
Lincolnshire County Council
NHS Lincolnshire Integrated Care Board
Lincolnshire Partnership Foundation Trust
Section 117 aftercare Joint Agency Procedures and
Guidance for Children and young people's services.

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GLOSSARY

The glossary below is not an exhaustive list but covers the terminology covered in the Procedures and Guidance for Section 117 aftercare.

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)	<p>The process 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 characteristics</p> <p>The Care programme approach (CPA) process is being refocused under NHS England “personalised care and support planning” Personalised care systems are evolving to replace the CPA.</p>
Section 117 aftercare CYP OATs Panel	<p>The primary role of this group is to source and fund out of area treatments</p> <p>The Out of Area Treatments Panel (OATs) for children and young people (CYP) have representation from both Health (Integrated Care Board (ICB) and Lincolnshire Partnership NHS Foundation Trust (LPFT) and the Local Authority (LA) (Lincolnshire County Council) and the panel will be supported by representation from:</p> <ul style="list-style-type: none"> ➤ Designated Clinical Officer for CYP with (SEND LICB) ➤ Children’s services SEN Manager (Lincolnshire County Council) ➤ CAMHS Mental Health Practitioner (LPFT) ➤ Representative from Therapies Lincolnshire Community Health Services NHS Trust (LCHS) ➤ Community Paediatric Consultant Representative United Lincolnshire Hospitals NHS Trust (ULHT) ➤ Administrator (ICB) ➤ Head of Service Section 75 Social Care (LPFT)
CYP Section 117 aftercare Quality Assurance Group	The CYP Section 117 aftercare Quality Assurance Group meets monthly, its primary role is in relation to the overall monitoring and implementation of Section 117 aftercare. To accept referrals to the group, ratify and agree initial funding of identified care packages on an individual basis following the attendance at the group and submissions from practitioners in respect of Section 117 aftercare need(s). Reviews and ending of

	entitlements and eligibility of Section 117 aftercare are discussed by this group. The provision of advice to practitioners in respect of Section 117 aftercare. The overall monitoring of Section 117 aftercare application across Lincolnshire.
Eligibility and Entitlement	Where eligibility for Section 117 aftercare is a consequence of being on a qualifying section, and entitlement is the assessed package of Section 117 aftercare services they are entitled to receive.
Hospital Managers Review	This has a similar function to the Mental Health Tribunal service in that the CYP can apply to a panel of at least three hospital members who will consider whether the statutory criteria for detaining a CYP continue to be met. In the event that the criteria are not met, the panel can discharge the individual.
Hospital Lead Professional	The Hospital Lead Professional is the professional appointed to ensure that the persons care is being co-ordinated and managed whilst in hospital, and covers the terms Care Co-ordinator, Named Nurse, Lead Practitioner.
Section 117 aftercare Lead Professional	The Section 117 aftercare Lead Professional will be a Registered Practitioner who will take the lead in discharge planning. The CYP Section 117 aftercare Lead Professional will come from LPFT either from child and adolescent mental health services (CAMHS) or CAMHS Crisis and Enhanced Treatment Team (CCETTs), unless otherwise indicated by the Multi-Disciplinary Team (MDT)
Social Worker	A Social Worker, will complete the specific Child and Family Social Work assessment and planning/sourcing of the appropriate aftercare services to meet identified needs in conjunction with the Lead Professional.
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 Section 117 aftercare is one (or more) of the following Sections: 3, 37, 45, 47 or 48
Section Papers	These are the legal forms required to detain a person in Hospital under the Mental Health Act. <ul style="list-style-type: none"> • For Section 3 this will comprise of 2 medical recommendations (Form A7 or A8) and an application by an approved Mental Health Professional (AMHP) (form A6) • For Section 37 they will be Order's from the court • For Section 47 these will be Transfer Orders from the Ministry of Justice

Mental Health Act Administrators	Mental Health Act Administrators receive information, update the list and maintain the master list of all individuals eligible for Section 117 aftercare.
Mental Health Review Tribunal (MHRT)	The First Tier Tribunal (Mental Health) are an independent body who are responsible for considering the appropriateness of the need for detention on section and where appropriate discharge from section of patients detained under the Mental Health Act.
CAMHS Provider Collaborative	Lincolnshire has no in-patient hospital settings for CYP detained under a section of the Mental Health Act. The CAMHS provider Collaborative is a commissioning Hub Team commissioning hospital placements for detained individuals across the East Midlands
Urgent Care Pathway meeting	The Urgent Care Pathway is a multi-agency meeting, discussing all aspects relating to CYP individuals at risk of admission, those individuals admitted which includes those CYP on an eligible section and entitled to Section 117 aftercare and those individuals in in-patient settings who are detained on non-eligible sections or informally admitted including the discharge process.
LCC, LA	Lincolnshire County Council, Local Authority
LICB (ICB)	NHS Lincolnshire Integrated Care Board
LPFT	Lincolnshire Partnership NHS Foundation Trust

1.0 Introduction.

Section 117 of the Mental Health Act 1983 (as amended 2007)

Section 117 of the Mental Health Act 1983 (as amended 2007) imposes a free-standing duty (Statutory Duties are those which are required by law to be carried out) by Lincolnshire NHS Integrated Care Board (ICB) and Lincolnshire County Council (LCC), (Eligible children and Young People (CYP) cannot be charged for Section 117 aftercare services under the free-standing duty) in co-operation with statutory and voluntary agencies, to provide or arrange for the provision of aftercare to certain eligible CYP. This duty arises once the CYP ceases to be detained and then leaves hospital whether or not the individual leaves hospital immediately after they have ceased to be detained. The duty to provide this service applies until such time as the ICB and the LCC are satisfied that the CYP concerned is no longer in need of such services.

Section 117 aftercare services are services which have both of the following purposes

- meeting a need arising from or related to the CYP's mental disorder and
- reducing the risk of a deterioration of the CYP's mental condition and,
- accordingly, reducing the risk of the CYP requiring admission to a hospital again for treatment for mental disorder.

All processes should be based on aiding recovery and a meaningful personalised lifestyle within the CYP's family, education, and local community.

The joint agency CYP policy and these procedures and guidance relate to the following partnership organisations to follow and refer to:

- Lincolnshire County Council (LCC)
- Lincolnshire Partnership NHS Foundation Trust (LPFT)
- NHS Lincolnshire Integrated Care Board (ICB)

2.0 Section 117 Information sharing agreement.

An Information Sharing Agreement (ISA) has been approved by the three organisations (LPFT, ICB and LCC) in order to share all relevant Section 117 information. The ISA can be viewed at the icon below.

Information Sharing agreement

3.0 Section 117 Eligibility & Entitlement.

3.1 Becoming Eligible

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

- Section 3 is the section mainly used for children and young people
- Section 37 power of courts to order hospital admission
- Section 47 Removal to hospital of persons in Youth detention accommodation, can be applicable however is very rarely used for children and young people
- Section 45A is not applicable to individuals under the age of 21
- Section 48 – Removal to hospital of prisoner.

3.2 Period of eligibility for Section 117 aftercare

Once a person becomes eligible for Section 117 aftercare they remain eligible until:

- the death of an individual
- eligibility is formally ended by the responsible commissioning agencies following a recommendation from a formal review
- For Local authorities being detained on a further qualifying section will end the existing Section 117 aftercare that was in place immediately prior to the subsequent detention.

All new and changes to an individual CYP eligibility to Section 117 aftercare will be provided to the Mental Health Act Administrators, the attending AMPH is responsible for updating the electronic patient record and the receiving Hospital is responsible for sending the section papers to the LPFT Mental Health Act Administrators (for Lincolnshire individuals).

3.3 Entitlement

Entitlement to service(s) will be determined upon an assessment of Section 117 aftercare needs, and entitlement(s) can be ended and restarted throughout a person's lifetime. Details of ending, and reinstating Section 117 aftercare entitlement and eligibility is covered in paragraph 19 below.

