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Joint Procedure on Section 117, Mental Health Act, 1983	
Introduction and Aim This document supports the Section 117, Mental Health Act, 1983 Policy. Cardiff & Vale University Health Board, Cardiff County Council, and the Vale of Glamorgan Council as partner agencies are committed to providing appropriate aftercare services to eligible patients according to need as set out in section 117 of the Mental Health Act 1983. To ensure staff are aware of their individual and collective responsibilities to those eligible to receive section 117 aftercare. To Provide clear guidance to staff in relation to their legal responsibilities under the Mental Health Act 1983. To Ensure that statutory requirements under the Mental Health Act 1983 are met.	
Objectives To set out the requirements for provision of after-care services under section 117 of the Mental Health Act 1983 to the residents and patients of the partner agencies. This procedure describes the following with regard to section 117 aftercare: <ul style="list-style-type: none"> • The purpose of section 117 aftercare • The process for eligibility for section 117 aftercare • The duties of the practitioners and agencies involved in the management of patients eligible to receive section 117 aftercare Practitioners must have due regard to the Mental Health Act Code of Practice generally and specifically to the Guiding Principles when they are providing aftercare services under Section 117.	
Scope This procedure is applicable UHB wide and to employees of Cardiff and the Vale of Glamorgan Council with a duty to provide aftercare services under section 117 of the Mental Health Act 1983.	
Equality and Health Impact Assessment	There is potential for both positive and negative impact. The procedure is aimed at improving services and meeting diverse needs. Mitigation actions are already in place to offset any potential negative

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	outcome, e.g. through the monitoring of the procedure. There is nothing, at this time, to stop the procedure from being implemented.
Documents to read alongside this Procedure	<ul style="list-style-type: none"> • Mental Health Act 1983 • Mental Health (hospital, guardianship, community treatment and consent to treatment)(Wales) regulations 2008 • The Mental Capacity Act 2005 (including the Deprivation of Liberty Safeguards delegated to this Act under the Mental Health Act 2007) • The respective Codes of Practice of the above Acts of Parliament • The Human Rights Act 1998 (and the European Convention on Human Rights) • The Equality Act 2010 • Mental Health (Wales) Measure 2010
Approved by	Mental Health and Capacity Legislation Committee

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Summary of reviews/amendments			
Version Number	Date of Review Approved	Date Published	Summary of Amendments
1	15/07/2020	30/07/2020	New document

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1 INTRODUCTION

- 1.1 This procedure sets out to describe the process of using s117 aftercare. It also gives guidance on the duties of the practitioners involved in the management of those patients eligible to receive such aftercare.
- 1.2 s117 provides a statutory framework and imposes an enforceable joint duty on the relevant health and social services authority to provide aftercare services for certain categories of mentally disordered patients who have ceased to be detained and leave hospital (or prison having spent part of their sentence detained in hospital).
- 1.3 The fact that the duty is a joint one does not mean that the costs incurred in providing services under this section should be shared between the authorities irrespective of the nature of the service being provided. The duty is joint in the sense that authorities must collaborate and plan together when providing, or arranging to provide services that come within the scope of their health or social care responsibilities.

2 PROCEDURE STATEMENT

- 2.1 Cardiff and Vale University Health Board and Cardiff and Vale of Glamorgan Councils are committed to ensuring, through this procedure, that individuals who are subject to s117 of the MHA 1983 (s117) receive care in line with the principles set out within the MHA Code of Practice. The primary purposes of s117, as defined in s117 (5), are as follows:
 - **To meet the need arising from the individual's mental disorder**
 - **Reduce the risk of deterioration**
 - **To minimise the need for repeated admissions.**
- 2.2 It is the intention of this procedure to articulate a clear process by which care planning in the context of s117 should be undertaken to deliver these objectives.
- 2.3 It is the intention of this procedure to ensure that s117 status is reviewed in a timely fashion and that all decisions in respect of this are clearly documented.
- 2.4 Patients and their carers/representatives, where appropriate, are seen as equal partners through this process. Individuals will be eligible for the help and assistance of Independent Mental Health Advocates or Independent Mental Capacity Advocates as appropriate.

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3 PURPOSE

- 3.1 The objective of this procedure is to set out the policy requirements for provision of aftercare services under s117 of the MHA 1983 to the residents of Cardiff and the Vale of Glamorgan.
- 3.2 This document aims to lay out a clear framework for the Health and Social Care services in Cardiff and the Vale of Glamorgan to utilise when delivering statutory aftercare to people who are entitled to those services under s117.
- 3.3 All staff should be familiar with the relevant sections in the Mental Health Act 1983 (the Act) and the Code of Practice for Wales, Revised 2016.
- 3.4 This document aims to give staff an understanding of their responsibilities with respect to planning, providing, reviewing and ending aftercare services and will ensure that the Local Social Services Authorities and Health Boards involved, work together to discharge their responsibilities under the Act.

