



## MENTAL HEALTH RIGHTS, DETENTION & AFTERCARE

# Section 117 Aftercare

Understanding entitlement, planning, responsibilities,  
charging and when the statutory duty can end.

### The key idea

Section 117 creates a joint NHS and local-authority duty to provide aftercare for people who meet the legal criteria after certain Mental Health Act detention. Qualifying Section 117 aftercare cannot be charged for.

# What is Section 117 aftercare?

**Section 117 of the Mental Health Act 1983** creates a statutory duty to provide aftercare for certain people after they cease to be detained under qualifying Mental Health Act provisions. It is intended to support the person's needs following hospital treatment and help reduce the risk of deterioration or readmission.

## A legal duty

Section 117 is not simply an optional discharge service. Where the legal criteria are met, the responsible **NHS body and local social services authority** have a joint duty to arrange appropriate aftercare.

## Why is it different from ordinary support?

The legal basis matters because qualifying Section 117 services have specific rules about responsibility and charging. A person's entitlement should not be treated as though it were simply an ordinary discretionary care package.

## No charge for qualifying aftercare

A person cannot be charged for services that are being provided to meet the statutory Section 117 aftercare duty. This is an important distinction from some forms of means-tested social care.

## Current legal position

This guide describes the Section 117 framework operating in **England in September 2026**. Mental Health Act reforms are being introduced in stages, so future changes should be checked against commencement dates before being treated as current law.

## Start with legal status

If you are unsure whether Section 117 applies, establish the section under which the person was detained and what happened when that detention ended.

# Who qualifies for Section 117?

Entitlement depends on the person's Mental Health Act history. It does not arise after every psychiatric admission or every Mental Health Act section.

## Common qualifying route

People who cease to be detained under **Section 3** are a major group entitled to Section 117 aftercare.

## Other qualifying provisions

Section 117 also applies following certain court and transfer provisions, including qualifying detention under **Sections 37, 45A, 47 or 48**, where the statutory conditions are met.

## What about Section 2?

Detention under **Section 2 alone** does not create Section 117 entitlement. Section 2 is principally an assessment section and is not one of the qualifying provisions listed in Section 117.

## Informal admission

A voluntary or informal inpatient does not gain Section 117 entitlement simply because they have stayed in a psychiatric hospital. The relevant qualifying legal detention is what matters.

## What if the person has been on more than one section?

Mental Health Act status can change during an admission. For example, somebody may begin on Section 2 and later be detained under Section 3. The later qualifying detention can create Section 117 entitlement when the statutory criteria are met.

## What does 'aftercare' mean?

Section 117 defines aftercare by reference to services that meet a need arising from or related to the person's mental disorder and that have the purpose of reducing the risk of deterioration and the need for readmission for treatment.

### Both parts matter

A service should be considered in relation to **why the person needs it** and **what purpose it serves**. Section 117 is not limited to one particular type of mental-health service.

## What might aftercare include?

Depending on individual need, aftercare can involve mental-health treatment and monitoring, community support, help with daily living, supported accommodation, social-care support, occupational or vocational support and other services connected with the statutory purpose.

### Individual, not a fixed package

There is no single standard Section 117 package. The relevant services should reflect the person's assessed needs and circumstances.

## Accommodation

Accommodation can sometimes form part of Section 117 aftercare where it meets the statutory test. Whether particular accommodation is Section 117 aftercare depends on the person's needs, the purpose of the provision and the legal circumstances.

### Ask what is being provided under Section 117

A care plan should make it clear which needs and services are being treated as Section 117 aftercare, particularly where charging could otherwise become confusing.

# Who is responsible for providing aftercare?

Section 117 places the duty jointly on the relevant NHS commissioning body and the relevant local social services authority. In England, the NHS responsibility will commonly sit with the appropriate **Integrated Care Board (ICB)** under the current system.

## Joint responsibility

Health and social care organisations should work together. The person should not be left without necessary aftercare simply because agencies are disputing who should arrange or fund it.

