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Cabinet
Thursday, 3 February 2022, 10.00 am, County Hall

Membership
Councillors:
Cllr Alan Amos, Cllr Marc Bayliss, Cllr Matt Dormer, Cllr Simon Geraghty (Chairman), Cllr Adrian Hardman (Vice Chairman), Cllr Marcus Hart, Cllr Adam Kent, Cllr Karen May, Cllr Tony Miller and Cllr Andy Roberts

Appendices Supplement

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worcestershire county council

NHS
Herefordshire and Worcestershire
Clinical Commissioning Group

NHS
Herefordshire and Worcestershire Health and Care
NHS Trust

Section 117: After-Care under the Mental Health Act 1983/2007
Worcestershire Joint Policy

This policy describes the statutory framework for managing and supporting persons to whom section 117 of the Mental Health Act 1983 applies across Worcestershire. The purpose of the policy is to:

- provide a consistent approach across Herefordshire and Worcestershire ICS; and
- clarify agreements for the funding of Section 117 between the CCG and the local authority.

This document is not exhaustive and it recognises that although correct at the time of distribution there are likely to be changes to national legislation/guidance/policy developments or case law. This document should NOT be used as a substitute for seeking legal advice when required.

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Associated Policy or Standard Operating Procedures	**Section 117: After-Care under the Mental Health Act 1983/2007 Worcestershire Standard Operating Procedure**		

Contents

1.0 Introduction

1.1 Section 117 of the Mental Health Act 1983/2007 (MHA) places a joint duty on local NHS and local authorities with social services functions to provide or arrange for aftercare services for people that have been sectioned under the treatment sections of the Mental Health Act 1983, namely Sections 3, 37, 45A, 47 and 48 and then cease to be detained and leave hospital.

1.2 Section 117 aftercare services refers to services which have the purpose of

- meeting a need arising from or related to the person's mental disorder; and
- reducing the risk of a deterioration of the person's mental condition (and, accordingly, reducing the risk of the person requiring admission to a hospital again for treatment for mental disorder).

1.3 Section 117 gives considerable discretion to health and local authorities as to the nature of the services that can be provided. These include support with: management of medication and mental health needs; activities of daily living which enables a person to remain a full part of their community; employment services, supported accommodation and services to meet the person's wider social, cultural and spiritual needs.

1.4 Aftercare services only relate to those needs which arise directly from or are related to the person's mental disorder and help to reduce the risk of deterioration in the person's mental condition. It may be that the person also requires other support services in the community which are not part of their section 117 aftercare plan, and these should be provided accordingly under the relevant legislative provisions (e.g. the Care Act 2014).

1.5 Services should be provided in co-operation with the relevant voluntary agencies.

1.6 Identifying which elements of a person's care might be eligible under section 117 can be complex, especially when determining what is a health need and what is a social care need. Therefore, all those to whom this policy applies pursuant to paragraph 2.4 will work together to ensure that all identified aftercare needs are met.

2.0 Scope of Policy

2.1 This Policy should be read in conjunction with the Worcestershire Standard Operating Procedure and the relevant legislation and guidance

2.2 This Policy applies to people of all ages including children and young people who have been detained in hospital under the MHA under sections 3, 37, 45A and 47/48 of the Act and then cease to be detained and leave hospital. This includes patients granted leave of absence under section 17 and patients going on CTOs.

2.4 This Policy and any associated documentation applies to:

- Worcestershire County Council
- Herefordshire and Worcestershire Clinical Commissioning Group
- Herefordshire and Worcestershire Health and Care NHS Trust

3.0 Purpose of Section 117 and when it applies

3.1 The primary purpose of section 117 is to:

- meet a need arising from or in relation to a person's mental disorder;
- reduce the risk of deterioration of a person's mental condition; and
- reduce, therefore, the risk of a person requiring admission to hospital again for treatment for mental disorder.

3.2 Aftercare can be a vital component in a person's overall treatment and care. As well as meeting immediate needs for health and social care, aftercare should aim to support a person in regaining or enhancing their skills. It is therefore important that section 117 aftercare is effectively managed and delivered to improve the outcomes for the person and their carers and families.

3.3 Section 117 aftercare provisions only apply to people who have been detained in hospital under one the following sections of the MHA.

Section 3	Detained for treatment
Section 37	Admitted to hospital by an order of the Court
Section 45A	Admitted to hospital by a direction of the Court
Section 47	Removal to hospital of a person serving sentence of imprisonment
Section 48	Removal to hospital of other prisoners

4.0 Ordinary Residence and Responsible Commissioner Guidance

4.1 No necessary assessment, care or treatment should be refused or delayed because of uncertainty or ambiguity as to which NHS commissioner or local authority is responsible for funding an individual's health or social care provision.

4.2 Unless stated otherwise in the following sections, the overriding principle is that the originating authority or body with responsibility for commissioning section 117 services i.e. the authority or body where the patient is registered prior to their detention, is also the authority or body who is responsible for paying for the commissioned 117 aftercare services regardless of where the patient is treated or placed

4.3 Commissioning Responsibility: Local Authority

4.3.1 The duty on local authorities to commission or provide section 117 aftercare rests with the local authority for the area in which the person concerned was ordinarily resident immediately prior to that period of detention under the MHA

4.3.2 In relation to any additional care and support needs that an individual may have (which are not part of the Section 117 aftercare plan), if that individual is being provided with accommodation under Section 117, they are to be treated as being ordinarily resident for the purposes of the Care Act, in the area of the local authority which has the duty to provide aftercare. This is to ensure that the same local authority will be responsible for both.

4.3.3 If the person is subsequently detained before being discharged from section 117 aftercare, the responsible local authority becomes the authority in whose area the person is ordinarily resident at the time that period of detention commences. To quote the judgement in *R(Worcestershire County Council) v Secretary of State for Health and Social Care* [2021] EWHC 682 (Admin): " *Although any change in the patient's ordinary residence after discharge will affect the local authority responsible for their social care services, it will not affect the local authority responsible for*

commissioning the patient's section 117 aftercare. Under section 117 of the 1983 Act, as amended by the Care Act 2014, if a person is ordinarily resident in local authority area (A) immediately before detention under the 1983 Act, and moves on discharge to local authority area (B) and moves again to local authority area (C), local authority (A) will remain responsible for providing or commissioning their after-care. However, if the patient, having become ordinarily resident after discharge in local authority area (B) or (C), is subsequently detained in hospital for treatment again, the local authority in whose area the person was ordinarily resident immediately before their subsequent admission (local authority (B) or (C)) will be responsible for their after-care when they are discharged from hospital".

4.3.4 Where a dispute arises between local authorities, the local authority that is meeting the needs of the person on the date that the dispute arises must continue to do so until the dispute is resolved. If no local authority is currently meeting the person's needs, then the local authority where the person is living or is physically present should accept responsibility until the dispute is resolved. The dispute resolution process to be followed by local authorities is set out in The Care and Support (Disputes between Local Authorities) Regulations 2014.

4.3.4 It should be noted that the rules for determining the responsible local authority applies to children and young people as well as adults.

4.4 Commissioning Responsibility: CCG

4.4.1 Where, after the 1 September 2020, a person is detained under the relevant section of the MHA, and is not already in receipt of section 117 aftercare, the responsible CCG for section 117 after discharge will be the 'originating CCG' defined as:

- Where a person is registered on the list of NHS patients of a GP practice, even if on a temporary basis, the CCG of which the GP practice is a member.
- Where a person is not registered with a GP practice, the CCG in whose geographic area the person is "usually resident". This includes people of 'no fixed abode'. Appendix 2 of 'Who Pays?' Guidance (August 2020) provides more details on determining usual residence.

4.4.2 Where, at 1 September 2020, a person has been discharged from detention and is already receiving s117 aftercare, funded in part or whole by a CCG, that CCG will remain responsible for funding the aftercare – and any subsequent further detentions or voluntary admissions – until such point as the person is discharged from section 117 aftercare.

4.4.3 Where, at 1 September 2020, a person is detained in hospital funded by a CCG, that CCG will be responsible for funding the full period of detention and any necessary NHS aftercare on discharge – and any subsequent further detentions or voluntary admissions – until such point as the person is discharged from section 117 aftercare.

4.4.4 Where, at 1 September 2020, a person is detained in hospital funded by NHS England, the CCG which will be responsible for funding any further detention in a CCG-funded hospital setting and any necessary NHS aftercare (including any subsequent further detentions or voluntary admissions, until such point as the person is discharged from section 117 aftercare) will be the responsibility of the CCG in whose area the person was registered, or where not registered usually resident, at the start of the period of detention in hospital funded by NHS England.

4.4.5 Where, after 1 September 2020, a child or young person aged under 18 years is placed out of area under the Children Act 1989 and is subsequently detained under the MHA and becomes section 117 eligible on discharge, and is still detained on their 18th birthday, the CCG which will be responsible for funding the continued period of detention and any necessary NHS aftercare (including any subsequent further detentions or voluntary admissions, until such point as the person is discharged from section 117 aftercare) will be the originating CCG at the time of the care placement.

4.4.6 The CCG who is responsible for section 117 aftercare is not necessarily the responsible CCG for meeting other health needs. The CCG responsible for meeting other health needs (e.g. for physical health, FNC or CHC) will be the CCG in whose area the person is registered, or where not registered deemed to be usually resident.

4.4.7 Given Herefordshire and Worcestershire ICS proximity to Wales, there may be occasions where cross-border disputes arise between NHS commissioning bodies. Guidance on managing and resolving these are contained in paragraph 19 of the 'Who Pays?' Guidance (August 2020).

4.4.8 Where a dispute takes place between CCGs about responsibility for commissioning, the commissioners must agree that (a) one of them will take responsibility for arranging for assessment and planning for the person, and for arranging appropriate aftercare services; and (b) all costs are jointly funded pending resolution of the dispute. Once the dispute is resolved, the CCG which is no longer deemed responsible will be reimbursed. The dispute resolution process to be followed by CCGs is set out in Appendix 1 of 'Who Pays?' Guidance (August 2020).

4.4.9 Any person who is in receipt of section 117 aftercare and is subsequently detained under the MHA will remain the responsibility of the CCG who was originally responsible for section 117. Subsequent periods of detention prior to discharge of section 117 do not transfer commissioning responsibilities.

5.0 The Person's Rights

5.1 **Right to be engaged**: The person who is subject of detention under the Mental Health Act should be engaged in the process of reaching decisions about aftercare services, and decisions should be agreed with them. Consultation involves helping the person to understand the information relevant to decisions, their own role and the roles of others who are involved in taking decisions. Where a decision is made that is contrary to the person's wishes, that decision and the authority for it should be explained to the person using a form of communication that they understand. Carers and advocates should be involved where the person wishes or if the person lacks capacity to understand.

5.2 **Right to advocacy:** The person who is subject of detention under the Mental Health Act has the right to an advocate.

Independent Mental Health Advocate (IMHA) - Mental health service staff have a legal duty to ensure that everyone who qualifies (this includes any person detained under the MHA) is aware of their right to speak to an IMHA. This includes hospital managers, nurses, psychiatrists, administrators, social workers, approved mental health practitioners (AMHPs), community psychiatric nurses (CPNs) and ward managers.

Independent Mental Capacity Advocate (IMCA) - IMCAs are a legal safeguard for people who lack the capacity to make specific important decisions: including making decisions about where they live and about serious medical treatment options. IMCAs are mainly instructed to represent people where there is no one independent of services, such as a family member or friend, who is able to represent the person. The role of the IMCA is to support and represent the person in the decision-making process and ensure that the Mental Capacity Act 2005 is being followed.

5.3 **Right to aftercare as long as needed:** The duty to provide aftercare services continues as long as the person is in need of such services. In the case of a person on a CTO (section 17A), aftercare must be provided for the entire period they are on the CTO, but this does not mean that their need for aftercare will necessarily cease as soon as they are no longer on CTO.

5.5 Where eligible people have remained in hospital informally after ceasing to be compulsorily detained under the relevant section of the MHA, they are still entitled to aftercare under section 117 once they leave hospital.

5.6 **Right to decline aftercare services**: Eligible people are under no obligation to accept the aftercare services they are offered, but any decisions they may make to decline aftercare services should be fully informed. The principles of the Mental Capacity Act 2005 and best interest decision making guidance must be followed in all aspects of care planning in relation to aftercare needs where individuals lack the relevant decision making capacity.

5.7 An unwillingness to accept services does not mean that the individual does not need to receive services, nor should it preclude them from receiving services later under section 117 should they change their minds.

5.8 Where a person disengages with services or refuses to accept aftercare services, the entitlement does not automatically lapse. The named practitioner will liaise with all involved professionals (social worker / Responsible Clinician / GP etc.) to ensure that needs and risks are reviewed and, where possible, communication with the person should be maintained.

6.0 Section 117 and Children and Young People

6.1 Where a child or young person is detained in hospital and that is likely to be for at least 12 consecutive weeks, the authority or health body who arranged for the detention is required under section 85 of the Children Act 1989 to notify the responsible local authority. This duty ensures that the local authority is aware of any child or young person in such detention and can ensure they are being safeguarded and their needs are being met.

6.2 Discharge and aftercare planning must start as soon as possible after admission and must be child and young person focused and informed by an assessment of need. In relation to children and young people, the Mental Health Act Code of Practice 2015 recognises additional factors will need to be considered. This may include ensuring that the aftercare integrates with any existing provision made for children in care, care leavers and those with special educational needs or disabilities, as well as safeguarding vulnerable children.