4.0 Determining which Local Authority & Integrated Care Board is responsible for Section 117 aftercare.

- As stated at paragraph 3 of the Section 117 aftercare Joint policy for CYP it is the responsibility of the relevant NHS Integrated Care Board and Local Authority to fund eligible Lincolnshire CYP's, entitlement to Section 117

aftercare. The determination is primarily based upon where the CYP was ordinarily resident immediately prior to them being placed on the qualifying Section (for CYP usually Section 3).

- The Policy provides information in respect of the responsible authorities. The Local Authority and the Responsible Health Authority Commissioners (ICB) for ordinarily residence.
- Ordinary residence is different for Local Authorities and Integrated Care Boards, Local Authority is based on where the individual is living (ordinarily resident) whilst the Integrated Care Board is based on GP practice registration and the ICB who is responsible for that GP practice, as described in paragraph 5 below ratified by the respective legal departments.

4.1 Who is responsible for identifying Ordinary Residence?

There are different agencies who, in general, will be responsible for determining Ordinary Residence

On an individual basis, as follows

- For Section 3 it will be the AMPH making the application
- For Section 37, it will be the Court
- For Section 47 it will be the Ministry of Justice.
- Sections 45A and 48 are not applicable to children and young people

4.2 Determination of Ordinary residence for Local Authority

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

4.3 Determination of Ordinary Residence for Health services

For Health the 'who pays determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers', which states that the responsible ICB is determined by the individual's GP registration and the ICB that manages the said GP practice is the originating and responsible ICB.

4.4 Identifying the responsible commissioner where this is not clear or recorded.

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 Section 117 aftercare Lead Professional in conjunction the Local Authority and Integrated Care Board will determine the Ordinary Residence based upon their originating home address for Lincolnshire County Council and GP registration for Health. Where the identification is complex line managers may seek legal advice as to Ordinary Residence.

4.5 Individual workers and identification of the responsible commissioners.

All individuals working with the individual should be checking that the relevant responsible commissioners are identified. Should there be any uncertainty as to the responsible commissioning bodies this should be escalated to Senior Managers for clarity or further actions.

5.0 Identifying responsible NHS Integrated Care Board and Local Authority (LA) , “The legislation”

Section 117 of the Mental Health Act 1983 (MHA) sets out the legal obligation on relevant Local Authorities and ICBs to provide aftercare to certain detained patients once they cease to be detained.

Section 117(3) of the Mental Health Act 1983 defines who the responsibility to provide aftercare services falls upon.

Section 117 (3) currently provides as follows

“(3) In this section the “Integrated Care Board or Local Health Board” means the Integrated Care Board or 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 in England, for the area in England in which he was ordinarily resident.
- (b) if immediately before being detained, the person concerned was ordinarily resident in Wales, for the area in Wales in which he was ordinarily resident; or
- (c) in any other case for the area in which the person concerned is resident or to which he is sent on discharge by the hospital in which he was detained.”

In the event of a dispute section 40 of the Care Act provides for a mechanism to resolve that dispute.

In order to fully understand the effect of these provisions it is necessary to look at the responsibilities of the local authority and the integrated care board separately.

The Responsible Local Authority

The Responsible integrated Care Board

6.0 Access for determining Section 117 aftercare eligibility for LPFT users in RIO and LCC in MOSAIC.

6.1 AMHP report

AMHPs will complete an “AMHP report” and electronic records as required on Mosaic.

All AMPHs ensure their AMPH report is available on MOSAIC and emailed to LPFT’s single point of access (SPA) who upload onto RIO. The mental health Act history and status must always be completed.

It is the responsibility of all health and social care professionals to ascertain if a person under their care is subject to Section 117 aftercare and to check and update the Mental Health Act history and status section.

LPFT and staff who have access to RiO can see if someone has 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 individual follow these steps:

Determining if a CYP is eligible for Section 117 aftercare MOSAIC users

Determining if a CYP is eligible for Section 117 aftercare RiO users

6.2 Determining if an individual is eligible for Section 117 aftercare (Non RiO or Mosaic Users)

A master list for all Lincolnshire residents who are eligible for Section 117 aftercare 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 Section 117 aftercare 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
- section@Lincolnshire.gov.uk

7.0 The Section 117 aftercare master list

The Section 117 master list is a list of Lincolnshire individuals who have been subject to a qualifying section of the Mental Health Act 1983. It holds the following information:

- Name / DoB / Patient ID Number (NHS Number or Mosaic Number) / 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 Section.117 aftercare Master list.

7.1 Evidence required to prove Section 117 aftercare eligibility

In order for a CYP to be added to the Section 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 (The completed section papers are completed by the attending AMPH and handed to the receiving hospital)
- 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.

7.2 Informing the Mental Health Act Administrators

If a team becomes aware of any inaccuracy relating to an individual in respect of Section 117 aftercare they must inform MHA office and correct details recorded.

7.3 Security of information flow

The information MUST be sent to the secure MHA office email account

lpft.MHA@nhs.net.

If you are sending any CYP 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.

7.4 Sharing the Section 117 aftercare Master list

The MHA Office will share the complete Section 117 aftercare Master list with NHS Lincolnshire Integrated Care Board (ICB) on the first working day of each month so that the ICB have an up-to-date record of all eligible Section 117 aftercare individuals.

The MHA office will send it to the ICB on licb.mhldateam@nhs.net

7.5 ICB Coordination in respect of the Section 117 aftercare master list.

Lincolnshire Integrated Care Board will use the Section 117 aftercare Master list to ensure:

- Individuals who are eligible for Section 117 services are not being charged for those services.
- Individuals who are not eligible for Section 117 services, but who are (incorrectly) in receipt of Section 117 services, are identified and that the funding decision makers correct the error.
- To aid accurate communication between organisations.
- Identification of individuals who are eligible for Section 117 aftercare, for planning purposes.

7.6 Section 2 and qualifying date

If a CYP is detained under mental health act Section 2 for assessment and then, while they are in hospital, this becomes a Section 3 detention for treatment, the 'point of initial detention' will be the date of the Section 2 detention.

8.0 Involvement with Section 117 aftercare.

8.1 CYP and Family involvement

It is important and essential that the CYP and their family are involved in all multi-disciplinary team meetings and central to all decisions and the implications that any decisions have on them and their family, any decision must be personalised to the CYP and into the family lifestyle.

8.2 Joint working

There is a joint responsibility between Lincolnshire County Council and Lincolnshire's NHS health services to work jointly, with the assessment, care planning, sourcing services (where identified) implementing the service to meet the identified need(s) and reviewing the services to CYP individuals eligible for Section 117 aftercare.

8.3 Role of Hospital Lead Professional

The hospital Lead Professional is the individual responsible for coordinating the therapeutic work within the in-patient setting. Working in conjunction with the CYP section 117 aftercare Lead Professional and Social Worker

8.4 Lincolnshire Foundation Trust CYP Section 117 aftercare Lead Professional

The CYP Section 117 aftercare Lead Professional will come from LPFT either from CAMHS or CAMHS Crisis and Enhanced Treatment Team (CCETTs), unless otherwise indicated by the MDT. The CYP Section 117 aftercare Lead Professional will work jointly with the allocated Social Worker and MDT.

8.5 Social Worker input

Where the CYP is not open to Social Care a referral will be made by the Hospital and by the LPFT Lead Professional, where the CYP is open to a Social Worker they will work jointly with the CYP Section 117 aftercare Lead Professional, undertaking their Child and Family assessment.

8.6 Delivery of care under the Care Programme Approach

Where the CYP's care is being delivered under the CPA then the care coordinator will be the Section 117 aftercare Lead Professional otherwise it can be the Social Worker/ Nurse/ key worker/ involved with the CYP who the team around the child (multi-disciplinary team) determine is best placed to be the Section 117 aftercare Lead Professional.

