

Mental Health Act Section 117 Aftercare for Adults - Joint Policy

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Mental Health Act Section 117 Aftercare for Adults -
Joint Policy for

NHS Lincolnshire Integrated Care Board

Lincolnshire County Council

Lincolnshire Partnership NHS Foundation Trust

V3.0

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		<p>Service Ombudsman Section 117 aftercare “guidance for Practitioners April 2022, and “The Community Mental Health Framework for adults and older adults September 2019 and “who pays? Determining which NHS Commissioner is responsible for commissioning healthcare services and making payments to providers 2022.</p> <ul style="list-style-type: none"> • Strengthened information in respect of Learning Disability Section 75 agreement for pooled budget. • Referred to the refocusing of work in relation to CPA. • Updated the review time scales to bring in line with national guidance. • Strengthened the information and process in respect of discharge/ending Section 117 aftercare entitlement. • Included information in respect of transforming care. • Removed commissioning scenarios. • Strengthened the NHS responsible Commissioner information to assist decision making and prevent inappropriate commissioning. • Updated the complaints information • Removed the references to children’s services. • Updated finance information. • Included the Procedure and Guidance documents • Included Interagency dispute paper in Procedures and guidance (for agreement). 	
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Consultation

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27 th Feb 19	V1.1	Service user group co-production event
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1.0 Introduction.

1.1 Section 117 aftercare of the Mental Health Act 1983.

Section 117 of the Mental Health Act 1983 imposes a free-standing and enforceable duty on Lincolnshire NHS Integrated Care Board (LICB) and Lincolnshire County Council (LCC), in co-operation with voluntary agencies, to provide or arrange for the provision of aftercare to certain eligible individuals. 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 LCC are satisfied that the person concerned is no longer in need of such services. The LICB and LCC cannot be so satisfied if the individual living in the community whom a community treatment order (CTO) is in force).

Section 117 aftercare services are services which have both of the following purposes¹

- meeting a need arising from or related to the individual's mental disorder² and
- reducing the risk of a deterioration of the individual's mental condition (and, accordingly, reducing the risk of the individual requiring admission to a hospital again for treatment for mental disorder.

All processes should be based on aiding recovery and a meaningful personalised lifestyle.

Eligible individuals cannot be charged for Section 117 aftercare service. The aim is to maintain individuals wherever appropriate within the family setting and their Local community.

1.2 Section 117 aftercare Joint Agency Policy.

1.2.1 Organisational Reference.

The policy 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)

¹ S117(6) Mental Health Act 1983 (as amended 2007)

1.2.2 Policy Purpose.

The purpose of the policy is to:

- State how the organisations are to discharge its responsibility to individuals who are entitled to receive aftercare services under Section 117 aftercare
- Set out the joint agreement between the partner organisations and their obligations under Section 117 aftercare.
- Ensure the consistency and quality of the delivery of Section 117 aftercare across Lincolnshire.
- Set out the arrangements for commencing (assessing), reviewing, ending, and reinstating Section 117 aftercare
- Enable further detailed guidance and training, associated with this policy, to be developed jointly by the partnership organisations

2.0 Responsibilities.

2.1 Lincolnshire County Council, Lincolnshire Integrated Care Board and Lincolnshire Partnership Foundation trust aftercare responsibilities Commitment to partnership working.

LPFT, LICB and LCC are committed to the ongoing support and recovery of individuals 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 aftercare services to which they have been assessed and entitled to under Section 117 and those individuals who no longer require such services have their entitlement reviewed and where appropriate ended.

2.2 Learning Disability Section 75 Partnership agreement.

For the Lincolnshire Learning Disability service there is a partnership arrangement under Section 75 of the NHS Act 2006 which gives powers to Local Authorities and Integrated Care Boards (LICB) to exercise certain Local Authority and NHS functions for each other. For Lincolnshire the Partnership agreement shall comprise “the delegation by the LICB to the LCC Authority of the NHS Functions in respect of those Lincolnshire individuals eligible for Mental Health Act Section 117 aftercare, so that it may exercise the NHS Functions alongside the Council Functions and act as commissioner of the services, with a pooled fund for the services.

The assessment and Care and Support process for people with a learning disability as described in 12.0 below remain the same with the procurement process remaining with Lincolnshire County Council.

The exception to the above is where a Learning Disability individual resides in a different Local Authority area but is registered with a Lincolnshire GP practice who in turn is commissioned by the Lincolnshire Integrated Care Board for commissioning primary medical services under GP contracts, the Mental Health, Learning Disabilities, Autism Commissioning Team will provide the health input for such individuals.