4 SCOPE

- 4.1 The procedure is relevant for all Approved Mental Health Professionals; qualified and registered staff of Cardiff and Vale University Health Board and Cardiff and Vale of Glamorgan Councils who are required to assess, plan and deliver aftercare services.

5 LEGAL CONTEXT

- 5.1 Local Social Services Authorities (LSSAs) and Local Health Boards (LHBs) have a statutory duty to provide, in cooperation with relevant voluntary organisations, aftercare services for any person to whom s117 applies.
- 5.4 The Mental Health Act 1983, Code of Practice for Wales, Revised 2016 requires there to be a policy developed on a multiagency basis involving Local Authorities¹
- 5.5 s117 **only** applies to the following circumstances and individuals:
- Patients who have detained in a psychiatric hospital under Section 3 MHA (compulsory admission to hospital for treatment);
 - Patients who have been admitted under an order made under Section 37 MHA (detention in psychiatric hospital under a court order);

¹ Mental Health Act 1983, Code of Practice for Wales, Revised 2016, 265

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- Patients who have been transferred to a psychiatric hospital from prison or remand centre (including those on remand, detained in prison under the civil law or held under immigration legislation) in pursuance of a transfer direction under Section 45A, 47 MHA and Section 48 MHA who cease to be detained and Leave hospital (whether or not immediately after the detention has ended).

5.6 In addition s117 applies to:

- Those patients subject to Guardianship where he/she has previously been detained under Section 3; 37; 45A, 47 and 48 MHA and discharged from one of these and where the Aftercare plan included a requirement of Guardianship (Section 7 MHA);
- Patients, detained under Section 3; 37; 45A, 47 and 48 MHA, who are given leave of absence under Section 17 MHA, as part of the preparation of a post-discharge aftercare plan, and where that care plan is based on jointly assessed and agreed health and social care needs;
- Patients detained under Section 3; 37; 45A, 47 and 48 MHA, who are made subject to a Community Treatment Order (CTO) under Section 17A MHA;
- Patients who have been assessed as requiring live-in residential accommodation or to receive other non-residential community care services as a condition of leave under Section 17 MHA and/or s117 MHA.

5.7 Aftercare under s117 is to be provided until such time as the Local Social Services Authority and LHB are **jointly satisfied** that the person concerned is no longer in need of statutory after-care. This is achieved through Care Co-ordination with systematic, high quality assessment, review and discharge arrangements.

5.8 Health Service Circular HSC 2000/003 and Local Authority Circular LAC 2000(3) states that:

- ***‘Social services and health authorities should establish jointly agreed local policies on providing S117 MHA after-care. Policies should set out clearly the criteria for deciding which services fall under S117 MHA and which authorities should finance them. The S117 MHA Aftercare plan should indicate which service is provided as part of the plan. After-care provision under S117 MHA does not have to continue indefinitely. It is for the responsible health and social services authorities to decide in each case when after-care provided under S117 MHA should end, taking account of the patient's needs at the time. It is for the authority responsible for providing particular services to take the lead in deciding when those services are no longer required. The patient, his/her carers, and other agencies should always be consulted’***

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6 MANDATORY PROCEDURES

- 6.1 The s117 statutory duty arises at the point of discharge but aftercare bodies must ensure that appropriate planning takes place as soon as possible.
- 6.2 s117 aftercare planning meetings must be documented fully within the patient's electronic record under clinical information, using the appropriate review form.
- 6.3. Patients who are subject to s117 and receiving community services should be offered an Independent Mental Health Advocate (IMHA) to support them at reviews by the Care Coordinator.
- 6.4 Decision to end s117 can only happen with the agreement of both the responsible LSSA and the LHB (see section – Ending Section 117 Aftercare). Any such decision **must** be recorded in writing in line with this policy using the proforma contained in appendix 1.
- 6.5 Aftercare services **should not** be automatically discharged from s117 solely on the basis of any of the following:
- 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 patient is deprived of their liberty under the Mental Capacity Act (MCA)
 - The patient is no longer on a CTO or section 17².
- 6.6 Aftercare **must** be provided and extends to when a patient's Responsible Clinician (RC) authorises s17 leave of absence, the patient is discharged on to a CTO and upon discharge from hospital³.
- 6.7 Services required to meet a patients mental health needs are provided by the LSSA and the LHB who are jointly responsible to commission aftercare under s117⁴.
- 6.9 The duty to provide s117 aftercare is not broken by the patient's subsequent re-admission to hospital, even if detained under the Act, though the responsible authorities may change.

