

Section 117 aftercare

Under the Mental Health Act 1983

This factsheet explains if you can get free aftercare under section 117 of the Mental Health Act 1983. '117' is pronounced 'one-one-seven'. This factsheet explains what services you might get and when your care will end. This factsheet is for anyone who might be entitled to section 117 aftercare and their relatives and friends.

Key Points.

- 'Aftercare' means the help you get when you leave hospital.
- You are entitled to section 117 aftercare if you have been in hospital under sections 3, 37, 45A, 47, or 48 of the Mental Health Act 1983.
- You won't get free aftercare if you have been in hospital under any other section of the Mental Health Act.
- The NHS and social services should give your aftercare for free.
- The aftercare should focus on your mental health needs. It should help you to get better and stay out of hospital.
- You may get things like specialist housing, help to meet other people, help with work or education, or free prescriptions for mental health medication.
- Your aftercare might be organised under the Care Programme Approach (CPA).
- Your aftercare should only stop when you no longer need it to stay well.
- If you have any problems or questions, you can talk to your care coordinator, or another member of your care team. An advocate might be able to help you if you need them too. If you're still unhappy with your care you could think about making a complaint.

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1. What is section 117 aftercare?

Some people who have been detained in hospital under the Mental Health Act 1983 can get free aftercare when they leave hospital. This is called section 117 aftercare. Being detained in hospital under the Mental Health Act is sometimes called being 'sectioned.' 'Aftercare' means the help you get after you leave hospital to:¹

- meet needs that you have because your mental health condition or conditions², and
- reduce the chance of your condition getting worse, so you don't have to go back into hospital.

Section 117 begins when you leave hospital. But hospital staff should start planning your aftercare as soon as you go into hospital.³

You can find more information about the '**Mental Health Act**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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2. Will I get section 117 aftercare?

You will get free aftercare if you have been in hospital under certain sections of the Mental Health Act. You can get it if you have been:⁴

- detained in hospital for treatment under section 3,
- transferred from prison to hospital under sections 47 or 48, or
- ordered to go to hospital by a court under sections 37 or 45A.

You will only start getting aftercare services when you leave hospital.

You won't get free aftercare if you have been in hospital under other sections of the Mental Health Act.

What if I go on leave from hospital?

You may be allowed to leave the hospital for a short time. This is called 'going on leave' or 'section 17 leave'.

You might go on leave while you are in hospital under sections 3, 37, 45A, 47, or 48. You will be able to get free aftercare when you are on leave.⁵

What if I stay in hospital?

You might be entitled to section 117 aftercare and be discharged from the Mental Health Act. But you might stay in hospital as a voluntary or informal patient. You will still get free aftercare when you leave hospital.⁶

What if I go back to hospital?

If you go back into hospital, your entitlement to section 117 aftercare will continue. That's the case if you're detained under any section of the Mental Health Act or are a voluntary patient.⁷

If I'm on a community treatment order (CTO) am I entitled to section 117 aftercare?

You may be discharged from hospital under a community treatment order (CTO). If you are under a CTO, you will get free aftercare.⁸

You can find more information about '**Community treatment orders**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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3. Who should arrange and pay for my aftercare?

Who will arrange my aftercare?

Your aftercare will be arranged by the following organisations.⁹

- Your local social services authority, which is a part of your local authority.
- Your local NHS 'clinical commissioning group' (CCG). The CCG is a group made up of GPs and other professionals from healthcare and non-healthcare backgrounds. They decide what services should be available in your area.¹⁰

Who will pay for my social care?

Social services

Your local social services authority in the area where you usually lived before you went into hospital will pay for your care.¹¹ This is still the case if the detention which entitles you to section 117 aftercare isn't your first detention.¹²

If 2 local authorities can't agree who should pay for your care, someone at the Department of Health and Social Care will decide.¹³

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Working out which clinical commissioning group (CCG) should pay for your aftercare, will depend on when you were discharged from hospital.¹⁴

- **Patients discharged before 1 April 2013.** The CCG in the area where you usually lived before you were detained in hospital will pay for your care.
- **Patients discharged between 1 April 2013 and 31 March 2016.** During these dates you might have been discharged into a different CCG area than where you lived before detention. If that's the case, the CCG where you lived after detention must pay for your aftercare. On discharge, if you lived in the same area as before detention, that CCG should pay for your aftercare.
- **Patients discharged from 1 April 2016.** The CCG in the area where you usually lived before you were detained in hospital will pay for your care.