6.3 Whether or not section 117 of the MHA applies, a child or young person who has been admitted to hospital for assessment and/or treatment of their mental disorder may be 'a child in need' for the purpose of section 17 of the Children Act 1989, and should be assessed accordingly.

6.4 When a child or young person with a statement of special educational needs, or an Education, Health and Care Plan (EHCP) is admitted to hospital under the Act, the local authority who maintains the plan should be informed, so that they can ensure that educational support continues to be provided. If necessary, the Education, Health and Care Plan may be reviewed and amended to ensure needs and outcomes remain appropriate.

6.5 In agreeing a section 117 aftercare plan, the local authority must also ensure that this is informed by, and reflected in, any other statutory and non-statutory assessment or plan for the child, such as Education Care and Health Plan, Early Help Plan, Child in Need Plan, Child Protection Plan, Looked After Care Plan or Leaving Care Pathway Plan, and where appropriate run concurrently with co-ordinated reviews. Whilst co-ordinating planning can be complex, for example where a young person is transitioning to adult health and social care services, this should never be a reason to delay discharge.

7.0 Health and Social Care Needs Assessment – Discharge Planning

7.1 Responsibility for undertaking appropriate assessments will be with the responsible Council for social care, and, in the case of patients who are the responsibility of Herefordshire and Worcestershire CCG, with Herefordshire and Worcestershire Health and Care NHS Trust or another Provider where they are commissioned by the CCG.

7.2 At the point of becoming eligible for section 117, each person must have their needs assessed and clarified as part of the appropriate care planning process and receive an assessment of their care and support needs. Aftercare planning must start as soon as possible after admission and should be person focused. The person's care and support needs should be considered at care planning meetings in the same way as any other patient. The differences should be that: -

- Contributors to the care planning process should be aware of the person's section 117 status and the additional statutory duty to provide aftercare services.

- All the person's needs should be considered carefully, identifying which needs should be met under section 117, and which should be met as part of any previous or additional care package.

- The care plan should identify which section 117 aftercare needs will prevent relapse and readmission to hospital and identify the support/interventions that are required to address those aftercare needs.

- Where a person has multiple care plans in place, e.g. health care plan, Care Act support plan, Education, Health and Care Plan (EHCP), they must still have a section 117 aftercare plan that will be referenced in all other care plans as necessary.

- Each person must be provided with clear information in an accessible format which explains their rights under section 117, the discharge process and how to complain should they wish to.

7.3 Each person who will be subject to section117 must have a named practitioner who will be involved in all multi-disciplinary team and pre-discharge planning meetings.

7.4 Where there is a requirement to fund a package of care to meet section117 aftercare needs, Section 8 below must be followed to agree funding responsibilities.

8.0 Funding Aftercare Plans

8.1 Services provided under section 117 are a joint duty and, though there are no set criteria on apportionment of funding within the MHA, there is a requirement to establish a jointly agreed policy for deciding funding arrangements. The bodies to which this policy applies acknowledge that section 117 services are not the automatic sole responsibility of either the Council or the CCG.

Annex 2 sets out the agreed joint funding arrangements for Worcestershire, as agreed between Worcestershire County Council and Herefordshire and Worcestershire CCG.

8.2 Both local areas will establish arrangements for advising and supporting decisions relating to the joint provision of aftercare services.

8.3 Where the person chooses care and support which is more expensive than that which either the Council or the CCG has commissioned, the person, or a third party, will pay for the difference. Section 13 below specifically refers to accommodation.

8.4 During any period of section 17 leave from hospital, then section 117 aftercare arrangements will apply. It is essential that where a period of section 17 leave will directly result in discharge from hospital, then the relevant Council and the CCG must be informed of this arrangement in advance to ensure any funding arrangements are agreed and in place.

8.5 No CCG nor Council should unilaterally withdraw from an existing funding arrangement without a joint review of the person's needs, and without first consulting one another and informing the person about the proposed change of arrangement. Any proposed change should be put in writing to the person by the organisation that is proposing to make such a change. If agreement cannot be reached on the proposed change, the local disputes procedure should be invoked, and current funding arrangements should remain in place until the dispute has been resolved.

9.0 NHS Continuing Healthcare (Adults) and Continuing Care (Children)

9.1 NHS Continuing Healthcare (CHC) and NHS Continuing Care (Children) means a package of ongoing care that is arranged and funded solely by the NHS where the person has been found to have a 'primary health need'. Such care is provided to meet needs which have arisen because of disability, accident or illness.

9.2 The NHS Frameworks clarify that, where a person is eligible for services under section 117 these should be provided under section 117 and not under NHS continuing healthcare.

9.3 A person eligible for section 117 aftercare should only be considered for NHS continuing healthcare or NHS continuing care where they have physical health needs which are not related to their mental health aftercare needs. However, for adults, not meeting the criteria for full CHC funding does not preclude the CCG from having a joint funding arrangement with the Council to meet specific physical health care needs which do not fall within the eligibility of the Care Act. It is not, therefore, necessary to assess eligibility for NHS Continuing Healthcare if all the services in question are to be provided as aftercare services under section 117.

9.5 However, a person in receipt of section 117 aftercare services may also have, or later develop ongoing primary health care needs which may then trigger the need to consider NHS Continuing Healthcare or NHS Continuing Care for Children in addition to any section 117 support.

10.0 NHS Funded Nursing Care

10.1 NHS-funded nursing care (FNC) is a universal service available to people under section 117 and on the same criteria as to anyone else placed in a nursing home.

10.2 FNC is free at the point of delivery and is a set weekly amount paid to a care home for the nursing element of a placement. Funding is accessed via a specific assessment provided by the relevant CCG.

11.0 Local Authority Care and Support Planning under the Care Act

11.1 An assessment to determine eligibility for care and support under the Care Act 2014 will need to be undertaken. This will determine what needs can be met by the Care Act and identify any care and support needs that should be met by section 117 and/or continuing healthcare. Where needs are met under the Care Act 2014 then a financial assessment will have to take place and some charges may apply.

12.0 Direct Payments and Personal Health Budgets

12.1 Local authorities are obliged to offer a person the option of direct payments in place of the services currently received, subject to the conditions set out in section 31 of the Care Act 2014 and The Care and Support (Direct Payments) Regulations 2014. There are some limited circumstances where a person may not be given this choice and direct payments cannot be used to pay for permanent residential accommodation.

12.2 Where the person does not have capacity to request direct payments then an authorised third party may do so on their behalf subject to section 32 of the Care Act 2014. The local authority must consider that making direct payments to the authorised third party to be an appropriate way to discharge their section 117 duty and be satisfied that the authorised party will act in the best interests of the person when arranging the aftercare.

12.3 People eligible for aftercare services under section 117, and who are funded by a CCG, have a right to have a Personal Health Budget (PHB). The PHB may be taken as a direct payment (under The National Health Service (Direct Payment Regulations) 2013), a Third Party PHB or a Notional PHB, dependent upon prescribed criteria being met.

12.4 Where a person receives funding from a local authority and a CCG, they may be eligible, if all relevant criteria is met, to combine payments into a single Integrated Budget.

13.0 Accommodation Needs under section 117

13.1 Where accommodation is provided to an adult as an aftercare service it must not be charged for and this must be made clear in the aftercare plan. For the accommodation to be free of charge, the accommodation must be specialist or intrinsically linked to the section 117 aftercare being provided at the accommodation. In determining whether accommodation should be free of charge, commissioners will need to distinguish between the physical offer of accommodation and the section 117 aftercare services in place at that accommodation to support the person.

13.2 Where an aftercare plan includes the provision of funded accommodation the person can choose their preferred accommodation under The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 where the following criteria are met:

- The person is 18 or over;
- The person's preferred accommodation is suitable to meet their needs;
- The person's preferred accommodation is available;
- The provider of the preferred accommodation agrees to the commissioning local authority and CCG contractual terms and conditions; and
- Where the cost of the preferred accommodation is in line with Resource Allocation and Choice Policy of the CCG and respective Councils.

13.3 Where a person or a connected third party identifies accommodation that provides the same level of care and support as accommodation identified by the Council and/or CCG, but the cost is higher, then the person or a third-party can make a top-up or third party payment to cover these additional costs. However, in line with any other top-up or third party payment agreement, the Council must be sure that these additional costs can be met for the likely duration of the placement.

14.0 Reviewing Section 117 Aftercare Plans (co-ordination of reviews)

14.1 Section 117 aftercare plans will be reviewed periodically in the following circumstances:

Scheduled reviews will be held:

- within 3 months of discharge from hospital;
- at whatever agreed interval, but at least every 12 months;

Unscheduled reviews will be held:

- whenever the person moves to another local authority area;
- whenever there is information that indicates that the current plan is not meeting the person's mental health needs;
- at the request of the person or their formal representative; and
- whenever discharge from section 117 is being considered.

14.2 People may be subject to a review under other statutory arrangements and reviews will be co-ordinated as far as practicable to ensure a co-ordinated approach to planning and provision of services and to reduce the bureaucratic burden.

15.0 Complaints and Disputes

15.1 No necessary assessment, care or treatment should be refused or delayed because of a complaint or dispute as to which CCG or local authority is responsible for funding an individual's health or social care provision.

15.2 Any complaint by a person or their carer or representative with the quality and standard of the provision commissioned will be managed under the complaints procedure of the providing organisation in the first instance. Where the provider is distinct from the commissioning body, the complaint may subsequently be managed by the commissioning body. Once statutory complaints procedures have been concluded, any person has the right to complain to the Local Government and Social Care Ombudsman or the Health Service Ombudsman.

15.3 Any formal complaint in respect of the type or level of the joint commissioned service will be dealt jointly by the responsible commissioning bodies. All complaints in respect of Herefordshire will initially be considered under any arrangements established under section 8.2 above. Once statutory complaints procedures have been concluded, any person has the right to complain to the Local Government and Social Care Ombudsman or the Health Service Ombudsman.

15.4 Where there is a dispute between local authorities regarding where the person was 'ordinarily resident' before being detained, this will be determined by the process set out by the Care and Support (Disputes Between Local Authorities) Regulations 2014 (SI 2014/2820).

15.5 Where there is a dispute between separate CCGs regarding section 117 responsibility the updated NHS 'Who Pays Guidance (August 2020) should be referred to. In summary this requires:

- Local resolution at Director level;
- STP / Integrated Care System resolution at Director / Executive level; and
- Arbitration by NHS England.

15.6 Where a dispute takes place between CCGs about responsibility for commissioning, the commissioners must agree that (a) one of them will take responsibility for arranging for assessment and planning for the person, and for arranging appropriate aftercare services; and (b) all costs are jointly funded pending resolution of the dispute. Once the dispute is resolved, the CCG which is no longer deemed responsible will be reimbursed.

16.0 Authority to discharge section 117

16.1 A person can only be discharged from section 117 if **both** the responsible Council and Herefordshire and Worcestershire Health and Care NHS Trust, or an agent of another Provider, acting on behalf of Herefordshire and Worcestershire CCG, are satisfied that the person is no longer in need of such services by virtue of their mental disorder. Circumstances in which it is appropriate to end such services vary by individual and the nature of the services provided.

16.2 A person cannot be discharged from section 117 while they are subject to a CTO.

16.3 Where it is established following a review of section 117 eligibility that aftercare is no longer required and that the removal or cessation of aftercare services will not put the person at risk of readmission to hospital, this must be clearly documented giving reasons why it is not required and the person's section 117 eligibility should be discharged and recorded in the person's record.

16.4 Discharge planning must consider whether the person is eligible for other health and social care services.

16.5 Where consideration is being given to discharging a person from section 117, the person and / or their representative should be fully informed and involved in all stages of the process.

16.6 Discharge from community mental health services is not a discharge from section 117 aftercare. If a person with section 117 entitlement is discharged from the care of community mental health services the relevant Council and the CCG should be informed of this so they can undertake their own review of the person's current needs, and whether there should be a joint decision to discharge the patient from section 117.

16.7 In the case of Herefordshire and Worcestershire CCG the decision regarding whether or not a person continues to need aftercare services should be taken by the identified Responsible Clinician of Herefordshire and Worcestershire Health and Care NHS Trust or an agent of another Provider commissioned by the CCG.

16.8 Where there is difference of opinion between the social worker and the Responsible Clinician about the appropriateness of discharge, or where the person subject of section 117 or their representative or IMCA objects to the decision, this will be reviewed by Section 117 Panel for the local area. If the person subject to the section 117 disagrees with Section 117 Panel, they may follow the complaints process as set out in section 15 above.

16.9 Care services under section 117 should not be withdrawn solely on the grounds that:

- the person refuses the aftercare plan;
- the person has been discharged from the care of specialist mental health services;
- an arbitrary period has passed since the care was first provided;
- the person is deprived of their liberty under the Mental Capacity Act 2005;
- the person may return to hospital informally or under section 2; or
- the person is no longer on supervised community treatment or section 17 leave

17.0 Out of Area Section 117 placements and Transfer of Responsibility

17.1 If the person moves to or is placed in another local authority area and becomes resident in that area, then section 117 eligibility remains with Worcestershire County Council and Herefordshire and Worcestershire CCG until such time as section 117 is no longer required or the person becomes re-detained under the Mental Health Act, at which point the rules relating to a person's 'ordinary residence' applies.

