

Section 117 Aftercare

Free services for people who have been sectioned

This factsheet explains whether you can get free aftercare under section 117 (normally pronounced 'one-one-seven') of the Mental Health Act 1983. It also explains what services you might get and when your care will end.



- 'Aftercare' means the help you get when you leave hospital.
- You are entitled to section 117 aftercare if you have been in hospital under section 3, 37, 45A, 47 or 48 of the Mental Health Act 1983.
- Section 117 means that you will get free aftercare when you leave hospital.
- Your free aftercare will come from the NHS and social services.
- Your illness might affect you in lots of different ways. The NHS and social services call these things your 'needs'.
- Your aftercare will help you with your 'needs'. You might get specialist housing, help to socialise, help with work or education and free prescriptions for mental health treatment.
- Your free aftercare should only stop when you do not need any more help from the NHS or social services.
- If you have any problems or questions, talk to your care coordinator or your other contacts in the NHS or social services. An advocate might be able to help you do this. If this does not work, you could think about making a complaint or getting help from a solicitor.

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1. What is s117 aftercare?

Aftercare means the help you get after you leave hospital.

Some people who have been in hospital under the Mental Health Act 1983 ('sectioned') can get free aftercare when they leave hospital. This is called section 117 ('one-one-seven') aftercare.

Section 117 begins when you leave hospital, but the staff at the hospital should start planning your aftercare as soon as you go in to hospital.¹

2. Am I entitled to s117 aftercare?

You will be entitled to free aftercare if you have been in hospital under certain sections of the Mental Health Act 1983. You can get it if you have been:

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

You will only start getting services when you leave hospital.

You will **not** be entitled to free aftercare if you have only been in hospital under section 2, 4, 5 or 38 of the Mental Health Act 1983.

What if I go on leave from hospital?

You may be allowed to leave the hospital for a short time. This is sometimes called 'going on leave' or 'section 17 leave'. If you have been in hospital under section 3, 37, 45A, 47 or 48 and you go on leave then you will be entitled to free aftercare while you are on leave.

What if I stay in hospital?

You might want to stay in hospital when you have been discharged from the Mental Health Act 1983. This is called being a 'voluntary' or 'informal' patient. If you don't leave hospital straight away, you will still be entitled to free aftercare when you do leave as long as you have been under section 3, 37, 45A, 47 or 48.

What if I go back to hospital?

If you become unwell again, you may need to go back into hospital. Your free aftercare under section 117 will not end just because you have gone into hospital again. For example, some people worry that if they are sectioned under section 2 in the future, they will lose their entitlement to section 117 aftercare. This will not happen.

Community Treatment Orders (CTOs)

You may be discharged from hospital under Supervised Community Treatment (SCT). This is often called being under a 'Community Treatment Order' (CTO). If you are under a CTO then you will be entitled to free aftercare.

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3. Who should provide my aftercare?

Your aftercare will be arranged by:

- your local NHS 'clinical commissioning group' (CCG). The CCG is a group of GPs who make decisions about what services should be made available in your area.
- your local social services authority (LSSA), which is a part of your local council.

Disputes about which authorities should provide your aftercare

The clinical commissioning group (CCG) and local social services authority (LSSA) in the area where you normally lived **before** you went into hospital will usually have to pay for your care. This is not normally a problem, but sometimes it can be an issue if you are now living in a completely different part of the country.

Example

Greg lives in Somerset and has schizophrenia. He becomes very unwell and is sectioned under section 3. His doctors think he needs specialist treatment and he is transferred to a hospital in London. He stays there for two months and is then placed in residential care in London. The cost of this accommodation and any other services that Greg needs must be met by the CCG and LSSA in Somerset even though the decisions about his care have been made by doctors and other professionals in London.

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

The NHS and social services should ask you what kind of things you would like help with. Your carers could also give their opinions if you want them to. Other people might also give an opinion about what help you should get. This could include your:

- psychiatrist,
- community psychiatric nurse (CPN),
- GP,
- psychologist,

- social worker,
- occupational therapist,
- advocate,
- local authority housing officer,
- attorney if you have appointed someone under a 'lasting power of attorney' (LPA),
- deputy if one has been appointed by the Court of Protection.²

Your illness might affect you in lots of different ways and mean that you find it hard to do things for yourself. The people who organise your care will call these things your 'needs'. You should be offered services that will help you to deal with these problems. NHS and social care professionals call this 'meeting your needs'.

Once everyone is agreed about how your illness affects you and what services will be put in place to help, this will be set out in writing. This may be called an 'aftercare plan' or a 'care plan'. It might cover:³

- where you will live,
- what treatment you will get,
- things you can 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 you will get with physical health problems,
- what help with drug or alcohol use you will get (if this applies),
- things that might help you to keep in contact with your family or to raise children,
- what you should do in a crisis,
- what help you will get with benefits and managing your money.

There are no restrictions on what you can get as part of your aftercare plan. However, the services have to meet needs that you have because of your mental illness.⁴ It is common to get certain types of housing, free prescriptions, services in your home or in a day centre, and supported employment opportunities.