What are direct payments for social care?

Direct payments are when your local authority gives you money to arrange and pay for your own social care.

This means you can choose how you get the support you need. You can ask for direct payments, if you have the mental capacity to manage them.¹⁵ 'Mental capacity' means being able to make decisions for yourself.

You can find more information about:

- Social care - Direct payments
- Mental capacity and mental illness

at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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4. What services should I get and how will these be planned?

There are no limits to what services you can get. But the services should:¹⁶

- meet the needs of your mental health condition or conditions¹⁷, and
- reduce the chance of your condition getting worse, so you don't have to go back into hospital.

You may get:

- certain types of housing,
- services in your home or in a day centre, and
- help to get supported employment.

You may also get free prescriptions for mental health medication.¹⁸ Your care co-ordinator can arrange for you to get free prescriptions if you ask them.

The NHS and social services should ask you what kind of things you would like help with.¹⁹ Your carer could be involved in this too, if you want.²⁰

Other people that could be involved are your:²¹

- psychiatrist,
- community psychiatric nurse (CPN),
- GP,
- psychologist,
- social worker,
- occupational therapist,
- advocate,
- local authority housing officer,
- attorney, if you've made a Lasting Power of Attorney for Health and Care Decisions, and
- Deputy, if one has been appointed by the Court of Protection.

Your mental health might affect you in different ways. For example, you may find it hard to do some things for yourself. These things are called your 'needs'. The NHS and social services should give you services that help you to do these things.

When everyone has agreed what services you need, they will put this in a written plan. This is called an 'aftercare plan' or a 'care plan'. Your care plan might include things like:²²

- where you will live,
- what treatment you will get,
- what you will do during the day,
- what services will help you to stay well,
- what help you will get to go to work or study,
- what help with drug or alcohol use you will get, if you need it,
- things that might help you to keep in contact with your family, or to raise children,
- what you should do in a crisis, and
- what help you will get with benefits and managing your money.

Rachel's Story

Rachel has a diagnosis of borderline personality disorder, and a history of using drugs.

She was in prison for a drugs offence and was transferred to hospital under section 47. Rachel has now returned to prison.

She has a care coordinator who is writing a plan about what help she will get when she leaves prison. The plan says that Rachel will have help at home on a weekly basis, help with finding employment, help to manage her drug use, and details of what she should do in a crisis.

What if my needs change?

You might have a care coordinator who you can talk to about this. A care coordinator helps to organise the help and support you get. If you don't have a care coordinator, you can speak to someone else in your care team.

If your care coordinator agrees your needs have changed, they will look again at the help you need. They may call this a 'review' or a 'reassessment'.

Your care coordinator should review your plan regularly, even if your needs haven't changed.²³ This should happen at least once a year.²⁴

When your care coordinator reviews your needs, they will hold a meeting. They may call this a 'review meeting' or a 'needs assessment'. Other people may be able to go to the meeting too, such as your GP, your psychiatrist, and your carer, if you have one.

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5. What is the Care Programme Approach (CPA)?

Most people who are entitled to section 117 aftercare should get help under CPA.²⁵

CPA is a package of care, where different health professionals work together to meet your needs. Under CPA, you will have a care plan and someone to coordinate your care.²⁶

CPA aims to support your mental health recovery by helping you to understand your:²⁷

- strengths,
- goals,
- support needs, and
- difficulties.

Under CPA you should: ²⁸

- be involved in planning your care,
- have a care plan covering all your care needs, and

- have your care needs reviewed regularly.

You can find more information about the '**Care Programme Approach (CPA)**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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6. Can I get free housing?

The rules about what housing you can get for free under section 117 are complicated. Normal housing is very unlikely to be free.²⁹ But specialist housing might be free if it:^{30,31}

- meets needs that you have because your mental health condition or conditions , and
- reduces the chance of your condition getting worse, so you don't have to go back into hospital.

The law isn't clear about who will be able to get free housing under section 117. But we include some guidance below.

Can I get free ordinary housing?

Ordinary housing won't usually be free under section 117.

'Ordinary housing' means a house, flat, or room that you rent from the council, or a private or social landlord.

You might feel your ordinary housing should be free because it:

- meets needs that you have because of your mental health condition or conditions, and
- reduces the chance of your condition getting worse, so you don't have to go back into hospital.

