MENTAL HEALTH ACT 1983
S117 AFTERCARE
JOINT POLICY
ISLE OF WIGHT

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Date Approved	Approved by Isle of Wight Council (IWC) Leadership Group Approved by Clinical Executive Board, Isle of Wight NHS Trust (IW NHS Trust) Approved by Isle of Wight Clinical Commissioning Group (IW CCG)
Operational Date	9 December 2019
Next date of Review	May 2022
Supersedes previous documents	S117 Aftercare Joint Policy dated March 2015
Responsible Directorate	Isle of Wight Council Adult Social Care (IWC ASC) and the Isle of Wight Clinical Commissioning Group (IW CCG)
Accountable Committee	IWC Leadership Group/Service Board IW NHS Trust Clinical Executive Board
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Distribution	All Commissioners, Operational and Managerial staff within the IWC, NHS Trust and CCG.
Policy Version	Draft V3

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DOCUMENT HISTORY

(Procedural document version numbering convention will follow the following format. Whole numbers for approved versions, e.g. 1.0, 2.0, 3.0 etc. With decimals being used to represent the current working draft version, e.g. 1.1, 1.2, 1.3, 1.4 etc. For example, when writing a procedural document for the first time – the initial draft will be version 0.1)

Date of Issue	Version No.	Date Approved	Director Responsible for Change	Nature of Change	Ratification / Approval
20 Nov 13	0.1	17 Dec 13	Community Health Clinical Director	New Policy Ratified at	MH&LD Clinical Quality, Risk and Patient Safety Committee
18 Dec 13	0.2	03 Jan 14	Community Health Clinical Director	Ratified at	Clinical Standards Group
03 Jan 13	0.2	21 Jan 14	Community Health Clinical Director	Approved at	Policy Management Group
24 Feb 15	1.3		Community Health Clinical Director	New statutory definition of 'after-care' and application of 'ordinary residence'; revised Code of Practice	
17 Mar 15	2	17 Mar 15	Community Health Clinical Director		Approved at Policy Management Group
Sep 2019	2.1		Director of Mental Health & Learning Disabilities	Policy review	
25 Oct 19	2.1		Director of MH&LD	Policy endorsed at	Clinical Standards Group
18 Nov 19	3.0	9 Dec 19	Director of Mental Health & Learning Disabilities	Policy approved via voting buttons by	Policy Management Sub-Committee

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Section 117 Policy

Purpose and Scope:

This is a joint policy between Isle of Wight Council (IWC), Isle of Wight Clinical Commissioning Group (CCG) and Isle of Wight Healthcare NHS Trust and applies to Isle of Wight residents only. The objective of this procedure is to set out the policy requirements for provision of aftercare services under Section 117 of the Mental Health Act 1983 in light of the implementation of the Care Act 2014 and in relation to the hosted service by West Hampshire CCG.

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1.0 Objectives

1.1 This document lays out a clear framework for Social Care Services and the NHS Health on the Isle of Wight to utilise when delivering aftercare to individuals who are entitled to those services under S117 Mental Health Act 1983.

2.0 Introduction

2.1 Section 117 of the Mental Health Act 1983 places a joint duty on IW NHS Trust and IWC Adult Social Care Commissioners to provide free aftercare services for people that have previously been sectioned under the treatment sections of the Mental Health Act, i.e. Sections 3, 37, 45A, 47 and 48. The duty to provide aftercare services begins at the point that someone leaves hospital and lasts for as long as the person requires the services.

2.2 In its review of Adult Social Care, the Law Commission concluded that S117 should be more fully integrated within the new Adult Social Care legal framework providing a definition of aftercare services, choice of accommodation provisions and 'top up' payments. Section 75 of the Care Act implements most of the Law Commission's recommendations in this area.

2.3 Health Service Circular HSC 2000/003 and Local Authority Circular LAC 2000(3) states that:

"Social services and health authorities should establish jointly agreed local policies on providing Section 117 Mental Health Act Aftercare. Policies should set out clearly the criteria for deciding which services fall under Section 117 Mental Health Act and which authorities should finance them. The Section 117 Mental Health Act Aftercare plan should indicate which service is provided as part of the plan.

Aftercare provision under Section 117 Mental Health Act does not have to continue indefinitely. It is for the responsible health and social services authorities to decide in each case when aftercare provided under Section 117 Mental Health Act should end, taking account of the patient's needs at the time. It is for the authority responsible for providing particular services to take the lead in deciding when those services are no longer required. The patient, his / her carers, and other agencies should always be consulted".

2.4 Implementation of the Care Act with respect to S117 Aftercare provides for organisations to be clear about the identification of need which would fall within the definition laid out in the Care Act and in this policy (see 3.0).

