

Mental Health Act Section 117 Aftercare for Children and Young People - Joint Policy for

NHS Lincolnshire Integrated Care Board
Lincolnshire County Council
Lincolnshire Partnership NHS Foundation Trust

V3.0 Children and Young People

Document Control

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Version History

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14.01.2025	V3.0	<p>Included information in respect of transforming care.</p> <p>-----</p> <p>-----</p> <p>Included transition from CYP to adult services.</p> <p>-----</p> <p>-----</p> <p>Removed commissioning scenarios.</p> <p>-----</p> <p>-----</p> <p>Updated the Commissioner information following the supreme court Judgement 10th August 2023 <u>R (on the application of Worcestershire County Council) (Appellant...</u></p> <p>-----</p> <p>-----</p> <p>Updated the complaints information.</p> <p>Included Interagency dispute information.</p> <p>Updated finance information.</p> <p>Revised statement in respect of training.</p> <p>-----</p> <ul style="list-style-type: none"> • Updated the 'Who pays' in respect of the NHS guidance relating to health responsible commissioning 2024. • Added Parental Responsibility, Older children, and Children making decisions: Gillick competency. • Added Meeting the CYP and family needs. • Added the need for communication between the Joint delivery board 	
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		<p>and the relevant children's operational groups.</p> <ul style="list-style-type: none"> • Added the new Section 117 aftercare Quality Assurance Group which is referenced throughout the policy. • Added the term 'clinically ready for discharge'. • Added roles for the key professionals involved in the joint working. • Readjusted the wording to 'should commence as soon as clinically possible' • Added the imperativeness of Parent/Guardian and Carers involvement, and any care Parents/Guardian's or Carers provision must not be too onerous. • Separated the support by independent providers and Parents/Guardians/Carers • Adjusted the transition planning to 16 years of age • Added the appointment of a Section 117 aftercare Lead Professional from the adult services at transition to adult services. • Added the process should there be an issue of non-agreement. 	
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Consultation

Date	Version Number	Organisation in addition to Partnership Organisations
17.03.2025	3.0	Expert by Experience

Contents

1.	Introduction.....	6
2.	Purpose	7
3.	Scope	8
4.	Eligibility and Entitlement.....	8
5.	Roles and responsibilities	9
6.	Identifying the responsible organisations.....	11
7.	Capacity and Consent	12
8.	Additional Considerations in relation to Children and Young People	14
9.	Advocacy	16
10.	Aftercare planning and discharge process	16
11.	Reviews.....	20
12.	Transition from child to adult services.....	21
13.	Ending entitlement(s) to Section 117 aftercare services.	23
14.	Ending Section 117 aftercare Eligibility.....	24
15.	Disengagement from service	24
16.	Reinstating Section 117 aftercare.....	25
17.	People with Learning Disability and Autistic People (LDA)	26
18.	Funding.....	26
19.	Direct Payments and Personal Health Budgets.....	27
20.	Section 117 Register	28
21.	Section 117 aftercare Associated guidance	28
22.	Charging for prescribed medications	29
23.	Resolution Processes	30
24.	Complaints.....	31
25.	Training.....	32
26.	References.....	32

1. Introduction

1.1 This policy is for the commissioning of aftercare for Children and Young People (CYP) eligible to Section 117 aftercare of the 1983 Mental Health Act (as amended 2007). Section 117 of the Mental Health Act 1983 (as amended 2007) imposes a free-standing duty on Lincolnshire NHS Integrated Care Board (LICB, ICB) and Lincolnshire County Council (LCC), in co-operation with voluntary agencies, to provide or arrange for the provision of aftercare to certain eligible CYP. This duty arises once the individual 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 LICB and the LCC are satisfied that the person concerned is no longer in need of such services. Eligible individuals cannot be charged for Section 117 aftercare services under the free-standing duty.

1.2 Organisational Reference

This joint agency Mental Health Act Section 117 aftercare policy for CYP is for the following partnership organisations to follow and refer to:

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

1.3 What are Section 117 Services?

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

- 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.

Section 117 services are not concerned with support in general but are those which are required to meet an assessed care need that arises from a person's mental disorder and are aimed at minimising the need for future re-admission to hospital for treatment for that disorder.

The services *may* include:

- provision of domiciliary services
- access to accommodation and welfare rights
- social work support
- day services for example, support with education, social inclusion and relationships
- medical supervision and psychological support

- specific therapies
- occupational therapy

Services providing care or support for a disability, illness, substance misuse problems, and common needs not arising from the patient's mental health disorder cannot be provided under section 117. These must be met under separate health and community care legislation.

1.4 Commitment to partnership working

As a partnership Lincolnshire Partnership NHS Foundation Trust (LPFT), LICB and LCC are committed to the ongoing support and recovery of CYP through the effective coordination of Section 117 aftercare provision.

Through this partnership and commissioning approach LPFT, LICB and LCC are committed to ensuring that individuals receive the services to which they are entitled under Section 117 aftercare and those individuals who no longer require such services have the entitlement reviewed and where appropriate ended.

2. Purpose

This policy is for the commissioning of aftercare services for those persons entitled to Section 117 of the Mental Health Act 1983.