The care programme approach has been the care planning framework for the past 30 years, NHS England has stated with the publication of the "community mental health framework" that the care programme approach is being phased out. Work in refocusing the Care Programme approach in Lincolnshire in line with personalised care will take a period of time therefore reference to CPA will remain in this policy until such time as there is a formal change and, for those individuals who are currently on CPA for this to continue. Any eventual change would need to be discussed with those individuals in receipt of CPA and reflected within this procedure document.

For health, the health Section 117 aftercare assessment and Section 117 aftercare, health care plan will be completed by the CYP Section 117 aftercare Lead Professional, both assessments and care plan will dovetail together, and the Social Work assessment and Health assessment must clearly specify what are the Section 117 aftercare needs and other needs that do not relate to Section 117 aftercare. The hospital Lead Professional, the CYP Section 117 aftercare Lead Professional, the Social Worker will need to work together in all aspects of the individuals care and treatment and assessments leading to the CYPs discharge when deemed clinically ready for discharge (CRFD).

9.0 Section 117 in relation to Children and Young People (MHA CoP 19.111 and 19.118).

Aftercare should start to be considered as soon as clinically possible after admission to hospital to ensure the appropriate services are identified and in readiness for the CYP's planned discharge from hospital. There is a Joint responsibility by the agencies involved LPFT, CYP Social Care and the involved in-patient setting to jointly work

together in discharge planning. Prior to discharge from hospital all children and young people should have an assessment of their needs undertaken, and their aftercare needs identified on a care plan and in place in readiness for the point the CYP is deemed CDFR.

It is imperative that the CYP their Parents/Guardian or Carers with who the CYP is discharged to are involved at every stage, and agree with any plans relating to discharge, the aftercare must be appropriate and not overburden the family with onerous inputs, a clear balance between family life and care input is required.

9.1 Reporting detention for 12 consecutive weeks under section 85 of the Children Act 1989.

Where a child or young person is detained in hospital and that is likely to be for at least 12 consecutive weeks, the authority or health body who arranged for the detention is required under section 85 of the Children Act 1989 to notify the responsible local authority. This duty ensures that the Local Authority is aware of any child or young person in such detention and can ensure they are being safeguarded and their needs are being met. The responsibility to inform the relevant Local Authority lies with the receiving Hospital, LPFT also through their Urgent Care Pathway meeting flag the need and inform the Local Authority through their Section 117 aftercare Lead Professional.

It is appropriate to inform the responsible Integrated Care Board to make them aware of the detention and the possible need for Section 117 aftercare.

9.2 Integration of existing provisions and section 117 aftercare.

In relation to children and young people additional factors will need to be considered. This may include ensuring that the aftercare integrates with any existing provision made for “children in care” (also referred to as looked after children which is the legal status), care leavers, and those with Education, Health, and Social Care needs, as well as safeguarding vulnerable children. Whether or not Section 117 aftercare of the Act applies, a child or young person who has been admitted to hospital for assessment and/or treatment of their mental disorder may be ‘a child in need’ for the purpose of Section 17 of the Children Act 1989.

9.3 Section 117 aftercare reflected and informed in other statutory and non-statutory plans.

In agreeing a Section 117 aftercare plan, the local authority must also ensure that this is informed by, and reflected in, any other statutory and non-statutory assessment or ‘team around the child plan’ such as Education, Health and Care Plan, (EHCP) Early Help Plan, Child in Need Plan, Child Protection Plan, Child in care Plan or Leaving Care Pathway Plan, and where appropriate run concurrently with coordinated reviews. Whilst coordinating planning can be complex, for example where a CYP is transitioning to adult health and social care services, this should never be a reason to delay discharge.

9.4 Education, Health and Care Plan Informing the Local Authority of a detention under the Mental Health Act

If a child with an education, health and care plan (EHCP) is admitted to hospital under the Mental Health Act (Section 3) the Local Authority who maintains the plan should be informed, and where appropriate should be involved in the discharge plan so that the EHCP can ensure that educational support continues to be provided. If necessary,

this should be kept under review and amended to ensure targets and provisions remain appropriate. The Local Authority should also be involved in creating the discharge plan, so that the EHCP is revised as necessary to continue to reflect the child or young people educational, health and social care needs and where relevant links to the Section 117 aftercare plan. Where there is no EHCP this would fall to the school to decide if they can meet needs or if they need them to apply for an EHCP, as well as reflecting the duty under Section 19 of the Education Act to provide education where this isn't reasonably accessible for the CYP to attend their school, which may be the case for CYP eligible for Section 117 aftercare who don't have a EHCP.

9.5 Integration with the Children's Act 1989/2004

Where it is found that a child requires any support provided in order to meet Section 117 aftercare needs, staff must ensure this is done in line with the legal requirements of the Children's Act 1989 and should be assessed accordingly.

9.6 Personalised approach

All processes should be based on aiding recovery and a meaningful personalised lifestyle, with the aim to maintain individuals within their family setting and community where appropriate.

10.0 Supporting service user involvement and participation.

10.1 Information and support

The 'Rethink fact sheet 'admission to hospital for treatment (in place at the time) should therefore be provided to CYP at the point of admission and where appropriate to the Parents/Guardians/Carers.

Prior to discharge the leaflet relating to Section 117 aftercare should be discussed with the CYP and their Parents/Guardians/Carers to inform them of their rights and their eligibility to Section 117 aftercare on discharge, and their entitlement to care as assessed. These documents can be located at the icons below.

Rethink fact sheet admission to Hospital for treatment Rethink fact sheet Section 117 aftercare

Easy read information Section 117 aftercare

Education department are able to advise on aspects relevant to the education of the CYP.

Consideration as to how a CYP with additional needs is supported and how information is shared with them, will need to be assessed on an individual basis and include the Parents/Guardians/Carers who will be able to assist in the communications with the young person in order to give the details of Section 117 aftercare to vulnerable people and would include Learning Disabled young people, people with autism, and other vulnerable young people. A member of staff with appropriate experience of providing information to the specific group of vulnerable service users should be available or sourced to undertake this communication.

Key points to get across are but not limited to

- You are eligible for Section 117 aftercare
- What Section 117 is
- You will not be required to pay for any Section 117 aftercare
- You are encouraged to participate when your aftercare needs are being assessed and decided
- You are entitled to independent advocacy
- You can have an identified supporter with you
- You will be consulted throughout the assessment, care planning and aftercare decision process along with your Parents/Guardians/Carers.
- Respond to any questions raised by the CYP.

10.2 Discharge and aftercare planning

Discharge and aftercare planning must start as soon as clinically possible after admission and must be child and young person focused and informed by an assessment of need. In relation to children and young people, the Mental Health Act Code of Practice 2015 recognises additional factors will need to be considered. This may include ensuring that the aftercare integrates with any existing provision made for in care, care leavers and those with special educational needs or disabilities, as well as safeguarding vulnerable children. The Department of Health & Social Care Statutory guidance 'Discharge from mental health inpatient settings' Published 26 January 2024, provides information in respect of general and specific to section 117 aftercare information, this document can be found at the icon below.

Discharge from mental health inpatient settings (Department of Health and Social Care)

11.0 Capacity and Consent.

Issues of capacity and consent must be in line with the respective organisations local policies and procedures, and the 2005 Mental Capacity Act.

11.1 Parental responsibility, capacity and consent in relation to a child

Parental responsibility is distinct from legal parentage and is defined by the Children Act 1989 as “as all the rights, duties, powers, responsibilities and authority which, by law a parent of a child has in relation to the child and [their] property” taking into account ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding)”.

Their physical, emotional and educational needs.