² Welsh Government, Mental health Act 1983, *Code of Practice for Wales, Revised 2016*; Para 33.20

³ Welsh Government, Mental health Act 1983, *Code of Practice for Wales, Revised 2016*; Para 33.2

⁴ Welsh Government, Mental health Act 1983, *Code of Practice for Wales, Revised 2016*; Para 33.6

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7 THE PURPOSE OF AFTERCARE

7.1 s117 (6)(a)(b) sets out the purpose of after-care services:

- Meet a need arising from or related to the person’s mental disorder; and
- Reduce the risk of a deterioration of the person’s mental condition (and, accordingly, reducing the risk of the person requiring admission to a hospital again for treatment for mental disorder).

8 CHILDREN SUBJECT TO S117 AFTERCARE

- 8.1 Children who are subject to s117 are cared for clinically under the CAMHS service; Cardiff and Vale ULHB will maintain a list of children subject to s117. Reviews will be organised by CAMHS at appropriate intervals. Children’s services, if involved, should be invited and attend reviews along with other partner agencies involved in the child’s care.
- 8.2 Children subject to s117 will be transitioned to adult mental health services for their 18th birthday. A well planned, comprehensive handover will be arranged with all agencies involved. Where a child is known to require Adult Mental Health Services, they should be referred to the appropriate Adult CMHT at age 16. Transition cases will be held under a separate PARIS list by the CMHT, with joint working with adult services to be arranged at age 17 and 6 months. It is essential that CAMHS and the relevant Local Authority social services team communicate and share relevant information in order that safe, seamless multi-disciplinary care is provided.
- 8.3 Where a looked-after child is the subject of a care order, the local authority responsible for providing accommodation for the child will be the authority which is designated by the Court at the time the care order is made. The child is therefore “ordinary resident” in the Local Authority area responsible for the funding of the placement and if eligible for s117 aftercare, from the placing Local Authority.
- 8.4 The Local Authorities for both Cardiff & Vale of Glamorgan will assist in the recording of eligible s117’s by ensuring they notify the Cardiff and Vale ULHB Mental Health Act office of all detentions eligible for s117 aftercare by forwarding copies of the section papers to the Mental Health Act Office in a timely manner.
- 8.5 If the child/Young Person is discharged from s117 aftercare prior to requiring Adult Mental Health Services it is the responsibility of CAMHS to ensure the Mental Health Act Office are notified.

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9 SCOPE OF AFTERCARE

- 9.1 Aftercare services could include a combination of health and social care services to ensure that issues relating to an individual's mental health needs and social care needs are met through the appropriate professionals.
- 9.2 The provision of accommodation in and of itself is not considered to be a s117 aftercare need unless there is a clear connection between the need and the mental disorder.

Relevant cases

- See R v Mayor & Burgess of the London Borough Camden [2013] “*basic or pure or ordinary accommodation*” does not come within the concept of aftercare services
 - Consistent with definition that ordinary accommodation meets a basic human need that applies to all individuals; it is not one which either arises from or is related to the person's mental disorder.
 - Receiving an aftercare service, such as residential care, for mental health needs prior to admission to hospital does not mean that service cannot be an “*aftercare service*” for purposes of this section. The person could not be charged for the accommodation on returning from hospital even if charged prior to the admission.
 - R v Mayor & Burgess of the London Borough Camden [2013] – claim that specialist accommodation came within scope failed because the need arose from a brain injury which occurred after discharge.
- 9.3 If need for residential care arises from physical disability which requires full time support for daily living needs, the fact of continuing to suffer from the symptoms of a mental disorder does not bring residential care within the scope of this section⁵.

10 CARERS

- 10.1 Although the duty to provide aftercare begins when the patient leaves hospital, the planning of aftercare should start whilst the patient is in hospital. Local Health Boards and Local Authorities should take reasonable steps, in consultation with the patient, their family or carer, care coordinator and other members of the multidisciplinary team, to identify appropriate aftercare services for the patient in good time for their eventual discharge from hospital, or release from prison⁶.

⁵ Report by Health Services Ombudsman and Local Government Ombudsman

⁶ Welsh Government, Mental health Act 1983, *Code of Practice for Wales, Revised 2016*; Para 33.8

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10.2 Carers and parents can be important members of the care delivery team, even in certain circumstances where their involvement is not requested by the patient. Part 2 of the Mental Health (Wales) Measure 2010 (the Measure) requires care coordinators to take all practicable steps to consult with parents and any carer(s) who may have a caring relationship with the patient during the preparation or review of the care plan. Consultation may go ahead even if the patient has indicated that they do not wish for the carer to be consulted, provided that due consideration has been given to the patient's wishes⁷.

