Pecyn Dogfennau

Mark James LLM, DPA, DCA
Prif Weithredwr,
Chief Executive,
Neuadd y Sir, Caerfyrddin. SA31 1JP
County Hall, Carmarthen. SA31 1JP

DYDD MAWRTH, 31 MAI 2016

YR WYF DRWY HYN YN EICH GALW I FYNYCHU CYFARFOD O'R **CYFARFOD PENDERFYNIADAU AELOD O'R BWRDD GWEITHREDOL DROS GOFAL CYMDEITHASOL AC IECHYD** A GYNHELIR YN **YSTAFELL 66, NEUADD Y SIR, CAERFYRDDIN** AM **10.30 AM, DYDD IAU, 9FED MEHEFIN, 2016** ER MWYN CYFLAWNI'R MATERION A AMLINELLIR AR YR AGENDA SYDD YNGHLWM

Mark James

PRIF WEITHREDWR

AILGYLCHWCH OS GWELWCH YN DDA

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A G E N D A

1. **DATGANIADAU O FUDDIANNAU PERSONOL.**

2. **POLISI ÔL-OFAL YN UNOL AG ADRAN 117, DEDDF IECHYD MEDDWL 1983.** 3 - 26

3. **CYMERADWYO A LLOFNODI HYSBYSIAD PENDERFYNIAD Y CYFARFOD A GYNHALIWYD AR 12FED MAI, 2015.** 27 - 28

Y DYDDIAD: 9FED MEHEFIN, 2016

Yr Aelod o'r Bwrdd Gweithredol:	Y Portffolio:
Y Cyng. Jane Tremlett	Gofal Cymdeithasol ac Iechyd

Y PWNC:
POLISI ÔL-OFAL YN UNOL AG ADRAN 117, DEDDF IECHYD MEDDWL 1983

Y Pwrpas:

Cymeradwyo, ar ran Cyngor Sir Caerfyrddin, bolisi'r 3 Sir ynghylch Adran 117 o Ddeddf Iechyd Meddwl 1983

Yr argymhellion / penderfyniadau allweddol sydd eu hangen:

- Cadarnhau bod Cyngor Sir Caerfyrddin yn cytuno i fod yn un o lofnodwyr y polisi uchod, a'i fod felly yn cymeradwyo cynnwys y polisi.

Y Rhesymau:

Mae Côd Ymarfer Cymru ynghylch Deddf Iechyd Meddwl 1983 yn mynnu bod Byrddau Iechyd Lleol, Gwasanaethau Cymdeithasol Awdurdodau Lleol ac Ymddiriedolaethau GIG yn sefydlu polisïau a gytunwyd ar y cyd ynghylch darparu gwasanaethau yn unol ag Adran 117. Amgaeir copi o'r polisi a luniwyd ar y cyd gan Fwrdd Iechyd Hywel Dda a'r 3 Awdurdod Lleol sef Sir Gaerfyrddin, Sir Benfro a Cheredigion.

Y Gyfarwyddiaeth:	Swyddi:	Rhif ffôn:
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Declaration of Personal Interest (if any):

None

Dispensation Granted to Make Decision (if any):

N/A

(If the answer is yes exact details are to be provided below:)

DECISION MADE:

Signed:

_____DATE:_____

EXECUTIVE BOARD MEMBER

The following section will be completed by the Democratic Services Officer in attendance at the meeting

Recommendation of Officer adopted	YES / NO
Recommendation of the Officer was adopted **subject to the amendment(s) and reason(s) specified:**	
Reason(s) why the Officer's recommendation was **not adopted**:	

EXECUTIVE SUMMARY
EXECUTIVE BOARD MEMBER DECISION MEETING FOR SOCIAL CARE & HEALTH

DATE: 9TH JUNE, 2016

SUBJECT:

SECTION 117 AFTERCARE POLICY, MENTAL HEALTH ACT 1983

1. BRIEF SUMMARY OF PURPOSE OF REPORT

Under the Mental Health Act 1983, certain categories of detained patient are entitled to aftercare provision from the Local Authority and the Local Health Board once they are discharged from hospital. This entitlement to aftercare continues until such time as the Local Authority and the Local Health Board both agree it is no longer necessary although the patient is not required to accept the aftercare services.

Local Social Services Authorities are not allowed to charge for services provided under Section 117. The patients to whom it applies include those who have been admitted to hospital via civil procedures (ie on the recommendations of 2 registered Medical Practitioners and an Application by an Approved Mental Health Professional). It also applies to certain patients involved in Criminal proceedings including remand and sentenced prisoners and those whom the Courts deem it appropriate to divert from the Criminal Justice system. The relevant sections to which aftercare apply are Sections 3, 37, 45a 47,48.

The Code of Practice to the Mental Health Act 1983 requires Local Health Board, Local Social Services Authorities and NHS Trusts to establish a jointly agreed policy in terms of Section 117.