3.0 Eligibility and Entitlement.

3.1 Eligibility.

A person will be eligible for Section 117 after-care services once they become subject to one of the qualifying Sections of the Mental Health Act and thereafter cease to be detained and leave hospital:

- 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 (for individuals detained under immigration powers who are transferred under Section 48 of the Mental Health Act 1981, the Home Office must be involved in discharge planning).

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.

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.

3.2 Entitlement.

An eligible person will be entitled to Section 117 after-care services in the event that they:

- are discharged from the qualifying Section which makes them eligible for Section 117 aftercare services (regardless of whether or not they remain in hospital as a voluntary patient or leave hospital immediately after their detention ceases)
- go on Section 17 leave
- become subject to a Community Treatment Order
- are patients that are released from prison having spent part of their sentence detained on a qualifying Section in hospital

4.0 Lincolnshire County Council, Lincolnshire Integrated Care Board and Lincolnshire Partnership Foundation Trust aftercare legal responsibilities

4.1 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 ICB to provide aftercare to certain detained individuals 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.

4.2. The Responsible Local Authority.

It is important to recognise that different provisions apply depending on whether you are dealing with pre 2015 or post April 2015 cases.

Pre-Care Act 2014 cases

Prior to the Care Act coming into effect on 1 April 2015, Section 117(3) provided that the responsible CCG (now ICB) and Local Authority was that in whose area the patient was resident immediately before being detained. If the patient had no such residence, then the responsibility defaulted to the bodies for the area the patient was sent to on discharge.

The case law applying to these types of cases confirmed that the Local Authority “deeming provisions” (which were familiar to social care staff under Acts such as the National

Assistance Act 1948) had no application and therefore did not apply when determining responsibility under Section 117 of Mental Health Act 1983. [A deeming provision is a provision which means that in certain circumstances the person is placed out-of-area but continues to be deemed in law as ordinarily resident in the placing Local Authority's area.]

Post Care Act cases (Post 1 April 2015)

Section 75 of the Care Act 2014 amended the wording of Section 117 to change the wording from “resident” to “ordinarily resident”. In all other respects the Section remained the same. This simply served to confuse matters as it was not clear whether by making this change it was necessary to import the deeming provisions. In March 2016 a revision to the Care and support statutory guidance made it clear that the deeming provisions which are used to determine Care Act responsibilities do not apply to Section 117. This still remains the position.

Practical Application

Section 117 responsibilities for Local Authorities are determined therefore by reference to the common law without the use of deeming provisions. In most cases a person's ordinary residence is straight forward. In more complex cases the individual facts will need to be considered.

The courts have considered the meaning of ordinary residence and the leading case is that of *Shah v London Borough of Barnet* (1983). In this case Lord Scarman stated that: “unless it can be shown that the statutory framework or the legal context in which the words are used requires a different meaning I unhesitatingly subscribe to the view that ordinarily resident 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.”

The statutory guidance helpfully provides the following. Local Authorities must always have regard to this case when determining the ordinary residence of adults who have capacity to make their own decisions about where they wish to live. Local Authorities should in particular apply the principle that ordinary residence is the place the person has voluntarily adopted for a settled purpose, whether for a short or long duration. Ordinary residence can be acquired as soon as the person moves to an area, if their move is voluntary and for settled purposes, irrespective of whether they own, or have an interest in a property in another Local Authority area. There is no minimum period in which a person has to be living in a particular place for them to be considered ordinarily resident there, because it depends on the nature and quality of the connection with the new place”

Where the individual lacks capacity the statutory guidance provides the following:

Therefore, with regard to establishing the ordinary residence of adults who lack capacity, Local Authorities should adopt the *Shah* approach, but place no regard to the fact that the adult, by reason of their lack of capacity cannot be expected to be living 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 views, 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.” The Local Authority will therefore consider the position of ordinary residence by using the common law interpretation above without consideration of the deeming provisions when considering whether it is has responsibility under Mental Health Act Section 117 for aftercare.

Accommodation provided under Section.117 Mental Health Act 1983

Where accommodation is provided under Section 117 aftercare of the Mental Health Act, (as opposed to under the Care Act), Section 39(4) of the Care Act deems the person to be ordinarily resident in the Section 117 Authority's area for the purposes of other Local Authority services as well.

What happens if the individual has a Section 117 aftercare entitlement in one Local Authority but is subsequently re-detained in the area of another Authority under Section 3.

This scenario has been the subject of longstanding litigation by the name of R. (on the application of Worcestershire CC) v Secretary of State for Health and Social Care [2021] EWCA Civ 1957. This Court of Appeal case heard in December 2021 has changed for now the way in which these cases are dealt with. It is an important decision which affects Local Authority funding.