11 ASSESSMENT

- 11.1 The planning and implementation of Aftercare services should be completed using the existing processes contained in Part 2 of the Measure⁸.
- 11.2 Aftercare arrangements should be recorded in the care and treatment plan. It is recommended that meeting the requirements to regularly review care plans are combined to reduce the need for multiple meetings⁹.
- 11.3 All care plans must include specific detail of which services are to be provided under s117.

12 PLANNING OF SECTION 117 AFTERCARE

- 12.1 Failure to implement discharge planning arrangements within '*a reasonable time*' is in breach of Article 5 of the European Convention on Human Rights, and therefore in breach of the 1998 Human Rights Act. Health and Social Care Staff responsible for discharge planning need to ensure that the reasons for any delay are well documented and evidenced. Discharging remains a joint responsibility between the LHB and the LSSA.
- 12.2 Within the framework of the Care and Treatment Planning (CTP), a written care plan, based on a full assessment of the patient's needs, and which specifies s117 after-care arrangements, must be in place before:
- Discharge from hospital
 - A period of s17 leave - except for short periods of leave, when "a less comprehensive review may suffice, but the arrangements for the patient's care should still be properly recorded" Any period of leave which includes an overnight stay necessitates a full after-care plan.

⁷ Welsh Government, *Code of Practice to Parts 2 and 3 of the Mental Health (Wales) Measure 2010* ; Para 4.20

⁸ Welsh Government, *Code of Practice to Parts 2 and 3 of the Mental Health (Wales) Measure 2010* ; Para 2.1 – 2.21

⁹ Welsh Government, *Code of Practice to Parts 2 and 3 of the Mental Health (Wales) Measure 2010* ; Para's 6.23, 6.24

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- A Mental Health Review Tribunal for Wales or hospital managers' hearing. The hospital managers must ensure that Health Board and the Local Authorities are aware of the hearing so that they are able to consider after-care arrangements in all cases; however this is particularly important when discharge is a strong possibility and appropriate after-care is a key factor in the decision.

12.3 The responsible clinician (RC) will ensure that the patient's after-care needs have been fully assessed. The s117 after-care plan should normally be formulated at a multi-disciplinary CTP meeting; this meeting will also identify the care co-ordinator (if not already identified). The Code of Practice for Wales contains detailed guidance about the people who should be involved in this process and the considerations to be taken into account.

12.4 A s117 register is to be kept and maintained by the Mental Health Act Department, Hafan Y Coed, University Hospital Llandough. All residents who are eligible for s117 aftercare, whether or not they receive such services should be on the register. The Mental Health Act Team are responsible for keeping the s117 register up to date and must be informed by the patients care co-ordinator of any significant changes:

- the date s117 after-care ends, or
- if responsibility for s117 after-care is transferred to another authority

12.5 The care plan must clearly identify the interventions that are related to s117 entitlement and those that are not.

13 REVIEW OF SECTION 117 AFTERCARE

13.1 The Care Coordinator will arrange an initial review of the Care Plan within an appropriate timescale (to be determined on a case by case basis according to need and standard practice). Care Plans for patients receiving after-care under s117 should be as often as required but once every twelve months as a statutory minimum, within the CTP process.

13.2 This meeting may include the following people:

- The patient, if he/she wishes and/or a nominated representative or advocate
- The patient's Responsible Clinician
- Social Worker/Care Manager
- Support Worker(s)
- GP and other representatives of the Primary Care Team
- Community Psychiatric/Mental Health Nurse
- Independent Mental Health Advocate or Independent Mental Capacity Advocate
- In the case of a restricted patient, the Probation Service / MAPPA Coordinator

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- Subject to the patient's consent, any informal carer who will be involved in looking after him/her outside hospital
- Subject to the patient's consent, his/her nearest relative
- Employment/Housing/Education as appropriate
- Primary Mental Health Support Service

13.3 The Health Board and Local Authorities will ensure that all patients subject to s117 will be subject to full CTP procedures. This includes joint assessments, care planning and reviews where agreed under the CTP policies and procedures. Users or carers (where appropriate) will be informed of these policies and will have copies of all their care plans, incorporating the s117 arrangements.

13.3 The review must specifically consider if it is appropriate for the care plan to continue to be provided under s117. It must be made clear which parts of the care plan are s117 services and which are not.

13.4 While the patient is eligible for s117 aftercare, any additional services to address mental health needs are also s117 services.