This policy has been developed to help:

- Inform robust and consistent commissioning decisions.
- Ensure that there is consistency in the local area over the services that individuals are offered.
- Ensure the ICB and Local Authorities achieve value for money in purchasing of services for individuals eligible for Section 117 after care.
- Facilitate effective partnership working between health care providers, NHS bodies and the Local Authority in the area responsible for the individual.
- Promote individual choice as far as reasonably possible and to be clear about the health elements to be funded.
- Facilitate effective partnership working with the CYP and their family – setting out a commitment to involve and listen to the CYP and their Parents/Guardian/Carer, taking into account any implications for the family.

This policy details the legal requirements, responsibilities and agreed course of action in commissioning care which meets the individual's assessed needs. This policy has been developed to assist the ICB and Local Authorities to meet their responsibilities under the sources of guidance listed towards the end of this policy.

Whilst improving quality and consistency of care, this policy is intended to assist the ICB and Local Authorities to make decisions about appropriate after care provision for individuals in a robust way.

3. Scope

This policy applies to all employees and appointees of the three partner organisations

Partner approval will be required for all policies created collaboratively across the three partner organisations where a joint working approach is adopted.

4. Eligibility and Entitlement

4.1 Eligibility

A CYP will be eligible for Section 117 aftercare once they become subject to one of the qualifying sections of the Mental Health Act.

- Section 3 – Admission for treatment
- Section 37- Power of courts to order hospital admission or guardianship
- Section 45A – Power of the higher courts to direct hospital admission*
- Section 47 – Removal to hospital of persons serving sentences of imprisonment*
- Section 48 – Removal to hospital of prisoner*

**Sections 45A, 47, and 48 do not normally apply to Children and Young People.*

Further information about these sections of the Mental Health Act can be accessed via the Department of Health website which has published an information leaflet for each Section. It is the responsibility of all health and social care professionals to ascertain if a person under their care is eligible for Section 117 aftercare and who the responsible commissioners are.

The Mental Health Act administration team within LPFT must be informed of any CYP who is detained on any Section of the mental health act where they are eligible for Section 117 aftercare.

Aftercare should start to be considered at the point of admission to ensure that the appropriate aftercare services are identified in readiness for an individual's planned discharge from hospital when deemed Clinically ready for discharge (CRD) or following youth custody and must be child and young person and family focused, always informed by an assessment of need.

LCC, LICB and LPFT will be responsible for providing information regarding any CYP who becomes subject to a qualifying Section on any other site.

The process and responsibilities for the management of the Section 117 aftercare eligibility are set out in the **Section 117 Aftercare Procedures and Guidance Document**.

4.2 Entitlement

Entitlements are the service or services provided to the CYP post discharge, these can be statutory or independently funded services and will be the focus of reviews in monitoring progress, these service entitlements can be changed or ended following the appropriate review and Section 117 aftercare Quality Assurance Group ratification process.

4.3 Young children with complex and intense aftercare needs

The services are identifying an increase in the number of children below the age of 13 with a complexity and intensity of need who in all probability will require high levels of skilled Section 117 aftercare support. Strategically, plans to manage and provide appropriate aftercare support should be in place. There should be two-way communication between the Joint Delivery Board and the operational groups in respect of strategic future planning.

In relation to the child or young person, 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 children in care, care leavers, and those with special educational needs or disabilities, as well as safeguarding vulnerable children.

5. Roles and responsibilities

Role	Responsibilities
Social Workers <i>The Local Authority will allocate a responsible Social Worker</i>	<ul style="list-style-type: none">➤ Liaise with the CYP, their parents/Guardian/carers, the NHS Health Professional and Hospital Lead Professional.➤ To work alongside the NHS Health Professional in assessing the aftercare needs and care planning.➤ Where appropriate source Section 117 aftercare care packages and forward to the CYP Quality Assurance Group for approval. Participate in Section 117 aftercare review of care packages with the NHS Health Professional.➤ Refer family members for a carer's assessment as appropriate.➤ To update the electronic recording system for the individual.
Hospital Lead Professional	<ul style="list-style-type: none">➤ To inform the CYP and their Parents/Guardian/Carers of their rights whilst detained, and provides

<p><i>The professional who co-ordinates the work of the hospital where CYP is detained, on behalf of the CYP.</i></p>	<p>information in respect of Section 117 aftercare.</p> <ul style="list-style-type: none"> ➤ To work with the responsible Social Worker and the Section 117 Lead Professional (health) in the assessment and care planning of section 117 aftercare needs. ➤ To work with the Parents/Guardian/Carers, to aid understanding of the therapies in promoting the health of the CYP.
<p>Section 117 aftercare Lead Professional</p> <p><i>The CYP Section 117 aftercare Lead Professional will come from LPFT either from Child and Adolescent Mental Health Service (CAMHS) or CAMHS Crisis and Enhanced Treatment Teams (CCETTs), <u>unless otherwise indicated by the MDT.</u></i></p> <p><i>In Lincolnshire the CAMHS service are usually involved at the point of detention or if the individual is not known to the CAMHS team the CYP will be allocated to the CAMHS Crisis and Enhanced Treatment Team managed by LPFT.</i></p>	<ul style="list-style-type: none"> ➤ To be main care co-ordinator. ➤ To work with the Social Worker and Hospital Lead Professional in identifying the Section 117 aftercare needs through assessment and care planning. ➤ Where appropriate source Section 117 aftercare care packages and forward to the CYP Quality Assurance Group for approval. ➤ Participate in Section 117 aftercare review of care packages with the Social Worker. Work with the CYP, Parents /Guardian/Carers in lead up to and post discharge. ➤ Taking the lead role post discharge implementing the care plan and reviewing.
<p>Multi-disciplinary team</p> <p><i>The people that have a stake in assisting the CYP with their mental health. The team will consist of the CYP, Parents/Guardian/Carers and anyone else who will have an input to the individual. A list of potential attendees can be found in the associated Procedures and Guidance.</i></p> <p><i>The multi-disciplinary team will change at various points in the CYP's hospital and post hospital journey.</i></p>	<ul style="list-style-type: none"> ➤ Assessment, Care planning, implementation and review of Section 117 aftercare. ➤ To work in conjunction with, the CYP their Parents/Guardian/Carers the hospitals Lead Professional, the Section 117 aftercare Lead Professional and the Social Worker in the process of assessment, care planning and sourcing aftercare services where required, in readiness for when the CYP is clinically ready for discharge. ➤
<p>Section 117 aftercare Quality Assurance Group</p>	<p>A multi-agency group who are able to:</p> <ul style="list-style-type: none"> ➤ Receive referrals for the group to consider