17.2 Worcestershire County Council and Herefordshire and Worcestershire CCG retain overall accountability and responsibility for reviewing section 117 aftercare provisions for a person, including any re-assessment of need and agreement to funding changes. Where these responsibilities are delegated to another area, responsibilities and expectations must be clearly set out and agreed.

18.0 Monitoring Compliance and Effectiveness

18.1 A Review and Monitoring Oversight Group will be established under this policy with senior representatives from all those to which this policy applies (the Group). The terms of reference for the Group are set out in Annex 4.

18.2 The overall purpose of the Group is to assure the effectiveness and efficiency of section 117 aftercare services across the system, for all ages, and ensure compliance with the agreed policy. In particular, the Group will:

- monitor and review the section 117 budget;
- monitor and review operational performance in respect of section 117 services;
- commission periodic reviews and audits of compliance with the local policy and SOP;
- review the section 117 register, identify trends, and recommend commissioning intentions;
- review the policy and SOP and recommend revisions;
- maintain oversight of national mental health policy and review impact on local section 117 policy and operational arrangements, and recommend changes

18.3 The Group will escalate concerns to Executives when required and report annually to the relevant Governance Programme Boards.

19.0 Section 117 Register

19.1 Worcestershire County Council and Herefordshire and Worcestershire CCG have a joint responsibility to maintain a record of people entitled to section 117 aftercare.

19.2 On admission to hospital under one of the relevant sections of the Mental Health Act, the name of the person will be placed on the relevant Register to confirm entitlement to section 117 aftercare services.

19.3 The information held on the register will be agreed by the Review and Monitoring Group.

19.4 The partners will agree a Data Sharing Agreement which ensures that the relevant information is provided to maintain a Register and will ensure all information is kept up to date, in particular:

- the date section117 aftercare ends; or
- if responsibility for section117 aftercare is transferred to another authority.

19.6 Any changes in section 117 status will be recorded in the register, within 5 working days after receiving notice of the change.

20.0 References

Care Act 2014 https://www.legislation.gov.uk/ukpga/2014/23/contents/enacted

Care Act Guidance. Department of Health https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance

Mental Health Act 1983 as amended by the Mental Health Act 2007 https://www.legislation.gov.uk/ukpga/1983/20/contents

Mental Health Act Code of Practice https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/435512/MHA_Code_of_Practice.PDF

Mental Capacity Act 2005 https://www.legislation.gov.uk/ukpga/2005/9/contents

Mental Capacity Act Code of Practice https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice

National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care October 2018 (Revised) https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care

Children and Young People's Continuing Care National Framework https://www.gov.uk/government/publications/children-and-young-peoples-continuing-care-national-framework

Children Act 1989 https://www.legislation.gov.uk/ukpga/1989/41/contents

Children Act 2004 https://www.legislation.gov.uk/ukpga/2004/31/contents

Children & Families Act 2014 https://www.legislation.gov.uk/ukpga/2014/6/contents/enacted

SEND Code of Practice 0-25 year olds https://www.gov.uk/government/publications/send-code-of-practice-0-to-25

NHS Who Pays Guidance – August 2020 https://www.england.nhs.uk/wp-content/uploads/2020/08/Who-Pays-final-24082020-v2.pdf

The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 https://www.legislation.gov.uk/uksi/2014/2670/contents/made

ADASS Section 117 Protocol (revised December 2018) http://londonadass.org.uk/wp-content/uploads/2018/01/Section-117-Protocol-reviewed-Dec-2018.pdf

The Care and Support (Disputes between Local Authorities) Regulations 2014 https://www.legislation.gov.uk/uksi/2014/2829/contents/made

DHSC position on determination of ordinary residence https://www.gov.uk/government/publications/care-act-statutory-guidance/dhscs-position-on-the-determination-of-ordinary-residence-disputes-pending-the-outcome-of-r-worcestershire-county-council-v-secretary-of-state-for

Guidance on Personal Health Budgets for mental health https://www.england.nhs.uk/personal-health-budgets/personal-health-budgets-for-mental-health/

Annex 1: Key Words and Phrases used in this Framework

Term	Definition
Care programme approach (CPA)	A system of care and support for individuals with complex needs which includes an assessment, a care plan and a care coordinator. It is used mainly for adults in England who receive specialist mental healthcare and in some CAMHS services. This approach is described in Chapter 34 of the Mental Health Act Code of Practice
Clinical commissioning group (CCG)	The NHS body responsible for commissioning (arranging) NHS services for a particular part of England from NHS trusts, NHS foundation trusts and independent sector providers. CCGs replaced primary care trusts from 1 April 2013. CCGs' commissioning plans are reviewed by the NHS Commissioning Board (NHS England). CCGs are generally responsible for commissioning mental healthcare, except for specialist care commissioned by the NHS Commissioning Board.
Community treatment order (CTO)	The legal authority for the discharge of a person from detention in hospital, subject to the possibility of recall to hospital for further medical treatment if necessary. People in the community are expected to comply with the conditions specified in the community treatment order.
Detention under the Mental Health Act (MHA) 1983/2007	Unless otherwise stated, being held compulsorily in hospital under the Mental Health Act for a period of assessment or medical treatment.
Education Health and Care Plan (EHCP)	Education, Health and Care Plan is a plan put together by professionals in education, health and social care to make sure children with Special Educational Needs and a Disability have a package of support to help them through to adulthood (until they are 25).
Hospital managers	The organisation (or individual) responsible for the operation of the Act in a particular hospital (e.g. an NHS trust, an NHS foundation trust or the owners of an independent hospital). Hospital managers have various functions under the Act, which include the power to discharge a person. In practice, most of the hospital managers' decisions are taken on their behalf by individuals (or groups of individuals) authorised by the hospital managers to do so. This can include clinical staff.
Human Rights Act 1998	The Human Rights Act 1998 sets out the fundamental rights and freedoms that everyone in the UK is entitled to.
Independent mental capacity advocates (IMCA)	An advocate able to offer help to people who lack capacity under arrangements which are specifically required to be made under the Mental Capacity Act 2005.
Independent mental health advocate (IMHA)	An advocate available to offer help to people under arrangements which are specifically required to be made under the Mental Health Act.

Learning disability	In the Mental Health Act, a learning disability means a state of arrested or incomplete development of the mind which includes significant impairment of intelligence and social functioning. Further guidance on the meaning of learning disability is provided in chapter 20 of the Code of Practice
Mental Health Act Office	The office established in each local authority to oversee and monitor MHA activity.
Named Practitioner	Any health professional or social worker who is named as the person with overall responsibility for the section 117 aftercare plan. This role is sometimes also referred to as: lead professional, key worker or care co-ordinator.
Responsible Clinician	A clinician approved by the Secretary of State with overall responsibility for a person's case whilst they are detained under a section of the Mental Health Act. A responsible clinician will always be appointed when a person is admitted to hospital under the Act and will therefore always be involved in planning discharge from hospital. A person may or may not have a responsible clinician following discharge under section 117, depending on their care plan.
Responsible local authority	The local authority responsible for commissioning section 117 aftercare for the person. As this is not always the local authority in whose area the person is ordinarily resident, absolute clarity about responsibility must be sought at the outset.
Section 17 leave	Section 17 of the Mental Health Act allows detained patients to be granted leave of absence from the hospital in which they are detained. Leave is an agreed absence for a defined purpose and duration and is accepted as an important part of a person's treatment plan.

Annex 2: Joint Funding Agreement between Worcestershire County Council and Herefordshire and Worcestershire CCG

A2.1 All funding decisions will be made on a 60:40 basis, with 60% of funding met by the Council and 40% by the CCG.

A2.2 Any agreement to fund arrangements differently from A2.1 may be agreed on a case-by-case basis.

A2.3 There must be agreement between both parties, followed by written notification and subsequent written acknowledgement, ahead of any request for retrospective charges.

A2.4 All section 17 leave will be funded by the CCG unless a prior agreement has been reached with the Council for another funding arrangement. Where section 17 leave is to a residential placement which, at the end of the section 17 leave period, is intended to become the long-term placement of the person as part of their section 117 aftercare plan, the funding arrangements and appropriateness of the placement must be agreed by the Council and CCG in advance of the section 17 leave commencing.

A2.5 This agreement applies to children and young people.

A2.6 This agreement does not apply to any funding arrangements between the Council and another CCG, or between the CCG and any other Council. In these circumstances, separate arrangements and protocols will apply.

Annex 3: Section 117 Review and Monitoring Oversight Group: Terms of Reference

Purpose of Group

The overall purpose of the group is to ensure the effectiveness and efficiency of section 117 aftercare services across the system, for all ages, and assure compliance with the Section 117: After-Care under the Mental Health Act 1983/2007 Worcestershire Joint Policy (the Policy) policy. In particular, the Group will:

- monitor and review the section 117 budget;
- monitor and review operational performance in respect of section 117 services;
- commission periodic reviews and audits of compliance with the local policy and SOP;
- review the section 117 register, identify trends, and recommend commissioning intentions;
- review the policy and SOP and recommend revisions; and
- maintain oversight of national mental health policy and review impact on local section 117 policy and operational arrangements, and recommend changes.

Core Membership

Core members are:

- Lead for Mental Health, Learning Disability and Children, Herefordshire and Worcestershire CCG
- Senior operational representative from Herefordshire and Worcestershire Health and Care NHS Trust, representing NHS provision for AMH, LD and CAMH services
- Senior operational representative from the Council
- Senior social care commissioning representative from the Council
- Senior operational representative from children's services function of the Council
- Senior financial representative from the CCG, the Trust and from the Council
- Expert by Experience (identified by the CCG)

Other officers may be invited as required.

Chair

The meeting will be chaired by the Lead for Mental Health, Learning Disability and Children, Herefordshire and Worcestershire CCG.

A deputy will be nominated from one of the other core members.

Quoracy

For the meeting to be quorate, the following must be present:

- The Chair or Deputy
- One representative from Worcestershire County Council
- One representative from Herefordshire and Worcestershire Health and Care NHS Trust

Frequency of Meetings

At least every 3 months

Reports for the Meeting

The Group will receive reports on the following for each meeting:

- A budget report covering committed and projected expenditure for the financial year for each organisation in respect of section 117 aftercare
- A summary report of the section 117 register including relevant trends (anonymised)
- Operational performance of the Trust and each Council for the metrics set out in the policy, and any others agreed by the Group, relating to section 117 aftercare services

Responsibility for producing reports will be agreed at the first meeting of the group.

Standing Agenda Items

The Group will consider the following items as a minimum at each meeting:

- The section 117 budget
- Operational performance
- Section 117 register trends
- Update on national policy and guidance

Reporting Arrangements

The Group will report annually to ICS Mental Health Programme Board (Herefordshire and Worcestershire). It is the responsibility of the Chair to arrange for an annual report to be written covering the activities of the Group.

Escalation Protocol

The Chair of the Group will raise directly with the relevant Executive Officers any immediate issue of serious concern relating to finance, operational performance or compliance with the policy and SOP.

The Chair of the Group will raise directly with the relevant Executive Officers where they consider that any organisation, as represented by its core member or nominated deputy, is not making an active and proportionate contribution to the Group.

Any member of the Group may escalate concerns about the function of the group and its effectiveness to their relevant Executive Officer.

Recording of Meetings

Record of attendance and notes of the meeting will be kept. Responsibility for recording the meeting and issuing notes will be agreed by partners at the start of each meeting.

Duration of Group

The group is established under the Policy. The group will therefore operate for as long as the Policy is operational. The terms of reference will be reviewed every 12 months.

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Section 117: After-Care under the Mental Health Act 1983/2007
Worcestershire Standard Operating Procedure

This document describes the statutory procedure for managing and supporting persons to whom section 117 of the Mental Health Act 1983 applies across Herefordshire. Staff must ensure they comply with these guidelines. The purpose of the procedure is to:

- provide guidance for consistent practice across Worcestershire in line with statutory duties and agreed policy;
- ensure that all staff are aware of their responsibilities under Section 117; and
- provide guidance about when it is appropriate to discharge people from Section 117

This document is not exhaustive and it recognises that although correct at time of distribution there are likely to be changes to national legislation/guidance/policy developments or case law, or to local policy. This document should NOT be used as a substitute for seeking legal advice when required.

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Associated Policy or Standard Operating Procedures	**S117: After-Care under the Mental Health Act 1983/2007 Worcestershire Joint Policy**		

Contents

1. Guiding Principles of the Mental Health Act Code of Practice 2015

The MHA Code of Practice provides a set of five guiding principles which should be considered when making decisions about a course of action under the Act:

- **Least restrictive option and maximising independence** - Where it is possible to treat a person safely and lawfully without detaining them under the Act, the person should not be detained. Wherever possible a person's independence should be encouraged and supported with a focus on promoting recovery wherever possible.

- **Empowerment and involvement** – A detained person should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.

- **Respect and dignity** – The person, their families and carers should be treated with respect and dignity and listened to by professionals.

- **Purpose and effectiveness** - Decisions about care and treatment should be appropriate to the person, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.

- **Efficiency and equity** - Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

Using the principles:

- **These principles underpin a strength-based approach to practice.** Strengths-based (or asset-based) approaches focus on individuals' strengths (including personal strengths and social and community networks) and not on their deficits. Strengths-based practice is holistic and multidisciplinary and works with the individual to promote their wellbeing. It is outcomes led and not services led.