The Mental Health Legislative Assurance Committee of Hywel Dda Health Board tasked nominated representatives to draft an updated policy and comments from Officers of the Local Authorities have been sought. Officers agreed that once comments were considered and included, arrangements would be made to take the policy through the respective Council's governance structures. Comments submitted on behalf of Carmarthenshire County Council have been incorporated and so approval is now sought for this policy to be accepted on behalf of the Council with arrangements to be made for signature.

2. OTHER OPTIONS AVAILABLE AND THEIR PROS AND CONS

Given that the Code of Practice requires the development of such a policy, there are no other options available.

DETAILED REPORT ATTACHED ?	**YES**

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **Avril Bracey** **Head of Mental Health & Learning Disabilities**

Policy and Crime & Disorder	Legal	Finance	ICT	Risk Management Issues	Organisational Development	Physical Assets
YES	**YES**	**NONE**	**NONE**	**YES**	**NONE**	**NONE**

1. Policy, Crime & Disorder and Equalities

The Mental Health Act Code of Practice requires that local Social Services Authorities, Health Boards and NHS Trusts establish jointly agreed policies on Section 117. The attached document is currently of draft status, requiring sign off by the relevant partner agencies.

2. Legal

As indicated above, the Code of Practice that supports the working of the Mental Health Act in Wales, requires relevant partner agencies to have a policy in place. In individual cases, legal representatives of detained individuals can challenge the actions and practice of Authorities. It would be a risk therefore not to have an up to date policy in place.

5. Risk Management Issues

Failure to develop a joint policy could be seen as non- adherence to the Code of Practice for Wales.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Avril Bracey **Head of Mental Health & Learning Disabilities**

1. Scrutiny Committee

N/A

2.Local Member(s)

N/A

3.Community / Town Council

N/A

4.Relevant Partners

Hywel Dda Health Board and Pembrokeshire and Ceredigion Local Authorities.

5.Staff Side Representatives and other Organisations

N/A

Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
The Mental Health Act Code of Practice		**5, Spilman Street, Carmarthen**

Mae’r dudalen hon yn wag yn fwriadol

GIG CYMRU NHS WALES
Bwrdd Iechyd Prifysgol Hywel Dda
Hywel Dda University Health Board

Joint Policy and Guidance for Mental Health Act 1983, Section 117 Aftercare Responsibilities

FINAL DRAFT 4-16

**Hywel Dda University Health Board,
Carmarthenshire County Council,
Ceredigion County Council and
Pembrokeshire County Council**

Policy Number:		**Supercedes:**		**Standards For Healthcare Services No/s**	

Version No:	Date Of Review:	Reviewer Name:	Completed Action:	Approved by:	Date Approved:	New Review Date:

Brief Summary of Document:	

To be read in conjunction with:	

Classification:		**Category:**		**Freedom Of Information Status**	

Authorised by:		**Job Title**		**Signature:**	

HYWEL DDA UNIVERSITY HEALTH BOARD

DRAFT POLICY FOR CONSULTATION PURPOSES ONLY

Responsible Officer/Author:			**Job Title:**	
Contact Details:	**Dept**		**Base**	
	Tel No		**E-mail:**	@wales.nhs.uk

Scope	**ORGANISATION WIDE**	✓	**DIRECTORATE**	✓	**DEPARTMENT ONLY**	✓	**COUNTY ONLY**	✓

Staff Group	Administrative/ Estates	✓	Allied Health Professionals	✓	Ancillary	✓	Maintenance	✓
	Medical & Dental	✓	Nursing	✓	Scientific & Professional	✓	Other	✓

CONSULTATION	**Please indicate the name of the individual(s)/group(s) or committee(s) involved in the consultation process and state date agreement obtained.**			
	Individual(s)		**Date(s)**	
	Group(s)		**Date(s)**	
	Committee(s)		**Date(s)**	

RATIFYING AUTHORITY (in accordance with the Schedule of Delegation)	**KEY**		
NAME OF COMMITTEE	A = Approval Required FR = Final Ratification	**Date Approval Obtained**	**COMMENTS/ POINTS TO NOTE**

Date Equality Impact Assessment Undertaken		**Group completing Equality impact assessment**	

Please enter any keywords to be used in the policy search system to enable staff to locate this policy	

Document Implementation Plan			
How Will This Policy Be Implemented?			
Who Should Use The Document?			
What (if any) Training/Financial Implications are Associated with this document?			
What are the Action Plan/Timescales for implementing this policy?	**Action**	**By Whom**	**By When**

CONTENTS

1. **INTRODUCTION:**

The purpose of this policy is to:

- Set out the joint agreement of respective responsibilities of Ceredigion County Council, Pembrokeshire County Council and Carmarthenshire County Council (thereinafter referred to as the Local Authorities) and Hywel Dda University Health Board which outlines their obligations under Section 117 (S117)
- Provide guidance to practitioners responsible for the delivery of S117 aftercare and
- Ensure the consistency and quality of aftercare services provided under S117
- Set out the arrangements under which a service user can be discharged from S117 aftercare

2. RATIONALE FOR POLICY:

2.1 **S117 (2) Mental Health Act 1983 states that**:
"It shall be the duty of the Primary Care Trust or Local Health Board and of the local Social Services Authority to provide, in co-operation with relevant voluntary agencies, aftercare services for any person to whom this section applies until such time as the Primary Care Trust or Local Health Board and the local social services authority are satisfied that the person concerned is no longer in need of such services; but they should not be so satisfied in the case of a community patient while he remains such a patient"

2.2 Consideration should be given to providing aftercare for all service users following an inpatient admission. However, S117 of the Mental Health Act 1983 imposes specific, duties and responsibilities upon health and social services authorities towards certain categories of detained patients.

2.3 Services under S117 are those provided in order to meet an assessed need that arises from a person's mental disorder and is aimed at reducing that person's chance of being re-admitted to hospital for treatment for that disorder. It applies to patients who have been detained under any of the following sections of the Mental Health Act 1983:

- 3 MHA (admission for treatment)
- 37 MHA (hospital order made by the Magistrates Court or Crown Court – with or without a Section 41 restriction order)
- 45A MHA (hospital direction by the Crown Court)
- 47 or 48 (transfer directions by the Home Secretary from prison to hospital) and then cease to be detained and leave hospital.
- Patient's on S17 leave of absence from hospital
- To those previously detained under S3 who are now under a different section e.g. S17a, S7.

3 DEFINITION OF SECTION 117 AFTERCARE:

3.1 "After-care is a vital component in patients' care plans, which aim to enable patients to develop and enhance their skills in order to adjust to life outside hospital and to live their lives successfully at home in their communities." (Code of Practice Wales 31.7) – Aftercare may include residential and non-residential services.

4 ENTITLEMENT TO SECTION 117 AFTERCARE:

4.1 A service users entitlement to aftercare under S117 begins when they meet all of the criteria set out in S117 (1) of the Mental Health Act 1983. However, in certain cases such as those involving applications to the Mental Health Review Tribunal for Wales, the Local Authority and Local Health Board may be directed to produce a S117 aftercare plan prior to all of the criteria in Section 117(1) having been met.

4.2 The service user's entitlement to S117 after-care continues even if

- They are discharged from their Section and remain in hospital as an informal patient
- They are returned to prison after being detained in hospital, or
- They are readmitted to hospital informally or under another Section of the Act (for example, Section 2) which is not defined in Section 117(1) of the Mental Health Act

4.3 S117 also applies to the categories of detained patients described in 4.2 above whilst they are subject to Section 17 leave of absence, and to anyone subject to Supervised Community Treatment.

4.4 S117 does **not** apply to patients who have been detained in hospital under any other 8Section only (for example, Section 2, 4, 5(2), 5(4), 135 or 136).

4.5 S117 does not automatically apply to patients subject to Guardianship (Section 7), unless they have also previously been detained under one of the relevant sections.

4.6 Some services or aspects of care may be part of a patients' aftercare plan but not be provided or commissioned under S117.including Continuing NHS Health Care (CHC) services provided or commissioned to a service user eligible for CHC due to a Primary Health Need. *Continuing NHS Healthcare. The National Framework for Implementation in Wales (June 2014)*

4.7 Under Section 117 of the Mental Health Act 1983 (The 1983 Act) health and social services authorities have a duty to provide after care services for individuals who have been detained under certain provisions of the 1983 Act, until they are satisfied that the person is no longer in need of such services.

4.8 All those subject to section 117 are considered to be in receipt of secondary mental health services are defined under the Mental Health (Wales) Measure 2010 (the Measure) and will therefore have a care Co-ordinator and an outcome focussed prescribed Care and Treatment Plan (CTP) that is reviewed at least yearly. Detailed guidance regarding Care and Treatment planning is given in the Code of Practice to Parts 2 and 3 of the Measure.

4.9 Section 117 is a free-standing joint duty. Local Health Boards and local authorities (LAs) should develop protocols to help determine their respective responsibilities for the delivery of section 117 aftercare (see for example Mental Health Act 1983 Code of Practice for Wales, chapter 31). This framework does not therefore attempt to provide additional guidance on this issue, but focuses on the interface between section 117 and eligibility for Continuing NHS Healthcare.

4.10 Responsibility for the provision of section 117 lies jointly with LAs and the NHS. Where a patient is eligible for services under section 117 these should be provided jointly under section 117 and not under CHC.