(Paragraph 3)

The conventional legal view was that 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 after-care services and not the Local Authority under which the first detention had occurred (Local Authority A).

The Court of Appeal has changed that position. The first Local Authority (Local Authority A) will retain Section 117 aftercare responsibility unless and until a joint decision (following proper process) has been made by the responsible Local Authority and integrated care board that the individual is no longer in need of any aftercare services. Re-detention will not automatically terminate the Section 117 duty but it is clear that had such a decision been made to bring the aftercare services to an end, the outcome would have been different.

The Current position as from 10 August 2023 (for Local Authorities).

This has now been determined by the Supreme Court on 10th August 2023 back to the conventional view as outlined in paragraph 3 above this note.

Effectively if an individual is detained for a second or subsequent time on a qualifying Section, the existing Section 117 aftercare is effectively ended due to their being no requirement for Section 117 aftercare, due to the detention and readmission to hospital on a qualifying Section. The process for identifying the responsible Local Authority for 'ordinarily resident' recommences.

For the Local Authority's the duty to provide aftercare services ends upon a second detention. Upon a second or subsequent discharge a new duty to provide Section 117 aftercare services arises.

Concluding the case, the Supreme Court said: ""We conclude that the courts below were right to decide that, in circumstances where Parliament has deliberately chosen not to apply a deeming (or equivalent) provision to the determination of ordinary residence under Section 117 of the 1983 Act, the words "is ordinarily resident" must be given their usual meaning, where a person was ordinarily resident immediately before the second detention."

It should be noted that the government has published a draft bill to amend the MHA, which includes provisions that would insert the deeming rules from the Children Act 1989 and Care Act 2014 into Section 117 (clause 39). Should this be the case then this policy will need to be updated to reflect this or any change.

4.3 The Responsible Integrated Care Board Commissioner. The legislation.

The key legislative provisions relating to the determination of commissioning responsibility are contained in

- the NHS Act 2006 (“the 2006 Act”), as amended, including by the Health and Care Act 2022 (“the 2022 Act”);
- the National Health Service (Integrated Care Boards: Responsibilities) Regulations 2022 (the “ICB Responsibilities Regulations”);
- the National Health Service (Integrated Care Boards: Exceptions to Core Responsibility) Regulations 2022 (the “ICB Exceptions Regulations”);
- the National Health Service (Integrated Care Boards: Description of NHS Primary Medical Services) Regulations 2022 (the “Primary Medical Services Regulations”); and
- the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (as amended by the Health and Care Act 2022 (Consequential and Related Amendments and Transitional Provisions) Regulations 2022) (the “Standing Rules Regulations”),

Who Pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers 1 April 2024.

Summary of changes to “who pays Determining which NHS commissioner is responsible commissioning healthcare services.

There have been several changes to the NHS responsible commissioner for detained individuals and their Section 117 aftercare, over the past few years, these have been captured below to enable NHS Commissioners to make an assessment on the NHS responsible commissioner during the relevant periods of time.

The current position as of 1 April 2024 onward is outlined in paragraph 18 of the 2024 Who Pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers.

In respect of ICB-commissioned detention and 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 2024 “Who pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers, applied at the point of the patient’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 is 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”.

Any one GP practice may have some patients who are usually resident in one ICB area and others who are usually resident in another. In that situation, the responsible ICB (originating ICB) for all of the patients registered with that practice will be the ICB of which that practice is a member.

This originating ICB will then retain responsibility for commissioning and payment throughout the initial detention (including any period of informal admission following detention, during which the patient is no longer detained but remains in hospital voluntarily), for the whole period for which any Section 117 aftercare is provided and for any subsequent repeat eligible detention.

The Supreme Court judgement of the 10th August 2023 on the Worcestershire case, relates to Local Authorities the current NHS determination for responsible NHS commissioning remains as outlined in paragraph 18 of the April 2024 Who Pays? Determining which NHS

commissioner is responsible for commissioning healthcare services and making payments to providers.

The April 2024 'Who Pays' clarifies the position as follows.

'The Supreme Court judgement on the Worcestershire case does not affect the operation of the rules relating to establishing the responsible NHS commissioner for detention and aftercare under the Mental Health Act 1983'. Therefore, unlike the Local Authority position a second detention made before the person is actively discharged from aftercare does not bring to an end the responsibility of the origination ICB.

If a patient 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.