	<ul style="list-style-type: none"> ➤ Make recommendations to the practitioners on Quality issues ➤ Take decisions on funding ➤ Offer advice to practitioners ➤ Receive review information from all CYP
Local Authority/ Social Care	Responsible for providing the Social Care commissioning for Section 117 aftercare
Integrated Care Board	Responsible for the NHS Health commissioning for Section 117 aftercare

6. Identifying the responsible organisations

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.

6.1 The legislation - Local Authorities

Section 117 of the Mental Health Act 1983 (MHA) sets out the legal obligation on relevant Local Authorities and CCGs (now ICB) 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. S.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.

Where a person was ordinarily resident in another local authority area (local authority B) and was re-detained under Section 3 in the area of Local Authority B, that Local Authority would be responsible for the provision of aftercare services and not the Local Authority under which the first detention had occurred (Local Authority A).

6.2 The Legislation - Integrated Care Board

NHS England » Who Pays?

In respect of ICB-commissioned detention and Section 117 aftercare services, the ICB responsible for commissioning and payment will be determined on the basis of the general rules at paragraph 10.2 of the latest/current (current) *“Who pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers”*, applied at the point of the CYP’s initial detention in hospital under the Act (whether for assessment or treatment). This ICB will be known as the “originating ICB”. Paragraph 10.2 of the 2024 *“Who pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers”* states:

“The general rules for determining responsibility between ICBs Where a patient is registered on the list of NHS patients of a GP practice, the ICB with core responsibility for the individual will be the ICB with which that GP practice is associated”.

Where a CYP is not registered with a GP practice, the responsible commissioner will be the ICB in whose geographic area the CYP is “usually resident”.

6.3 Ascertaining originating responsible authorities where capacity is impaired

Where an individual lacks capacity to make decisions about their care, the Cornwall case provides the following assistance:

“Adopt the Shah approach, however, place no regard to the fact that the young person, by reason of their lack of capacity cannot be expected to live there voluntarily. This involves considering all the facts, such as the place of the person’s physical presence, their purpose for living there, the person’s connection with the area, their duration of residence there and the person’s wishes and feelings (insofar as these are ascertainable and relevant) to establish whether the purpose of the residence has a sufficient degree of continuity to be described as settled, whether of long or short duration”

Where an individual has capacity to decide where to live ordinary residence “refers to a man’s abode in a particular place or country which he has adopted voluntarily and for settled purposes as part of the regular order of his life for the time being, whether of short or long duration.”

This is known as the “Shah” test.

7. Capacity and Consent

Each organisation will work with their local policies in line with the 2005 Mental Capacity Act in respect of capacity and consent in relation to Section 117 aftercare. Additional information covering all age groups up to the individual’s 18th birthday, is contained in Section 19 of the Mental Health Act Code of Practice.

7.1 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:

“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.

7.2 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.”

7.3 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.

8. Additional Considerations in relation to Children and Young People

MHA Code of Practice 19.111 and 19.118

8.1 Duty to notify the responsible local authority following the detention in Hospital of a Child or young person.

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 responsible Integrated Care Board must also be informed to make them aware of the detention and the possible need for Section 117 aftercare.

8.2 Additional factors to be considered for Children and Young People

Whilst guidance set out in the MHA Code of Practice is applicable to individuals of all ages, 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.

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 plan for the child, such as Education and Health Care Plan (EHCP), Team around the child plan (TAC plan), Child in Need Plan, Child Protection Plan, Child in care Plan or Leaving Care Pathway Plan, and where appropriate run concurrently with co-ordinated reviews. Whilst coordinating planning can be complex, for example where a young person is transitioning to adult health and social care services, this should never be a reason to delay discharge.

8.3 Joint commissioning arrangements in respect of children with Education, Health and Social care needs.

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 an EHCP.

8.4 Child in Care (Looked after children).

Where a child/young person is a child in care under Section 31, Children Act (1989), they will continue to be a child in care while they are detained under the Mental Health Act. They will continue to have a Social Worker and will be subject to all the statutory arrangements that are in place for a child in care. They will continue to have a care plan and will be subject to statutory reviews.

8.5 Interface with Children's Act 1989

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

8.6 Meeting the CYP and family needs

Processes should be in place to identify any carers, including family members and young carers needs, at the point of admission (or before, where possible) and this should be recorded on the CYPs electronic record. The young person who is deemed to have decision specific capacity must be asked who they would like to be involved in discharge planning and they should be given opportunities to update their preferences, including the types of information they are happy to share with their chosen carer or carers. For Children and Young People under 18, this should include those with parental or guardian responsibility. For a child who is looked-after by a local authority, this must include the Local Authority, and should also include the child's foster carers or the appropriate persons in the children's home where the child is placed.