4.11 here are no powers to charge for services provided under section 117 of the 1983 Act, regardless of whether those services are provided by the NHS or local authorities. Accordingly, the question of whether services should be 'free' NHS services rather than potentially charged-for services does not arise. It is not appropriate to assess eligibility for CHC if all the services in question are to be provided as after-care under section 117.

4.12 However, an individual in receipt of after-care services under section 117 may also have additional needs which are not related to their mental disorder. For example an individual may be receiving services under section 117 and develop separate physical needs e.g. following a stroke, which may then trigger the need to consider NHS continuing healthcare.

4.13 In such cases the general approach set out in this Framework of considering the totality of need in assessing eligibility for CHC still applies. The individual may as a result, have the services required to meet their total care needs funded by the NHS, but this does not necessarily remove the joint duty under section 117. The section 117 joint duty remains unless a joint assessment and agreement by both the LA and the LHB determines that those arrangements are no longer needed.

4.14 Where an individual in receipt of section 117 services develops physical care needs resulting in a rapidly deteriorating condition which may be entering a terminal phase (or a catastrophic health event which clearly requires CHC), consideration should be given to the use of the Fast Track Pathway Tool.

4.15 Where an individual is to be discharged from section 117, eligibility for CHC or funded nursing care will need to be considered where the transition assessment and plan indicate that these may be required. Information should be provided to the individual or their representative in regards to the effect that discharge from section 117 arrangements may have on their finances and/or welfare benefits.

5 RESPONSIBILITY FOR SECTION 117 AFTERCARE:

5.1 Section 117 (3) MHA 1983 states that the "responsible authorities" the LHB and local Social services authority are those authorities in the area where the person resided at the time of detention OR if the person has no residence, the responsible authorities are those in the area to which the patient is discharged. Hammersmith Judgement****


who-pays-aug13 (2).pdf


WG Responsible Body Guidance.pdf

5.2 Section 117 (3) MHA is not providing a choice but as established in R-v-MHRT ex parte Hall (1999), it is envisaging an alternative so that there is always some authority that will be responsible when a person is discharged.

5.3 If a service user moves out of the area, their entitlement to S117 aftercare continues. It is the responsibility of the Care Co-ordinator to ensure that appropriate transfer arrangements are made, in accordance with the Care Co-ordination policy, and that the receiving authority is aware of the service user's entitlement to care and services under S117. (Guidance contained in HSC2000/03: LAC (2000)3 reminds authorities that a patient who was resident in that area because of detention under the Act.)

5.4 If a service user is placed in a residential resource outside the area which is responsible for providing aftercare, that responsibility continues, although arrangements for some aspects of the care plan to be provided in the new area (for example, psychiatric follow-up) may be negotiated, particularly if the placement is a significant distance from the responsible authority.

5.5 Should the person be readmitted to hospital under a qualifying section a new period of entitlement commences; the responsible authorities would then be the ones in which the person was resident (unless otherwise agreed between the relevant Local Authorities) prior to the readmission irrespective of whether that person was placed there by another local authority. A patient's subsequent re-admission under S2 MHA 1983 does not break the duty to provide after-care services.

5.6 Where there is doubt as to a person's ordinary residence that cannot be resolved, it is vital that one authority assumes responsibility on a without prejudice basis pending resolution. The dispute should be referred for legal advice at the earliest opportunity.

6. PLANNING OF SECTION 117 AFTERCARE:

6.1 Within the framework of the Care and Treatment Planning (CTP), a written care plan, based on a full assessment of the patient's needs, and which specifies S117 aftercare arrangements, must be in place before

- Discharge from hospital
- A period of Section 17 leave - except for short periods of leave, when "a less comprehensive review may suffice, but the arrangements for the patient's care should still be properly recorded" (Code of Practice for Wales 31.9). Any period of leave which includes an overnight stay necessitates a full aftercare plan.
- A Mental Health Review Tribunal for Wales or Managers Hearing. The hospital managers must ensure that Hywel Dda Health Board and the Local Authorities are

aware of the hearing so that they are able to consider after-care arrangements in all cases; however this is particularly important when discharge is a strong possibility and appropriate after-care is a key factor in the decision.

6.2 The responsible clinician (RC) will ensure that the patient's after-care needs have been fully assessed. The S117 aftercare plan should normally be formulated at a multi-disciplinary CTP meeting; this meeting will also identify the care co-ordinator (if not already identified). The Code of Practice contains detailed guidance about the people who should be involved in this process and the considerations to be taken into account (Code of Practice for Wales).
A S117 register is to be kept and maintained by CMHT Administers . All residents who are eligible for S117 aftercare, whether or not they receive such services should be on the register. This register is "a discrete and identifiable subset of the Care Programme register" (NHS/SSI (1999) Effective Care Co-ordination in Mental Health Services, p20).
Administrators are responsible for keeping the S117 register up to date and must be informed by the service user's Care Co-ordinator of any significant changes