3.0 Definition of S117 Aftercare

3.1 The Care Act section 75(5) updates and refines the definition of aftercare services to mean services which have the purposes of:

(a) Meeting a need arising from or related to the person's mental disorder; and

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(b) Reducing the risk of a deterioration of the person's mental condition (and, accordingly, reducing the risk of the person requiring admission to hospital again for treatment of their mental disorder)[1].

3.2 Section 117 relates **only** to the mental disorder for which the person was detained in hospital and not to subsequent new or different mental health needs the patient may develop in the future.

3.3 The aim of Aftercare services is to maintain people in the community, with as few restrictions as are necessary, wherever possible.

3.4 Section 117 of the Mental Health Act requires the IW CCG and IWC, in co-operation with voluntary agencies, to provide or arrange for the provisioning of Aftercare to those detained in hospital for treatment under section 3, 37, 45A, 47 or 48 of the Act who then cease to be detained and leave hospital. This includes people granted leave of absence under S17 and those on community treatment orders (CTOs). It applies to people of all ages, including children and young people.

3.5 In the event of a person becoming subject to detention under the Act and relevant sections which trigger S117 Aftercare entitlement (see 3.2), it is essential for IWC ASC and IW NHS records be updated to reflect the accurate legal status.

4.0 Recording of S117 status

4.1 Each organisation records S117 in different places specific to their area of work:

- IWC staff - recorded on Paris Central Index – Legal and Offences.
- NHS Mental Health Act Office, IW NHS Trust – recorded in the Mental Health Act Legal Record in PARIS.

5.0 A Needs-Led Assessment approach

5.1 Individuals subject to Aftercare will be supported to identify those needs which fall within the definition of S117 and those which do not. (See 3.0)

5.2 During the assessment process, the IWC will distinguish in the independence plan and related documentation those items of care and support that relate to S117 Aftercare and are provided free of charge, and those items that relate to physical health difficulties which may be subject to an appropriate charge by the IWC**.**

5.3 An assessment will cover and define:

- When Section 117 came into effect;
- The nature of the mental disorder for which the person was detained; and
- Which of their current needs are assessed to be Aftercare needs (i.e. they arise from or relate to the mental disorder for which the person was detained) and;

[1] See s75 (5) Care Act 2014 and Revised Mental Health Act Code of Practice 2015 (33.3)

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- Which needs are assessed not to be Aftercare needs (i.e. they do not arise from or relate to the mental disorder for which the person was detained)

5.4 Where a person leaves hospital without an assessment of their Aftercare needs then an assessment and planning meeting should be arranged as soon as possible, but definitely within 3 months of discharge.

5.5 Failure to implement discharge planning arrangements within *'a reasonable time'* maybe in breach of Article 5 of the European Convention of Human Rights, and in breach of the Human Rights Act 1998. The IWC, health and social care staff responsible for discharge planning will ensure the reasons for any delay are well documented and evidenced in PARIS.

5.6 Individuals will be involved, to the best of their ability, in any Aftercare planning meeting and will participate in planning their future care through every stage of their care and support.

5.7 Where an individual lacks mental capacity to make decisions in regard to aspects of their Aftercare plan, key members of staff (e.g. Responsible Clinicians / Care co-ordinators) should obtain the views of the patient, the Independent Mental Capacity Advocate (IMCA), any Deputy or Lasting Power of Attorney, friends and / or family in accordance with S4 Mental Capacity Act 2005 (MCA) as best interest decisions may be required to be taken into account of any aftercare plan.

5.8 Aftercare may include a need to provide assistance with accommodation, education, employment and leisure, and establishing appropriate links with the criminal justice agencies and with the Department of Work and Pensions.

6.0 Statutory Advocacy (IMHA and IMCA) Services

6.1 Section 130A Mental Health Act 1983 established arrangements for statutory Mental Health Act advocacy from 2009. Under the Mental Capacity Act 2005, there has been a legal duty, since 2007, to refer people to the IMCA Service where they have been assessed as requiring to move to new residential accommodation as part of the Section 117 Mental Health Act Aftercare package, if they lack mental capacity, and have no relatives or family whom it is appropriate to consult. **This referral must be made before the Aftercare plan is implemented.**

6.2 Changes to the Direct Payments Regulations mean that IWC have a duty to offer Direct Payments to people who are subject to Mental Health legislation. This is with the principle exception of people who are on *conditional discharge* from hospital under Part III of the Mental Health Act 1983 where there is now a power (but not a duty) to offer Direct Payments. The IWC also have a power (but not a duty) to offer Direct Payment arrangements for conditions attached to a Guardianship Order, leave of absence from hospital or a Community Treatment Order (Sections 7, 17 and 17A Mental Health Act 1983 respectively). CCGs have a responsibility to offer a Personal Budget to this cohort of people.

