

## *Policy Circular*

### Document No 21/02

**Owner:** Social Work Directorate  
**Subject:** Mental Health Aftercare Plans  
**Version:** 6 of 6  
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**Next Review:** November 2012

### 1.0 England and Wales

Section 117 of the Mental Health Act 1983 (s.117) applies when a person who has been detained in a psychiatric hospital under section 3 of the Mental Health Act 1983 is discharged. A plan for their aftercare must be agreed before discharge and must cover **all** the needs of that person in order to establish a safe discharge, not just mental health monitoring.

The health authority and social services **both** have a **duty** to provide this care under s.117 free of charge for as long as the needs remain. In order for a s.117 to no longer apply a reassessment by **both** must agree that the needs no longer exist.

If ILF were to include any needs covered by the s.117 aftercare plan within an ILF package that would mean that the client was being required to contribute to care they have a legal right to receive free of charge.

The duty to provide aftercare also applies in relation to patients who are subject to a community treatment order (for supervised

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community treatment. Community treatment orders were introduced under the Mental Health Act 2007 in England and Wales in November 2008.

## **1.1 Policy**

ILF will not fund any care that is included in a s.117 aftercare plan or community treatment order. In all cases where there is a request for funding and the candidate is subject to a s.117 plan or community treatment order the file should be referred to the ILF Social Work team.

Any domestic needs or personal care needs that arise subsequently and are not covered by the s.117 aftercare plan or community treatment order, can be considered in the normal way as long as the Local Authority is funding QSS to at least the value of the relevant Threshold sum, on top of any commitment to the community treatment order or s117 plan.

If an existing ILF user in England or Wales is detained under section 3 of the Mental Health Act a section 117 aftercare plan will be made when they are discharged and this plan should cover all of the person's care needs. In these circumstances the file should be referred to the ILF Social Work team.

The same position applies when someone leaves hospital subject to a community treatment order for supervised community treatment and therefore the file should also be referred to the ILF Social Work team.

## **2.0 Scotland**

In Scotland the nearest equivalent to s. 117 is a Compulsory Treatment Order under the Mental Health (Care and Treatment) (Scotland) Act 2003 which may impose conditions relating to a person's place of residence, medical treatment and aftercare services which mean that the person might not be able to satisfy ILF that they are living independently.

## **2.1 Policy**

Where someone is subject to a Compulsory Treatment Order in Scotland funding may be inappropriate depending upon the terms of the order. The file should be referred to the ILF Social Work team.

## **3.0 Northern Ireland**

The Mental Health (Northern Ireland) Order 1986 does not require such an aftercare plan to be provided.

### **3.1 Policy**

There are no restrictions to ILF funding in relation to Mental Health Aftercare cases in Northern Ireland.

## **4.0 Source**

SMT meeting 2 June 2003

SMT policy sub committee 12 June 2003

Mental Health Act 2007

Mental Health (Care and Treatment) (Scotland) Act 2003

The Mental Health (Northern Ireland) Order 1986

Mental Health Act 1983

## **5.0 Cross References**

Independent Living & Shared Care policy

LA Threshold Sum policy

## **6.0 History Date Reviewed**

December 2008

November 2010

# Equality Impact Assessment

## Screening Template

This preliminary impact assessment form is to help you screen your policy, project, function or new service. It should help you consider whether a full Equality Impact Assessment is required by looking at whether there is a potential negative or positive impact on any of the equality groups, if there is an opportunity to promote equality, and whether further data is needed.

**Title of policy, project, function or service:**

Section 117 Mental Health Act (MHA) 1983 and Compulsory Treatment Orders

**Short description of aims and objectives**

Sets out ILF policy when a user is subject to an order under s.117 of the MHA in England and Wales or a Compulsory Treatment Order in Scotland.

**Thinking about each group below, does (or could) the policy, project, service or function have an impact on members of each equality group? If so, how?**

Equality Group	Yes – negatively	Yes – positively	Unclear	No impact
Age	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Disability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Race	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Gender	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Transgender	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Socio-economic groups	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## What information or research has been considered in judging these impacts?

See below

You should consider a full Equality Impact Assessment (EIA) if:

- (a) you feel one or more equality groups will be negatively impacted by the policy, project or service, or
- (b) there is an opportunity to promote equality and eradicate discrimination.

You may also consider further research if it is unclear, at this stage, what the impact may be.

**Based on your findings, is a full EIA required? No.**

**Please provide a short summary of your decision-making below:**

The policy provides that for those people in England and Wales who are discharged from hospital having been detained under the MHA.

ILF will not provide any of the care they are entitled to receive under their discharge plan. The relevant health and local authorities both have a legal duty to provide such care free of charge. If ILF were to fund they would be providing care that another authority is legally obliged to provide. This policy therefore reflects a wider public policy position.

Additionally the ILF would have to levy a charge when the person is entitled to receive the care for free. The policy applies equally to all users and equality groups. The underlying disability in respect of which the person requires support is not taken into account in applying the policy. Any differential impact e.g. race or gender, merely reflects the incidence of mental health problems in those groups.

For users in Scotland who are subject to a CTO the policy emphasises that each case is considered on an individual basis and that the key question to consider is whether or not they are living independently.

**Notes:**

- The completed EIA Screening Template should be sent to Jon Duckworth, User Liaison Manager for approval by the Equality Impact Assessment Board (EIAB).
- We will contact you with any comments or queries about the completed form.

**This form was  
completed by:**

Michael Beacroft