If you do, we suggest you get legal advice if you want to challenge. You can find more information about getting legal advice in [section 9](#) of this factsheet.

Can I get free supported housing?

Supported housing is housing where you get care, support, or supervision at home. This housing isn't the same as a 'care home'.

You may be charged separately for your rent and care. A lot of local authorities will charge you for rent, even if you are under section 117.³² But they should pay your care costs under section 117,³³ unless they are paid for by another scheme.

Depending on your circumstances, you might be able to claim welfare benefits to help with your rent.

The law isn't clear about whether local authorities are acting properly by charging you rent. You can think about getting legal advice if you want to challenge your local authority.

You can find more information about getting legal advice in [section 9](#) of this factsheet.

You can find more information about '**Supported housing**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

Can I get free care home accommodation?

Care home accommodation might be included as part of section 117 aftercare.³⁴

The cost of the home should be paid by the NHS and the local authority if:³⁵

- the need for the residential care is linked to your mental health condition or conditions, and
- you don't have the mental capacity to decide about where you live.

But the law about getting free care home accommodation under section 117 is complicated.

If you want to know more about if your care home fees should be paid under section 117 aftercare you can think about getting legal advice. You can find more information about getting legal advice in [section 9](#) of this factsheet.

What if I'm returning to residential care?

You might have lived in residential care to meet your mental health needs before you went into hospital.

If you return to residential care after being in hospital, it might be free of charge under section 117 aftercare. Even if you paid for the residential care before you went into hospital.³⁶

What if I'm in a care home under Deprivation of Liberty Safeguards (DoLS)?

You might have to go into a care home under a DoLS order if you lack mental capacity.

If you are entitled to section 117 aftercare, the home should be free of charge.³⁷

You can find more information about '**Mental capacity and mental illness**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

Will I need to pay top up fees?

The local authority will assess your needs and decide how much it will cost to meet them in a care home. If the home you have chosen is more expensive, you will need to pay top up fees. This is to cover the difference.³⁸

Can I get free nursing care?

You might get nursing care in the care home. If you are entitled to section 117 aftercare this will be free and paid for by the NHS.³⁹

Depending on your circumstances your nursing care might be paid for by the NHS under either:⁴⁰

- Section 117 aftercare, or
- NHS Continuing Healthcare.

You can read more about NHS Continuing Healthcare at www.nhs.uk/Conditions/social-care-and-support-guide/Pages/nhs-continuing-care.aspx.

Can I choose where I want to live?

New rules from April 2015 say you can choose the care home or supported housing you want to live in. Your local authority will have to let you to live there if:^{41,42}

- you are over 18,
- the local authority was going to offer you the same type of housing,
- it will meet your needs,
- the housing is available,
- the housing provider agrees to the local authority's standard terms, and
- if your preferred housing is more expensive, you, or someone you know, will pay the difference. Whoever agrees to pay will have to agree in writing.

Roy's Story

Roy lives with schizophrenia and is in hospital under section 3 of the Mental Health Act 1983. Roy's doctors think that he is well enough to leave hospital. It is decided that he will need ongoing support in a care home to make sure that he doesn't become unwell again.

Roy's care coordinator asks him what type of things he might find helpful, and they agree a list of services he needs. Roy's care coordinator has found three care homes that would meet his needs. Roy chooses the one that is closest to his family.

7. Can I get a personal health budget?

From 2nd December 2019 you can get a personal health budget if you are entitled to section 117 aftercare.⁴³

What is a personal health budget?

A personal health budget is an amount of money to support your health and wellbeing needs. It is planned and agreed between you and your NHS mental health team.⁴⁴

A personal health budget allows you to manage your healthcare in a way that suits you.

Together with your NHS mental health team, you will develop a care plan. The plan sets out:

- your personal health and wellbeing needs,
- the health outcomes you want to achieve,
- the amount of money in the budget, and
- how you are going to spend it.

Your care plan should be regularly reviewed. You can ask for your plan to be reviewed if you think it isn't meeting your needs or your needs change.

A care co-ordinator will be responsible for organising your care.

You can give up your personal health budget at any time. You will still be able to receive care and support in another way.

A personal health budget is different to direct payments for social care. You can have:

- a personal budget and direct payments at the same time, or
- an integrated personal budget, for both your healthcare and social care needs.

What can I spend my personal health budget on?⁴⁵

You should work with your NHS mental health team to identify:

- your health needs, and
- what support and treatment you need to meet those needs.