The likely effect on him/her of any change in their circumstances.

Their age, sex, background and any characteristics of theirs which is considered relevant.

Any harm which has been suffered or is at risk of suffering.

How capable each of the parents are, and any other person is of meeting the young person's needs.

11.2 Older children

Parental responsibility ceases when a child reaches 18 years of age. However, the extent to which a person can exercise their parental responsibility in respect of a child under the age of 18 generally diminishes as the child gets older (usually 16 to

18 can be before this age range) and “reaches a sufficient understanding and intelligence” to be capable of making their own decisions. As such, parental responsibility has been described as “a dwindling right” which the courts will hesitate to enforce against the wishes of the child, the older [they are]. It starts with the right of control and ends with little more than advice.”

11.3 Children making decisions: Gillick competency

A child who is capable of making their own decision(s) on a matter is often described as “Gillick competent.”

In *Gillick v West Norfolk and Wisbech Health Authority*, it was held that a child under the age of 16 was capable of giving consent to medical treatment if they were capable of understanding what was proposed and of expressing their own wishes. *Children Law and Practice* explains that it follows from this “that the more mature the child, the more care should be taken to consider [their] wishes and feelings.” The NSPCC explains that there is no set of defined questions to assess Gillick competency, but professionals need to consider several things, including:

- the child's age, maturity, and mental capacity
 - their understanding of the issue and what it involves - including advantages, disadvantages, and potential long-term impact
 - their understanding of the risks, implications and consequences that may arise from their decision
 - how well they understand any advice or information they have been given
 - their understanding of any alternative options, if available
 - their ability to explain a rationale around their reasoning and decision making.
- It adds that the same child may be considered Gillick competent to make one decision but not competent to make a different decision.

12.0 Assessing, Care Planning and review attendance.

Before commencing Section 117 aftercare assessment planning care and reviewing, consideration will be given as to, who needs to be involved in assessing the Section.117 aftercare needs of a CYP (the multi-disciplinary team). The child or young person and their Parents/Guardians/Carers should be present when assessing and deciding the Section 117 aftercare plan.

Where the CYP does not wish to attend then this must be documented in the CYP's electronic records, the Parents/Guardians/Carers and assessors should discuss the best way for the CYP to input post meeting.

In addition to the individual themselves and their Parents/Guardians/Carers being present, the hospital Lead Professional should actively consider the list of potential attendees contained within paragraph 34.12 of the Mental Health act Code of Practice 2015. Aftercare planning should take account of the CYP's age and should involve their Parent/Guardian/Carer (as appropriate) to ensure that they will be ready and able to provide the assistance which the young person may need after discharge.

Where appropriate a CYP can be supported by an advocate this is detailed below.

order to ensure that the aftercare assessment and plan reflects the full range of needs of the young person, it is important to consider who needs to be involved. Subject to the views of the young person, this may include:

This multi-disciplinary team will be known as team around the child.

Potential list of attendees for Section 117 aftercare team around the child

13.0 Advocacy.

The statutory right to independent advocacy is an important additional safeguard for people who are subject to the Act. A CYP can request an advocate from their nurse, care coordinator, Social Worker or Lead Professional.

For CYP detained in hospitals outside of the Lincolnshire area

Where a detained individual requires advocacy the relevant hospital will make a referral to their local service who will provide the appropriate advocacy.

13.1 Independent Mental Health Advocacy (IMHA)

CYP who are treated under the Mental Health Act have the right to independent mental health advocacy (IMHA). IMHA advocates have an enabling role; explaining to the person their rights under the Act and helping them to exercise their rights.

'Qualifying individuals' for IMHA are:

- CYP detained under the Act (even if on leave of absence from the hospital), but excluding people who are detained under certain short-term sections (4, 5, 135, and 136)
- A conditionally discharged restricted individuals
- CYP subject to Guardianship under the Act
- If receiving Supervised Community Treatment (SCT). (Supervised Community Treatment Orders (CTOs))
- Being considered for a treatment to which section 57 applies ("a section 57 treatment")
- CYP under 18 and being considered for electro-convulsive therapy or any other treatment to which section 58A applies ("a section 58A treatment")

In supporting the CYP to prepare and fully participate in meetings, ward rounds or care reviews, an IMHA can help the CYP understand the options for aftercare, how it will be provided and reviewed.

Once discharged from detention, the CYP will not continue to be eligible for an IMHA simply because they are receiving Section 117 aftercare, although some individuals will qualify because, for example, they are under Guardianship or on SCT.

13.2 Post discharge advocacy

Advocacy may be required post discharge when the CYP returns to Lincolnshire from and out of area hospital, LCC, ICB and LPFT utilise VoiceAbility to provide advocacy for CYP.

Referrals can be made to VoiceAbility in Lincolnshire as describe below.

Contact details:

- Telephone: 0300 303 1660
- Email: helpline@voiceability.org

VoiceAbility works to provide children and young people (up to their 18th birthday) access to advocacy for situations where they require specialist support and advocacy.

They offer an independent voice to children and young people, to assist them in resolving issues relating to their welfare, care, and circumstances.

Young people aged 16 or 17 also have a statutory right to an Independent Mental Capacity Advocacy (IMCA) if they:

- lack capacity to make a specified decision at the time it needs to be made
- are facing a decision on a long-term move or about serious medical treatment, or are subject to deprivation of liberty safeguards (DoLS); and
- have nobody else who is willing and able to represent them or be consulted in the process of working out their best interests.

Independent Mental Capacity Advocacy (IMCA)

In certain circumstances, local authorities or NHS organisations will be responsible for instructing an Independent Mental Capacity Advocacy (IMCA) under provisions in the Mental Capacity Act (2005).

The role of the IMCA is to represent a person who lacks capacity and has no-one other than a professional to give an opinion about their best interests, and to ensure that the CYP is as involved as possible in major decisions about their lives, and that any decisions made on the CYP's behalf are made in their best interests.

This may apply where a person who meets these criteria is being discharged from detention and a decision is needed about a move into long-term accommodation (for eight weeks or longer) or about a change of accommodation in circumstances where the person lacks capacity to make a decision and there is no one apart from a professional or paid carer for the authority to consult.

The duty to involve an IMCA does not apply if the person will be required to stay in accommodation under the Mental Health Act (1983).

Independent Advocacy under the Care Act (2014)

People who are receiving aftercare and do not retain a right to an IMHA may be eligible for advocacy under the Care Act (2014).

This may apply when the person's care and support needs are being assessed and during care and support planning or the subsequent review of a care and support plan (which may reach a decision that a person is no longer in need of aftercare).

In general terms, a person with assessed social care needs will be eligible for advocacy under the Care Act if they have substantial difficulty in being involved in the assessment or review of their needs and if there is no appropriate person to support their involvement.

14.0 Joint working and process from assessment to review.

Child and young person Section 117 aftercare assessment and review working process

This process map sets out a joint clinical and operational approach between LPFT, LCC and ICB when a young person aged under 18 years old is eligible for Section 117 aftercare. This process is mapped out in consideration of legal frameworks set out by the Mental Health Act 1983 (revised 2007) and children in care act 1989

Detention, from assessment to funding request flow chart

15.0 Assessment.

15.1 Assessments of aftercare needs should be conducted:

- as soon after admission as clinically possible
- prior to discharge
- prior to any Mental Health Act Tribunal or Hospital Managers review of detention
- as part of ongoing review in the community
- when considering ending someone's Section 117 aftercare entitlement
- reassessment if the CYP is at risk of readmission to hospital

15.2 Assessment and care planning documents

The following documents must be completed when assessing Section 117 aftercare needs.