Parents/Guardians/Carers needs can be assessed through a carers assessment, or access through Family Therapy where required and available. (Care act 2014 section 10.)

All processes should be based on aiding recovery and a meaningful personalised lifestyle. The aim is to maintain individuals wherever possible within their family setting.

9. Advocacy

The statutory right to independent advocacy is an important additional safeguard for people who are subject to the Act. A detained individual can request an advocate from their Lead Hospital Professional, care co-ordinator or Section 117 aftercare Lead Professional.

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

The Rethink Mental Illness fact sheet '*Admission to hospital for treatment*' (in place at the time) should therefore be provided to CYP at the point of admission and also, where appropriate, to the Parents/Guardian or Carers.

Upon detention under section 3 or another qualifying section, the Rethink Mental Illness leaflet relating to section 117 aftercare should be discussed with the CYP and their parents/Guardian or carers to inform them of their rights and their eligibility to Section 117 aftercare on discharge and their entitlement to care as assessed. **Both documents can be located at paragraph 10.0 in the Procedures and Guidance document.**

10. Aftercare planning and discharge process

The process following admission is detailed in the associated CYP Section 117 aftercare guidance and procedure document.

10.1 Discharge and aftercare planning should commence as soon as clinically possible after admission to hospital and must be child and young person, and family focused and informed through an assessment of need. There is a Joint responsibility by the agencies involved, NHS, 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 clinically ready for discharge.

10.2 It is imperative that the Parents/Guardian/Carers 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 therapeutic inputs; a clear balance between family life and therapeutic input is required.

10.3 Care Programme Approach

The care programme approach (CPA) 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 policy.

10.4 Assessment and care planning involvement

Before commencing Section 117 aftercare assessment and care planning, consideration will be given as to, who needs to be involved in assessing the Section 117 aftercare needs of a CYP (consider the list of potential attendees contained within paragraph 34.12 of the Mental Health Act Code of Practice 2015 and the list contained at paragraph 12 in the CYP Section 117 aftercare Procedures and Guidance). The child or young person and their Parent/Guardian/Carer, a Social Worker from the responsible Local Authority Social Care, the NHS CAMHS worker (usually the Section 117 aftercare Lead professional), Hospital Lead Professional from the NHS inpatient setting must be present when assessing and deciding the Section 117 aftercare plan. It is essential that the above individuals work together in the best interest of the young person. Other professionals, family members or relevant others identified as appropriate.

Parents and carers should also be afforded a private discussion with relevant professionals to share their concerns without the risk of upsetting or damaging the relationship with their child or young person.

Where the individual does not wish to attend meetings then this must be documented in the individual's electronic record, the assessors including Parents/Guardians/Carers will continue to work together and agree, the best way to involve the CYP post meeting.

A CYP can be supported by an advocate, this is detailed in paragraph 10.0 above of this policy.

Aftercare planning should take account of the young person's age and cognition 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.

10.5 Assessing and care planning for Section 117 aftercare needs

At all stages of the assessment and care planning involvement from the CYP and their Parents/Guardian/Carers is essential.

The assessment, care planning, implementation and review process is a joint responsibility of the Local Authority and Local NHS services

A holistic approach is required when assessing aftercare needs, The Section 117 aftercare Lead Professional and Social Worker with the Hospital Lead Professional, must complete the Section 117 aftercare care/progress plan specifying what will be provided to meet the individual's Section 117 aftercare needs. The care/progress plan must clearly identify the needs that are related to section 117 aftercare entitlement and those that are not.

- Lincolnshire County Council will assess using the child and family assessment leading to the progress plan.

➤ The NHS Health Professional will use the Joint children and young person Section 117 aftercare assessment leading to a Section 117 aftercare plan. These forms are contained in the CYP Section 117 aftercare Procedures and Guidance at paragraph 15.2.

Assessments of aftercare needs (and where possible how these will be met) should be conducted:

- as soon after admission as clinically possible
- with the CYP and their Parents/Guardian/Carers at the centre of discharge planning,
- prior to discharge
- prior to any Tribunal or Hospital Managers review of detention
- as part of an ongoing process of reviews in the community
- when considering ending someone's Section 117 aftercare entitlement or eligibility

The aftercare assessment and aftercare plan must be completed and recorded prior to the young person's discharge and made available to the young person and Parents/Guardians/Carers once completed, the young person will be consulted on in line with their age appropriate capacity on who the assessment and aftercare plan should be shared with and anyone with Parental responsibility/Guardian/Carer, that the individual has consented to, or in their best interest if they have been assessed as lacking capacity.

This information should also be made available to the LA and LICB within 1 month of the person leaving hospital.

Where there are non-statutory aftercare needs identified which require funding agreement through the Section 117 aftercare Quality Assurance Group for Children and Young People. LCC, LICB and LPFT must document this on their individual electronic clinical systems in accordance with each agencies record keeping policies. **The role of the Section 117 aftercare Quality Assurance Group can be found in the Procedures and Guidance document at paragraph 24.3.**

The aftercare Plan should identify a named individual as the Section 117 aftercare Lead Professional who has responsibility for leading on co-ordinating, the preparation, the implementation, and the evaluation of the aftercare plan post discharge

The practitioners concerned, in discussion with the young person and their Parents/Guardian/Carers, should agree an outline of the young person's needs and a timescale for implementing the various aspects of the Section 117 aftercare plan. All key people with specific responsibilities should be identified.