## Which local authority is responsible?

Section 117 contains specific rules for identifying the responsible bodies. These rules are not always the same as ordinary social-care residence rules and can be affected by where the person was ordinarily resident immediately before detention and other statutory circumstances.

## Responsibility can be legally complex

Moves between areas, out-of-area placements and changes in accommodation can make responsibility disputes complicated. Specialist advice may be appropriate if agencies disagree.

## Can responsibility simply transfer when somebody moves?

Not necessarily. A later move does not automatically mean the Section 117 duty transfers in the same way someone might expect from ordinary residence. The statutory responsibility rules need to be applied to the person's circumstances.

## Do not delay support

Disputes between public bodies should be addressed through the appropriate processes rather than leaving the person without required aftercare.

# Planning Section 117 aftercare

Aftercare should be considered as part of discharge planning rather than as an afterthought once somebody has already left hospital.

## Start before discharge

The Code of Practice expects aftercare planning to begin while the person is still detained so that necessary services can be identified and coordinated before discharge.

## The person's involvement

The person should be involved in planning their aftercare as far as possible. Their wishes, preferences, communication needs, relationships, strengths and concerns can all affect whether a plan is realistic and useful.

## Ask what matters outside hospital

Planning can include where the person will live, medication and treatment, crisis support, daily living, relationships, meaningful activity, physical health, finances, employment or education where relevant.

## Carers and supporters

With appropriate consideration of consent and confidentiality, carers and trusted supporters can contribute useful information and help identify practical needs. Their involvement should not replace the person's own participation.

## Written clarity helps

It is useful for the care plan to identify the services to be provided, who is responsible for each part, relevant contacts and what should happen if needs change.

# Can someone be charged for Section 117 aftercare?

**No charge can be made for a service insofar as it is being provided under the Section 117 duty.** This is one of the most important practical protections attached to the entitlement.

## Not means-tested

Qualifying Section 117 aftercare is not converted into a chargeable service because a person has savings, income or would ordinarily contribute towards social care.

## What if a service has more than one purpose?

Real care packages can be complicated. A person may receive some support under Section 117 and other services under a different legal framework. The legal basis for each element should be made clear before charges are applied.

## Ask for the decision in writing

If a charge is proposed, ask whether the service is being treated as Section 117 aftercare, why, and which legal basis is being used for any part said to be chargeable.

## Top-ups and choice

Questions about preferred accommodation, additional services or payments beyond the provision required to meet assessed Section 117 needs can be legally nuanced. The fact that Section 117 aftercare itself is free does not mean every optional additional arrangement is automatically funded.

## Get advice before agreeing to charges

Where substantial accommodation or care costs are involved, seek specialist advice if it is unclear whether the proposed payment relates to statutory aftercare or an additional choice.

# Community Treatment Orders and Section 117

A person discharged from hospital onto a **Community Treatment Order (CTO)** following qualifying detention can be entitled to Section 117 aftercare while living in the community.

## Different legal functions

A CTO and Section 117 are not the same thing. The CTO creates a Mental Health Act community-treatment framework; Section 117 creates the aftercare duty.

## What if the person is recalled?

A CTO patient can be recalled to hospital in circumstances set out by the Act. Their Section 117 position should be considered alongside the CTO and any subsequent changes in legal status.

## Aftercare can continue beyond the CTO

Section 117 does not automatically end simply because a CTO ends. The statutory aftercare duty has its own test for when it can be brought to an end.

## Discharge from detention is not discharge from aftercare

A person can be completely free from detention or a CTO and still remain entitled to Section 117 aftercare. The purpose of aftercare is precisely to support life outside compulsory hospital treatment.

## Keep the concepts separate

Ask separately: **Is the person currently subject to a Mental Health Act power?** and **Does the Section 117 aftercare duty still apply?**

## When does Section 117 end?

Section 117 does not expire automatically after a fixed number of months or years. The duty continues until the responsible NHS body and local authority are satisfied that the person is **no longer in need of aftercare services** for the statutory purpose.