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6.3 **Independent Mental Health Act Advocate (IMHA) Service**

The IMHA Service provides advocacy for people who are subject to compulsory powers under the Mental Health Act. This includes people who are inpatients in a psychiatric hospital and others who are subject to either S17A Community Treatment Orders or Guardianship Orders in the community.

6.4 **Independent Mental Capacity Act Advocate (IMCA) Service**

The service has been operational since April 2007 and was established to meet the legal requirements set out in the Mental Capacity Act. It is a legal duty on the local authority to refer to and involve the IMCA Service where a person subject to S117 Mental Health Act is moving to new residential accommodation of more than eight weeks' length as part of the proposed Aftercare package. It may also be appropriate to involve the IMCA Service in any subsequent review of that accommodation at a S117 Mental Health Act review meeting.

6.5 The IMCA Service is only relevant to S117 Mental Health Act if the person has been assessed as lacking the mental capacity to make decisions for him / herself in relation to the proposed accommodation move, and because the individual has no relatives (other than paid carers) whom it would be appropriate to consult or where there may be a dispute between those friends / family members with regard to the proposed accommodation or care package for the person.

7.0 Identifying the Responsible Authorities

7.1 **IOW Council**

7.1.1 In light of amendments to S117 Mental Health Act 1983, due to the implementation of the Care Act on the 1st April 2015, the Local Authority Area where the person was ordinarily resident immediately before being detained is the one responsible for providing Aftercare services. The question of who was responsible for placing the individual in their setting does not make any difference in terms of Aftercare responsibility. So, if Local Authority A placed an individual in Area B and the individual was subsequently detained for treatment under Section 3, Local Authority B would be responsible for Aftercare.

More details on ordinary residence are available in ASC's:

- Ordinary Residence Guide (LGA / ADASS)
- Understanding responsibility (section 117 Aftercare responsibilities – Bevan Brittan

7.1.2 All cases subject to S117 Mental Health Act 1983 before 1st April 2015 will be managed in accordance with previous legal requirements which outlined responsibilities of the local authority in which the person was resident when he / she was detained.

7.2 **IOW CCG**

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7.2.1 Following review by NHS England, paragraphs 33 and 34 of the August 2013 'Who Pays' document was replaced by the following sections which became effective from 1st April 2016.

7.2.2 If a person is detained for treatment under the Mental Health Act, the responsible commissioner will be as set out in paragraph 1 of the Who Pays' guidance. Every effort will be taken to determine GP practice registration or establish an address where they are usually resident, but if this fails and the person refuses to assist, then as a last resort the responsible commissioner should be determined by the location of the unit providing treatment.

7.2.3 It is the duty of both the IW CCG and the IWC to commission Aftercare services for those persons discharged from hospital following detention under one of the relevant sections of the Mental Health Act. The IW CCG should be established by the usual means (see paragraph 1 of Who Pays Guidance) for their typical secondary healthcare. However, if a patient who is resident in one area (CCG A) is discharged to another area (CCG B), it is then the responsibility of the CCG in the area where the person moves (CCG B) to jointly work with CCG A, who will retain the responsibility to pay for their Aftercare under S117 of the Act as agreed with the appropriate Local Authority. The purpose of this is to ensure that the person has access to local clinical support and advice in the area they will be moving to (CCG B), whilst remaining the commissioning responsibility of the original CCG (CCG A).

7.2.4 If a detained person who has been discharged and is in receipt of services provided under S117 of the Mental Health Act, is subsequently readmitted or recalled to hospital for assessment or treatment of their mental disorder, the responsible CCG will continue to be the CCG that is currently responsible for funding the Aftercare under S117 (except where the admission is into specialised commissioned services).

7.2.5 If a detained person who was registered with a GP in one area (CCG A) is discharged to another area (CCG B) and is in receipt of services provided under S117 of the Mental Health Act) is subsequently readmitted or recalled to hospital for assessment or treatment of their mental disorder, it is the responsibility of CCG A to arrange and fund the admission to hospital (except where the admission is into specialised commissioned services). Furthermore, the originating CCG (CCG A) would remain responsible for the NHS contribution to their subsequent Aftercare under S117 MHA, even where the person changes their GP practice (and associated CCG).

8.0 Charging

8.1 When someone is in receipt of services to meet their S117 Aftercare needs, the allocated social worker is responsible for ensuring that ASC's Finance and Charging Team are aware of their legal status and that no charges for S117 Aftercare can be made. The IWC cannot charge individuals for any Aftercare service (including residential care) provided under S117. If the person has a Deputy (Finance and Property), Lasting Power of Attorney (LPA) or Enduring Power of Attorney (EPA), then they must be informed in writing about Aftercare services.