It is important that those who are involved in discussions about aftercare plans are able to make commitments about their own continuing involvement and the services to be provided or commissioned. If the Section 117 aftercare Lead Professional, Social Worker, ICB or relevant other need to seek approval for this, time must be set aside for planning so

that this causes no delay to the discharge from hospital and implementation of the aftercare plan.

The aftercare plan aims to ensure a transparent, accountable, and co-ordinated approach to meeting wide ranging psychological, emotional, and social needs associated with the young person's mental disorder. It should set out the practicalities of how the young person will receive treatment, care and support day-to-day and should not place undue reliance on the young person's Parents/Guardian/Carers.

Included within the aftercare Plan are:

- A treatment/progress plan which details Medical, Nursing, Social Worker, Psychological and other therapeutic support for the purpose of meeting the young person's identified needs promoting recovery and or preventing deterioration
- Details regarding any prescribed medications
- Details of how the young person will be supported to achieve their personal goals.
- Support provided in relation to social needs
- Independent Provider support
- Parent/Guardian/Carer support to the CYP
- A plan to maintain care where required in the absence of parental care for planned and unplanned absence.
- Details of any areas of need which are critical to minimise behaviours of concern, should provide guidance on how Parents/Guardians/carers should respond if behaviour of concern arises.
- Actions to be taken in the event of a deterioration of the young person's presentation. Guidance on actions to be taken in the event of a crisis.
- Details of any actions to address physical health problems or reduce the likelihood of health inequalities

10.6 Implementation of Care plans.

Where statutory services are identified as a need these can be implemented through the local service and date planned accordingly.

Where additional (non-statutory) services that require Social Care and Health funding are identified the NHS Health Professional and Social Worker:

- Source the identified service
- Provide the costings and relevant quotes to the Quality Assurance Group for ratification. along with supporting information.
- Once agreed the service is procured
- Service reviewed and adjusted to any change in need.

10.7 Clinically ready for discharge

A person is considered Clinically Ready for Discharge (CRD) when the multi-disciplinary team (MDT) conclude that the person does not require any further assessments, interventions and/or treatments, which can only be provided in an inpatient setting.

Below are the 3 key criteria which need to be met before the multi-disciplinary team on an inpatient ward can make this decision:

- there must be a clear plan for the ongoing care, support, and housing that the person requires after discharge, which covers their pharmacological, physical health, psychological, social, cultural, education, housing and finances, and any other individual needs or wishes
- the MDT must have explicitly considered the person and their Parent/Guardian/Carer's views and needs about discharge and involved them in co-developing the discharge plan
- the MDT must also have involved any services external to the provider in their decision making for example social care teams, where these services will play a key role in the person's ongoing care. This should include clarifying any procedural and/or legal duties of the Local Authority to put services in place

Once these criteria are met, the person is clinically ready for discharge, and this should be recorded as such on the electronic patient record (EPR) systems. However, this does not necessarily mean the person can be immediately discharged. Once a person is clinically ready for discharge, the inpatient team should be satisfied that the right support is in place before discharge takes place. For example, the person must have suitable accommodation to be discharged to, an appropriate time of day identified, and necessary packages of care and support should be arranged.

In cases where there is disagreement regarding whether a CYP is clinically ready for discharge, NHS trusts should have a multiagency escalation process in place.

11. Reviews

11.1 Purpose of reviews

The Lead Professional in conjunction with the MDT 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 Parent/Guardian/Carer, an appropriate representative from Social Care and NHS Health care, and other relevant professionals involved in the ongoing support of the CYP.

The identified Section 117 aftercare Lead Professional and multi-disciplinary team is responsible for ensuring Section 117 aftercare needs are reviewed at the agreed timescale, recording progress towards the individual's independence, and supported with a focus on promoting recovery within the family environment.

The responsibility of the identified Section 117 aftercare Lead Professional to arrange reviews of the plan until it is agreed between all parties, including the young person and

their Parents/Guardian/Carers, that aftercare is no longer necessary and follow the ending Section 117 aftercare process.

The aftercare plan will need to be reviewed if the young person moves to another area. The Section 117 aftercare Lead Professional in the original area will be responsible for ensuring the aftercare needs are reviewed in the new area, making transfer arrangements with the new area if commissioning responsibility consequently passes or is delegated to authorities in the new area.

11.2 Review timescales

Aftercare reviews should take place at intervals of 72 hours post discharge, 6 weeks post discharge, 6 months post discharge 12 months and annually thereafter. The involvement of Health and Social Care personal are responsible for ensuring reviews are undertaken in a timely manner.

Progress with each aftercare need should be recorded, and where applicable adjusted, any changes or funding implications would need ratification by the Section 117 aftercare Quality Assurance Group for Children and Young People.

At each review meeting consideration to end entitlements or eligibility for Section 117 aftercare should be given.

Extra ordinary reviews can be called at any point should one be necessary:

- whenever the person moves to another area
- whenever there is information that indicates that the current plan is not meeting the persons identified mental health needs
- at the request of the person or their formal representative
- whenever ending Section 117 entitlement or eligibility is being considered

12. Transition from child to adult services

ICBs and Local Authorities should have systems in place to ensure that appropriate referrals are made before reaching adulthood

ICBs and LAs should ensure that they are actively involved, with their partners, in the strategic development and oversight of their local transition planning processes, and that their representation includes those who understand and can speak in respect of Section 117 aftercare.