- For Lincolnshire County Council "child and family assessment" (This also couples as the plan/progress of care) and the 'Early Help assessment for partner agencies. Icon below.
- For Lincolnshire NHS services the CYP Joint health Section 117 aftercare health needs Assessment for Children and Young People. Icon below.
- The NHS Lincolnshire Children and Young people Health, care and review plan for Section 117 aftercare. Icon below.
- Non-Section 117 aftercare health needs must be recorded but funded separately and actioned/referred accordingly.
- All needs must clearly be identified as either Section 117 aftercare needs or non-Section 117 needs.

Child and family assessment

Early help assessment

CYP Joint Health assessment

CYP Joint Health care and review plan

16.0 Section 117 aftercare care planning.

Following assessment, the young person's agreed aftercare needs form the plan of care by the relevant organisations as follows:

- For Lincolnshire County Council the existing Child and Family assessment will be undertaken this assessment will capture all the relevant needs of the CYP and formulates the plan of care for the CYP, which will include all relevant legislation for which the Local Authority is responsible.

- For the NHS services provided by Lincolnshire Partnership NHS Foundation Trust and Lincolnshire Integrated Care Board the Joint health Section 117 aftercare assessment will provide information under Section 117 aftercare of the Mental Health Act and any health needs that require onward referral which then form the basis for the completion of the Joint agency NHS health care plan.
- The NHS Lincolnshire children and young people's aftercare plan must clearly identify the interventions that are related to Section 117 aftercare entitlement and those identified needs that are not related to Section 117 aftercare.

16.1 Section 117 aftercare needs.

Needs arising from or related to the CYP's mental disorder

- Needs that reduce the risk of a deterioration of the CYP's mental condition and
- accordingly, reducing the risk of the CYP requiring admission to a hospital again for treatment for mental disorder.

16.2 Non-Section 117 aftercare needs

A CYP in receipt of aftercare services under Section 117 aftercare may also have or develop needs that do not arise from, or are not related to, their mental disorder, and so do not fall within the scope of Section 117 aftercare, for example physical health needs. These needs not related to the Section 117 aftercare, cannot be funded as Section 117 aftercare, and must be funded by statutory services or outside of the Section 117 aftercare needs by Continuing Healthcare for example.

Referrals to the appropriate agency may be required for identified non-Section 117 aftercare unmet needs.

16.3 Where there is debate around 'is this a Section 117 aftercare need'

There is often debate around those needs where it may or may not be a Section 117 aftercare need, in these cases the assessors will need to identify the need and the reasoning for their decision (the assessors must make a decision as to a Section 117 aftercare need or not a 117 aftercare need) if there is a differing of opinion this will need to be flagged up to the CYP Section 117 Quality Assurance Group who will advise the assessors on where the need sits and the rationale behind this to aid future decision making.

Care planning flow chart and Direct Payments / Personal Health budget information

16.4 Care programme approach (CPA)

In summary the care programme approach (CPA) was the current framework which governs the assessment of needs and planning¹ of care of mental health individuals. 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 individuals who are entitled to Section 117 aftercare. The CYP currently on the CPA system will remain on CPA until

another system is communicated and implemented. It must always be remembered that this is the families plan and services should facilitate integration into the family setting. A holistic approach is required during the assessment.

17.0 Section 117 aftercare process following identification of Section 117 aftercare needs.

Process of securing support.

1. Assessment of Section 117 aftercare needs with CYP and Parents/Guardians/Carers + MDT.
2. Care Planning with CYP and Parents/Guardians/Carers + MDT.
3. Where aftercare needs have been identified and agreed the Section 117 aftercare Lead Professional will in conjunction with the allocated Social Worker coordinate the options to meet the identified needs.
4. The options can relate to statutory services that exist within the services and can be utilised, or an independent provider where there is a funding requirement.
5. Where statutory services are identified in meeting a need a referral is made to the appropriate directorate.
6. Where there is a need for a package of care to be funded this will be detailed and forwarded to the CYP Section 117 aftercare Quality Assurance Group (meets monthly) with the assessment, care plan and other relevant information, (Risk assessments, desired outcomes from the care package, provider details, options considered). It is advisable to take the opportunity to pre-inform the CYP Section 117 aftercare Quality Assurance Group of a CYP, that a care package is being sourced and the expected time scale for presenting it to the group). A referral form is located at the icon below
7. A. For the ICB three quotes are required in respect of funded care packages (ICB financial process and ICB role to source the quotes),
B. For the Local Authority the information is passed to the Placement Search Team for action.
Time must be allowed for approval for funded packages of care, prior to the planned discharge, to ensure all aftercare need are in place at the point of discharge.
8. The CYP Section 117 aftercare Quality Assurance Group will either
A. approve the package of care or
B. defer providing the Lead Professional with details of what needs to be done to progress meeting the aftercare needs.
9. Any provider shadowing or relevant information shared with the funded service is agreed and in place.
10. Once the package is approved an implementation date is agreed linked to the date of discharge.
11. CYP identified as clinically ready for discharge from hospital and the agreed care package in place at the point of discharge.
12. The Parents/Guardian/Carers provide informal care, the Lead Professional to double check their readiness for the discharge.
13. Aftercare services commence.

14. Review process commences. Information from each review is forwarded to the CYP Section 117 aftercare Quality Assurance Group.

Review process CYP
Quality Assurance Group

Referral form to the CYP Section 117 Aftercare

Review form information to the CYP Section 117 Quality Assurance Group

Time Scales

All packages of care must be sourced in a timely way and essentially being in place at the point of the CYPs planned discharge date. A delay in discharge should not occur due to a delay in process bearing in mind the process of sourcing providers and seeking approval from the CYP Section 117 aftercare Quality Assurance Group who meet monthly.

Where there is a delay in discharge this will be escalated to:

- For Lincolnshire County Council the Head of Children's Services for the area in which the CYP lives in
- For NHS Integrated Care Board, the Chief Commissioning Manager (Mental Health, Intellectual Disabilities & Autism)
- Where appropriate the Joint Delivery Board

Sourcing packages of care

The core purpose of any care and support is to help individuals to achieve the identified outcomes that matter to them and their family.

All care packages must be identified on the plan of care, in line with the identified assessed needs, identification of support needs for individuals is through assessment, and care planning processes.

Everyone's needs are different and personal to them, consideration as to how to meet each person's specific needs rather than simply considering what service they will fit into. The concept of meeting needs recognises that modern care and support can be provided in any number of ways rather than the previous traditional models. Direct payments and Personal Health Budgets can provide freedom to support the identified needs in different ways. Discussion and communication is key in the team around the child getting the correct support in the correct way to the CYP and their family.

When sourcing packages of care the ICB requires 3 quotes, and Social Care pass to their Placement Search Team. Timely communication is required at an early stage to ensure each agencies process are followed, to ensure identified aftercare needs can be met at the point the CYP is clinically ready for discharge.

18.0 Reviews (Section 117 aftercare).

The identified Section 117 aftercare Lead Professional is responsible for ensuring Section 117 aftercare needs are reviewed at the agreed timescale, recording progress towards the CYP's goals/ independence, community presence, integration within the family and supported with a focus on promoting recovery. The Section 117 aftercare can be integrated into the team around the child reviews.

The Section 117 aftercare Lead Professional will give consideration as to, who needs to be involved in reviewing the Section 117 aftercare needs of a CYP. The child or young person and their Parents/Guardians/Carer, an appropriate representative from Social Care and from the NHS, and other relevant professionals involved in the ongoing support of the CYP. The list of potential attendees can be found at paragraph 12 above.

18.2 Review time scales

Aftercare reviews should take place at intervals of 72 hours post discharge, 6 weeks post discharge, 6 months post discharge, 12 months post discharge and annually thereafter, extra ordinary 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 CYP Section 117 aftercare Quality Assurance Group..