- All decisions must be lawful and informed by good professional practice. Lawfulness necessarily includes compliance with the Human Rights Act 1998.

- The principles inform decisions, they do not determine them. Although all the principles must inform every decision made under the Act, the weight given to each principle in reaching a particular decision will depend on the context. That is not to say that in making a decision any of the principles should be disregarded. It is rather that the principles as a whole need to be balanced in different ways according to the particular circumstances of each individual decision.

2.0 Introduction

2.1 Section 117 of the Mental Health Act 1983/2007 (MHA) places a statutory duty on Clinical Commissioning Groups (CCGs) and Local Authorities to work together to provide after-care services for all persons who have been detained in hospital under a treatment section of the MHA (i.e. Sections 3, 37, 45a, 47 and 48). This includes all those subject to Supervised Community Treatment Order (CTO) under the MHA. This duty is to consider the after-care needs of each individual to whom Section 117 applies. Processes must be in place to show that a full consideration of needs has taken place, and that a plan is in place to ensure those needs are met.

2.2 The responsibility for providing after-care services rests with the individual's CCG and Local Authority.

2.3 There is no duty to provide particular services and the nature and extent to which these services are provided is, to a large extent, a matter of discretion for the individual authorities and commissioning bodies. However, if a person has been granted a conditional discharge (in relation to detention for treatment under Section 37 or Section 37/41 with restriction), the Court of Appeal has ruled that the local authority must take reasonable steps to fulfil the conditions concerned.

2.4 In order to fulfil their obligations, the CCG and the Local Authority must take reasonable steps to identify appropriate aftercare facilities for the person before his or her discharge from hospital.

2.5 The Care Act amends Section117 MHA 1983/2007 and provides a definition of what comprises "after care services", as services which *(i) meet a need arising from or related to the person's mental disorder; and (ii) reduce the risk of a deterioration of the person's mental condition (and, accordingly, reducing the risk of the person requiring admission to a hospital again for treatment for the disorder).*

2.6 Needs that relate only to physical needs or disability or substance misuse and are not related to the mental health needs, are not subject to section 117.

3.0 Organisational Roles:

3.1 Local Authority - Worcestershire County Council

- Worcestershire County Council are the responsible local authority for jointly meeting section 117 needs with the CCG. Section 4.3 of the Policy defines that responsibility.

- Where responsible for meeting a person's section 117 needs, Worcestershire County Council is responsible for providing, or arranging to be provided, the social care element of any agreed section 117 aftercare plan. A social worker or social care worker may also be the named practitioner in the plan.

3.2 Herefordshire and Worcestershire Clinical Commissioning Group

- Herefordshire and Worcestershire Clinical Commissioning Group is the responsible health body for jointly meeting section 117 needs of people with the relevant responsible local authority. Section 4.4 of the Policy defines that responsibility.

- Where responsible for meeting a person's section 117 needs, Herefordshire and Worcestershire Clinical Commissioning Group is responsible for arranging to be provided (commissioning) the health element of any agreed section 117 aftercare plan.

3.3 Herefordshire and Worcestershire Health and Care NHS Trust (the Trust)

- The Trust is the main commissioned health provider of mental health and learning disability community health services to those persons who may be eligible for Section 117 care and who are registered with a GP practice which is a member of the Herefordshire and Worcestershire CCG, at the time of detention, or where not registered with any GP, were usually resident in that local area.

- The Trust is responsible for the direct provision of health services. Where a person is the responsibility of a CCG other than Herefordshire and Worcestershire CCG, then that responsible CCG must agree with the Trust what services it provides.

- The Trust is responsible for ensuring that each person who is eligible under section 117 has a named Responsible Clinician, where appropriate, and a health professional from the Trust may also be the named practitioner for the section 117 aftercare plan.

4.0 Overall Purpose of Section 117 Aftercare

4.1 After-care is the plan of care put in pace when a person is discharged from hospital following treatment under sections 3, 37, 47 and 48 of the Mental Health Act 1983/2007.

4.2 The purpose of aftercare services is to :

- Support the person to live in the community;
- Enable them to fully recover from the social and health impact of their mental disorder;
- Prevent their mental health deteriorating to the point they need to be readmitted to hospital.

4.3 After-care may include residential and community (non-residential) services.

4.4 All aftercare planning should follow the principles set out in section 1.0 above and follow the principles of strength-based practice.

5.0 Planning for Section 117 Aftercare

5.1 Planning for discharge from hospital and after-care arrangements should commence at the earliest point possible following admission to hospital. This will depend on the response to treatment, but should not be a last minute consideration at the point of discharge. There should be no delay in the allocation of a named practitioner from the local authority or the Trust which could have the effect of prolonging the person's stay in hospital. Should delays occur this should be raised with Senior Managers to ensure a speedy resolution.

5.2 The hospital manager where the person is detained must inform the relevant local authority and CCG that the person is likely to be entitled to aftercare under section 117. This information must be sent to Mental Health Act office. Section 117 after-care planning meetings should be convened and managed by the relevant ward staff.

5.3 Any Tribunal or hospital manager's hearing will expect indicative aftercare arrangements to have been considered and presented.

5.4 Aftercare planning should be undertaken using the principles of the Care Programme Approach (CPA) and lead by the named practitioner. This may be the responsible clinician, a community psychiatric nurse from the Trust or a social worker from the local authority. The named practitioner is responsible for co-ordinating the preparation, implementation and review of the care plan.

5.5 Section 117 after-care planning meetings will include all relevant parties who are or will be actively involved in the person's care once they are discharged from hospital.

5.6 The following should therefore be in attendance at the Section 117 after-care planning meeting:

- the person
- the person's responsible clinician, or where not available, whoever has been agreed to provide cover
- any carer who will be involved in looking after them outside hospital (including, in the case of children and young people, those with parental responsibility)
- a social worker from the responsible local authority;
- in the case of a child in the care of the local authority, a social worker from the responsible local authority, or where a care leaver, the personal advisor
- in the case of person with a diagnosed learning disability or has an autistic spectrum disorder and whose behaviour challenges services, a CCG commissioner from the Transforming Care team
- in the case of a restricted person, multi-agency public protection arrangements (MAPPA) co-ordinator
- in the case of a transferred prisoner, the probation service
- an independent mental health advocate, if the person has one
- an independent mental capacity advocate, if the person has one, or anyone else with authority under the Mental Capacity Act 2005 to act on the person's behalf
- the person's attorney or deputy, if the person has one; and
- any another representative nominated by the person

5.7 The following may also be in attendance, subject to the circumstances and the person's consent:

- the person's nearest relative (if there is one) or other carers
- nurses and other professionals involved in caring for the person in hospital
- a practitioner psychologist registered with the Health and Care Professions Council, community mental health nurse and other members of the community team
- the person's general practitioner (GP) and primary care team (if there is one). If the person does not have a GP, they should be encouraged and helped to register with a practice
- a representative of any relevant voluntary organisations
- a representative of housing authorities, if accommodation is an issue
- an employment expert, if employment is an issue
- a representative of the education function of the Council, if the person is still in education
- the clinical commissioning group's appointed clinical representative (if appropriate)

5.8 The planning meeting will agree the lead organisation (the Trust or the responsible local authority) and named practitioner. Where there is a named practitioner already assigned to a person who will be section 117 eligible, that worker will be expected to co-ordinate the discharge planning.

5.9 Section 117 is the responsibility of all organisations and they must agree to accept the shared responsibilities and prioritise staff to deliver Section 117 processes within a legal framework.

5.10 When a discharge date has been agreed, it is the responsibility of the hospital manager to notify the relevant local authority and CCG. This information must be sent to the Mental Health Act Office of the responsible local authority and will be held on section 117 register. The named practitioner must ensure that the person's GP receives a copy of the aftercare plan.

6.0 Assessment of Section 117 Needs

6.1 An assessment should follow the principles of strength-based practice, focusing on the individual's own strengths and that of their family, social and community network.

6.2 A thorough assessment will involve consideration of:

- the person's wishes and feelings;
- continuing mental health care and support, whether in the community or on an outpatient basis
- the psychological needs of the person and, where appropriate, of their carers
- daytime activities, further education, training or employment
- appropriate accommodation
- identified risks and safety issues
- any specific needs arising from a co-existing physical disability, sensory impairment, learning disability or autistic spectrum disorder
- any specific needs arising from drug, alcohol or substance use (if relevant)

- any parenting or caring needs
- social, cultural or spiritual needs
- counselling and personal support
- assistance in welfare rights and managing finances
- involvement of authorities and agencies in a different area, if the person is not going to live locally
- the involvement of other agencies, such as the probation service or voluntary organisations (if relevant)
- for a restricted person, the conditions which the Secretary of State for Justice or the Tribunal has – or is likely to – impose on their conditional discharge, and
- contingency plans (should the person's mental health deteriorate) and crisis contact details.

6.3 In the case of a child or young people under 18 year, the assessment must include:

- their educational needs
- the views of those with parental responsibility
- if the person is looked after by the local authority, any arrangements in place to enable them to have contact with their family

6.4 An assessment of after-care needs should also include an assessment of all other support needs as well as those specifically around mental health support. This could include assessment for Continuing Health Care, assessment under the Care Act 2014 and, in the case of children and young people, assessment under the Children Act 1989 (children in need), Leaving Care Act 2000 (care leavers) and under Special Educational Needs and Disability Act 2001 (special educational needs).

7.0 Planning and commissioning care and support

7.1 A person's support plan may include services which meet needs which fall outside of section 117, such as physical health. Services may therefore be commissioned under Section 117 provision (which are not chargeable to the person), and services provided under the Care Act 2014, for which the Council's usual charging policy will apply.

7.2 Care plans must clearly document which services are planned under Section 117 provision, and which services are not subject to this provision.

7.3 The care plan ensures a transparent, accountable and coordinated approach to meeting wide ranging physical, psychological, emotional and social needs which are associated with a person's mental disorder. The care plan should set out the practicalities of how the person will receive treatment, care and support on a day-to-day basis, and should not place undue reliance on the person's carers. The plan should include:

- details of medical, nursing, psychological and other therapeutic support for the purpose of meeting individual needs promoting recovery and/or preventing deterioration
- details regarding any prescribed medications
- details of any actions to address physical health problems or reduce the likelihood of health inequalities, including arrangements for an annual physical health check

- details of how the person will be supported to achieve their personal goals
- support provided in relation to social needs such as housing, education, occupation, finances
- support provided to carers
- actions to be taken in the event of a deterioration of a person's mental health, and guidance on actions to be taken in the event of a crisis
- details of any areas of need which are critical to preventing behavioural disturbance, including guidance on how staff and carers should respond if behavioural disturbance does arise
- details of the named practitioner, who is responsible for co-ordinating the plan,and when it will be reviewed

7.4 The range of services which can be put in place under section 117 include:

- community mental health services which are part of the commissioned mental health services of the CCG
- social care services which are part of the commissioned social care services of the responsible Council
- services which are commissioned and purchased specifically for the person.

7.5 Where services are purchased specifically for the person, the responsible local authority and the CCG have a joint responsibility to commission and purchase these. Funding responsibility will be determined by the protocol set out in the policy.

7.6 Section117 aftercare plans must be recorded on the Patient Record System of the Trust and the relevant Client Record Management Systems of the local authorities.

7.7 Copies of the plans must be made available to:

- the person
- the person's formal representatives
- where appropriate to do so, family members or carers
- any organisation which is contributing to the delivery of the plan

7.8 Where residential or nursing care provision under S117 is being made available, the person's choice of home should be accommodated – see section 13 below

7.9 Services may be provided as a Direct Payment to either the person or to a third party. Arrangements for direct payments must be in accordance with the policy of the responsible Council and CCG.

8.0 Review of Section 117 Aftercare

8.1 A review of section 117 aftercare should be organised by the person who is the named practitioner with responsibility for the aftercare plan.

8.2 Care plans for people receiving aftercare under Section 117 will be regularly reviewed.

8.3 Scheduled reviews will be held:

- within 3 months of discharge from hospital;
- at whatever agreed interval, but at least every 12 months;

8.4 Unscheduled reviews will be held:

- whenever the person moves to another local authority area;
- whenever there is information that indicates that the current plan is not meeting the person's mental health needs;
- at the request of the person or their formal representative;
- whenever discharge from section 117 is being considered

8.5 The review should include all relevant parties who been actively involved in the person's care:

- the person
- the person's named practitioner
- the person's responsible clinician, where appointed
- any carer who will be involved in supporting them outside hospital (including, in the case of children and young people, those with parental responsibility)
- in case of a child in the care of the local authority, a social worker from the responsible local authority
- in the case of a care leaver, the personal advisor from the responsible authority
- in the case of a child or young person in education, a representative from the education function of the responsible authority
- in the case of a restricted person, multi-agency public protection arrangements (MAPPA) co-ordinator
- in the case of a transferred prisoner, the probation service
- an independent mental health advocate, if the person has one
- an independent mental capacity advocate, if the person has one, or anyone else with authority under the Mental Capacity Act 2005 to act on the person's behalf
- the person's attorney or deputy, if the person has one; and
- any another representative nominated by the person
- a representative from any organisation which is providing services to support the person

8.6 The review and the process needs to be proportionate. Where the person is receiving services under other statutory provisions, the review should be aligned with reviews of these services so that the overall review of the person's care is co-ordinated and in order to minimise the bureaucratic burden on the person and their representatives.