- the date S117 aftercare ends, or
- if responsibility for S117 aftercare is transferred to another authority

6.3 The care plan must clearly identify the interventions that are related to S117 entitlement and those that are not.

7 REVIEW OF SECTION 117 AFTERCARE:

7.1 The Hywel Dda Health Board and the Local Authorities will ensure that all service users subject to S117 will be subject to full CTP procedures. This includes joint assessments, care planning and reviews agreed under the CTP policies and procedures. Users or carers (where appropriate) will be informed of these policies and will have copies of all their care plans, incorporating the S117 arrangements

7.2 Care plans for service users receiving aftercare under S117 should be as often as required but once every twelve months as a statutory minimum, within the CTP process.

7.3 The review must specifically consider if it is appropriate for the care plan to continue to be provided under S117. It must be made clear which parts of the care plan are S117 services and which are not.

7.4 While the service user is eligible for S117 aftercare, any additional services to address mental health needs are also S117 services.

8 DISCHARGE OFF SECTION 117 (OR DISCHARGE FROM SECTION 117):

8.1 The duty to provide after-care services under S117 exists until both the Hywel Dda Health Board and the Local Authorities are satisfied that the patient no longer requires them. Circumstances in which it is appropriate to end such services varies by individual and the nature of the services provided.

8.2 A Court of Appeal Judgement of July 2000 (*London Borough Richmond & others ex parte Watson & others*) highlighted the importance of having an agreed policy to outline the circumstances in which service users are discharged from S117. Any agreed policy should incorporate the CTP.

8.3 The judgement indicates that **"*After-care provision does not have to continue***

indefinitely. It must continue until such time as the Health Board and local authority are satisfied that the individual is no longer in need of such services". There may be cases where, in due course there will be no need for after-care services for the person's mental condition, but he or she will still need social service provision for other needs, for example, physical disability. Such cases will have to be examined individually on their facts, through the assessment process provided for by section 47 [of the National Health Service and Community Care Act 1990]. "In a case such as this, where the illness is dementia, it is difficult to see how such a situation could arise in practice". This judgment is not saying that people with dementia cannot be discharged from aftercare. Each case will have to be examined individually on their facts" (*R v Richmond LBC ex parte Watson 2001*)

8.4 If the multidisciplinary team decide that aftercare is no longer required and that it's removal will not put the person at risk of readmission to hospital, a decision to discharge the user from S117 aftercare arrangements should be considered, and action taken where this is found to be substantiated. However, any such decision must be fully justified and preceded by a proper reassessment of the service-user's needs.

8.5 The Local Government Ombudsman helped clarify this issue in investigating a complaint made against Bath and North Somerset Council (Report 12/2007). A lady who resided in a residential home had been discharged from S117 on the basis that:

- Her dementia was improving and her mental health was stable
- She was not at risk of readmission to hospital, and
- She was accepting of her residential placement and the care she needed.

In finding the Council criteria to be mal administrative the ombudsman concluded "Whether or not a person is 'settled in a nursing or residential home' is an irrelevant consideration. The key question must be, would removal of this person (settled or not) from this nursing or residential home mean that she is at risk of readmission to hospital. If the answer is yes then the person cannot be discharged from aftercare".

8.6 This assessment must be recorded in writing and agreed with the service user and their family if possible. However, a patients wish to be discharged from Section 117 has no legal effect if the patient continues to have a need for aftercare services. After-care authorities can only reach the stage for satisfaction required by S117 by reference to the individual needs of the service user and the decision cannot be dominated by factors such as resources.

8.7 Where both the Health Board and Local Authorities are satisfied upon re-assessment of the service-user's current needs that after-care is no longer necessary, and can properly be discharged, there is scope thereafter for the social services authority to look to other community care provisions which are more relevant. This is provided the authorities are satisfied that such other services are available to the service-user; that they are appropriate having regard to the UFSAMC guidance and that they will adequately meet their assessed needs.

8.8 The duty under S117 cannot be ended retrospectively. Once it ceases, for whatever reason, a fresh duty can only arise where the service user is again detained under a section of the Mental Health Act for which S117 applies (see paragraph 2.3)

8.9 In conducting a discharge assessment, the following should be considered, and the

outcome and impact on the decision reached, recorded. These are indicative and not exhaustive.

- If a service user refuses the after-care plan, they must remain on the register of people entitled to S117 aftercare as the duty remains until discharged. A refusal to accept services will not of itself lead to discharge; any discharge must be based on the needs of the patient as outlined above.

- Discharge from S117 must be agreed by both Hywel Dda UHB and Local Social Care Services should be discussed in detail at the CTP review meeting. The final decision should be clearly recorded and there should be a smooth transition from services provided under S117 to any subsequent services, including those provided under other legislation. While continuing involvement with specialist mental health services (or other adult services client group) does not necessarily mean that S117 must continue, it is difficult to envisage a situation where discharge would be appropriate.