13.5. Each review must include an explicit decision on whether the person continues to be eligible for s117 aftercare and what services are required to support them.

13.6 Part 2 of the Measure mandates the use of a care and treatment plan for relevant patients who cease to be detained and leave hospital. It sets out the means to record after-care arrangements linked to services provided or actions taken in order to achieve the desired outcome.

13.7 The aftercare plan should be regularly reviewed. The Care Co-ordinator is responsible for arranging reviews of the care plan until it is jointly agreed that the patient no longer needs after-care services.

13.8 All reviews must be formally documented.

14 TRANSFER OF PATIENTS FROM OTHER AREAS

14.1 Section 4(a) of the Social Care and Wellbeing Act states clearly that "A person who is being provided with accommodation under s117 of the Mental Health Act 1983 (after-care) is to be treated for the purposes of this Act as ordinarily resident in the area of the local authority, or the local authority in England, on which the duty to provide that person with services under that section is imposed"

14.2 Responsibility for providing s 117 aftercare services may be formally transferred if the authorities agree. Formal transfer should be recorded through exchange of

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correspondence stating that agreement has been reached between the respective authorities to formally transfer responsibility, the date and time the transfer is effected and a statement that the patient would be informed by the accepting team. The Mental Health Act office **must** be informed of any such transfer.

- 14.2 The only other circumstance when responsibility may change is if an eligible person moves to a new area, becomes “ordinarily” resident in that area and is subsequently detained under a relevant section; this would lead to a re-evaluation of the responsible authorities.

15 RECORD KEEPING

- 15.1 It is very important to distinguish on care plans and s117 documentation those items of care and support that relate to mental health needs and are provided free of charge, and those items that relate to community care needs unrelated to the relevant mental disorder, which may be subject to a financial assessment the local social services authority. It is therefore important that the care co-ordinator in the aftercare planning arrangements is fully aware of the legal position and any funding commitments that may result.
- 15.2 Within effective care co-ordination, written documentation giving full assessment details should be available to inform an individual’s care plan. All the services relevant to the s117 aftercare plan must be carefully recorded and agreed with the person and or their representative. There should be a record of which services are to be provided by each agency.
- 15.3 Unwillingness by the service user to receive aftercare services is not a reason to terminate s117, as the need for services may be present. Any such refusal should be considered and reviewed regularly.
- 15.4 All staff to provide evidence that they have reasonably undertaken investigations to determine the persons last known “ordinary” residence. The address is not a care home of any type or a placement funded under s117 from another area/authority. Evidence to be documented in patients electronic notes as soon as practicable.

16 CHARGING FOR AFTERCARE SERVICES

- 16.1 Aftercare services provided under s117 aftercare must be provided free of charge.
- 16.2 The provision of aftercare services under s117 should not be confused with providing essentials for life such as food, clothes, accommodation, heating etc. These remain the responsibility of the individual except in the very special cases where accommodation,

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heating etc are provided as part of a residential placement and are an inseparable part of the aftercare plan.

- 16.3 If the aftercare to be provided includes housing-related support that would normally be funded by Supporting People grants, this will be paid by the local social services authority, unless the housing related support is identified as not being part of s117 aftercare services.
- 16.4 The Local Authority Circular LAC (2000, paragraph 2) states “occasionally there may be other non-residential community care services provided by the Authority which are not part of the s117 aftercare plan. These may relate to physical disabilities or illnesses, which have no direct bearing on the person’s mental health. Such services will generally fall outside s117aftercare.” These may therefore incur a charge to the person receiving them.
- 16.5 Where s117 aftercare is meeting a social care need and the local social services authority commits itself to providing a level of funding that will adequately meet the assessed need of the patient, there is nothing to prevent top up payments being made by the patient to fund additional or higher level of services.
- 16.6 s117 imposes a joint duty on the local authorities and the Local Health Board to provide a seamless aftercare service. If all the required aftercare services are to be provided under s117 it is not necessary to assess for eligibility for NHS continuing healthcare (CHC) funding. In other words, a primary healthcare need does not need to be established to require the Health Board to fund, and in most cases the complexity of a patient’s need will require both the Health Board and the local authority to work together to achieve the outcomes set out in s117.
- 16.7 In the absence of an agreement between the Local Authority and the Local Health Board, an assessment is required to determine whether the service is to be paid for out of an NHS or local authority budget or as a joint arrangement. This funding decision is then referred to a funding panel consisting of all partner agencies and should be made on the basis of a comprehensive assessment.
- 16.8 A person in receipt of s117 aftercare services may also have needs for continuing health care (CHC) not related to their mental health. In such a case a CHC assessment may be necessary to establish how these needs will be addressed.
- 16.9 Disputes regarding ongoing funding responsibility **must** not be a reason for delaying care planning or discharge planning.