8.7 The review must consider:

- the views and wishes of the person.
- the appropriateness of services to meet current needs
- whether the current plan is effectively reducing the risk of the person being readmitted to hospital
- whether support is required under other statutory provisions (eg Care Act 2014)
- whether the person can be discharged from section 117

8.8 If amendments to the care plan identify additional services to address the mental health needs, and these are not already funded, these will need to be agreed according to the arrangements set out in the policy.

8.9 Any changes to care plans for Section 117 should be recorded and electronic record systems should be updated.

8.10 Where it is recommended in the review that the person should be discharged from section 117, a report must be provided to the Section 117 Panel setting out:

- the views and wishes of the person or their representative
- the reason why the person no longer needs support in order to meet any needs arising from the mental health condition which lead to their original detention in a hospital for treatment
- the reason why the person is not at risk of being readmitted to hospital
- confirmation that discharge is supported by the Responsible Clinician
- confirmation that discharge is supported by a social care manager from the Council

9.0 Section 117 and Section 17 Leave

9.1 People subject to Section 17 leave under the Mental Health Act are covered by the Section 117 criteria. For any extended periods of section 17 leave there should be a Section 117 care plan to cover the period of leave and providing as necessary for:

- supply of medication
- emergency contact
- any necessary support
- leave address and any care arrangements
- duration of S17 leave

9.2 Where section 17 leave is to be used to transfer a person to a residential or nursing placement, this should not occur before the Responsible Clinician has notified the CCG and the responsible local authority of the start and planned end date, and they have both agreed the appropriateness of the placement and all costings.

10.0 Discharge from Section 117

10.1 Once the person is no longer in need of aftercare services in respect of their mental health needs, they can be discharged from Section 117 after care. This means the person must:

- no longer need support in order to meet any needs arising from the mental health condition which lead to their original detention in a hospital for treatment; and
- not be at risk of a being readmitted to a hospital

10.2 Discharge from Section 117 must always involve the person subject to Section 117 and where appropriate their carer.

10.3 Where discharge is considered, a review must be held (see section 8 above) All recommendations to discharge someone from section 117 must be ratified by the Section 117 Panel and a report submitted covering the matters set out in 10.1 above. This is to ensure that the CCG and Council are satisfied that the grounds for discharge are met.

10.4 Discharge from Section 117 is important in terms of the person's recovery and their expressed outcomes. Decisions about discharge should be based on the circumstances of each individual subject to review and should be considered as part of every review.

10.5 A person's refusal to receive section 117 services is not grounds for discharge. A person remains eligible for as long as their mental health condition places them at risk of re-admission to hospital.

10.6 The person and their carers and any formal representative should always be advised before section 117 care plan commences, that section 117 status will be reviewed and can be discharged. When Section 117 is discharged, the named practitioner should ensure that the person understands their revised status.

10.7 After-care services under section 117 should not be withdrawn solely on the grounds that:

- the person has been discharged from the care of specialist mental health services
- an arbitrary period has passed since the care was first provided
- the person is deprived of their liberty under the Mental Capacity Act
- the person has returned to hospital informally or under section 2, or
- the person is no longer on a Community Treatment Order or section 17 leave.

10.8 Aftercare services may be reinstated if it becomes obvious that they have been withdrawn prematurely where a person's mental health began to deteriorate immediately after they were withdrawn.

11.0 Responsibility for Funding Section 117 Aftercare

11.1 Funding of Section 117 aftercare is a joint responsibility between the responsible Council and CCG. Section 8 of the policy sets out how this is to be apportioned. Services must not be delayed pending any dispute or disagreement.

11.2 Section 8.1 of the policy sets out the local arrangements for considering requests for funding of aftercare services.

12.0 Charging for Section 117 Aftercare

12.1 Section 117 aftercare services to the person cannot be charged for and are free at point of delivery. Services to carers however can be charged for under other relevant statutory provisions, subject to local policy on charging.

12.2 The responsible local authority and the CCG will not pay for services which are not normally funded by their respective organisations (e.g. food, clothing, household bills, rent) unless this is part of the assessed need met by full residential or nursing care. Other services attached to rent (which may include support services) are not classed as Section 117 services and charges may therefore apply. The named practitioner will ensure the person subject to Section 117 accesses all benefits to which they are entitled.

12.3 Where a person receiving aftercare under Section 117 is also receiving services for another reason unrelated to their mental health, for example a physical disability, charges may be made for this part of their care, in accordance with the responsible local authority's charging policy.

13.0 Third Party/ Self Top Ups: Choice of Accommodation

13.1 If the person with Section 117 aftercare has been assessed as requiring residential or nursing care, they or their family may express a preference for a particular residential or nursing accommodation (Section 75 (6) of the Care Act). Reasonable steps should be taken to facilitate individual choice where this is compatible with the assessed need.

13.2 The following sequence of steps must be followed and it is essential that each stage is fully recorded and documented:

a) The responsible local authority's assessment identifies a need for residential or nursing care; provision is identified that can meet eligible needs at the local authority's "usual cost", and an offer of funding made accordingly.

b) If the person with Section 117 aftercare expresses an alternative preference that meets the assessed needs and that is no more expensive than the local authority's (offered and available) choice, the authority will normally fund the person's choice under Section 117.

c) If the person with Section 117 aftercare expresses an alternative preference that meets the assessed needs but is more expensive than the local authority's (offered and available) choice, then the authority will consider permitting the person or a third party to make up the difference between the cost of the authority's (offered and available) choice and the person's preference through a 'top up' payment, where it is demonstrable that those additional costs can be met.

d) For each 'top up' payment arrangement, confirmation must be sought of the person's agreement.

e) It must be evidenced that the person and/or the third party making the 'top-up payment' understand that:

- If the 'top up payment' funding source runs out it may be necessary, after assessment of need, to move the person to a lower cost placement.

- If the person with Section 117 aftercare is discharged from Section 117 and meets the eligibility criteria for social care services, then usual financial arrangements will apply, which may include, following a financial assessment, being charged.

14.0 Continuing Healthcare and Section 117

14.1 A person's eligibility for services under Section 117 should in general be considered before considering potential eligibility for Continuing Health Care (CHC) services. If all of the services which the eligible person requires are to be provided under Section 117, there will be no need to conduct a CHC assessment.

14.2 Where a CHC assessment is additionally conducted for an individual who is also eligible for Section 117 services, the CHC assessment should focus primarily on physical health needs which are not linked to the mental disorder. For further guidance on this issue, professionals should consult the National Framework.

15.0 Transfer to Another Local Area

15.1 If the person moves to another area, the named practitioner is responsible for ensuring the plan for the person's aftercare remains relevant and appropriate. To that end, the following must be undertaken:

- the care plan must be reviewed;
- transfer arrangement must be clear, including responsibility for commissioning and providing care (it should be noted that the commissioner of care can change, but this will not change responsibility for paying for the care)
- new roles and responsibilities are set out
- if there is any change to the responsible clinician and named practitioner, this must be clear and communicated to the person

15.2 It should be noted these provisions apply of the person transfers between Herefordshire and Worcestershire local authorities.

16.0 Access to Advocacy (Statutory Advocacy – IMHA and IMCA)

16.2 Section 130A of Mental Health Act 1983 established arrangements for statutory MHA advocacy. The Independent Mental Health Advocate (IMHA) Service provides advocacy for people who have mental capacity but who are subject to compulsory powers under the MHA. This includes people who are in a psychiatric hospital and others who are subject to either Section.17A Community Treatment Orders or section 7 Guardianship. Anyone who is directly involved in a person's care or treatment can refer to the IMHA Service, as can the person themselves.

16.3 Under the Mental Capacity Act 2005, there has been a legal duty, since 2007, to refer people to the Independent Mental Capacity Advocate (IMCA) Service, where they have been assessed as requiring to move to new residential accommodation, as part of the S117 MHA aftercare package, if they are deemed to lack capacity and have no relatives or family whom it is appropriate to consult. This referral must be made before the aftercare plan is implemented.

17.0 References

Mental Health Act 1983/2007
http://www.legislation.gov.uk/ukpga/2007/12/contents

Mental Health Act Code of Practice
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/435512/MHA_Code_of_Practice.PDF

The Care Act 2014
http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted

Mental Capacity Act 2015
http://www.legislation.gov.uk/ukpga/2005/9/contents

Mental Capacity Act 2005 Code of Practice
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/497253/Mental-capacity-act-code-of-practice.pdf

National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (Revised)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/746063/20181001_National_Framework_for_CHC_and_FNC_-_October_2018_Revised.pdf

Annex A: Key Words and Phrases used in this Framework

Term	Definition
Care programme approach (CPA)	A system of care and support for individuals with complex needs which includes an assessment, a care plan and a care coordinator. It is used mainly for adults in England who receive specialist mental healthcare and in some CAMHS services. This approach is described in Chapter 34 of the Mental Health Act Code of Practice
Clinical Commissioning Group (CCG)	The NHS body responsible for commissioning (arranging) NHS services for a particular part of England from NHS trusts, NHS foundation trusts and independent sector providers. CCGs replaced primary care trusts from 1 April 2013. CCGs' commissioning plans are reviewed by the NHS Commissioning Board (NHS England). CCGs are generally responsible for commissioning mental healthcare, except for specialist care commissioned by the NHS Commissioning Board.
Community Treatment Order (CTO)	The legal authority for the discharge of a person from detention in hospital, subject to the possibility of recall to hospital for further medical treatment if necessary. Community persons are expected to comply with the conditions specified in the community treatment order.
Continuing Health Care (CHC)	CHC is a package of care for adults aged 18 or over which is arranged and funded solely by the NHS. In order to receive NHS CHC funding, individuals have to be assessed by Clinical Commissioning Groups (CCGs) according to a legally prescribed decision making process to determine whether the individual has a 'primary health need'. Similar provisions exist for children and young people.
Detention under the Mental Health Act (MHA) 1983/2007	Unless otherwise stated, being held compulsorily in hospital under the Mental Health Act for a period of assessment or medical treatment.
Hospital managers	The organisation (or individual) responsible for the operation of the Act in a particular hospital (eg an NHS trust, an NHS foundation trust or the owners of an independent hospital). Hospital managers have various functions under the Act, which include the power to discharge a person. In practice, most of the hospital managers' decisions are taken on their behalf by individuals (or groups of individuals) authorised by the hospital managers to do so. This can include clinical staff.
Human Rights Act 1998	The Human Rights Act 1998 sets out the fundamental rights and freedoms that everyone in the UK is entitled to.
Independent mental capacity advocates (IMCA)	An advocate able to offer help to persons who lack capacity under arrangements which are specifically required to be made under the Mental Capacity Act 2005.
Independent mental health advocate (IMHA)	An advocate available to offer help to persons under arrangements which are specifically required to be made under the Mental Health Act.

Learning disability	In the Mental Health Act, a learning disability means a state of arrested or incomplete development of the mind which includes significant impairment of intelligence and social functioning. Further guidance on the meaning of learning disability is provided in chapter 20 of the Code of Practice
Mental Disorder	Any disorder or disability of the mind. As well as mental illnesses, it includes conditions like personality disorders, autistic spectrum disorders and learning disabilities
Mental Health Act Office	The office established in each local authority to oversee and monitor MHA activity.
Named Practitioner	Any health professional or social worker who is named as the person with overall responsibility for the section 117 aftercare plan. This role is sometimes also referred to as: lead professional, key worker or care co-ordinator.
Responsible clinician	A clinician approved by the Secretary of State with overall responsibility for a person's case whilst they are detained under a section of the Mental Health Act. A responsible clinician will always be appointed when a person is admitted to hospital under the Act and will therefore always be involved in discharge planning. A person may or may not have a responsible clinician following discharge under section 117, depending on their care plan.
Responsible local authority	The local authority responsible for commissioning section 117 aftercare for the person. As this is not always the local authority in whose area the person is ordinarily resident, absolute clarity about responsibility must be sought at the outset.
Section 17 leave	Section 17 of the Mental Health Act allows detained persons to be granted leave of absence from the hospital in which they are detained. Leave is an agreed absence for a defined purpose and duration and is accepted as an important part of a person's treatment plan.
Tribunal	The First-tier Tribunal (Mental Health) called in the Code 'the Tribunal' was established under the Tribunals, Courts and Enforcement Act 2007. This is a judicial body which has the power to discharge persons from detention, community treatment orders, guardianship and conditional discharge.

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Herefordshire & Worcestershire STP - Equality Impact Assessment (EIA) Form

Please read EIA guidelines when completing this form

Section 1 - Name of Organisation (please tick)

Herefordshire & Worcestershire STP		Herefordshire Council	x	Herefordshire & Worcestershire CCG	**x**
Worcestershire Acute Hospitals NHS Trust		Worcestershire County Council	x		
Worcestershire Health and Care NHS Trust	**x**	Wye Valley NHS Trust		Other (please state)	

Name of Lead for Activity	**Richard Keble**

Details of individuals completing this assessment	**Name**	**Job title**	**e-mail contact**
	Richard Keble	**Project Lead**	**Richard.keble@nhs.net**
	Nathan Gregory	**Associate Director**	**nathan.gregory3@nhs.net**
Date assessment completed	**1 July 2021**		

Section 2

Activity being assessed (e.g. policy/procedure, document, service redesign, policy, strategy etc.)	**Title: Policy and SOP for section117 aftercare under MHA83**			
What is the aim, purpose and/or intended outcomes of this Activity?	• Establishing a single register of all eligible s 117 patients for Herefordshire and one for Worcestershire, which combined will provide a single STP register • Drafting a section 117 policy, including criteria and protocols for joint funding arrangements • Drafting standard operating procedure for Herefordshire and one for Worcestershire			
Who will be affected by the development & implementation of this activity?	x x x ❑	Patient Carers Visitors	❑ ❑ ❑	Staff Communities Other _____
Is this:	x Review of an existing activity x New activity ❑ Planning to withdraw or reduce a service, activity or presence?			