Timely referral to the appropriate adult service is an important step in preparing for the transition into adult services.

Social Care and Health services will jointly work together through the transition process which is outlined in detail in the associated CYP Section 117 aftercare guidance and procedure document.

12.1 Transition planning

Transition planning for Children and Young People into adult services in respect of Section 117 aftercare should be identified at age 16, or immediately if aged over 16 on admission, where aftercare services are or may be required at the age of 18 years. The identified CYP Section 117 aftercare Lead Professional is responsible for the co-ordination of this process.

A Section 117 aftercare Lead Professional will be appointed from the adult MDT and work in conjunction with the CYP Section 117 aftercare Lead Professional in preparation to take over the role in adult services.

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

12.2 Transition Principles for young people.

Children's services should identify those young people for whom it is likely that adult services will be necessary and ensure involvement from adult services in the ICB and the Local Authority who will be responsible for them as adults. Identification should occur for the young person at the age of 16 or immediately if older when detained and admitted to hospital.

Referral to the appropriate Local Authority and ICB for an adult assessment using the agreed assessments and subsequent care planning tools for adult Section 117 aftercare which should ensure effective packages of care can be transferred or commissioned in time for the individual's 18th birthday. In order to do this, employees from adult services will need to be involved in both the assessment and care planning to ensure smooth transition to adult services. If needs are likely to change, it may be appropriate to make a provisional decision, and then to recheck it by repeating the process as adulthood approaches. All parties with current or future responsibilities should be actively represented in the transition planning process.

The ICB and LA should ensure that adult services are appropriately represented at all transition planning meetings to do with individual young people whose needs suggest that there will be eligibility and may be entitlement. The needs of a young person, and any future entitlement to adult Section 117 aftercare should be clarified as early as possible in the transition planning process, especially if the young person's needs are likely to remain at a similar level until adulthood.

12.3 Adult assessment and care planning tools

An awareness of the adult Section 117 aftercare policy, and the Procedures and Guidance and agreed assessment and care planning/review tools should be used when transitioning into adult services to determine what Section 117 aftercare care services individuals are currently receiving, and if there is any change to these services as the individual moves towards their 18th birthday, ideally the existing service should transition with the young person, if there is to be a change this will need to be transitioning and in place for the individuals 18th birthday, there should be no gap in service for the individual, it may be identified through assessment that no ongoing aftercare service is required. The nature of the package may change because the young person's needs or circumstances change. However, it should not change simply

because of the move from children's to adult services or because of a change in the organisation with commissioning or funding responsibilities.

There should be no gap in service provision based on age. Where service gaps are identified, these should be noted to the ICB and LA who should consider how to address these as part of their strategic commissioning responsibilities.

No services or funding should be unilaterally withdrawn unless health and social care assessments have been carried out, and the entitlement to services ended or alternative funding arrangements have been put in place.

Any entitlement that is identified by means of these processes before a young person reaches adulthood will come into effect on their 18th birthday, subject to any change in their needs. The first review will follow the agreed time scales of 72 hours post discharge from hospital, 6 weeks, 6 months 12 months and annually thereafter. Where a young person has been assessed as being eligible for Section 117 aftercare when they reach 18 years but lacks the mental capacity to decide about their future accommodation and support arrangements, a best interest's decision may need to be made about these issues. Local procedures in line with the 2005 Mental Capacity Act will be implemented.

If there is a significant difference of opinion between the responsible commissioners and the young person's family as to what arrangements would be in their best interests, this needs to be resolved before their 18th birthday. Normal best practice is that such resolution is achieved through open and collaborative discussion between all parties. If there remains disagreement, timely application should be made to the Court of Protection (L) early enough for care and support arrangements to be in place when the young person reaches 18 years of age. This should be determined by applying the principles set out in the relevant legislation and local policies in respect of referral to the Court of Protection.

A lack of agreement or clarity over commissioner responsibilities must not result in a lack of appropriate input into the transition process. Where there is a lack of clarity or funding agreement the discharge process should continue without prejudice as outlined at paragraph 24 below.

13. Ending entitlement(s) to Section 117 aftercare services.

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 should be ratified by the Section 117 aftercare Quality Assurance Group for Children and Young People.

A template letter can be found in the Procedures and Guidance at paragraph 19.6.

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

14. Ending Section 117 aftercare Eligibility

Aftercare entitlement 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 prevent their condition deteriorating. Section 117 aftercare 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 Section 117 aftercare.

The initial consideration to end Section 117 aftercare eligibility would be made at a multi-disciplinary Section 117 aftercare review.

A Section 117 multidisciplinary discharge meeting must be convened when discharge from Section 117 aftercare eligibility is considered, and all decisions must be recorded as evidence of the outcome. The views of the young person and their Parents/Guardian 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 Section 117 aftercare Quality Assurance Group for Children and Young People who will take a final decision, this decision will be communicated in writing to the individual. A template letter can be found in the Procedures and Guidance at paragraph 19.7.

Section 117 aftercare eligibility automatically ends should the CYP be readmitted to hospital on a qualifying section of the Mental Health Act for the Local Authority.

For the Local Authority the process for Section 117 aftercare recommences in preparation for discharge and may include different Local Authority commissioner, should the CYP have moved out of the original area.

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

For Health services there is no change if a subsequent qualifying detention is made, the 'who pays guidance sets out that the Section 117 aftercare responsibility transfers with the individual along with the funding for the hospital stay if an out of area placement is required.