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

Period 1 April 2016 to 31 August 2020

The position on commissioning responsibility for Section 117 aftercare services changed as of 1 April 2016, when the Standing Rules Regulations were amended. Since then, the position on commissioning responsibility for detention and Section 117 aftercare has been that: -

- the responsible NHS commissioner for a patient who undergoes a period of detention in hospital under the Act is the commissioner in whose area the provider of the detention service is based; and
- the responsible NHS commissioner for a patient receiving Section 117 aftercare is the ICB in whose area the patient was ordinarily resident and registered with a GP Surgery, the responsible ICB is the ICB aligned to that GP surgery immediately prior to being detained in hospital under the Act

* For patients discharged on or after 1 April 2016, the ICB fixed with the Section 117 responsibility will retain it, even if the patient moves from one area to another area.

Period 01 April 2013 to 31 March 2016

Section 117 aftercare entitlement prior to 1st April 2016 are more complex and may require legal advice. In essence between 1 April 2013 and 31 March 2016 the responsible CCG (at that time now ICB) was aligned with GP registration post discharge from hospital, and subsequent GP registrations. Care needs to be taken when identifying the responsible now ICB where a patient was discharged from hospital during the period 1 April 2013 and 31 March 2016.

4.4 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 adult, 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.

5.0 Deprivation of Liberty in respect of Individuals who lack capacity.

Mental Capacity Act and Deprivation of Liberty Safeguards (DoLS) Mental Capacity Act (2005)

The DoLS are being replaced by the Liberty Protection safeguards (LPS) no date has been given for its implementation, however, it has been stated that implementation will be beyond the life of this current Parliament therefore expectations are probable implementation not before 2025.

The Act governs the care and treatment of people aged 16 or over who lack capacity to consent. Everyone caring for an adult (or individuals of 16 years of age) who lacks capacity to make specific decisions must comply with this Act when making decisions or acting for that person.

Where an individual lacks capacity and is deprived of their liberty, it is essential that Lincolnshire County Council and NHS Lincolnshire Integrated Care Board is aware as early as possible, there may be the need to make an application to the Court of Protection for individuals living within the community, or a Deprivation of Liberty request for Care Homes (and hospitals), in relation to any deprivation of their liberty on discharge. This is to enable a timely application so as not to delay discharge. Where an application to the court of protection is made the relevant agencies may consider joint agency applications.

6.0 Capacity and consent.

Local policies of each organisation will be in place for each individual eligible for Section 117 aftercare, and where the individual lacks capacity to make decisions about their discharge best interest decisions will be made, if a Lasting Power of Attorney (LPA) is in place or a deputy has been appointed who has the relevant Authority, the attorney(Section) or deputy(ies) need to make best interest decisions around discharge. Any best interest decisions must be made in line with the Mental Capacity Act's (MCA) principles and Section 4 of the MCA. A referral to an independent mental capacity advocate may be required in certain cases (for more information, see Section 3 'Mental capacity considerations').

7.0 Section 117 Eligibility List.

A centralised list of eligible Section 117 aftercare individuals whom LICB and LCC have responsibility to provide Section 117 aftercare³ will be maintained and kept up to date by LPFT Mental Health Administration Team, with input from:

- **LPFT**, who will be responsible for providing information regarding individuals who become subject to a qualifying Section within LPFT sites
 - **LCC. LICB and LPFT**, will be responsible for providing information regarding any individual who becomes subject to a qualifying Section on any other site.
- The process and responsibilities for the management of the Section 117 Eligibility are set out in the Section 117 aftercare Procedures and Guidance Document.

8.0 Referral for people who they think might be homeless, or at risk of becoming homeless'.

Under the Homelessness Reduction Act 2017, specified public bodies, including hospitals in their function of providing inpatient care and social service Authorities (both adult and children's), have a duty to refer people who they think might be homeless, or at risk of becoming homeless within 56 days of admission, to Local housing Authorities, and a referral

to the Local housing Authority, if required, should happen as early as possible during an inpatient stay and should form a key part of the discharge planning.

9.0 Individual Section 117 Aftercare needs and Services.

9.1 Supporting service user involvement and participation.

Aftercare should start to be considered as soon as practically possible at the point of admission to ensure that the appropriate aftercare services are identified in readiness for an individual's planned discharge from hospital or prison.

The choice and autonomy of the person should be paramount throughout the discharge process. The person should be at the centre of planning for their own discharge and care and treatment plans that support this, and what matters most to them should be understood and recorded. They should be supported to understand the process for assessing their needs and how they can engage. Their views and choices should be listened to, actively explored and respected, and all discharge decisions must be informed by the person's choices and preferences.