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

- the patient has been discharged from the care of specialist mental health
- an arbitrary period has passed since the care was first provided;
- the patient is deprived of their liberty under the Mental Capacity Act 2005;
- the patient may return to hospital informally or under section 2;(or
  the patient is no longer on Supervised Community Treatment or section 17
- The patient is now settled in the community or a care home, unless the agencies agree there is no longer a need for continued aftercare services

9 ENDING OF ENTITLEMENT TO SECTION 117 AFTERCARE:

9.1 Entitlement to aftercare provided under S117 may be terminated for any of the following reasons:

- Death of the service user
- Emigration of service user (MHA only applies in England and Wales)
- Aftercare no longer required

9.2 S117 aftercare services must be provided until such time as both the health and social services authorities are satisfied that the service user is no longer in need of such services a CTP review meeting should be arranged to discuss discharge from S117 at which the patient and/or carer(s)/advocate should attend where possible.

9.3 The care team must give consideration to the implications of discharge from the S117 Register for the service user and the effect that the ending of services may have on them when making a recommendation for ending S117 aftercare.

9.4 The multi disciplinary team responsible for dissolution of S117 arrangements must include people able to represent health services and the local authority and make a recommendation on their behalf, this may be as a minimum:

- RC/Consultant psychiatrist for health
- Registered Social Worker for local authority

9.5 In the event that a decision cannot be reached by the multi disciplinary team then the recommendation shall be made by both the council lead and an appropriate lead clinician from the Mental Health Service. In cases where a decision cannot be reached then S117 aftercare should continue.

9.6 When a decision is made at review to end aftercare under S117, the care coordinator must notify in writing (including the reasons for the decision). the following people:

- Service user
- Carer
- RC
- GP
- S117 Register Holder – outcome to be recorded in the clinical notes.
- Nearest Relative (with Patient consent)
- Advocacy IMHA

10 RECORDING OF SECTION 117 AFTERCARE ARRANGEMENTS:

10.1 S117 aftercare arrangements should be recorded on the Care Co-ordination documentation. The Care Co-ordinator is responsible for ensuring that this information is kept up to date and that the care plan clearly identifies which parts of it are provided under S117 and which (if any) are not.

11 CHARGES TO SERVICE USERS FOR SECTION 117 AFTERCARE:

11.1 S117 imposes a free-standing duty upon local health and social services that do not include a power to charge for mental health aftercare services. **No charges will be made to service users receiving aftercare services under S117.** This includes both health and social care services.

11.2 Services provided to carers by social care services in their own right may be charged for in accordance with the Council's charging policy. Further service users receiving care services not considered to be part of the S117 after services can be charged for these in accordance with the Councils' charging policy.

11.3 The relevant Local Authority and the Hywel Dda Health Board will only pay for services which are identified in the agreed CTP care plan as S117 aftercare. Changes to the care plan may only be made as part of the CTP review process.

11.4 Services (including residential care) which were provided to a service user living in the community and means tested for prior to admission to hospital under one of the relevant sections will be provided free of charge on discharge from hospital if the provision of that service is part of the S117 aftercare plan.

11.5 S117 funding will cover agreed increases in services for a service user already receiving S117 aftercare when needed to sustain them in the community and avoid future hospital admission. This must be agreed through the Care Co-ordination review process.

11.6 Service users, relative or carers who choose a service provision whose charge is above that which the Local Authority would normally pay and can provide, then the additional cost will not fall within the S117 funding arrangements. Such costs (known as third party top-ups) will be the responsibility of the service user, relative or carer.

12 FUNDING OF SECTION 117 AFTERCARE SERVICES:

12.1 The Local Authorities and the Hywel Dda Health Board have an enforceable responsibility for providing aftercare services under S117. The provision and commissioning of services will be met by both organisations as appropriate based on an assessment of need.

12.2 S117 services provided will include hospital based care, rehabilitation, or residential or nursing care, domiciliary care, day services, Direct Payments as well as contact and interventions by relevant care professionals and other community based services provided or commissioned by either the Council or NHS.

12.3 The service user's care pathway will not be affected by financial arrangements and shall continue to access services in a way most convenient to the service user.

13 RELATIONSHIPS BETWEEN SECTION 117, CONTINUING HEALTH CARE: ELIGIBILITY AND NURSING CARE CONTRIBUTIONS

13.1 It is not appropriate to assess a service user for eligibility for CHC if all the services in question are to be provided as after care under Section 117.

13.2 However, a person who is receipt of section 117 after care services may also have Continuing NHS Healthcare needs which are not related to their mental disorder and which fall outside the scope of section 117. Where such needs exist it may be necessary to carry out a CHC assessment.