- If the individual is discharged from hospital into adult services the first review will be 72 hours post discharge, 6 weeks, 6 months 12 months and annually thereafter
- If the individual has been discharged and is in receipt of aftercare services prior to their 18th birthday and transitioning into adult service reviews should follow the agreed timescales if there is no change to the package of care the reviews will continue as planned.
- Should there be a change to the care package the first review will be after 72 hours following the change and the agreed time frame followed of, 6 weeks, 6 months 12 months and annually thereafter.

18.3 Consideration to end entitlements and eligibility at reviews

It is at review meetings that consideration to end either an entitlement(s) or eligibility for Section 117 aftercare will be discussed

19.0 Ending Entitlement and eligibility in relation to Section 117 aftercare.

19.1 Duty to provide Section 117 aftercare

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

19.2 Note in respect of differing responsible authorities

Please note the responsible commissioners for a CYP may come from different authorities in as much as the NHS ICB may be Nottingham and the Local Authority may be Lincolnshire or vice versa, the same principals will apply to all relevant responsible commissioners for Section 117 aftercare. Similarly, health services may come from different Integrated Care Boards for non-Section 117 aftercare health needs for example if an individual who has Section 117 aftercare funded by Lincolnshire ICB moves area their 117 aftercare needs are still funded by Lincolnshire ICB, however, if they change GP practice to the new area and develop

other non-related Section 117 aftercare health needs these could be funded by the ICB in the new area. The current Who pays? Determining which NHS commissioner is responsible for making payment to a provider is the relevant document for guidance.

19.3 Change of the responsible commissioners.

Once Ordinary residence is confirmed the responsible commissioner role remains with the Integrated Care Board and Local Authorities until ended, therefore for those CYP whose ordinary residence is Lincolnshire the Lincolnshire County Council and the NHS Lincolnshire Integrated Care Board remain the responsible authorities irrespective of where the CYP lives in the future, if the Section 117 aftercare eligibility remains in place. Only once the eligibility has been ended does the ordinary residence re commence if the individual has moved area or GP practice. Should a second eligible detention occur the responsible Local Authority revert to the ordinary residence criteria if the CYP moved to a different area, whilst the original ICB retains the commissioning responsibility should there be a further eligible section detention.

19.4 Reviewing the need for Section 117 aftercare

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

19.5 Ending Section 117 entitlement(s)

Consideration to end an entitlement would be considered at a review meeting where one of the topics under review is the Section 117 aftercare. If there is agreement for an entitlement, or all entitlements to end this recommendation and supporting information should be forwarded for ratification by the CYP Section 117 aftercare Quality Assurance Group. The views of the CYP and their Parents/Guardians/Carers will form an important part of the discussion.

All decisions must be recorded as evidence of the outcome.

Supporting information will include

- The review assessment documents, for LCC the Child and Family assessment and review documents identifying progress.*
- The review Joint health assessment and care and review document.*
- Reports from other professionals involved
- Reports from providers of a service
- Risk assessments
- Care records
- The CYP's/family views.*
- Which services are to be discontinued.*

Note this is not an exhaustive list, the items marked with an * are mandatory information to be forwarded to the CYP Section 117 aftercare Quality Assurance Group.

19.6 Formal letter

A formal letter from the chair of the CYP Section 117 aftercare Quality Assurance Group outlining the ending of one or more entitlements will be sent to the CYP and their Parents/Guardians/Carers.

See icons below

Template letter ending entitlement(s)
ending entitlement(s)

Guidance for completing letter

Eligibility for services under Section 117 aftercare remains in place until eligibility is ended.

19.7 Ending Section 117 aftercare Eligibility

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

The initial consideration to end Section 117 aftercare eligibility would be made at a meeting (multi-disciplinary) where section 117 aftercare review of CYPs on Section 117 aftercare which is an agenda item as part of that meeting, this review can be a part of another planned meeting, with a specific Section 117 aftercare review agenda item.

A Section 117 aftercare team around the child multi-disciplinary discharge meeting must be convened when discharge from Section 117 eligibility is considered, and all decisions must be recorded as evidence of the outcome. The views of the CYP and their Parents/Guardians/Carers should form an important part of the discussion. If there is agreement that Section 117 aftercare eligibility can be ended/discharged, this will be recommended to the CYP Section 117 aftercare Quality Assurance Group with supporting information as described above, who will take a final decision, this decision will be communicated in writing by the chair of the CYP Section 117 aftercare Quality Assurance Group to the individual and their Parents/Guardians/Carer.

A formal letter from the chair of the CYP Section 117 aftercare Quality Assurance Group outlining the ending of the Section 117 aftercare eligibility will be sent to the CYP and their Parents/Guardians/Carers.

Supporting information to be forwarded to the CYP Section 117 aftercare Quality Assurance Group is identified at paragraph 24.3 below.

Template letter ending Section 117 eligibility
ending eligibility

Guidance for completing letter

19.8 Informing the LPFT Mental Health Act Administrators.

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

20.0 Process for reinstating Section 117 aftercare.

20.1 Reinstating Section 117 aftercare

Where it is determined that a CYP who is eligible for Section 117 aftercare has had their eligibility or entitlement ended prematurely, and there is a need to reinstate care in respect of; “meeting a need arising from or related to the CYP’s mental disorder and reducing the risk of a deterioration of the CYP’s mental condition and, accordingly, reducing the risk of the CYP requiring admission to hospital again for treatment for mental disorder”. Reinstatement of eligibility and entitlement should follow the process for review identified in the flow chart at the icon below.

Flow Chart reinstating Section 117 aftercare

20.2 Assessing the urgency of the need to reinstate Section 117 aftercare

The Section 117 aftercare Lead Professional will assess the urgency of the need to reinstate eligibility or entitlement for Section 117 aftercare and takes appropriate action to meet urgent need via interagency communication and agreement or, if non urgent via the agreed process of review and process through the CYP Section 117 aftercare Quality Assurance Group, who will be furnished with all relevant information and will review the premature ending of the case for learning points.

20.3 Urgent need

Urgent decisions that are required must be escalated via an extraordinary meeting of the CYP Section 117 aftercare Quality Assurance Group or escalated via an electronic panel process with a decision expected within 6 working hours. Members of the CYP Section 117 aftercare Quality Assurance Group will be the escalation point for the urgent case and prioritise to ensure a response within the six-hour time scale. Escalation will be via email and telephone.

Section 117 aftercare **urgent** funding request form

20.4 Informing the LPFT Mental Health Act Administrators

The Mental Health Act Administrators must be informed of the change in the mental Health Act status of a CYP.

21.0 Disengagement from service.

Eligible CYP and Parents/Guardians/Carers are under no obligation to accept the aftercare services they are offered following assessment, any decisions they may make to decline them should be fully informed. An unwillingness to accept services does not mean that the CYP does not need to receive services, nor should it preclude them from receiving services later under Section 117 aftercare should they change their mind. Discussion on an individual basis to ensure all legal obligations are maintained such as those relating to a Community Treatment order (CTO).

When a CYP 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 CYP.

Aftercare services under Section 117 aftercare should not be withdrawn solely on the grounds that:

- The CYP has been discharged from the care of specialist mental health services.
- An arbitrary period has passed since the care was first provided.
- The CYP is deprived of liberty under the MCA.
- The CYP has returned to hospital informally or under a Mental Health Act Section 2.
- The CYP is no longer on a CTO.
- The CYP is no longer on Mental Health Act Section 17 leave.

Even where the provision of aftercare has been successful in that the CYP is now well settled in the community, the CYP may continue to need aftercare services to prevent a relapse or further deterioration in their condition.

22.0 Responsible commissioning authorities prior to and after ending eligibility.

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

23.0 Recording Section 117 aftercare information.

Records must be managed in accordance with the law and local policies and procedures. Health and Social care professionals also have professional responsibilities for example, complying with the Caldicott Principles and record keeping standards.