The 'Rethink Section 117 aftercare Factsheet (in place at the time) should therefore be provided to qualifying individuals on admission and prior to discharge so that they are made aware of their entitlement to Section.117 aftercare on discharge. This should also be provided to patients in the community prior to any Section.117 review. A copy of the Factsheet can be found in the procedures and guidance at appendix F

Before commencing Section 117 aftercare planning consideration will be given as to, who needs to be involved in assessing the Section 117 aftercare needs of an individual. The individual should be present when assessing the Section117 aftercare plan. As soon as discharge planning begins, the inpatient team should ask the person how they would like to be involved in discharge conversations and whether they would want someone else to support them with this. Where an individual does not wish to attend then this must be documented in the patient's records, assessors however should seek to understand the reason for this, and whether they would still want to be involved in some aspects of their discharge planning. The person should be given regular opportunities to update their preferences in relation to their involvement in discharge planning and to choose ways they might engage with the process informally or through others. If the person does not wish any involvement, staff should ensure that their views are represented as much as possible. This may include consulting family members, their chosen carers or advocates, where consent is given as appropriate, and consulting an advanced choice document if previously recorded by the person. In addition to the individual themselves, the care coordinator should actively consider the list of potential attendees contained within paragraph 34.12 of the Mental Health Code of Practice 2015. Service users can be supported by an advocate this is detailed below

In some cases, decisions may be made that go against the wishes of the patient, for example the patient's preferred discharge destination may not be possible. In these cases, sufficient information must be provided to ensure the person understands the rationale and alternative options should be explored. The person should also be made aware of how they can challenge any decisions.

9.2 Involvement of carers.

Extract from the Department of Health statutory guidance 'discharge from mental health inpatient settings'.

[Discharge from mental health inpatient settings - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Section 74 of the [Care Act 2014](#) states that where a relevant trust is responsible for an adult hospital patient and considers that the patient is likely to require care and support following discharge from hospital, the relevant trust must, as soon as is feasible after it begins making

any plans relating to the discharge, take any steps that it considers appropriate to involve the patient and the carer of the patient.

Under this duty, a 'carer' is defined as an individual who provides or intends to provide care for an adult, otherwise than by virtue of a contract or as voluntary work.

A check that any chosen carers are both willing and able to take on the role of supporting the person. With consent from the person, they should be asked how they would like to be involved in discharge planning conversations and about any support they may need to participate. Inpatient teams should accommodate work and other responsibilities of carers as much as possible, so that they are able to attend discharge planning meetings. Reasonable adjustments should be put in place to support individuals who may have communication

Carers should be offered culturally appropriate support when they are identified. This may include being signposted to Local carers' support services, as well as referrals to appropriate voluntary services which may be able to offer support. According to the Care Act 2014, Local Authorities are required to undertake a carer's assessment for any unpaid carer who appears to have a need for support, and to meet their eligible needs on request from the carer.

10.0 Safeguarding.

If there are any concerns in respect of any safeguarding issue this must be raised via Local safeguarding processes and safeguarding protocols should be followed.

11.0 Advocacy.

The statutory right to independent advocacy is an important additional safeguard for people who are subject to the Act. A patient can request an advocate from their nurse, care coordinator or lead professional.

11.1 Independent Mental Health Advocacy (IMHA).

People 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:

- people 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)
- conditionally discharged restricted patients
- people subject to Guardianship
- people subject to Supervised Community Treatment Orders (CTOs)

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

Once discharged from detention, a person 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.

11.2 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.

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).

11.3 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.

12.0 Assessing, care planning and Recording Section 117 Aftercare needs

12.1 Assessing and Care Planning Attendance.

Before commencing Section 117 aftercare assessment and care planning the Hospital Lead professional will give consideration as to who needs to be involved and if advocacy is required.

Before commencing the Section 117 aftercare assessment, and care planning In addition to the individual themselves being present, the hospital Lead Professional should actively consider who needs to be involved and if advocacy is required. A potential list can be found at paragraph 34.12 of the Mental Health Act Code of Practice 2015.

12.2 Assessing Section 117 aftercare needs.

As staff are required to take a holistic approach when assessing aftercare needs they must complete an assessment to identify Section 117 aftercare needs. An aftercare plan specifying what will be provided to meet an individual's Section 117 aftercare need(Section). The care plan must clearly identify the interventions that are related to Section 117 aftercare entitlement and those that are not. (Please see the paragraph headed Section 117 associated guidance below in respect of non-117 aftercare needs) The forms and guidance on completing the assessment are contained in the Section 117 aftercare Procedures and Guidance at appendix C.