What information and evidence have you reviewed to help inform this assessment? (Please name sources, eg demographic information for patients / services / staff groups affected, complaints etc.	Reviewed policies and operating procedures of other local areas.
Summary of engagement or consultation undertaken (e.g. who and how have you engaged with, or why do you believe this is not required)	No engagement / consultation required with patients / carers. The activity is designed to put in place arrangements under MHA83 which are not in existence or fully implemented at present. As all s 117 is free at point of delivery, any changes to funding arrangements will not impact on patient, only on organisation funding. In some cases, funding under section 117 may cease, but this will be: [a] in line with statutory requirements [b] not retrospectively applied where it results in charging [c] will not result in withdrawal of service
Summary of relevant findings	N/A

Section 3

Please consider the potential impact of this activity (during development & implementation) on each of the equality groups outlined below. **Please tick one or more impact box below for each Equality Group and explain your rationale**. Please note it is possible for the potential impact to be both positive and negative within the same equality group and this should be recorded. Remember to consider the impact on e.g. staff, public, patients, carers etc. in these equality groups.

Equality Group	Potential positive impact	Potential neutral impact	Potential negative impact	Please explain your reasons for any potential positive, neutral or negative impact identified
Age	X	x		The implementation of the policy and SOP will ensure that there will be appropriate assessment and review of s117aftercare services which will take into account equality issues Children and young people under 18 years have very discrete needs and all arrangements need to take account of parental views, whilst ensuring that the child or young person's welfare is paramount. This will be reflected in the policy and SOP. Existing arrangements are focused on adults, so the revisions will ensure people under 18 are fully included in section 117 arrangements and their outcomes monitored. Age will be included in register data, enabling commissioning to specifically take account of this

Equality Group	Potential positive impact	Potential neutral impact	Potential negative impact	Please explain your reasons for any potential positive, neutral or negative impact identified
				Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps
Disability	x	x		The implementation of the policy and SOP will ensure that there will be appropriate assessment and review of s117aftercare services which will take into account equality issues Will ensure in Worcs that people with LD are included in section 117 arrangements and outcomes monitored. Data relating to other conditions will not be reported on the register and therefore cannot be aggregated or analysed through the register (see action plan) Learning disability will be included in register data, enabling commissioning to specifically take account of this. Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps
Gender Reassignment	x	x		The implementation of the policy and SOP will ensure that there will be appropriate assessment and review of s117aftercare services which will take into account equality issues Patients: This data will not be reported on the register and therefore cannot be aggregated or analysed through the register (see action plan) However, the policy and SOP will mean active and regular oversight of individual aftercare plans, which will ensure that specific needs arising from gender re-assignment are included in plans. Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps

Equality Group	Potential positive impact	Potential neutral impact	Potential negative impact	Please explain your reasons for any potential positive, neutral or negative impact identified
Marriage & Civil Partnerships	x	x		The implementation of the policy and SOP will ensure that there will be appropriate assessment and review of s117aftercare services which will take into account equality issues Patients: This data will not be reported on the register and therefore cannot be aggregated or analysed through the register (see action plan) Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps
Pregnancy & Maternity	x	x		The implementation of the policy and SOP will ensure that there will be appropriate assessment and review of s117aftercare services which will take into account equality issues Patients: This data will not be reported on the register and therefore cannot be aggregated or analysed through the register (see action plan) Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps
Race including Traveling Communities	x	x		The implementation of the policy and SOP will ensure that there will be appropriate assessment and review of s117aftercare services which will take into account equality issues Ethnicity will be included in register data, enabling commissioning to specifically take account of this Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps
Religion & Belief	x	x		The implementation of the policy and SOP will ensure that there will be appropriate

Equality Group	Potential positive impact	Potential neutral impact	Potential negative impact	Please explain your reasons for any potential positive, neutral or negative impact identified
				assessment and review of s117aftercare services which will take into account equality issues Patients: This data will not be reported on the register and therefore cannot be aggregated or analysed through the register (see action plan) Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps
Sex	x	x		The implementation of the policy and SOP will ensure that there will be appropriate assessment and review of s117aftercare services which will take into account equality issues Gender will be included in register data, enabling commissioning to specifically take account of this Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps
Sexual Orientation	x	x		The implementation of the policy and SOP will ensure that there will be appropriate assessment and review of s117aftercare services which will take into account equality issues Patients: This data will not be reported on the register and therefore cannot be aggregated or analysed through the register (see action plan) Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps
Other Vulnerable and Disadvantaged Groups (e.g. carers; care leavers; homeless; Social/Economic deprivation, travelling communities etc.)	x	x		The implementation of the policy and SOP will ensure that there will be appropriate assessment and review of s117aftercare services which will take into account equality issues

Equality Group	Potential positive impact	Potential neutral impact	Potential negative impact	Please explain your reasons for any potential positive, neutral or negative impact identified
				This data will not be reported on the register and therefore cannot be aggregated or analysed through the register (see action plan) Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps
Health Inequalities (any preventable, unfair & unjust differences in health status between groups, populations or individuals that arise from the unequal distribution of social, environmental & economic conditions within societies)	x	x		This data will not be reported on the register and therefore cannot be aggregated or analysed through the register (see action plan) Staff: New policy and procedures will have neutral impact as they do not impact on existing practice, but will alter the procedural steps

Section 4

What actions will you take to mitigate any potential negative impacts?	Risk identified	Actions required to reduce / eliminate negative impact	Who will lead on the action?	Timeframe
	Information on Register will not include all protected characteristics It will however still be available for reporting via patient record systems if required. All case-based practice is required to consider this characteristic and therefore the impact of this characteristic will be taken into account as part of care planning	Review arrangements consolidated under the Project will ensure case-base decisions take account of protected characteristics Quality audit report will be undertaken at least annually on reviews by. Commissioners in CCG and Councils will report on protected characteristics to inform	CCG-led review team Operational lead for reviews Commissioners in CCG and Councils	From 1 April 2021, ongoing By 31 March 2022 From 1 April 2021 and iteratively as required

	and reviews for the patient.	commissioning intentions		
	Age, ethnicity and learning disability are not considered in analysis of trends and service impact	These will be included, where currently recorded, on register for first time and data obtained from existing patient record systems	H&WHCT	From 1 April 2021
How will you monitor these actions?	**Via Section 117 Panel and the Review and Monitoring Panel to be established as part of the project**			
When will you review this EIA? (e.g in a service redesign, this EIA should be revisited regularly throughout the design & implementation)	**Every 3 years as part of review timetable for section 117 policy**			

Section 5 - Please read and agree to the following Equality Statement

1. Equality Statement

1.1. All public bodies have a statutory duty under the Equality Act 2010 to set out arrangements to assess and consult on how their policies and functions impact on the 9 protected characteristics: Age; Disability; Gender Reassignment; Marriage & Civil Partnership; Pregnancy & Maternity; Race; Religion & Belief; Sex; Sexual Orientation

1.2. Our Organisations will challenge discrimination, promote equality, respect human rights, and aims to design and implement services, policies and measures that meet the diverse needs of our service, and population, ensuring that none are placed at a disadvantage over others.

1.3. All staff are expected to deliver services and provide services and care in a manner which respects the individuality of service users, patients, carer's etc, and as such treat them and members of the workforce respectfully, paying due regard to the 9 protected characteristics.

Signature of person leading & or completing the EIA	Richard Keble, Project Lead, H&W CCG
Date signed	02/07/2021
Comments:	The EIA has been reviewed by stakeholders, including the EAG group which sits with WHCHCT

Signature of person approving the EIA	Mohammed Ramzan
Date signed	02/07/2021
Comments:	It is recommended that the action plan is reviewed and updated with completion of actions in a timely fashion. Should any impact come to light, which is detrimental to any particular group, the project lead should carry out an urgent review and if appropriate halt the project until the concerns are addressed.

Herefordshire and Worcestershire CCGs Addendum to the Equality Impact Analysis

Human Rights Consideration:

NHS organisations must ensure that none of their services, policies, strategies or procedures infringes on the human rights of patients or staff. You should analyse your document using the questions provided to determine the impact on human rights. Using human rights principles of fairness, respect, equality, dignity and autonomy as flags or areas to consider is often useful in identifying whether human rights are a concern.

Can you please answer the following Human Rights screening questions:

	Human Rights	Yes/No	Please explain
1	Will the policy/decision or refusal to treat result in the death of a person?	No	Project will put in place policy and protocols for section 117 to ensure a strategic oversight of compliance with legal requirements. No inappropriate reduction or change in service to any patient is proposed
2	Will the policy/decision lead to degrading or inhuman treatment?	No	
3	Will the policy/decision limit a person's liberty?	No	
4	Will the policy/decision interfere with a person's right to respect for private and family life?	No	
5	Will the policy/decision result in unlawful discrimination?	No	
6	Will the policy/decision limit a person's right to security?	No	
7	Will the policy/decision breach the positive obligation to protect human rights?	No	
8	Will the policy/decision limit a person's right to a fair trial (assessment, interview or investigation)?	No	
9	Will the policy/decision interfere with a person's right to participate in life?	No	

If any Human Rights issues have been identified in this section please get in touch with your Equality and Inclusion lead who will advise further and a full Human Rights Impact Assessment maybe required to be completed.

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worcestershire county council

Date printed: 21/01/2022
Date Screening completed: 16/12/2021
Requester: Natasha Jones

Project Screening
Impact Assessment Id: #303

1. Your Details

Name of person completing screening assessment
Natasha Jones

Job Title
Project Manager

Directorate
Commercial and Change

Service Area
Transformation and Commercial

Email Address
NJones3@worcestershire.gov.uk

Connection to project (e.g. project manager)
Project Manager

2. Project Summary

For the purposes of the impact assessment screening, we will refer to the activity or area being assessed as a project.

Project Name
All Age Disability Programme

Name of Project Sponsor
Tina Russel And Paula Furnival

Name of Project Manager
Natasha Jones

Name of Project Lead
Sarah Wilkins

Project Reference (if known)

Please give a brief description of the project
To develop an All Age Disability service 0-25 to sit in Worcestershire Children's First,
To provide an integrated coherent and coordinated response for children and young people 0-25 with Special Educational Needs and or Disability (SEND) to deliver positive outcomes including smooth transition to adulthood promoting independence and inclusion.

3. Data Protection

We need to establish if the proposal involves processing personal data. Personal data is information that relates to an identified or identifiable individual.

Name of Information Asset Owner **Sarah Wilkins**
Senior officer responsible for the project's information assets

Does the project, any project work stream or project outcome involve any personal data? Some examples of personal data are given below. **No**

Appearance:
photograph, physical description

Basic Identifiers:
name, date of birth, age, biometric data, ethnic origin, gender, genetic data, race, sex

Contact Details:
address, email address, home phone number, mobile phone number, postcode

ID Number:
National Insurance Number, driving licence number, NHS number, online identifier, other general identifier

Employment:
work related training/awards

Financial:
income/financial/tax situation

Lifestyle:
health or social care, living habits, marital status, philosophical beliefs, political opinions, religion, sex life, trade union membership

Technology:
login/username, device MAC address (wireless network interface), device IMEI number, IP Address, location data (travel/GDPS/GSM data), website cookies

As you answered 'No' , please explain your reasoning below:
This is a strategic structural change and has no personal level data.

4. Equality

We need to determine whether the project could affect residents and/or Council staff because they share any of the Protected Characteristics defined in the Equality Act 2010 namely Age, Disability, Gender Reassignment, Marriage/Civil Partnership, Pregnancy, Race, Religion/Belief, Sex and Sexual Orientation.

Does the project relate to an area where data/research indicates that inequalities are already known to exist? Yes

Could this project have any effect on, service delivery or usage, other aspects of daily life or community participation levels for people because they belong to any of the groups below?

Age Yes

e.g. a person belonging to a particular age group (for example 18 – 30-year olds).

Disability Yes

e.g. A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

Gender Re-Assignment No

e.g. The process of transitioning from one gender to another.

Marriage/Civil Partnership Status No

e.g. Marriage is a union between a man and a woman or between a same-sex couple. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must not be treated less favourably than married couples (except where permitted by the Equality Act).

Pregnancy/Maternity No

e.g. Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Race No

e.g. Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Religion or Belief No

e.g. Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Sex No

Sexual Orientation No

e.g. Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

Health Inequalities Yes

e.g. Any preventable, unfair & unjust differences in health status between groups, populations or individuals that arise from the unequal distribution of social, environmental & economic conditions within societies.

5. Public Health

We also want to understand if the project will have any impacts on public health.

The social, economic, cultural and physical environment in which people live their lives has a significant effect on their health and wellbeing. Although genetics and personal behaviour play a strong part in determining an individual's health, good health starts where we live, where we work and learn, and where we play.

Improving public health requires taking a broader view of the conditions that create health and wellbeing, from how we plan and develop our urban spaces and places, to the opportunities for employment, recreation, and social connection available to all who live in them.