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

An accurate written electronic record detailing all aspects of CYP monitoring is important, it contributes to the circulation of information amongst the different Professionals and teams involved in the CYP's treatment/care and progress. Accurate record keeping indicates a healthy respect for the CYP and colleagues as an up-to-date information record. Records relating to the care, treatment, and progress of each CYP using the service must be kept as defined by each Authority and be fit for purpose which means they must be complete, legible, Indelible, accurate, and up to date, with no undue delays in adding information as far as is reasonable.

23.1 Information input to data base(s)

Details entered onto each organisations data base must be completed in full and should indicate that the CYP is eligible for Section 117 aftercare for LPFT using RIO and LCC using MOSAIC and for ICB Broadcare, practitioners from LPFT, LCC and ICB should be able to check the mental health act status on their database as described in paragraph 6.0 above for RIO and MOSAIC users.

24.0 Lincolnshire County Council and NHS Lincolnshire Integrated Care Board Section 117 aftercare Funding Agreement.

Funding for Section 117 aftercare CYP will be discussed by the respective commissioning Authorities on an individual basis, through the CYP Section 117 aftercare Quality Assurance Group, the process for agreeing funding must involve individuals who can make decisions in relation to funding to prevent any delays in meeting the entitlement for Section 117 aftercare services.

24.1 Urgent Care Pathway meeting

The Urgent Care Pathway meeting discuss all aspects of the operational day to day CYP individuals at risk of admission, those individuals admitted which includes those CYP on an eligible section and entitled to Section 117 aftercare and those individuals in inpatient settings who are detained on non-eligible sections or informally admitted.

Draft CCETT Standard Operating Procedure V.4.0 (LPFT)

24.2 Section 117 aftercare CYP Out of Area Treatments Panel (CYP OATs)

The Section 117 aftercare CYP OATs Panel will consider individual CYP Section 117 aftercare requests for funding where a service, intervention or treatment falls outside existing service agreements. It is anticipated that the requests will be submitted due to an unmet need or due to an un-commissioned service. The Panel will also oversee and monitor the type and nature of the requests with a view to identifying themes and making recommendations for planning to address those service gaps in Lincolnshire. The terms of reference for this group can be found at the icon below.

Terms of reference Section 117 aftercare Out of Area Treatments Panel

24.3 CYP Section 117 aftercare Quality Assurance Group

The CYP Section 117 Aftercare Quality Assurance Group provides joint agency managerial monitoring of Section 117 aftercare application across Lincolnshire. Including for those CYP preparing for, discharge, packages of care from statutory or a funded care package relating to Section 117 aftercare, reviews and provides ratification for ending entitlements or eligibility for Section 117 aftercare.

Contact point for CYP Section 117 aftercare Quality Assurance Group

The CYP Section 117 aftercare Quality Assurance Group can be contacted via licb.mhldateam@nhs.net. All correspondence must have **S117** in the subject of the email.

The terms of reference for the CYP Section 117 aftercare Quality Assurance Group can be found at the icon below.

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

CYPs who are eligible for Section 117 aftercare, following assessment by a Social Worker and an NHS Health worker can offer a Social Care Direct Payment and a Personal Health Budget in respect of their entitlement for service(s).

The criteria is set out in the relevant agency policy:

For Lincolnshire County Council, 'Direct payments policy' this can be found at the icon below.

Direct Payments Policy LCC

For NHS Lincolnshire Integrated Care Board 'Lincolnshire Personal Health Budget Direct Payment Guidance. This can be found at the icon below.

Personal health budget policy ICB

24.5 Working together with funding packages

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 NHS Lincolnshire Integrated Care Board work closely with each other to ensure processes are aligned for any CYP who receive a Direct Payment via Social Care and a Personal Health Budget from the ICB (through a jointly funded package).

24.6 Process for offering Direct payments and Personal health budgets

The process for offering and making Direct payments and personal health budgets are described in the respective policies for Lincolnshire County Council and NHS Lincolnshire Integrated Care Board,

For LCC Direct Payments aren't currently widely used across CYP Social Care (except in relation to children with disabilities) and agreement that this is a further process/way of working in its own right that will need developing across social care teams for the purpose of aftercare provision.

Direct payments and Personal Health Budgets

Where there is a decision taken by the CYP and their Parents/Guardians/Carers for a direct payment or a personal Health budget, the Section 117 aftercare Lead Professional will refer directly to

- The allocated Social Worker to discuss eligibility and the provision of Direct Payments in line with the identified Section 117 aftercare needs.

- Contact the Integrated Care Boards Mental Health Learning Disability and Autism team who will action the eligibility and the requirements of processing the Personal Health Budget in line with the agreed Section 117 aftercare needs. Referral by the Section 117 aftercare Lead Professional to:
The Mental Health, Learning Disabilities & Autism Commissioning Team: Email licb.mhldateam@nhs.net

Icon: Additional information how Direct Payments and Personal Health Budgets can support individual CYP.

25.0 Transition planning.

Transition planning and referrals for children and young people into adult services in respect of Section 117 aftercare should be identified at age 16, at the very latest or immediately if aged over 16 on admission, where aftercare services are or may be required at the age of 18 years and transferring to adult services. Referrals will be made following the local protocols for each agency.

There are other time scales in respect of planning for adulthood these plans including the Section 117 aftercare must dovetail together the statement above relates to the referrals to adult services in respect of Section 117 aftercare and does not prevent prior and ongoing planning for adulthood which is good practice:

- For young people with education, health, and care plans this **must** happen from year 9, as set out in the Children and Families Act 2014. For young people leaving care, this **must** happen from age 15-and-a-half.
- For young people with a child in need plan, an education, health and care plan or a care and support plan, local authorities **must** carry out a review, as set out in the Children Act 1989, the Children and Families Act 2014 and the Care Act 2014.

Legislation and the respective responsibilities of the ICB and LA and are different in CYP and adult services.

Referral to the appropriate adult service is an important step in preparing for the transition into adult services and should be made at the latest at age 16 years.

- The NICE quality standard QS140 Transition from CYP to adult services sets out some fundamental principles of assuring an effective transition, along with the NICE guidance for transition (NG43) which is a separate and more comprehensive document both can be found at the icons below
- Transition: moving on well sets out good practice for health professionals and their partners in transition planning for CYP with complex health needs or disabilities.
- A Quick Guide: Commissioning for transition to adult services for young people with Special Educational Needs and Disability (SEND) explains how all relevant services should work together with a young person to identify how they can best support that person to achieve their desired outcomes.

NICE quality standard QS140 Transition
transition (NG43)
from CYP to adult services

NICE guidance for

25.1 Section 117 aftercare Lead Professional and Transition to Adult services

Transfers of responsibility from CYP to Adult services will be the responsibility of the identified CYP Section 117 aftercare Lead Professional in ensuring that transfer of care is agreed, and all relevant information is transferred in a timely manner in accordance with the organisations transitions/transfer policy, the Section 117 aftercare Lead Professional will remain the Lead Professional until the adult multi-disciplinary team identifies a Section 117 aftercare Lead Professional and transfer of these professional roles is agreed.

The identification of CYP who may require a transition plan is through the urgent care meetings and managed through the Team around the child meetings which will include the respective adult services.

There is an awareness that some services will not accept referrals prior to age seventeen and a half years. It is in the best interest of each CYP to be assessed for transition on an individual basis, the identification at age seventeen years allows for time to arrange aftercare where needs may be complex and require additional time for assessment to implementation. This is a very small cohort of CYP with very differing needs, which requires sensitivity in planning when in transition.

25.2 Adult assessment and care planning tools for individuals transitioning into adult services

The adult policy and the procedures and guidance and agreed assessment and care planning/review tools should be used when transitioning into adult services.

The assessment and care planning tools when transitioning into adult services are the relevant agency assessment and care planning tools which can be located within the (adult) Section 117 aftercare procedures and guidance document for adults at the adult appendix ?