Assessments of aftercare needs should be conducted:

- as soon after admission as practically possible
- prior to discharge
- prior to any Tribunal or Hospital Managers review of detention
- as part of ongoing review in the community

- when considering ending someone's Section.117 entitlement

12.3 Section 117 aftercare care planning.

Relevant health and social care professionals should work with the multidisciplinary inpatient team throughout the inpatient stay to support the person to be discharged in a safe and timely way.

A person is considered Clinically Ready for Discharge (CRFD) 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.

The Section 117 aftercare care plan will be completed following assessment, and after identifying Section 117 aftercare needs and what matters to the person should be understood and documented. Care plan and review documentation can be found in the Section 117 aftercare Procedures and Guidance at appendix E.

The aftercare care 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 care plan will identify the Section 117 aftercare needs and details of how the individual will be supported to achieve their care plan goals. A record of all Section 117 aftercare identified needs must be retained through the care planning process and managed in line with the organisations management and retention of records policies.

The MDT must have explicitly considered the person and their chosen carer's views (where appropriate) and needs about discharge and include and involved them in co-developing the discharge plan and any transitional arrangements in respect of the discharge, the MDT must also have involved any services external to the provider in their decision making where these services will play a key role in the person's ongoing care.

The aftercare assessment and aftercare plan **must** be completed and recorded prior to the individual's discharge and made available to the individual and any relative/carer that the individual 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 ICB within 1 month of the person leaving hospital or prior to leaving hospital where there are complex or non-statutory/standard Section 117 aftercare needs identified, which require funding. LCC and LICB must document this on their individual clinical systems in accordance with each agency's record keeping policies. Where funding for complex or non-statutory aftercare needs is required this must be forwarded to the respective Quality Assurance Group for ratification.

13.0 Reviews.

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 patient's independence, and supported with a focus on promoting recovery and wherever possible independent living. The Joint Quality Assurance Group are also able to recommend additional review time frames where it is deemed appropriate.

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

For individuals identified in the transforming care process an additional review at 3 months post discharge will be convened to establish the on-going appropriate Lead agency for Commissioning.

14.0 Crisis plan.

Prior to the discharge date, where appropriate a crisis and safety plan should be developed in collaboration with the person and their chosen carer or carers with input from relevant members of the multi-disciplinary team.

15.0 Care programme Approach.

Chapters 33 and 34 of the Mental Health Act Code of Practice 2015 set out the requirements of planning after-care for eligible patients.

The Care Programme Approach (CPA) has been the systematic approach for the past 30 years, 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 enduring mental health issues, to ensure that long term care and support is organised around their wishes, and includes those individuals who are eligible for Section 117 aftercare. NHS England has stated with the publication of the “community mental health framework” that the care programme approach has been superseded. 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 reflected within this policy

16.0 Disengagement from service

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

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

Aftercare services under Section 117 aftercare 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 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.

17.0 Duty to provide Section 117 aftercare.

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

The Code of Practice also states (paragraph 27.3) that the 'duty to provide after-care services continues as long as the individual is in need of such services' and confirms (in paragraph 27.19) that 'the duty to provide aftercare services exists until both the responsible commissioning Authorities the Integrated Care Board and Local Authority 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.

17.1 Process for Ending Section 117 aftercare entitlement and eligibility.

Aftercare under Section 117 may not continue indefinitely, and each person's needs and circumstances should be reviewed regularly. The MHA Guidance makes it clear that even if the person is settled well in the community, they may still need Section 117 services to reduce the likelihood of a relapse, or to stop their condition deteriorating. Section 117 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.

17.2 Ending entitlement to Section 117 aftercare services.

Consideration to end an entitlement would be considered at a Section 117 aftercare review meeting where progress is discussed, and entitlement(Section) are reviewed. If there is agreement for an entitlement, or all entitlements to end this recommendation should be ratified by the relevant Quality Assurance group. A template letter for ending entitlements can be found in the procedures and guidance at appendix G.

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

17.3 Ending Section 117 aftercare eligibility.

Aftercare eligibility 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 aftercare 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 aftercare multi-disciplinary discharge meeting must be convened when ending Section 117 eligibility is considered, and all decisions must be recorded as evidence of the outcome. The views of the individual and their family or carers should form an important part of the discussion. If there is agreement that Section 117 aftercare can be ended/discharged, this will be recommended to the relevant Quality Assurance Group who will take a final decision, this decision will be communicated in writing to the individual. A template letter for ending eligibility can be found in the procedures and guidance at appendix H

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

17.4 Reinstating Section 117 Aftercare.

Where it is determined that someone who is eligible for Section 117 aftercare has had their entitlement or eligibility ended prematurely, and there is a need to reinstate care in respect of; "meeting a need arising from or related to the individual's mental disorder and reducing the risk of a deterioration of the individual's mental condition and, accordingly, reducing the risk of the individual requiring admission to a hospital again for treatment for mental disorder".