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17 RESIDENCE

- 17.1 The responsible aftercare bodies in Wales and England are the LSSA in which the person concerned was ordinarily resident before being detained under a qualifying section of the MHA, or in any other case, the area in which the person is resident, or sent on discharge by the hospital in which they were detained.¹⁰
- 17.2 Guidance on s117 of the MHA was given in the case of *R v Mental Health Review Tribunal Ex p. Hall (1999) 4 All ER 883*. This case made clear that responsibility for the provision of aftercare services falls to the local authority and Local Health Board (Wales), (Primary Care Trust in England) for the area in which the person was resident when they were detained in hospital, even if the person does not return to that area on discharge. Only if no such residence can be established does the duty fall on the authority where the person is to go on discharge from hospital.
- 17.3 Decisions about residence may in some cases be difficult to determine and as such legal advice should be sought from the appropriate authority legal advisors.
- 17.4 Disputes about ordinary residence are determined by Welsh Ministers.¹¹

18 DIRECT PAYMENTS

- 18.1 Where a local authority is under a duty to provide aftercare services for a person under s117 of the Mental Health Act 1983 and the person is eligible to receive such payments under sections 50, 51 and 52 of the Social Services and Wellbeing Act, then it must make direct payments to discharge its duty.
- 18.2 The local authority duty to offer direct payments to anyone receiving services under s117 is subject to the exception of persons detailed in the schedule to Regulation 14(1) The Care and Support (Direct Payments) (Wales) Regulations 2015, where the local authority may provide direct payments subject to certain conditions.

19 THIRD PARTY PAYMENTS

- 19.1 The right to third party payments and top up payments are not affected by being subject to section 117.

¹⁰ Section 117(3) Mental Health Act 1983

¹¹ Mental Health Act 1983, Code of Practice for Wales, Revised 2016, 33.9

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20 DURATION

- 20.1 The duty on the relevant bodies will continue until they are satisfied that the patient no longer needs aftercare services for their mental health needs.
- 20.2 Section 194(1), Social Services and Wellbeing Act 2014 (SSWA 2014) deals with where an adult is to be treated as ordinarily resident, if the local authority which is responsible for meeting their needs for care and support makes arrangements for the adult to live in accommodation of a particular type. As a consequence of these arrangements, the adult may move to another area. In this situation, the effect of this provision is that the adult will be treated, for the purposes of the SSWA 2014, as being ordinarily resident in the area of the local authority which made the arrangements (and not in the area to which they move).¹²

21 ENDING SECTION 117 AFTERCARE

- 21.1 Aftercare provision under s117 does not have to continue indefinitely. It is for the responsible health and social services authorities to decide in each case when aftercare provided under s117 should end, taking account of the patient's needs at the time. It is for the authority responsible for providing particular services to take the lead in determining when those services are no longer required. The patient, his/her carers, and other agencies should always be consulted.
- 21.2 Once triggered, the right to after-care is ongoing and remains in place irrespective of a person's circumstances. Aftercare services must be provided until both the Health Board and social services authorities are satisfied that the patient is no longer in need of such aftercare services.
- 21.3 Patients are not legally obliged to accept aftercare services offered but any decisions they make to decline services should be fully informed. A patient's unwillingness to accept services does not mean they have no need for them; neither does it relieve the statutory agencies of their responsibility to offer aftercare.
- 21.4 When considering discharging a patient from s117 aftercare both authorities are required to jointly review the aftercare plan, even if the aftercare services are provided by a single authority. In practice, this is likely to be a decision made by the patient's integrated multi-disciplinary team. There must be a joint formal statement of the agreement to discontinue after-care services, made by representatives of the local authority and the local health board.

¹² Welsh Government, Law Wales Helping you understand Welsh Law, *Ordinary Residence* <<https://law.gov.wales/publicservices/social-care/9692237/Care-and-support-for-adults-and-children/ordinary-residence/?lang=en#/publicservices/social-care/9692237/Care-and-support-for-adults-and-children/ordinary-residence/?tab=overview&lang=en>> accessed 20 May 2019