Transition Principles for young people.

25.4 Transition planning Adult Learning Disability services.

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 delegated NHS functions alongside the Council Functions and act as commissioner of the services with a pooled budget The pooled

budget enables the Local Authority to manage and maintain the staffing and funding arrangements on behalf of the NHS Integrated Care Board for those individuals transferring to adult learning disability services via the pooled budget. There is a single point of contact within Lincolnshire County Council for NHS and social care referrals for CYP Learning Disability individuals transitioning into adult learning disability services and includes those individuals eligible for Section 117 aftercare.

There will occasionally be a CYP with a learning disability and Section 117 aftercare eligible who is the responsibility of Lincolnshire NHS Integrated Care Board but with a Local Authority other than Lincolnshire, in these cases the NHS commissioning will be the responsibility of the ICB's Mental Health, Learning Disability, and Autism team, and the relevant Local Authority as these CYP in transition are not part of the section 75 learning Disability agreement.

25.5 Funding agreements on transfer to adult services

For Learning Disability and working age Section 117 aftercare individuals, when transitioning into adult services there is an agreement on the level of funding for each organisation. Lincolnshire County Council and Lincolnshire Integrated Care Board have funding agreements in place. The figure for deciding the 65%, 35% split for working age adults at the respective Section 117 Quality Assurance Groups will be reviewed annually and uplifted in line with inflation as agreed by LCC and the ICB. The annual figure will be agreed through the Joint Delivery Board and communicated out prior to 1st April each year.

26.0 Learning Disability and people with autism programme (LDA programme) (previously Transforming Care).

The LDA programme relates to those CYP who have a learning disability, autistic people, or both and especially focuses on people with behaviour of concern, 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 rolled out a programme of Care, (Education) and Treatment Reviews (C(E)TRs) of individuals to prevent unnecessary admissions and avoid lengthy stays in hospital.

26.1 LDA programme, eligibility to Section 117 aftercare and funding

CYP in hospital on the LDA programme, Care, (Education) and Treatment Reviews pathway, and are detained on one of the eligible mental health act Sections, will be eligible to Section 117 aftercare upon discharge from the section.

The entitlement to services with funding will be agreed following assessment and care planning on a case-by-case basis.

26.2 Funding for individuals when discharged from hospital after their 18th Birthday

For individuals on the LDA programme pathway should they become 18 years of age prior to discharge, the first 3 months of any funded aftercare package is 100% funded by Health with a review at 3 months to ascertain the lead agency and the split of funding is implemented as noted in 24.5 above.

27.0 Mental Health Review Tribunals.

If you are new to Mental Health Act Tribunals (MHRT) they consist of

- a judge – the chairperson of the panel
- a medical member – a psychiatrist (but not one who works in the hospital you are in)
- a lay member – a professional with relevant experience

The MHRT will:

- request a report prior to the hearing by a specified date
- look at the mental health of the CYP and how well they are recovering
- speak to the professionals involved in the CYP's care
- ask for up-to-date reports, (for the Section 117 aftercare Lead Professional it is always advisable to inform the MHRT of the plans or anticipated plan on discharge usually in the report that is required prior to the hearing).

They will use this information to decide if the CYP:

- still fits the conditions for being sectioned, or
- should be discharged from Section and possibly leave hospital

28.0 Joint Professional Resolution and Escalation Protocol in relation to Section 117 Aftercare.

The Joint professional resolution and escalation protocol document identifies the principals for resolving differences between professionals and agencies, these principals have been extracted from the Lincolnshire Safeguarding Adults Partnership, 'Joint Professional Resolution and Escalation Protocol October 2022'

Where there is the need for an escalation process this will be agreed via multi-agency and line management interventions in line with the principals at the extract of principals taken from the Lincolnshire Safeguarding Adults Board, Lincolnshire Safeguarding Children Board and the Safer Lincolnshire Partnership taken from the 'Joint Professional Resolution and escalation protocol October 2022' this can be found at the icon below.

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 Section 117 aftercare, differences may arise. Any difference that arises with regards to Section 117 aftercare, within the responsible organisations, are to follow the principals identified in the above document, using line management and multi-agency meetings escalation where necessary.

Where there is a difference regarding funding and/or commissioning the principals of the Joint Professional Resolution and Escalation Protocol 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 issue, 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 the

CYP from hospital. All relevant information should be provided to enable informed discussion towards a resolution.

Joint Professional resolution and escalation Protocol

28.1 Disputes between other Local Authorities and Integrated Care Boards.

Where there is a difference between a Lincolnshire Local Authority and another Integrated Care Board, or vice versa the Joint Professional Resolution and Escalation Protocol process can be invoked, in agreement with both authorities, this can be the initial step in resolving the difference, prior to moving to the nationally agreed processes as described below in paragraphs 28.3 for Integrated Care Boards and below for Local Authorities.

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.

28.2 Funding arrangements where there are difference of opinion.

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 Joint Professional Resolution and Escalation Protocol should be followed, and current funding arrangements should remain in place until resolution.

28.3 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 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. A template for national arbitration can be found at appendix 3 if all local processes have been unable to resolve the dispute, this can be found at

<https://www.england.nhs.uk/publication/who-pays-determining-which-nhs-commissioner-is-responsible-for-commissioning-healthcare-services-and-making-payments-to-providers/>

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.

A template for escalating for national arbitration after all local dispute processes have been exhausted without

29.0 Complaints.

Where individuals express dissatisfaction with any aspect of their Section 117 aftercare collaborate engagement is required to resolve the complaint in the first instance. If an individual remains dissatisfied and wishes to make a formal complaint this should be done in line with each partnership organisations complaints procedure. One collaborative response from the agencies involved will be made to the complaint through each organisations complaint department and delivered to complainant by the Section 117 Lead Professional.

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.net Formal Complaint: licb.feedbacklincolnshireicb@nhs.net

30.0 Training.

Each partnership organisation is responsible for providing sufficient and suitable level of training for each of their employee groups in respect of section 117 aftercare. To ensure all staff involved in the operationalising this policy should have an appropriate knowledge of the Mental Health Act and in particular Section 117 aftercare.

Any employee who has queries regarding the content of this policy should contact their Line Manager for clarity in the first instance.

31.0 References.

- supreme court Judgement 10th August 2023 [R \(on the application of Worcestershire County Council\) V Secretary of State for Health and Social Care](#)
- Mental Health Act 1983 (as amended 2007)
- “Who pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers (2024 version)
- Shah v London Borough of Barnet (1983) 1 All ER 226
- 2005/2019 Mental Capacity Act. (2005 [Mental Capacity Act 2005](#)), (2019 amendment [newbook.book](#))
- Children Act 1989/2004 [Children Act 2004](#)
- Gillick v West Norfolk and Wisbech Area Health Authority (1986)AC 112
- Mental Health Act Code of Practice 2015. [Code of practice: Mental Health Act 1983 - GOV.UK](#)
- Children and Families Act 2014 [newbook.book](#).
- Discharge from mental health inpatient settings (26 January 2024) [Discharge from mental health inpatient settings - GOV.UK](#)
- People with Learning Disability and Autistic People LDA (previously Transforming Care). NHS England Homes not hospitals.
- Direct Payments policy Lincolnshire County Council 9 June 2022
- Personal Health budgets NHS Lincolnshire Integrated Care Board

- National Framework for NHS Continuing HealthCare and NHS-funded Nursing Care. [National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care - July 2022 \(Revised\) - corrected May 2023](#)
- Care Act 2014. [Care Act 2014](#)

Appendix.

Appendix A:- Mental Health Act Section 117 aftercare for Children and Young people – Joint Policy for NHS Lincolnshire Integrated Care Board Lincolnshire County Council Lincolnshire Partnership Foundation Trust	
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