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

The Mental Health Act Administrators must be informed of the reinstatement of Section 117 aftercare eligibility.

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

The LDA programme relates to people who have a learning disability, autism, 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 the individual's identified above to prevent unnecessary admissions and avoid lengthy stays in hospital.

Individuals on the LDA programme and are on one of the eligible mental health act Sections, will be eligible to Section 117 aftercare upon discharge from the Section.

18.1 Funding for people with Learning Disability and people with autism on the LDA programme.

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

19.0 Commissioning/ Funding /Providing Section 117 Aftercare.

19.1 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) Consultant Psychiatrist, Clinical Psychologist, Occupational Therapist, and other services provided and funded within the remit of Lincolnshire Partnership Foundation Trust, and some community services for example the Community Psychiatric Nurse, Crisis Team, Social Workers also from Lincolnshire Partnership Foundation Trust, Social Workers from Adult Social Care in Lincolnshire, and registered nurses and healthcare workers from NHS Lincolnshire Integrated Care Board for care co-ordination. (These services are already funded by the Integrated Care Board or the Local Authority). The Statutory duty for Lincolnshire County Council is to undertake an adult Care Assessment and provide services to meet unmet eligible needs.

19.2 Services that are not statutory services.

Lincolnshire County Council and NHS Lincolnshire Integrated Care Board are the responsible Commissioners for individuals eligible for Mental Health Act Section 117 aftercare, they fund non statutory care services for example care homes with or without nursing, 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 that need.

Lincolnshire County Council and Lincolnshire Integrated Care Board have funding agreements in place as described below, The figure for deciding the 65%, 35% split for Mental Health working age adults, and Learning Disability 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.

The current funding agreements are included in the Procedure and Guidance documents at paragraph 14.0

19.3 A person with no recourse to public funds.

People are eligible for Section 117 aftercare services if they were admitted to hospital under the one of the eligible Sections of the Mental Health Act 1983, these services should be provided irrespective of the person's immigration status, including someone who may be subject to the no recourse to public funds condition. These individuals also have a legal right to a personal health budget under Section 117 aftercare.

For individuals on immigration bail, the Home Office must also be involved in any arrangements made for provision of Section 117 aftercare support under the Mental Health Act 1983. Any immigration bail conditions the individual may be subject to, including the restriction on a place of residence, must be considered when arranging Section 117 support. Any other support provided to the individual, such as asylum or schedule 10 support, must also be factored in when arranging Section 117 support.

19.4 Access to NHS services is based on clinical need, not an individual's ability to pay.

This principle states unequivocally that NHS services should be free at the point of use, except where charges are expressly provided for in legislation (for example, prescription charging and dentistry). Any decision to introduce new charges would need to be sanctioned by Parliament.

19.5 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 like your GP, hospital or clinic, or health improvement services provided by the Local Authority.

Dental, Ophthalmic and prescription services 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. However, 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 an 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. Information in respect of the charging is also embedded in the Procedure and Guidance documents at Appendix D

20.0 Section 117 aftercare Associated guidance.

20.1 Section 117 aftercare and Continuing Health Care Interface.

NHS Continuing Healthcare must not be used to meet Section 117 aftercare needs. Where an individual is eligible for services under Section 117 aftercare these must be provided 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.

20.2 Needs not related to the mental disorder.

A person in receipt of aftercare services under Section 117 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.

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 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 and 18 of the revised April 2024 version of "Who pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers (revised from the 2022 version) document highlights scenarios identifying the responsible commissioner, under the changing circumstances relating to Section 117 aftercare and "other health care needs.

20.3 Charging for aftercare services and Top Up Payments.

An individual will not be charged for Section 117 aftercare service, however if they are an adult with needs which fall outside of the Section 117 aftercare they may be subject to a financial assessment by Lincolnshire County Council.

Where LCC is responsible for funding any accommodation usually in respect of care homes where the accommodation is a part of the Section 117 aftercare identified needs then LCC cannot charge the individual. However, if an individual chooses alternative accommodation which is at a higher cost than the usual amount paid by LCC then the individual can enter into a written agreement⁴ with LCC in order to pay the additional cost, known as a top up payment, to secure the accommodation⁵. A top up will be used where choices made by the service user are for facilities or services that extend beyond the person's assessed care needs.

