute resolution process for ICBs within the NHS in England.

Appendix 1 of the “who pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers (version 1.1 (draft) 14. June 2022) sets out principles which apply where there is disagreement about a responsible commissioner issue between ICBs, or between ICBs and an NHS England commissioning team, and describes the formal dispute resolution process to be followed where a disagreement cannot be resolved locally.

This process applies only within the NHS in England. It does not apply to disputes involving an NHS commissioner and a local authority, nor does it apply to cross-border disputes within the UK. There is, however, a separate process for dispute resolution between NHS bodies in England and Wales set out in England / Wales Cross Border Healthcare Services: Statement of values and principles.

#### Disputes between Local Authorities.

The dispute resolution for Local Authorities is laid out in the Care Act 2014 “statutory instruments 2014 No. 2829 The Care and Support (disputes between Local Authorities) regulations 2014.

## Complaints

Where individuals express dissatisfaction with any aspect of their s.117 after-care then organisations should engage with them to resolve this. If an individual wishes to make a formal complaint this should be done in line with each partnership organisations complaints procedure.

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| --- | --- |
| **Organisation** | **e-mail** |
| Lincolnshire County Council | CustomerRelationsTeam@lincolnshire.gov.uk |
| Lincolnshire Partnership Foundation Trust | PALS@lpft.nhs.uk |
| NHS Lincolnshire Integrated Care Board (ICB) | Informal advice: LHNT.LincsPALS@nhs.netFormal Complaint: licb.feedbacklincolnshireicb@nhs.net  |

## S117 INFORMATION FOR LEARNING DISABLED SERVICE USERS

Section 4.0 of the '**S117 Joint Policy'** sets out how eligible people should be supported and the information they should be provided. The Rethink fact sheet (Appendix G) will be provided in order to give the details of s117 to LD service users. A member of staff with appropriate experience of providing information to LD service users should also be available to go through this information with the person"

**Key points to get across are**

* You are eligible for s117 After-care
* You will not be required to pay for any s117 after-care
* You are encouraged to participate when your aftercare needs are being decided
* You are entitled to independent advocacy

**FREQUENTLY ASKED QUESTIONS**

|  |  |  |
| --- | --- | --- |
| **No.** | **Question** | **Answer** |
| 1. | What if someone has S.117 needs but is refusing the services offered to meet them? | An unwillingness to accept services does not mean that the individual does not need to receive services, nor should it preclude them from receiving services later under section 117 should they change their mind.An individual’s entitlement to s117 cannot be ended because they are refusing the services offered to them. The S117 Joint Health and Social Care Plan should be completed with the services identified and indicating patient has refused.Patient must be provided a copy of their S117 Joint Health and Social Care Plan and contact details of who they should contact if they change their mind. |
| 2. | I have access to RiO or Mosaic and neither indicate that the person has s117 eligibility however, I suspect or have evidence that a person is eligible. What should I do? | There are 2 possible answers to this:1. Follow 1.1.4 above and contact MHA office at LPFT to see if person is on '**master list'. If a Lincolnshire resident is not on master list but you have evidence that complies with 1.2.1 you can request to have them added to the list.**

**NOTE: Patient will only be added to the master list if LCC and Lincolnshire ICB are the responsible authorities see 1.1 and 1.2 above**1. The person may not have been a Lincolnshire resident at the time they were placed on the qualifying section see 1.1 and 1.2. In this case you will need determine who the responsible Local Authority is and discuss with them.
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## APPENDICES

These documents are hosted in the [AC Procedures Manual - Local Resource Library.](https://lincolnshireadults.proceduresonline.antser.com/resources/local-resource-library)

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| Appendix A – Section 117 Master list Reporting & Guidance |
| Appendix B – Section 117 Information Sharing Agreement |
| Appendix C – Section 117 Lincolnshire Joint Agency Section 117 Assessment and Guidance Document (two documents) |
| Appendix D – Statutory Services and Charges for Services  |
| Appendix E – Section 117 Lincolnshire Joint agency section 117 aftercare planning and review document (two documents) |
| Appendix F – Disputes process |
| Appendix G – Section 117 Information Leaflet for LD Service Users |
| Appendix H – Data and Consent |
| Appendix I – Lincolnshire Personal Health Budget Policy & Direct Payment Policy (two documents) |
| Appendix J – Template Letter for Ending Section 117 aftercare |
| Appendix K – Section 117 aftercare explained [Easy Read] |
| Appendix L – Joint Agency Section 117 Aftercare Working Age Adult Quality Assurance Group Terms of Reference |
| Appendix M – Joint Agency Section 117 Aftercare Over 65 YO Quality Assurance Group Terms of Reference |
| Appendix N – Transforming Care Complex Case Decision Tree Flowchart |
| Appendix O – Integrated Care Board Map |
| Appendix P – Joint Agency Section 117 Aftercare Learning Disabilities Quality Assurance Group Terms of Reference |
| Appendix Q – Joint Agency Section 117 Aftercare Policy |
| Appendix R – Court of Protection and DoLS (two documents) |

1. Para 33.14 - Mental Health Act code of Practice 2015 [↑](#footnote-ref-1)