

Mental Health - section 117 aftercare

This factsheet explains what section 117 aftercare is, who is entitled to it, how long it lasts and what to do if it is not provided.

What is section 117 aftercare?

If you have been sectioned under the Mental Health Act 1983 then you may be entitled to free aftercare when you leave hospital. Aftercare means the help you get to look after yourself when you are discharged from hospital. If you are entitled to Section 117 aftercare it will be funded by the NHS and social services.

Who is entitled to free aftercare?

Section 117 of the Mental Health Act imposes a duty on the NHS and social services to provide free aftercare services to people who have been detained in hospital under certain sections of the Mental Health Act.

Aftercare is available if you have been:

- detained in hospital for treatment (section three)
- transferred to hospital from prison (sections 47 and 48)
- ordered to go to hospital by a court (sections 37 and 45A)

If you were sectioned for an assessment in hospital (section two) you will not be eligible unless you are then detained for treatment under section three.

What does it cover?

Previously there was no definition of what aftercare services were. However, the Care Act 2014 has introduced some changes to the Mental Health Act, and in particular now defines aftercare as being services:

- which are designed to meet the needs arising from your mental health condition (the reason you were detained in the first place); and
- that help to reduce the risk of deterioration of the condition (i.e. prevent you being admitted to hospital again).

Common services which can be provided, include:

- Counselling or therapy
- Assistance with managing money
- Social support
- Help with work or education
- Free prescriptions
- Specialist housing
- Use of a day centre
- Care home fees (if you were already resident before you went into hospital)

Care Planning

Mental illness can affect people in different ways and aftercare services will vary from person to person. A variety of professionals will help to identify what your specific needs are and what you might need help and support with following your discharge from hospital. Input and help may come from your psychiatrist, GP, psychologist, community mental health nurse, occupational therapist or social worker.

You should be fully involved in this process along with your family. Once your needs have been identified a formal care plan will need to be produced to set out precisely how those needs will be met.

No two plans are the same. Your care plan might include some or all of the following:

- Details of where you will live e.g. a care home, ordinary housing, supported living
- What if any continuing treatment you will receive
- Plans for daily activities
- Mental health support services
- Support with work or study
- Help with physical health problems
- Drug and alcohol dependency support
- Family contact arrangements
- Crisis management
- Help with accessing benefits and money management

When does it end?

Your free aftercare does not stop after a certain period of time, it should be provided for as long as you need help because of your mental illness.

The responsibility of the NHS and social services to fund your free aftercare only ends when you are discharged from section 117. To discharge you, both the NHS and social services have to agree that you no longer require the services that are being provided.

Usually, they will hold a meeting to reassess your needs. Consideration should be given to how you will manage without the services being provided and you, or a carer or relative, should be given the opportunity to tell the NHS and social services how you feel.

You should not be discharged from section 117 aftercare just because you are discharged from the care of the community mental health team or because you are well settled in the community following your hospital discharge.

You should be provided with reasons for the decision that has been made and given the opportunity to challenge that decision where appropriate.

What do I do if aftercare is not provided or if there is a dispute?

There are a variety of options available to someone who is unhappy with a decision made about section 117 aftercare, either because it was not provided at all, or if services were withdrawn too early.

We would always recommend seeking advice from a solicitor or advocate at the earliest opportunity to make sure that you are

aware of your options and that your complaint is directed to the appropriate body.

The first step is to make a complaint to the people involved in making the decision. You may have an appointed care manager, or have dealings with a specific person at the NHS or social services. If you are still unhappy with the outcome following their complaints procedure, you can make a complaint to either the Local Government Ombudsman (if the complaint is to do with services provided by social services) or to the Parliamentary and Health Service Ombudsman (if the complaint is about services provided by the NHS).

In some circumstances it may be more appropriate to issue legal proceedings to request a Judicial Review of the decision made. These proceedings are used to challenge a decision that was illegal, unlawful or unreasonable. Proceedings for Judicial Reviews must be issued at court within three months of the decision that is being challenged. A full discussion on Judicial Review is beyond the scope of this factsheet but, if you think this might apply to you then you should seek legal advice immediately.

Timescale

If you are eligible for section 117 aftercare this should be agreed and in place before you are discharged from hospital.

If you have been charged for services which are subsequently found to be section 117 services then the NHS and social services have a duty to refund any money that was paid, together with interest.

Professional advice

There are many people who are entitled to section 117 aftercare who have never been told about it.

Legal representation will ensure that the NHS and social services take full account of the applicant's needs and that all appropriate representations are made to ensure that the right support is provided.

We can offer full support and assistance to individuals entitled to request and obtain section 117 aftercare services or to challenge retrospective decisions and recover any monies paid out for section 117 services inappropriately.

If you think you or your family member might be eligible for section 117 aftercare then visit our community care pages at www.mooreblatch.com We can provide an initial assessment of your case entirely free of charge.

Legal Representation

We are a leading law firm offering a full range of commercial and private client services with expertise in:

- Education
- Health and social care
- Court of Protection matters
- Personal injury and clinical negligence claims
- Disability discrimination
- Healthcare law
- Tax and trusts
- Employment
- Housing issues

Alternatively, for more information about accessing section 117 aftercare or challenging a decision on eligibility, please contact us on **023 8071 8000** or email paula.barnes@mooreblatch.com

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