### Joint decision

Ending Section 117 is not simply a decision for one professional or one organisation. The responsible health and social-services bodies must reach the statutory conclusion that aftercare is no longer needed.

## What should be considered?

The decision should consider the person's current needs, the relationship of those needs to their mental disorder, the purpose served by aftercare and the risk of deterioration or readmission if support is withdrawn.

### Recovery does not automatically end entitlement

Improvement while receiving effective support does not by itself prove that the support is no longer needed. The question is whether the person continues to require aftercare for the statutory purpose.

## Can somebody refuse services?

A person's refusal of a particular service does not necessarily mean the underlying Section 117 duty has ended. Capacity, choice, risk, alternative forms of support and continuing need may all require consideration.

### Ask for reasons

If Section 117 is being ended, ask for the decision, reasons and resulting care arrangements to be clearly recorded and explained.

## If there is a disagreement

Disagreements can arise about eligibility, what counts as aftercare, which body is responsible, whether a service can be charged for or whether Section 117 should end.

### Start with the care team

Ask the responsible professionals to explain the decision, the legal basis being used and which NHS and local-authority teams hold Section 117 responsibility.

## Advocacy and support

Depending on the person's circumstances, advocacy may help them understand the decision, express their views and participate in reviews or complaints. Other statutory advocacy rights may also apply under different legal frameworks.

### Complaints

NHS and local-authority complaints processes can be relevant where a person believes aftercare has not been properly planned, provided or reviewed. Complaints do not prevent somebody seeking legal advice where necessary.

## Legal advice

Section 117 disputes can involve specialist public and mental-health law, particularly where there are significant care costs, accommodation issues or disagreements between authorities.

### Keep useful records

Care plans, discharge documents, section papers, funding decisions, assessments, review notes and correspondence can help clarify what has been decided and why.

## Practical Section 117 checklist

- Confirm which qualifying Mental Health Act section created the entitlement.
- Ask which NHS body and local authority are responsible for Section 117.
- Ask for aftercare planning to begin before discharge.
- Make sure the person's own goals, preferences and communication needs are included.
- Ask which services are specifically being provided as Section 117 aftercare.
- Check that no charge is being made for qualifying Section 117 services.
- Ask who to contact if needs change or part of the care plan is not provided.
- Remember that ending a CTO or hospital detention does not automatically end Section 117.
- If Section 117 is being ended, ask for the joint decision and reasons to be explained.
- Seek advocacy, complaints support or specialist legal advice where entitlement or charging is disputed.

### A useful starting question

Ask: **What needs arose from or relate to the person's mental disorder, which services are intended to reduce deterioration or readmission, and are those services being recognised and funded as Section 117 aftercare?**

### About this resource

This PDF provides general educational information about Section 117 aftercare in England. Responsibility and entitlement can be legally complex, particularly across geographical areas and where accommodation or charging is disputed. It is not individual legal advice.

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## References & further information

**Mental Health Act 1983, Section 117.** Statutory aftercare duty and definition of aftercare services.

**Mental Health Act 1983 Code of Practice.** Statutory guidance on aftercare planning, joint working, patient involvement and ending the Section 117 duty.

**Care and Support Statutory Guidance.** Department of Health and Social Care guidance addressing the relationship between the Care Act and Section 117 aftercare, including charging.

**NHS England.** Guidance and commissioning information relevant to Mental Health Act aftercare and NHS responsibilities.

**Mental Health Act 2025.** Reform legislation being implemented in phases; current operational rules should be checked against commencement regulations as implementation progresses.

### Collection complete

This completes the **Mental Health Rights, Detention & Aftercare** collection: The Mental Health Act, Understanding Mental Health Act Sections, Your Rights When Detained, IMHA, Nearest Relative & Family Involvement, and Section 117 Aftercare.