Health inequalities are the preventable, unfair and unjust differences in health status between groups, populations or individuals that arise from the unequal distribution of social, environmental and economic conditions within societies, which determine the risk of people getting ill, their ability to prevent sickness, or opportunities to take action and access treatment when ill health occurs.

Could the project have an impact on any of the following factors?

Social and Economic Yes

e.g. culture, social support (neighbourliness, social networks/isolation), spiritual participation, employment opportunities.

Physical Health No

e.g. physical activity is expected to increase, influenza vaccination uptake increase

Mental Health & Wellbeing Yes

e.g. benefits to children's mental health, benefits to adult carer wellbeing.

Access to Services Yes

e.g. access to (location/disabled access/costs) and quality of primary/community/secondary health care, child care, social services, housing/leisure/social security services; public transport, policing, other health relevant public services, non-statutory agencies and services.

Keep it Green, Keep it on the Screen

5. Environmental Sustainability

We want to understand if the project activity and project outcomes will have an impact on environmental sustainability. Please be mindful that the Council has committed to reduce its emissions to net-zero by 2050 and most projects are likely to have an impact on this target. This should be a key consideration in your project delivery and should be reviewed when completing these screening documents.

Could this project have an impact on the categories listed below?

Greenhouse Gas (GHG) Emissions (including CO2) No

e.g. increased GHG emissions as a result of project implementation, which may also be linked with efficient use of resources in WCC buildings; transport; emissions from waste; and procurement.

Efficient Use of Resources No

e.g. consumption of energy resources, water, electricity, gas and heating fuels.

Transport Yes

e.g. number of people travelling, alternative transport modes.

Waste No

e.g. increase in waste generated or an increase in waste recycling.

Wildlife and Biodiversity No

e.g. impacts on the natural environment or enhancements to the natural environment.
N.B. This refers to any direct or indirect modifications to landholdings, including but not limited to removal of vegetation, alteration or demolition of buildings or modification of watercourses or lighting (not limited to just green space/trees).

Pollution to Land or Water No

e.g. risk of pollution to the local environment.

Pollution to Air No

e.g. risk of pollution to air, activity which may adversely affect air quality or increase emissions to air

Resilience to climate change No

e.g. risks of extreme weather and climate impacts on the project.

Historic Environment No

e.g. impacts on Historic Environment or enhancements of the Historic Environment.

Procurement No

e.g. could procurement associated with the project result in an increase of natural resources (such as long-distance shipping of goods); could use be made of local resources or work forces to support delivery of the project.

7. Results of Screening

Data Protection	Does not need a full impact assessment
Equality and Public Health	Will require a full impact assessment
Environmental Sustainability	Will require a full impact assessment

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worcestershire county council

Date printed: 21/01/2022
Date assessment submitted: 20/12/2021
Requester: Natasha Jones

Equality and Public Health Full Impact Assessment
Impact Assessment Id: #303

1.0 Screening Information

Project Name
All Age Disability Programme

Name of Project Sponsor
Tina Russel And Paula Furnival

Name of Project Manager
Natasha Jones

Name of Project Lead
Sarah Wilkins

Please give a brief description of the project
To develop an All Age Disability service 0-25 to sit in Worcestershire Children's First,
To provide an integrated coherent and coordinated response for children and young people 0-25 with Special Educational Needs and or Disability (SEND) to deliver positive outcomes including smooth transition to adulthood promoting independence and inclusion.

Data Protection screening result
Does not need a full impact assessment

Equality and Public Health screening result
Will require a full impact assessment

Environmental Sustainability screening result
Will require a full impact assessment

1.1 Background and Purpose

Background and Purpose of Project?
To support your answer to this question, you can upload a copy of the project's Business Case or similar document.
To develop an All Age Disability service 0-25 to sit in Worcestershire Children's First,
To provide an integrated coherent and coordinated response for children and young people 0-25 with Special Educational Needs and or Disability (SEND) to deliver positive outcomes including smooth transition to adulthood promoting independence and inclusion.

Upload Business Case or Support documents
C4C All Age Disability Service Final V2.0.docx

Project Outputs
Briefly summarise the activities needed to achieve the project outcomes.
Newly Designed Integrated Service with single accountability for 0-25 Children and Young People with SEND.
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Project Outcomes
Briefly summarise what the project will achieve.
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Delivery of the preparation for adulthood outcomes financially secure, living arrangements, Independence, Employment and purposeful life, Social well-being and good health.

Is the project a new function/service or does it relate to an existing Council function/service?
Existing

Was consultation carried out on this project?
Yes

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1.2 Responsibility

Directorate/Organisation

Worcestershire Children First

Service Area

Education and Early Help

1.3 Specifics

Project Reference (if known)

Not Recorded

Intended Project Close Date *

June 2022

1.4 Project Part of a Strategic Programme

Is this project part of a strategic programme?

Yes

An overarching screening has already been carried out for the following areas:

Data Protection
Equality and Public Health
Environmental Sustainability

What was the conclusion?

Full Assessment not required.

Upload previous impact assessment documents if available

ProjectScreening_All Age Disability Programme.pdf

2 Organisations Involved

Please identify the organisation(s) involved:

Worcestershire County Council

Details of contributors to this assessment:

Name	Paula Furnival
Job title	Strategic Director for People
Email address	PFurnival@worcestershire.gov.uk

3.0 Who will be affected by the development and implementation

Please identify group(s) involved:

Service User
Carers
Staff

3.1 Information and evidence reviewed

What information and evidence have you reviewed to help inform this assessment? *

Utilised the Joint Strategic Needs Analysis.
Analysis of current case work and work flow data including relevant key performance indicators and outcome measures specifically those captured in the SEND performance dashboard.

3.2 Summary of engagement or consultation undertaken

Who and how have you engaged, or why do you believe engagement is not required? *

Stakeholders event Autumn 2019.
Ongoing engagement with families in partnership and Worcestershire association of carers. Informed and influenced by preparation for adulthood stakeholder group.

3.3 Summary of relevant findings

Please summarise your relevant findings. *

• There is a lack of knowledge of what's out there and what to expect from services.
• Information in different places – too hard to find.
• Range of living options needed. Misconception 'independent living' - what does this mean?
• Moving from children to adult health services; all stops, and you must start again and criteria different.
• Co-ordination between education and social care services needs to be earlier, have actual meetings.
• Workshop/training events for professionals and families.
• Cliff edge for opportunities post 25 - end of EHCP.
• Need to bridge the gap from education to employment.
• There are gaps in local services and provision which are met through the private sector specifically in relation to young people's ongoing therapy needs as they leave school.

4 Protected characteristics - Equality

Please consider the potential impact of this activity (during development & implementation) on each of the equality groups outlined below. **Please select one or more impact box(es) below for each equality group and explain your rationale**. Please note it is possible for the potential impact to be both positive and negative for the same equality group and this should be recorded. Remember to consider the impact on e.g. staff, public, patients, carers etc. who are part of these equality groups.

Age

Potential positive impact selected.

Explanation of your reasoning:

Advantageous for 16 to 25 year olds with SEND by having earlier identification of their aspirations and needs in adulthood to enable a planned and smooth transition to adulthood.

Disability

Potential positive impact selected.

Explanation of your reasoning:

By earlier identification and planning for aspiration and needs into adulthood can intervene to develop the skills to increase independence and purposeful life and inclusion in their local community.

Gender reassignment

Potential neutral impact selected

Explanation of your reasoning:

The new service is committed to the promotion of diversity and equality.

Marriage and civil partnerships

Potential neutral impact selected.

Explanation of your reasoning:

Only perceived impact with the promotion of independence choice and control may increase opportunities for disabled young adults to make the same choices as the rest of the society.

Pregnancy and maternity

Potential neutral impact selected.

Explanation of your reasoning:

Only perceived impact with the promotion of independence choice and control may increase opportunities for disabled young adults to make the same choices as the rest of the society.

Race including travelling communities

Potential neutral impact selected.

Explanation of your reasoning:

No perceived impact.

Religion and belief

Potential neutral impact selected.

Explanation of your reasoning:

No perceived impact.

Sex

Potential neutral impact selected.

Explanation of your reasoning:

The new service is committed to the promotion of diversity and equality.

Sexual orientation

Potential neutral impact selected.

Explanation of your reasoning:

Only perceived impact with the promotion of independence choice and control may increase opportunities for disabled young adults to make the same choices as the rest of the society.

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5 Characteristics - Public health

Other vulnerable and disadvantaged groups

Potential neutral impact selected.

Explanation of your reasoning:

None

Health inequalities

Potential positive impact selected.

Explanation of your reasoning:

Young People with Autism are at Risk of not getting access to appropriate health services or misdiagnosis.

Social and economic

Potential positive impact selected.

Explanation of your reasoning:

A Preparation for adulthood outcome in to increase employability and employment consequently reducing the likelihood of living in poverty. People with a disability are currently more at risk of living in poverty.

Physical health

Potential neutral impact selected.

Explanation of your reasoning:

Addressed by having a holistic approach ensuring health needs are identified and met.

Mental health and wellbeing

Potential positive impact selected.

Explanation of your reasoning:

Increase self worth and esteem equity of access to services and able to contribute to society are all strengths to having mental health and wellbeing.

Access to services

Potential positive impact selected.

Explanation of your reasoning:

Early identification and planning will assist in accessing appropriate services as required.

6 Actions to mitigate potential negative impacts

You have confirmed that there are no negative impacts for equality protected characteristics and public health characteristics.

7 When will you review this equality and public health estimate(EPHIA)?

12 months on from service implementation.

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8 Declaration

The following statement has been read and agreed:

- **All public bodies have a statutory duty under the Equality Act 2010 to set out arrangements to assess and consult on how their policies and functions impact on the 9 protected characteristics: Age; Disability; Gender Reassignment; Marriage & Civil Partnership; Pregnancy & Maternity; Race; Religion & Belief; Sex; Sexual Orientation**
- **Our Organisation will challenge discrimination, promote equality, respect human rights, and aims to design and implement services, policies and measures that meet the diverse needs of our service, and population, ensuring that none are placed at a disadvantage over others**
- **All staff are expected to deliver and provide services and care in a manner which respects the individuality of service users, patients, carers etc, and as such treat them and members of the workforce respectfully, paying due regard to the 9 protected characteristics**

I confirm to the best of my knowledge that the information I have provided is true, complete and accurate

I confirm that I will make sure that Equality and Public Health have been and continue to be considered throughout the project life cycle and that, if circumstances change in the project, a further Equality and Public Health Impact Assessment Screening will be carried out.

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worcestershire county council

Date printed: 21/01/2022
Date assessment submitted: 20/12/2021
Requester: Natasha Jones

Environmental Sustainability Full Impact Assessment
Impact Assessment Id: #303

1.0 Screening Information

Project Name
All Age Disability Programme

Name of Project Sponsor
Tina Russel And Paula Furnival

Name of Project Manager
Natasha Jones

Name of Project Lead
Sarah Wilkins

Please give a brief description of the project
To develop an All Age Disability service 0-25 to sit in Worcestershire Children's First,
To provide an integrated coherent and coordinated response for children and young people 0-25 with Special Educational Needs and or Disability (SEND) to deliver positive outcomes including smooth transition to adulthood promoting independence and inclusion.

Data Protection screening result
Does not need a full impact assessment

Equality and Public Health screening result
Will require a full impact assessment

Environmental Sustainability screening result
Will require a full impact assessment

1.1 Background and Purpose

Background and Purpose of Project?
To support your answer to this question, you can upload a copy of the project's Business Case or similar document.
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Environmental Sustainability

What was the conclusion?

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Upload previous impact assessment documents if available

ProjectScreening_All Age Disability Programme.pdf

2 Greenhouse Gas Emissions

Could the project result in an increase in GHG emissions (including CO2)? No

Please be mindful that the Council has committed to reduce its GHG emissions to zero by 2050 and most projects are likely to have an impact on this target. This should be a key consideration in your project delivery and should be reviewed when completing the assessment.

Have you undertaken an assessment of the project to know if there will likely be an increase in GHG emissions? No

3 Resources

Will the project result in increased consumption of electricity, gas or other heating fuels? No

e.g. project may require use of additional buildings, lighting and heating in buildings, additional ICT equipment, etc.

Will the project reduce energy needs and result in reduced consumption? No

e.g. disposal of WCC property assets

Will the project require additional water resources leading to an increase in water consumption? No

e.g. increased use of water through construction processes

Might there be a decrease in water consumption? No

e.g. will the project involve water saving measures or initiatives

Will the project result in the use of other resources, materials or minerals? No

e.g. use of natural resources such as wood; or use of aggregate minerals?

4 Transport

Will the project result in more people needing to travel? No

e.g. will there be additional cars on the road

Have alternative transport modes been considered? Yes

e.g. could use be made of public transport/walking/cycling etc.

Please explain your answer below:

Aiming to increase access and use of public transport rather than individual car for young people and young adults as a way of increasing their independence.

5 Waste

Is there likely to be an increase in waste as a result of the project? No

e.g. construction waste, packaging waste etc.

Have opportunities to prevent, minimise, reuse or recycle waste been identified and considered? No

e.g. will recycling facilities be available as part of the project

6 Wildlife and Biodiversity

Will there be any negative impacts on the natural environment? No

e.g. will the project involve removal of green space/trees; have wildlife surveys been considered; result in enhancements to green infrastructure; increased biodiversity opportunities etc.?