You can spend your personal health budget on care and support to meet your needs. You should agree this with your NHS mental health team. Your local Care Commissioning Group (CCG) might need to be involved too.

You might be able to spend the money on a broader range of care and support than the NHS usually offer. For example, if a side effect of your

medication is weight gain, you might be able to use your budget to pay for gym fees.

You should be supported by a suitable professional to think through how you would like to use your budget.

Your NHS mental health team is responsible for:

- giving you advice about your budget, or
- referring you to a suitable local organisation for advice.

Your personal health budget should be used for the specialist support and care you need because of your illness or disability. You don't need to use it to pay to see your GP or to get emergency care, for example.

You might want to know more details about what you can and can't use your budget for. You can find out more at this link:

www.england.nhs.uk/publication/guidance-on-direct-payments-for-healthcare-understanding-the-regulations/

You can read more about personal budgets by clicking on this link:

www.nhs.uk/using-the-nhs/help-with-health-costs/what-is-a-personal-health-budget/

You can also look on the following website:

People Hub – Personal Health Budgets Network

People with a personal health budget and their families share their experiences. The website also includes information and resources on personal health budgets.

Website: www.peoplehub.org.uk

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8. When will my free aftercare end?

The NHS and social services have to give you free aftercare for as long as you need it under section 117.⁴⁶ Even if you are doing well outside hospital, you may still need aftercare services to make sure you stay well.⁴⁷

Ending section 117 aftercare is called being 'discharged' from it. Your local clinical commissioning group (CCG) and local social services authority must decide that you no longer need aftercare services.⁴⁸ They shouldn't discharge you from section 117 aftercare when you are still getting services you need.

If staff want to discharge you from section 117 aftercare, they should fully involve you in this decision.⁴⁹ They may do this through a 'discharge

meeting'. You can bring an advocate, carer, or family member, if you want.⁵⁰

They shouldn't discharge you from section 117 aftercare just because:^{51,52}

- you have been discharged from specialist mental health services, such as a community mental health team (CMHT),
- a certain length of time has passed since you left hospital,
- you go back to hospital voluntarily or under section 2,
- your community treatment order (CTO) ends, or
- you refuse aftercare services.

Professionals might discharge you from section 117 aftercare but then think that they have discharged you too soon. This might happen if your mental health starts to get worse as soon as you are discharged. If this happens professionals can put you back on section 117 aftercare.⁵³

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9. How can I deal with problems with section 117 aftercare?

If you have a problem with section 117 aftercare, you can talk to your care coordinator. If you don't have a care coordinator, talk to a member of your care team.

What is advocacy?

If you are worried about talking to your care coordinator or care team, you may be able to get help from an advocate.

Advocates can help you to understand information and get your point across. The type of advocate you need depends on your situation.

What is an Independent Mental Health Advocate (IMHA)?

If you are on a community treatment order (CTO), you can get help from an IMHA.⁵⁴ They are specialists on your rights under the Mental Health Act, including section 117 aftercare.

What is a Care Act advocate?

A Care Act advocate can help you when your social care is being planned or reviewed. But only if you need help because you find it hard to do the following things and you have no one to help you:⁵⁵

- understand information you need to make the decision,
- retain the information,
- use or weigh up the information to make a decision, and
- tell someone your decision.

Care Act advocates are sometimes called independent advocates.

What is an NHS complaints advocate?

If you are making a complaint about an NHS service, you can get help from an NHS complaints advocate. They're free and independent of the NHS.

What is a community advocate?

If you can't get help from any of the above advocates, you might be able to get help from a community advocate.

Community advocates are general advocates that can help with lots of different issues. But they're not available everywhere.

You can find more information about '**Advocacy**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet. The information includes how to find local advocacy services.

How can I complain?

If you can't solve the problem by talking it through, you can make a complaint.

You can find more information about '**Complaints about the NHS and social services**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

How can I take legal action?

You could get advice from a solicitor, who could help you to get the services you are entitled to. You need to do this quickly because the time limit for taking the NHS and the local authority to court can be as little as 3 months.

You can find more information about '**Legal Advice – How to get help from a solicitor**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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Patient Information Forum

Rethink Mental Illness Advice Service

Phone 0808 801 0525
Monday to Friday, 9:30am to 4pm
(excluding bank holidays)

Email advice@rethink.org

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