13.3 The NHS is also responsible for paying for the care by a registered nurse for any after-care services provided under section 117(2) of the Mental Health Act 1983 in a care home. (NHS Funded Nursing Care in care homes Guidance 2004)

14 MONITORING OF SECTION 117 AFTERCARE ARRANGEMENTS:

14.1 Team Managers, in collaboration with the Care Coordinators are responsible for monitoring the S117 aftercare arrangements for service through caseload management/S117 Register/CTP. They must ensure that all aspects of this policy are adhered to including training and appraisal and should report any problems or concerns to the appropriate Mental Health Service Manager.

14.2 Revised monitoring arrangements of the Mental Health Act are scheduled to be in place as from July 2014 which will entail the establishment of a Joint Health and Social Care Senior Managers Mental Health Act Quality and Assurance group which will report to the Health Board Mental Health Act Monitoring Committee

15 REFUSAL OF SECTION 117 AFTERCARE:

15.1 S117 places a duty on the Local Authority and Hywel Dda University Health Board to provide aftercare services and give the service user an entitlement to such services. There is no requirement for a service user to accept the aftercare offered. Such a situation must be reviewed by the care team, with a revised risk assessment in the light of all or part of the aftercare plan not being in place.

15.2 Refusal of services does not of itself indicate discharge from S117 aftercare.

16 COMPLAINTS:

16.1 Any complaints regarding S117 aftercare will be dealt with within the usual complaints procedures of the respective organisations which are party to this policy.

17. GLOSSARY OF TERMS:

Term	Definition
Care and Treatment planning (CTP) assessment	CTP is a way of co-ordinating mental health services for people with mental health problems. It means that once you have an assessment detailing your needs, one person will be able to co-ordinate all aspects of your care. For example, this could be your medical and social care and community services available to you. This assessment will be carried out by a care co-ordinator.
Care Coordinator	Care Co-ordinators are the principle source of information for the relevant patient and are responsible for seeking their active involvement and engagement in the care planning process.
Independent Mental Health Advocates	Under the MCA, NHS bodies or Local Authorities (as appropriate) are required to instruct independent mental capacity advocates (IMCA's) to represent people who have no family or friends who it would be appropriate to consult.
S117 Aftercare Responsibilities	Services that normally include treatment for mental health disorder, social work support to help the patient with problems of employment, accommodation or family relationships, the provision of domiciliary services and the use of day centre and residential services. See also Paragraph 4.
Community Mental Health Services	Community mental health services support individuals with mental health problems who are living in the community. Teams include a range of professionals drawn from the local NHS and social services
Continuing NHS Health Care (CHC)	There are no powers to charge for services provided under section 117 of the 1983 Act, regardless of whether those services are provided by the NHS or Local Authorities. It is not appropriate to assess eligibility for CHC if all the services in question are to be provided as after-care under section 117. However, a person in receipt of after-care services under section 117 may also have needs for continuing care which are not related to their mental disorder and which may therefore fall outside the scope of section 117.

Local Authority (LA)	At a local level, the country is divided into a series of local authorities or councils. These authorities are responsible for providing local services to the community such as education, adult and children social care, regeneration, support for carers, leisure, housing and environmental services.
Mental Health Act 1983 (MHA)	An act of parliament that governs the treatment and care of some individuals incapacitated through mental illness.
Multidisciplinary team (MDT)	A multidisciplinary team (MDT) is a group of professionals from diverse disciplines who come together to provide comprehensive assessment and consultation in cases.
NHS Funded Nursing Care	The money paid by the NHS for the nursing care component of a person's care package is known as the NHS Funded Nursing Care.
Primary Care	Primary Care is the care provided by people you normally see when you first have a health problem. For example a doctor or dentist, an optician for an eye test, a pharmacist. NHS Walk-in Centres, and the phone line service NHS Direct, are also part of primary care.
Responsible clinician (RC)	A patient's responsible clinician is defined as the approved clinician with overall responsibility for the patient's case. All patients subject to detention or Supervised Community Treatment have a Responsible Clinician; Nurse, Occupational therapist, Psychiatrist, Psychologist, Social Worker
Section 117 Register	Register of service users subject to Section 117 to be maintained.
Service user/Client/Patient	A person receiving any health or social care services, from going to the family doctor, the pharmacist, to accessing social services such as home care or direct payments.

18 REFERENCES:

Mental Health Act 1983, 2007
Code of Practice to the Mental Health Act 1983, 2008
R v MHRT & Others ex parte Hall April 1999
R v Richmond Upon Thames LBC ex p Watson (1999) 28 July QBD
R v Richmond ex p Watson – Court of Appeal July 2003
R (Hertfordshire CC) v LB Hammersmith & Fulham (2011)
Aftercare under Section 117 Mental Health Act 1983 – IMHL October 2003
Continuing NHS Healthcare: The National Framework for Implementation in Wales May 2010.