Example

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. Rachel 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 with drugs 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 your situation. A care coordinator helps to organise the help and support you get. If you don't have a care coordinator, you should have contacts in social services and the NHS who you can speak to instead.

If your care coordinator agrees that your needs have changed then they will look at your situation again. They may call this a 'review' or a 'reassessment'. It is likely that your care plan will be reviewed regularly even if your needs have not changed. For example, your plan might be looked at again once a year.

When your care coordinator decides to review 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, psychiatrist and your carer if you have one.

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5. Can I get free housing?

The rules about what housing you can get for free under section 117 are complicated. In short, ordinary housing that everyone needs will not be free but certain types of specialist housing will be.

What housing is free?

The rules about which housing will be free under section 117 changed recently.⁵ This might make it harder for you to get free housing. Housing will only be free if:

- it is not ordinary housing,
- you need specialist housing because of the illness that led to you being in hospital under the Mental Health Act, and not some other illness,
- the housing has been imposed on you because you cannot make the decision yourself (you 'lack capacity' to make the decision).

Most people with a mental illness such as a mood or anxiety disorder, personality disorder or schizophrenia do not normally 'lack capacity' to make decisions about housing and this could mean that some people find it harder to get free housing. You might also have problems if your diagnosis has changed, if you have more than one illness or if your medication causes you health problems.

Ordinary housing

Ordinary housing will not be free under section 117. 'Ordinary housing' means a house, flat or room that you rent from a private or social landlord.

Supported housing

Supported housing means that you live in shared housing and have care provided there. Your care and housing will normally be run by different companies. This prevents the housing from being seen as a 'care home'.

You will usually be charged separately for your rent and care. A lot of councils will charge you for rent whether or not you are under section 117, but they should pay your care costs under section 117 if they are not paid for by another scheme. The law is not totally clear about whether these councils are acting properly by charging you rent. You can try to challenge your local council by making a complaint or taking legal action as soon as possible.

Care homes (residential accommodation)

Residential accommodation, including care homes, are definitely within the scope of section 117 aftercare and are provided for free.⁶ If you lived in residential care before you went into hospital, you could get it for free when you leave hospital. However, as we mentioned above, the law has changed so that your housing now has to be imposed on you in order to be free. This could cause problems, but we do not yet know to what extent local councils will enforce this.

Unfortunately, at the moment, you cannot choose which care home you would like to be placed in under section 117.

Example

Roy has a diagnosis of schizo-affective disorder and is in hospital under section 3. Roy's doctors think that he is well enough to leave hospital. They arrange a 'discharge meeting' to talk about what help Roy will need, and they decide 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, but warns him that she might not be able to find somewhere that offers everything that he wants. The care coordinator talks to people in the local authority and finds a care home that she thinks is suitable for Roy. Roy gets this housing for free.

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6. When will my free aftercare end?

The duty to provide aftercare lasts as long as you need help from the NHS and social services because of your mental illness. Even if you are doing well outside of hospital, you may still need aftercare services to make sure you stay well.

Ending section 117 is often called 'discharge' from section 117. Your local clinical commissioning group (CCG) and local social services authority (LSSA) must both decide that you no longer need any aftercare services.

They should not end your entitlement to section 117 when you are still getting services that you need.

If staff in mental health services think that your aftercare should end, it is likely that they will arrange a meeting. They may call this a 'section 117 discharge meeting' or a 'discharge meeting'. You should be invited to go to this, and you might find it helpful to bring an advocate, carer or family member if possible.

Your free aftercare under section 117 should **not** be stopped just because:

- you are 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,
- you refuse aftercare services.⁷

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7. How can I resolve problems?

If you have a problem with section 117, the first step is to talk to your care coordinator. If you do not have a care coordinator, talk to your main contacts in the NHS and social services.

You may find it helpful to get help from an advocate. They can help you to get your opinion across. You can find more information about **Advocacy** at www.rethink.org. Or contact 0300 5000 927 and ask for a copy of the factsheet to be sent to you.

If you cannot solve the problem by talking it through, you could make a formal complaint. If you are not happy with the outcome of your complaint it may be possible to complain to an Ombudsman service. These services have the power to investigate complaints further. You can find more information on complaints in our '**Complaining about the NHS or social services**' factsheet, which you can download for free from www.rethink.org or call 0300 5000 927 and ask for a copy to be sent to you.

Finally, you could also consider seeking advice from a solicitor, who could help you to get the services you are entitled to. You would normally need to act very quickly because the time limit for challenging public bodies is usually three months. You can find more information about '**How to get legal advice and assistance**' at www.rethink.org. Or contact 0300 5000 927 and ask for a copy of the factsheet to be sent to you.

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- ¹ Department of Health, '*Mental Health Act Code of Practice*' (2008) The Stationary Office at para 27.8
- ² As note 1, at para 27.12
- ³ As note 1, at para 27.13
- ⁴ R (on the application of Mwanza) v Greenwich L.B.C. [2010] EWHC 142 (Admin)
- ⁵ R (on the application of Afework) v London Borough of Camden [2013] EWHC 1637 (Admin)
- ⁶ R. V Manchester City Council Ex p. Stennett [2002] UKHL 34
- ⁷ As note 1, at para 27.20, 27.22

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Rethink Mental Illness

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