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- 21.5 The decision to end s117 aftercare services must only be taken at a multi-disciplinary team meeting. The patient should be fully involved in the decision making process and their involvement recorded on the relevant form.
- 21.6 In the event that a patient disengages with Mental Health Services but remains subject to s117 aftercare, attempts should be made to invite the patient to a review meeting. If the patient does not attend this, a review meeting between Health and Local Authority representatives must be held to facilitate a clinical decision whether the entitlement to aftercare should continue. This review should evidence where able that efforts have been taken to ascertain the person's current mental state along with any identified needs, also whether the opinions of their family and GP have been sought where appropriate. In the absence of any information being available, the decision to close to s117 aftercare should then be based on clinical decision making and risk analysis.
- 21.7 The rationale behind the decision to discharge from s117 must be clearly recorded in the patient's record giving reasons as well as details of who was involved in the decision making.
- 21.8 Discharge from s117 must be recorded in case notes on PARIS, in the Mental Health Act module, and the register on PARIS will be updated.
- 21.9 The "Discharge from Section 117 After-care" form bearing the Health Board and Local Authority logos must be signed by the relevant representatives; a copy must be sent to the Mental Health Act Office for retention in the patient's Mental Health Act file.
- 21.10 If s117 after-care ends, it cannot be reinstated if the patient becomes in need of further mental health services. The patient can only receive further s117 services if they are readmitted to hospital under a qualifying section.
- 21.11 However, nothing in this policy should restrict a patient who is not subject to s117 to be assessed for and receive the appropriate mental health services.

22 TRAINING

- 22.1 All staff who work within Partner Agencies are responsible for ensuring that they maintain an up to date knowledge of the Mental Health Act 1983 and associated legislation as it applies within their practice.

23 IMPLEMENTATION

This document will be widely disseminated to staff across Cardiff and Vale University Health Board and Cardiff and Vale of Glamorgan Councils. It will be published on the organisations intranet site and referred to during training relevant to the Act.

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24 RESPONSIBILITIES

- 24.1 Chief Executive - The Chief Executive Officer has overarching responsibility for ensuring that Cardiff and Vale University Health Board is compliant with the law in relation to the Mental Health Act.
- 24.2 Chief Operating Officer - The Chief Operating Officer is the Executive Lead for Mental Health. He has overarching responsibility for ensuring compliance with the contents of this procedure.
- 24.3 Integrated Team Managers/Service Managers - It is the responsibility of all clinical managers to:
- Ensure that this procedure is brought to the attention of all their staff, and that they understand and adhere to the guidance/procedure contained within.
 - Ensure that all staff involved in the care and treatment of individuals subject to s117 aftercare have received adequate training and are competent to carry out these functions.

25 REFERENCES

- 25.1 All staff will work within in accordance with:
- Mental Health Act 1983 - www.legislation.gov.uk/ukpga/1983/20/contents
 - Mental Capacity Act 2005 - www.legislation.gov.uk/ukpga/2005/9/schedule/7
 - Mental Health Review Tribunal for Wales - www.justice.gov.uk/tribunals/mental-health
 - Human Rights Act 1998 - www.legislation.gov.uk/ukpga/1998/42/contents
 - Domestic Violence, Crime and Victims Act 2004
 - Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment) (Wales) Regulations 2008
 - Mental Health Wales Measure (2010)

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26 APPENDICIES

Appendix A – Discharge from Section 117 After-Care form (overleaf)



GIG
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Bwrdd Iechyd Prifysgol
Caerdydd a'r Fro
Cardiff and Vale
University Health Board



Discharge from Section 117 After-Care

Patient's full name:

Patient's home
address:

Patient's date of birth:

Identifier:

The following people have been consulted regarding the ongoing need for the above named to receive after-care under Section 117 of the Mental Health Act 1983.

Following consultation, it has been determined that with effect from _____ (date), this patient shall cease to be subject to section 117 after-care because:

Representative of Cardiff and Vale UHB Designation:

Print name: _____ Signed: _____ Date: _____

Representative of: Cardiff Council Vale of Glamorgan Council

Designation: _____ Date: _____

Print name: _____ Signed: _____

This decision has been reviewed and agreed by the following Team Managers:

Representative of Cardiff and Vale UHB Designation:

Print name: _____ Signed: _____ Date: _____

Representative of: Cardiff Council Vale of Glamorgan Council

Designation: _____ Date: _____

Print name: _____ Signed: _____

On completion, please forward a copy to: Mental Health Act Manager, Mental Health Act Department, Hafan Y Coed, University Hospital Llandough.