COFNOD PENDERFYNIADAU CYFARFOD PENDERFYNIADAU'R AELOD O'R BWRDD GWEITHREDOL DROS OFAL CYMDEITHASOL AC IECHYD

12FED MAI, 2015

Swyddfa'r Cyfarwyddwr Gofal Cymdeithasol, Iechyd a Thai, Neuadd y Sir, Caerfyrddin

1:30 P.M. – 2.00 P.M.

YR AELOD O'R BWRDD GWEITHREDOL	Y PORTFFOLIO
Y Cynghorydd J. Tremlett	Gofal Cymdeithasol ac Iechyd;

Roedd y swyddogion canlynol yn gwasanaethu yn y cyfarfod:-

Mr. J. Morgan	Y Cyfarwyddwr Gofal Cymdeithasol, Iechyd a Thai;
Mr. D. Eldred	Cyfrifydd Grŵp;
Mr. M.S. Davies	Swyddog Gwasanaethau Democrataidd.

DATGAN BUDDIANNAU PERSONOL

Ar ôl ystyried yr adroddiadau am yr eitemau isod, a chan roi sylw i farn yr Aelodau Lleol a'r rhai oedd a wnelont â'r materion, lle'r oedd hynny'n berthnasol, gwnaeth yr Aelod o'r Bwrdd Gweithredol y penderfyniadau canlynol:

RHIF YR EITEM	Y Pwnc / Penderfyniad
1.	**COFNOD PENDERFYNIADAU - 9FED IONAWR 2015** **PENDERFYNWYD llofnodi Cofnod Penderfyniadau'r cyfarfod a oedd wedi ei gynnal ar 9fed Ionawr 2015, gan ei fod yn gywir.**
2.	**Y TÂL SAFONOL AM OFAL PRESWYL GAN YR AWDURDOD LLEOL YN YSTOD 2015/16** Rhoddodd yr Aelod o'r Bwrdd Gweithredol ystyriaeth i adroddiad ynghylch y tâl safonol am ofal preswyl gan yr awdurdod lleol yn ystod 2015/16. Eglurodd y Cyfrifydd Grŵp fod yn rhaid i'r oedolion i gyd oedd yn derbyn llety preswyl gyfrannu at eu costau gofal. Os oedd ganddynt adnoddau digonol, roedd yn ofynnol iddynt dalu'r gost lawn am eu llety, sef y Tâl Safonol a gyfrifwyd yn flynyddol ar sail y gost lawn i'r Awdurdod o ddarparu'r llety. Eglurodd taw'r ffactorau allweddol o ran pennu'r tâl safonol blynyddol oedd cyfanswm cost y gyllideb ar gyfer cynnal cartrefi preswyl yr Awdurdod, ynghyd â nifer y gwelyau oedd ar gael a faint ohonynt oedd yn llawn. Ar gyfer 2015/16 bu gostyngiad sylweddol yn nifer y gwelyau prif ffrwd (4%) ac roedd hyn, ynghyd â chynnydd yng nghostau'r staff [er bod hynny'n cael ei wrthbwyso i raddau gan arbedion effeithlonrwydd cyllidebu ar sail blaenoriaeth sef £100,000 a dim cynnydd o ran chwyddiant ar gyfer cyflenwadau a gwasanaethau] wedi arwain at gynnydd o 8.05% yn y tâl. Roedd y cynnydd o 1.27% yn y gyfradd ar gyfer gwelyau i henoed bregus eu meddwl yn cael ei gynnig yn sgil y cynnydd yng nghostau'r staff. Mewn ymateb i ymholiad, rhoddwyd gwybod i'r Aelod o'r Bwrdd Gweithredol fod y cynnydd wedi'i gynnig er mwyn adennill costau ac y byddai peidio â chyflwyno'r cynnydd hwn yn golygu y byddai angen cael cyllid o feysydd eraill. **PENDERFYNWYD** **2.1 bod y Tâl Safonol am gartrefi gofal preswyl i Bobl Hŷn gan yr Awdurdod Lleol yn cael ei godi o £540.37 i £583.88 am welyau Prif Ffrwd ac o £759.13 i £768.78 am welyau i Henoed Bregus eu Meddwl;** **2.2 y byddai'r cyfraddau newydd yn dod i rym ar 29ain Mehefin 2015 i**

	breswylwyr yr oedd yr Awdurdod Lleol wedi eu hanfon i'w gartrefi ei hunan ac y byddai'r cyfraddau newydd yn dod i rym ar 6ed Ebrill 2015 i breswylwyr a anfonwyd i Gartrefi'r Awdurdod Lleol gan awdurdodau lleol eraill.

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YR AELOD O'R BWRDD GWEITHREDOL DROS OFAL CYMDEITHASOL AC IECHYD

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DYDDIAD