Legislation now indicates that an adult has the right to choose accommodation², provided that:

- The preferred accommodation is of the same type that LCC has decided to provide or arrange
- It is suitable for the person's needs
- It is available for mental health aftercare purposes³
- Where the accommodation is not provided by LCC, the provider of the accommodation agrees to provide the accommodation to the person on the Council's terms.

² Regulation 5(3) of the Care and Support Aftercare (Choice of Accommodation) Regulations 2014 (SI 2014/2670)

³ With regards to accommodation, it must relate to the mental disorder that triggered Section 117 eligibility

20.4 Direct Payments and Personal Health Budgets.

Direct Payments and Personal Health budgets (PHB) 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 (see also 7.3 above) and this must be taken into consideration when calculating Direct Payments and Personal Health budget payments.

20.4.1 Direct payments adult social care.

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

The Lincolnshire County Council Direct payments policy is included in the procedure and guidance documents at appendix I

20.4.2 NHS Personal Health Budget.

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 in this context Section 117 aftercare. NHS Lincolnshire Integrated Care Board Personal Health Budget Direct Payment Guidance is included in the procedure and guidance documents at appendix I.

21.0 Transition from children and young people service to adult services.

21.1 Identifying individuals for transition.

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 Integrated Care Board the Local Authority and Lincolnshire Partnership Foundation Trust 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. If admitted on or after their 17th birthday referral to the appropriate Local Authority and integrated Care Board for assessment and where applicable subsequent care planning for adult Section 117 aftercare which should ensure effective packages of care can be commissioned in time for the individual's 18th birthday. In order to do these 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.

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

The appropriate 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 if the existing service can 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 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 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 a full joint health and social care assessment has 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.

21.3 Impairment of mental capacity.

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. This process must be compliant with the 2005 Mental Capacity Act.

If there is a significant difference of opinion following the best interest decision between the responsible commissioners and the individual 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, and where appropriate a timely application should be made to the Court of Protection early enough for care and support arrangements to be in place when the young person reaches 18. This should be determined by applying the principles set out in the relevant legislation.

A dispute or lack of clarity over commissioner responsibilities must not result in a lack of appropriate input into the transition process or delay discharge.

22.0 Interagency Disputes.

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 disputes may arise. Any disputes that arise with regards to Section 117 aftercare, within the organisations, are to be managed by the Local disputes policy in respect of Section 117 aftercare included at appendix F in the Procedures and Guidance Documentation.

Where there is a dispute regarding 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 an individual's care or causing undue delay in discharging someone from hospital.

Neither the ICB nor an LSSA 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 disputes procedure should be invoked, and current funding arrangements should remain in place until the dispute has been resolved.

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

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

Appendix 1 of the “who pays? Determining which NHS commissioner is responsible for commissioning healthcare services and making payments to providers (version 1.1 (draft) 14 June 2022) sets out principles which apply where there is disagreement about a responsible commissioner issue between ICBs, or between ICBs and an NHS England commissioning team, and describes the formal dispute resolution process to be followed where a disagreement cannot be resolved Locally. Appendix 3 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.

22.2 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.

23.0 Complaints.

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

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

24.0 Training.

Each partnership organisation will provide appropriate and sufficient training for each of their employee groups.

Each agency will identify which category individuals fall into it is anticipated there will be 4 categories

1. New starters.

2. Existing employee's refresher for employee's who have limited responsibility
3. Existing employee's refresher for employee's who require a more indepth working knowledge and responsibility
4. Employees who do not need Section 117 aftercare information

Staff Group	Training Method	Frequency
New starters requirement Section 117 aftercare Policy		
Clinically registered staff responsible for Section.117 delivery non-Clinical staff with responsibility for Section 117	Mandatory e-learning Policy and procedure implementation Optional non mandatory resource pack	Within 1 month of employment
New starters with no immediate responsibility for Section 117 aftercare	Locally produced Video Policy Launch video Optional non mandatory resource pack Awareness of Policy and procedures	Within 2 months of employment
Existing employees Refresher training		
Clinically registered staff responsible for Section.117 delivery non-clinical staff with responsibility for Section.117	Mandatory e-learning Awareness of Policy and procedures (updated) Optional non mandatory resource pack	Once every 2 years
New starters with no immediate responsibility for Section 117 aftercare however need awareness.	Locally produced Video Policy Launch video Optional non mandatory resource pack Awareness of Policy and procedures	Within 3 months of start employment with LPFT, LCC or ICB
Employees with no responsibility or awareness need for Section117 aftercare	No mandatory Section 117 aftercare information. Awareness of Policy and procedures. Optional non mandatory resource pack	