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GLOSSARY

Glossary of terms Term	Definition
Care Coordinator	Care Co-ordinators are the principle source of information for the relevant patient and are responsible for seeking their active involvement and engagement in the care planning process.
Care Management	Framework of assessment, care planning, provision of care packages and review for people who receive services via Local Social Services Authorities
Care and Treatment planning (CTP) assessment	CTP is a way of co-ordinating mental health services for people with mental health problems. It means that once you have an assessment detailing your needs, one person will be able to co-ordinate all aspects of your care. For example, this could be your medical and social care and community services available to you. This assessment will be carried out by a care co-ordinator.
Community Mental Health Services	Community mental health services support individuals with mental health problems who are living in the community. Teams include a range of professionals drawn from the local NHS and social services.
Community Mental Health Team (CMHT)	A team of mental health professionals who support people with mental health problems living in the community.
Continuing NHS Health Care (CHC)	<p>There are no powers to charge for services provided under S117 of the 1983 Act, regardless of whether those services are provided by the NHS or Local Authorities. It is not appropriate to assess eligibility for CHC if all the services in question are to be provided as after-care under S117.</p> <p>However, a person in receipt of after-care services under S117 may also have needs for continuing care which are not related to their mental disorder and which may therefore fall outside the scope of S117.</p>
Direct Payments	Payments from the local council for people who have been assessed as needing help, and who would like to arrange and pay for their own care and support services. These payments are made directly to the person (or to someone acting on their behalf), to arrange their own care package.
Independent Mental Health Advocates	Under the MCA, NHS bodies or Local Authorities (as appropriate) are required to instruct independent

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	mental capacity advocates (IMCA's) to represent people who have no family or friends who it would be appropriate to consult.
Local Authority (LA)	At a local level, the country is divided into a series of local authorities or councils. These authorities are responsible for providing local services to the community such as education, adult and children social care, regeneration, support for carers, leisure, housing and environmental services
LAC	Local Authority Circular alerts convey important information for local authorities
Mental Health Act 1983 (MHA)	An Act of Parliament that governs the treatment and care of some individuals incapacitated through mental illness.
Mental Health (Wales) Measure 2010	Framework of assessment, care planning and review for people who receive mental health services.
Multidisciplinary team	A multidisciplinary team (MDT) is a group of professionals from a range of different professions.
NHS Continuing Healthcare	Package of care arranged and funded solely by the NHS.
NHS Funded Nursing Care	The money paid by the NHS for the nursing care component of a person's care package is known as the NHS Funded Nursing Care.
Primary Care	Primary Care is the care provided by people you normally see when you first have a health problem. For example a doctor or dentist, an optician for an eye test, a pharmacist. NHS Walk-in Centres, and the phone line service NHS Direct, are also part of primary care.
Responsible clinician (RC)	A patient's responsible clinician is defined as the approved clinician with overall responsibility for the patient's case. All patients subject to detention or Community Treatment Order have a Responsible Clinician; Nurse, Occupational therapist, Psychiatrist, Psychologist, Social Worker.
S117 Aftercare Responsibilities	Services that normally include treatment for mental health disorder, social work support to help the patient with problems of employment, accommodation or family relationships, the provision of domiciliary services and the use of day centre and residential services.
Section 117 Register	Register of service users subject to S117 to be maintained.
Responsible clinician (RC)	A patient's responsible clinician is defined as the approved clinician with overall responsibility for the patient's case. All patients subject to detention or

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	Community Treatment Order have a Responsible Clinician, Nurse, Occupational therapist, Psychiatrist, Psychologist, Social Worker.
Service user / Client / Patient	A person receiving any health or social care services, from going to the family doctor, the pharmacist, to accessing social services such as home care or direct payments.

RELEVANT SECTIONS OF THE MENTAL HEALTH ACT 1983

Section 3	Order detaining an individual in hospital for treatment.
Section 17 leave of Absence	Formal permission for a patient who is detained in hospital to be absent from the hospital for a period of time.
Section 17A (Community Treatment Order(CTO))	Order providing a legal framework around the care plan of an individual who has been detained under section 3 (or section 37 hospital order), when they are discharged from hospital, although they remain liable for recall or revocation from the Community Treatment Order.
Section 37	Hospital Order detaining an individual who has been transferred by the Courts to hospital for treatment. Note: Guardianship under section 37 does not confer s117 status.
Section 37/41	Order detaining an individual who has been transferred by the Courts to hospital for treatment, with restrictions.
Section 37/41 – conditionally discharged	Section 42 allows the Secretary of State to direct that someone under a restriction order should be discharged from hospital but subject to conditions e.g. place of residence, supervision by psychiatrist and social supervisor.
Section 45A	When imposing a prison sentence for an offence other than when the sentence is fixed by law, the Crown Court can give a direction for immediate admission to and detention in a specified hospital, with a limitation direction under Section 41. The directions form part of the sentence and have the same effect as a hospital order. The Home Secretary can approve transfer back to prison at any time.
Section 47 or 48	Orders detaining an individual transferred from prison to hospital for treatment.
Section 47/49 or 48/49	Orders detaining an individual transferred from prison to hospital for treatment, with restrictions.

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