15. Disengagement from service

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 young person and where appropriate their Parents/Guardian or Carers.

Aftercare services under Section 117 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 a Mental Health Act Section 2
- The individual is no longer on a Community Treatment Order (CTO) or Mental Health Act Section 17 leave

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

Lincolnshire County Council and the Lincolnshire NHS Integrated Care Board remain the responsible authorities irrespective of where the individual lives if the Section 117 aftercare entitlement remains in place. Only once the entitlement has been ended/discharged the responsible commissioning authorities may revert to the Local Authority under ordinarily residence, and for the ICB under the GP registration (Who Pays Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers), should there be a further eligible section detention as outlined in 3.0 above for Local Authorities and for NHS Integrated Care Boards.

Eligible individuals 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 aftercare should they change their mind.

The duty to provide aftercare services under Section 117 exists until both LCC and the LICB are satisfied that the individual no longer requires them.

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

16. Reinstating Section 117 aftercare

Where it is determined that a CYP who is eligible for Section 117 aftercare 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 CYP’s mental condition and, accordingly, reducing the risk of the patient requiring admission to a hospital again for treatment for mental disorder”.

Both Health and Social Care leads should make a professional assessment the urgency of the need to reinstate eligibility for Section 117 aftercare taking into account the element of risk

of safety to the individual or others and takes action to meet urgent need via interagency communication and agreement, if agreement is not achieved this will be referred immediately to the next line manager to resolve, or, via the agreed process for securing section 117 aftercare if of a non-urgent nature. The Section 117 aftercare Quality Assurance Group for Children and Young People 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.

17. People with Learning Disability and Autistic People (LDA)

Previously Transforming Care.

The LDA relates to people 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 the closing of inappropriate and outmoded inpatient facilities and establishing stronger support in the community.

NHS England has rolled out Care and Treatment Reviews (CTRs) of individuals to prevent unnecessary admissions and avoid lengthy stays in hospital.

CYP in hospital on the LDA, Care and Treatment review, and are on one of the eligible mental health act sections, will be eligible for Section 117 aftercare upon discharge from the section.

18. Funding

Currently where funding a Section 117 aftercare service is required, this is based on an individual basis, agreed by the Section 117 aftercare Quality Assurance Group for Children and Young People.

Details of the Section 117 aftercare Quality Assurance Group for Children and Young People is located in the Procedure and Guidance documents at paragraph 24.3.

Should there be a lack of agreement in respect of funding a new CYP case, a without prejudice 50% each authority be implemented once agreement is reached this should also indicate if the decision should be backdated.

18.1 Statutory health and standard Social Care

The term Statutory services relates to those services that are provided by the NHS and Local Authority free of charge, for eligible Lincolnshire individuals, these services in respect of the Mental Health Act Section 117 aftercare following assessment, could include access to (this is not an exhaustive list) members of the CAMHS team Consultant Psychiatrist, Clinical Psychologist, Occupational Therapist, Speech and Language Therapist and other services provided and funded within the remit of Lincolnshire Partnership Foundation Trust, and some community services for example the Crisis Team, Social Workers from Social Care in

Lincolnshire, and Registered Nurses and healthcare workers from NHS Lincolnshire Integrated Care Board for Case Management. (These services are already funded by the Integrated Care Board or the Local Authority). The Statutory duty for Lincolnshire County Council is to undertake a child and family assessment and provide services to meet unmet eligible needs.

18.2 Services that are not statutory services (requiring funding)

Lincolnshire County Council and NHS Lincolnshire Integrated Care Board for CYP's eligible for Mental Health Act Section 117 aftercare, fund non statutory care for example accommodation and therapeutic placements (outside of the above statutory services) which forms part of the Section 117 aftercare need, private providers of care in the community, and other needs that are not funded through statutory services where a need has been assessed and requires funding to meet the Section 117 aftercare need.

18.3 Funded services

Section 117 aftercare services are free of charge.

All funded services and any change to the service will need to be discussed and ratified by the CYP Section 117 aftercare Quality Assurance Group.

18.4 Funding changes

Neither the Integrated Care Board or the Local Authority should unilaterally withdraw from an existing funding arrangement without a joint reassessment of the individual, and without first consulting one another and informing the individual about the proposed change of arrangement. Any proposed change should be put in writing to the individual by the organisation that is proposing to make such a change. If agreement cannot be reached on the proposed change, the local resolution procedure should be invoked, and current funding arrangements should remain in place until the dispute has been resolved.

19. Direct Payments and Personal Health Budgets

Direct Payments and Personal Health budgets can be made to discharge both the Council's and the ICB's obligations under Section 117 aftercare. An individual cannot be charged for services that are provided to meet a Section 117 aftercare need and this must be taken into consideration when calculating direct payments and personal health budget payments.

An individual will not be charged for Section 117 aftercare services, however if they are a young person transitioning into adult services with needs which fall outside of the Section

117 aftercare these needs may be subject to a financial assessment by Lincolnshire County Council.

19.1 Social Care Direct Payments

Section 117 of the Mental Health Act 1983 allows for aftercare services to include services provided to the individual in respect of a Local Authority Direct Payment a monetary payment in lieu of services.

The Lincolnshire County Council Direct payments policy is included in the Procedure and Guidance document at paragraph 24.4.