Has a preliminary ecological appraisal been undertaken? No

Has there been consideration of statutory assessments? No

e.g. Sustainability Appraisals, Strategic Environmental Assessments and Habitat Regulations Assessment Screening?
N.B. This is a matter of legal compliance - All plans and projects (including planning applications) which are not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site. This consideration – typically referred to as the 'Habitats Regulations Assessment screening' – should take into account the potential effects both of the plan/project itself and in combination with other plans or projects.

7 Pollution to land/air/water

Is there a risk of pollution to the local environment? No

e.g.

- will there be surface water run-off or discharge into local water source?
- will there be any impact on local water quality?
- will any waste water require treatment?
- is there the potential for spillage of chemicals?
- is there the potential for emissions to air from combustion processes resulting in poor air quality?

8 Resilience to climate risks

Could climate risks affect your project? No

N.B. some projects may be more sensitive to future changes in the climate e.g. hotter and drier summers; milder and wetter winters; increased likelihood of extreme weather events. These climate risks may affect project delivery and should be considered at the early stages of project development.

Has the impact of extreme weather events on the project been considered? No

e.g. heat waves and flooding.

Is there a business/project continuity plan in place to ensure climate risks are minimised? No

e.g. can you ensure that the project is resilient to climate risks and can continue to deliver on outcomes.

Could the project exacerbate climate risks? No

e.g. increase flood risk or worsen temperature extremes in the locality.

Will the project result in the use of other resources, materials or minerals? No

e.g. use of natural resources such as wood; or use of aggregate minerals?

9 Historic Environment

Have you checked with the WCC Historic Environment team as to whether there are any impacts on the Historic Environment (negative or positive)?

No

Check every development with the Historic Environment Team at the planning stage of each project. Further assessment may be required depending on the nature and scale of development. There may also be design options that would negate any need for further assessment (and lessen costs), or even opportunities to enhance heritage assets or their setting through the development.

Does the development have the potential to result in any impacts to the historic environment or opportunities for enhancement?

No

If yes, then further assessment will be required. This could take the form of a watching brief during groundworks if the potential is clearly understood and relatively low, or a more comprehensive desk-based and/or field investigation prior to development.

10 Procurement

Could any procurement associated with the project have a detrimental environmental impact? No

e.g. procurement of goods from overseas that have to be shipped; use of unsustainable materials or materials that cannot be recycled at the end of their use?

Is there likely to be increased Greenhouse Gas emissions from products purchased for the project? No

e.g. carbon emissions from transport and manufacturing

Will you be able to make use of sustainable products? Yes

e.g. recycled, local, ethical etc.

Please explain your answer below:

Stationary

Have you considered the Public Services (Social Value) Act 2012? No

All major contracts let by the Council (those of more than £100,000 in total value) will be expected to deliver a meaningful contribution to our vision of Social Value in the county. The Act requires us to consider how the services we commission and procure might improve the economic, social and environmental well-being of the local area.

– please see: Social Value

11 Declaration

I have confirmed that to the best of my knowledge that the information I have provided is true, complete and accurate

I have confirmed that I will make sure that Environmental Sustainability has been and continues to be considered throughout the project life cycle and should circumstances change in the project a further Environmental Sustainability Assessment Screening will be carried out.

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DRAFT AT JANUARY 2022

Transport Policy for Adult Social Care

Document Details

Strategic Lead	Rebecca Wassell – Assistant Director, People Commissioning
Amendment History	
Date	January 2022
Approvals	
Review date	

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Contents

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1. Background and Purpose

1.1 The Transport Policy for Adult Social Care ("the policy") sets out Worcestershire County Council's ("WCC's") policy with regard to the provision and funding of transport for adults in receipt of social care services to meet their assessed eligible needs under the Care Act 2014.

1.2 The policy will be used where WCC has assessed an adult as eligible for care and support and where one of those support needs is to make use of necessary facilities or services in the local community. The policy sets out clear criteria which Social Workers and front line Adult Social Care staff responsible for assessment and support planning will use to determine whether an adult will be provided with transport assistance from the Council and how transport will be provided.

1.3 The overarching principle of the policy is to promote safe and independent travel using an adult's own strengths and community assets wherever possible. Where transport assistance is assessed as needed, the aim is to ensure the method of provision maximises independence, supports personalised approaches which make the best use of the resources available in people's own communities and offers best value for money in line with the Council's strategic aims and objectives.

1.4 Transport provision assists people assessed with eligible support needs to make use of necessary facilities or services in the local community including but not limited to day opportunities, replacement care (respite), employment and training opportunities. Transport support can be provided in a variety of ways, for example using assistive technology to enable more independent travel or for example by the use of public transport, community transport, taxis, minibuses or cars. Assisted transport may be sourced independently by adults in receipt of Direct Payments or, if required, through direct provision commissioned by the Council.

1.5 The policy will apply to transport provided, arranged and/or paid for by the Council to ensure:

- a fair, consistent and equitable approach is taken for those assessed as eligible
- independence, self-reliance and inclusion are promoted wherever possible
- adults' strengths and community assets (i.e. the resources available to the adult in the community where they live) are fully utilised
- choice and control are maximised
- resources are used efficiently and in a way that is cost effective and will

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provide best value for money.

2. Scope

2.1 The policy applies to all adults who are:

- aged 18 and over; **and**
- assessed as having 'eligible needs' as outlined in the Care Act 2014 following a Needs Assessment, Reassessment or Review; **and**
- ordinarily resident in Worcestershire.

2.2 The following areas are out of scope of this policy:

- transport provided to people aged 18-25 years who need travel assistance to facilitate the receipt of statutory education. Eligibility for these categories of young adults will be considered under the provisions of Worcestershire County Council's Home to School Travel Policy which can be found at WCC Home to School Transport Policy.
- transport to NHS/health services or appointments: transport to these services is available for eligible clients from the NHS. For further information visit: NHS Worcestershire Acute Hospitals Patient Transport Service

3. Legal Framework and Eligibility

3.1 The Care Act 2014, in conjunction with the Care and Support (Eligibility Criteria) Regulations 2015 (SI 2015/313) and the Care and Support StatutoryGuidance provide the legal framework for making decisions in relation to eligibility for adult social care support.

3.2 The Council has a duty under the Care Act 2014 to assess adults' social care needs and a duty to meet the identified eligible needs. Where eligible needs are identified, it does not automatically follow that transport assistance will be provided by the Council as part of meeting those needs through the provision of services. Transport assistance will be provided when the assessor determines such provision is necessary to enable the adult to safely access facilities or services in the local community, and no other travel option is available to the adult.

3.3 The policy has due regard to the Equality Act 2010 and in particular the local authority's Public Sector Equality Duty, and a full Equality Impact Assessment has been completed in relation to the policy.

4. Overarching Principles

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4.1 The priority of Worcestershire's People Strategy is "to ensure Worcestershire residents are healthier, live longer, have a better quality of life and remain independent for as long as possible." Together with our partners, the People Directorate will co-produce ways of working with citizens to enable them to:

- Be well and stay safe
- Be independent and connected
- Be supported

The strategy will be achieved through:

- A person-centred approach which builds on strengths of local community assets
- Shaping services to redirect resources towards independence and enabling approaches
- Shaping of an effective market which facilitates development of independence, self-reliance and choice.

4.2 In line with the Council's strategy and Care Act duties, the overriding principle of this policy is that the decision to provide transport is based on promoting an adult's independence and wellbeing, taking into account needs, risks and outcomes. Therefore, when assessing transport needs, universal services within an individual's community will always be considered as the first option.

4.3 Adults will be encouraged to use the resources around them to meet their travel requirements and staff will be proactive in promoting the range of options available. The needs of carers must also be considered as part of assessment and decision-making.

4.4 Where it is determined that an adult requires funded support from the Council, the provision of funding through a Direct Payment should be the first option offered, before consideration of a commissioned transport option if a direct payment is not appropriate.

5. Eligibility and determining the need for transport

5.1 The decision to provide assistance with transport will only follow a full assessment of needs, including consideration of mobility and ability to travel independently and the risks associated with accessing support and services in the community, as part of the care and support planning process. The need for, and purpose of, transport should be clearly stated in an individual's Care and Support Plan.

5.2 If there are no other ways in which the individual can reasonably

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access services or be expected to make arrangements to access them safely, then the provision of transport by the council will be considered a need.

5.3 When assessing eligibility for transport and feasibility of different ways to access services, an assessor will consider the following factors:

1. Access to existing transport, including the potential use of other funding streams such as mobility benefits

2. Assessment of ability to travel independently

3. Identification of appropriate transport provision for those eligible (prioritising the use of local services to meet the eligible need) and the most appropriate method of provision of funded transport, with a direct payment being considered in the first instance.

5.4 A principal of reasonableness will be adopted i.e. the assessment will aim to establish if it is safe and reasonable to expect the person to make their own travel arrangements.

Access to existing transport

5.5 Access to existing transport and the use of mobility benefits should be considered in the first instance, specifically:

a) Where the individual has a Motability vehicle which they drive themselves. In this instance there will be consideration of whether it is reasonable to expect that the individual will use that vehicle in order to travel to the location of the care service or activity.

b) Where the individual has a Motability vehicle of which they are not normally the driver. Again, there will be consideration of whether it is reasonable to expect the person's family and friends to help them travel to the care service or activity.

c) Where the individual is in receipt of the mobility component of Disability Living Allowance or Personal Independence Payment (PIP), the purpose of which is to assist those who have mobility problems with severe difficulty walking or who need help getting around outdoors and in the community. Consideration should be given to the appropriate use of the mobility benefit, and whether it may be utilised to either fully or partially meet needs.

Assessment of ability to travel independently, including mobility

5.6 Transport assistance will not normally be provided if, following assessment and support planning an adult is assessed as being safe to travel independently (within a reasonable distance) with or without support. This includes being able to walk, cycle, use public transport

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(bus or train or community transport). Support includes assistance from a carer, family/friends, support worker or volunteer (this must be confirmed in the support plan).

5.7 An assessment of a client's ability to travel independently should be carried out using a risk-based approach, considering the physical, mental and social aspects of travelling independently and the promotion of a "positive risk taking" approach.

5.8 Physical mobility must be considered, including assessing areas such as the ability to walk outside, requirement for mobility aids, ability to get in and out of a vehicle and any barriers to independent travel, including any relevant occupational therapy or other professional assessments.

5.9 Other factors which may affect an individual's ability to travel independently should be considered, including communication abilities, psychological factors, factors affecting personal safety and availability of family, carers or volunteers to assist with access to transport.

5.10 Where an individual is assessed as potentially capable of independent travel, access to short-term support such as independent travel training should be considered.

Identification of appropriate transport

5.11 Once eligibility has been assessed and the ability and willingness to use an individual's own resources or resources in the community have been discussed and documented in the Support Plan, any residual unmet transport needs will then be considered and it will be recorded in the Support Plan how these are to be met. The support plan must explain clearly how this decision was made. Directly provided transport services will be provided only once all other alternatives have been considered and ruled out, and not as a matter of course.

5.12 There are different types of transport service provision:

- Assistance with using public transport (e.g. travel buddies or by undertaking a course of independent travel training, or with the support of assistive technology)
- Assistance with using community transport
- Provision of transport by parents/carers or by a support assistant
- Commissioned transport such as a taxi, either shared or in exceptional cases for sole use.

5.13 Where a person cannot attend their nearest community activity because there is no placement available, the assessing officer may request additional resources to be allocated. However, where a person chooses to attend community activities that are not the nearest, and

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the nearest service is available to meet their assessed need, any additional cost of any transport considered necessary will be met by the person.

5.14 There is no single definition of a reasonable distance/ time to access services or activities that meet social care needs. An assessor should be able, having information about an individual's abilities and the transport options available, to define "reasonable" for that individual.

5.15 Where the individual is reliant on a relative or other carer to drive a mobility car, consideration must be given to supporting the carer's respite needs, including enabling them to work. However, assessing officers must ensure that a carer's inability to assist with transport does not prevent an individual from accessing a service that meets their assessed needs, and discussions with an individual and carers must have reference to the conditions of the Motability scheme, namely that the mobility car is to be used by or for the benefit of the disabled person*[1] .

5.16 Where it is identified that a carer will provide transport, it is important that the assessor is able to demonstrate that the impact of this has been appropriately considered in an assessment of the carer's needs. Where carers or friends have been identified as being able to provide transport, alternative arrangements should be detailed in the contingency plan to cover periods where they are unable to do so.

5.17 Following consideration of all the options outlined above, where it is determined that an adult has a need which cannot be met in these ways, then the assessment should lead to an allocation of resources to meet need that are adequate to access funded transport to or from services.

5.18 Consideration should be given to whether service provision could be accessed via a direct payment in the first instance, or via commissioned transport where this option is not suitable.

5.19 In some limited circumstances, the Council may explore the option of providing unpaid carers (family and friends) a mileage allowance in order for them to provide transport to meet the assessed travel needs but only if it can be demonstrated that this is the most cost-effective option.

6. Review

6.1 All current and future transport arrangements will be subject to annual care and support plan reviews to ensure ongoing eligibility.

***Note 1:** See https://www.motability.co.uk/about/how-the-scheme-works/how-your-vehicle-can-be-used/ for more information.

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Appendix 1

Additional Guidance and Information – Transport Toolkit TO BE ADDED

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