19.2 Health Care 'Personal Health Budgets'

Personal Health Budgets for health care are monetary payments in lieu of services, made by ICBs to individuals (or to a representative or nominee on their behalf) to allow them to purchase the care and support they need to meet their health and wellbeing outcomes. NHS Lincolnshire Integrated Care Board Personal Health Budget Direct Payment Guidance is included in the Procedure and Guidance document at paragraph 24.4.

20. Section 117 Register

A record should be maintained of people for whom aftercare services are provided under section 117.

This register is currently held by LPFT Mental Health Act Administrators Team and will be used to ensure there is no duplication in the recording of section 117 eligible individuals, funding, or exclusion of people with section 117 entitlement.

21. Section 117 aftercare Associated guidance

21.1 Continuing Health Care

NHS Continuing Healthcare process and funding must not be used to meet Section 117 aftercare needs. Where a CYP is eligible for services under Section 117 aftercare these must be provided for/funded under Section 117 aftercare and not under NHS Continuing Healthcare. It is important for ICBs to be clear in each case whether the individual's needs (or in some cases which elements of the individual's needs) are being funded under Section 117 aftercare, NHS Continuing Healthcare, or any other powers.

21.2 Non-Section 117 aftercare needs

A person in receipt of 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 such as physical health needs. These needs not related to the Section 117 aftercare, cannot be funded as Section 117 aftercare and must be funded and classified outside of the Section 117 aftercare needs.

Whilst these are not Section 117 aftercare needs they should be identified as part of the assessment and review process prior to the individual leaving hospital and where they trigger requirements of Continuing Healthcare (CHC) the ICB should be notified and the process around CHC engaged. The general principals in determining the responsible commissioner for non-Section 117 aftercare related needs is “where an individual is registered on the list of NHS patients of a GP Practice, the ICB with core responsibility for the individual will be the ICB with which that GP practice is associated. This may be a different ICB than the ICB responsible for the Section 117 aftercare.

Paragraph number 14.11 14.12 (2c and 2d). and 18 of the “Who pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers (revised 2024) document highlights scenarios identifying the responsible commissioner, under the changing circumstances relating to Section 117 aftercare and “other health care needs

22. Charging for prescribed medications

Individuals have the right to receive NHS services free of charge, apart from certain limited exceptions sanctioned by Parliament.

NHS services are generally provided free of charge. This includes access to local services for example GP, hospital or clinic, or health improvement services provided by the local authority.

Dental, Ophthalmic and prescription²services are chargeable the legislation in the 2006 NHS Act enables the making and recovery of charges for these services.

Section 117 aftercare does not automatically entitle individuals to free prescriptions unless they are in an exemption category or hold a valid medical exemption certificate (MedEx). Mental disorders are not included in the list of medical conditions. For individuals below the age of 16 prescriptions are free, between the age of 16 -18 and in full time education, the individual is entitled to free prescriptions. Individuals aged 16 if not in full time education and individuals attaining the age of 18 years and are not in one of the exemption groups, the service is chargeable.

The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 2008 amended the 2000 Regulations so that individuals who are subject to a Community Treatment Order will not be charged for medication if it is supplied to them by a CCG now ICB, Trust or a Patient Group Directive. Individuals who are not subject to a CTO but who are receiving medication from a trust will not be charged for the prescription.

Further information can be sought from an appropriate pharmacist.

23. Resolution Processes

Where there is a concern from anyone involved with the CYP in relation to what, in their opinion, is an unsafe discharge, then this must be addressed and resolved prior to the discharge.

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

Providers, commissioners, and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare 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 professional or commissioning differences may arise. Any differences that arise with regards to Section 117 aftercare, within the local organisations, are to be managed in the interim through line management steps, as described in the “Professional resolution and escalation LSCP policy”, is located at paragraph 28.0 the Section 117 aftercare Procedures and Guidance documentation.

23.2 Local Funding resolution

Where there is a local lack of agreement regarding funding, there should be no impact on the young person, the provision of ‘without prejudice’ funding by the authority with the primary duty of care at the time, pending resolution of the dispute, if neither is currently funding or prepared to fund, this should be on an interim 50/50 basis between Local Authority and the Integrated Care Board (ICB). This will avoid detrimentally affecting an individual’s care or causing undue delay in discharging someone from hospital.

23.3 Other Commissioning Authority resolution process

Where there is a dispute regarding Section 117 aftercare funding and/or commissioning authority the jointly agreed NHS and Social Care 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 Local Authority (LCC) and the Integrated Care Board (ICB). This will avoid funding disputes detrimentally affecting the CYP’s care or causing undue delay in discharge from hospital.

23.4 Dispute resolution process for ICBs within 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. Appendix 3 of the “who pays “ document outlines the National arbitration process.

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.

Each NHS Organisation should have an identified Executive director identified to oversee and manage disputes that cannot be resolved at the operational level..

23.5 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.

24. Complaints

Where individuals express dissatisfaction with any aspect of their Section 117 aftercare 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.

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 information: LHNT.LincsPALS@nhs.net

	Formal complaints: licb.feedbacklincolnshireicb@nhs.net
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25. Training

Each partnership organisation is responsible for:

- Providing sufficient and a suitable level training for each of their employee groups in respect of Section 117 aftercare; and
- Ensuring all staff involved in the operation of 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.

26. 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 Mental Capacity Act
- Children Act 1989
- Gillick v West Norfolk and Wisbech Area Health Authority (1986)AC 112
- Mental Health Act Code of Practice 2015
- Children and Families Act 2014
- Discharge from mental health inpatient settings (26 January 2024)
- 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.
- Care Act 2014