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8.2 Responsibility for the provision of S117 services on the Isle of Wight lies jointly with IWC and IW CCG / NHS. It is important to be clear in each case whether the individual's needs (or in some cases which elements of the individual's needs) are being funded under S117, NHS Continuing Healthcare or any other powers, irrespective of which budget is used to fund those services.

9.0 How does S117 affect entitlement to CHC?

9.1 S118 – 122 of the National Framework for NHS Continuing Healthcare and NHS – Funded Nursing Care, October 2018 (Revised) considers the link to mental health legislation, specifically S117. S120 says that *"Where a patient is eligible for services under S117 these should be provided under S117 and not under NHS Continuing Healthcare".*

The NHS Continuing Healthcare Practice Guidance (4.13, March 2010, DoH) predated the revised National Framework but nonetheless helps clarify that "*Only needs that are not S117 Aftercare needs should be considered for NHS Continuing Healthcare eligibility in the usual way. For example, the individual might have or develop physical health needs, and which separately constitute a primary health need".*

9.2 Any funding by the IW CCG will be subject to the Equality and Diversity Policy of the IW CCG.

10.0 Third Party Top Ups (only applicable to Social Care funded provision)

10.1 The Care Act introduced a new section to the Mental Health Act 1983. S117A provides for Top Up Payments. Where the person or their family requests alternative accommodation it may be possible to allow individual's choice, where compatible with the individual's assessment of need. The following sequence of steps must be followed. It is crucial each stage is fully recorded and documented:

(a) IWC ASC's assessment identifies precise accommodation need and identifies a placement to meet that need and agrees the funding.

(b) An offer is made of the IWC's direction on the basis that there is a vacancy.

(c) If the individual expresses a preference for a placement that meets the assessed needs and that is no more expensive than the IWC's (offered and available) choice, the IWC will normally fund the person's choice under S117.

(d) If the person expresses a preference that meets the assessed needs and that is more expensive than the IWC's (offered and available) choice, then the IWC will consider permitting the individual or a third party to make up the difference between the cost of the authority's (offered and available) choice and the individual's preference through a top up payment.

10.2 Any such top up payment arrangement is a matter for discretion in individual

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cases.

10.3 **Risks:** It is important to be clear about the risks attached to additional contribution arrangements and to share them with the person and any third party:

a) If the top up payment funding source runs out it may be necessary to move the person to a less expensive placement, however, if their needs have become such that they have to remain in the preferred placement then the IWC, NHS Trust and CCG must pick up the full cost while they remain under S117 Mental Health Act 1983.

b) If the person is discharged from S117 and meets the eligibility criteria for social care services, then usual financial arrangements apply.

c) Any top up payment arrangement for S117 must be agreed by the relevant joint locality / service / area manager.

10.4 More details on Third Party Top Ups are available in ASC's Third Party Top Up Policy and Third Party Top Up Factsheet.

11.0 S117 Aftercare Funding Responsibility

11.1 For Adult Mental Health individuals funding responsibility is determined at Local Panel which includes representatives from both IW NHS Trust and IWC. In most cases funding responsibilities will be clear, but if there is any dispute, it will be determined by the Local Panel.

11.2 The proportion of funding between the IW CCG and the IWC will be determined by the Section 117 Panel, based on assessment of the individual's health and social care needs and risks.

11.3 These arrangements apply only to the funding of support packages and additional health and social care provision relating to the person's Mental Health Act Aftercare needs as defined. Individuals will still be entitled to 'universal' health and social care services that they would have received were they not subject to S117 e.g. Community Mental Health Team (CMHT) services, assessment of social care need, non-S117 community care services, care management services, carer support services, provision of accommodation from the IWC etc.

11.4 It is important to distinguish between needs that arise from or are related to the mental disorder for which the person was detained, which will be provided free of charge under S117 and those needs, which will be provided under the Care Act and may be subject to charge or paid for by the CCG under Continuing Healthcare (CHC).

11.5 Individuals who have a mixed composition of needs will be supported to use the care planning process to distinguish which items of care will fall under mental health (S117) Aftercare provision and which fall against non-mental health provision.

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11.6 IOW ASC Independence Plans will provide a clear indication of which care items are necessary to mental health Aftercare needs and which are necessary to meet other needs (i.e. physical, sensory or new mental health needs not arising from or related to the original mental disorder for which they were detained).

12.0 Review

12.1 All services provided under S117 Aftercare will be reviewed by health and social care services within the first 3 (three) months of discharge and thereafter at intervals of no longer than 12 (twelve) months for as long as the person is eligible for S117 Aftercare

12.2 If a person is no longer in need of S117 Aftercare services, discharge from S117 will be considered and acted upon where appropriate. Discharge from S117 must be recorded on the respective health and social care record (see 13.0)

12.3 If discharge from S117 is not appropriate, the S117 review will clearly document what S117 needs remain and how they are being met (record on PARIS)

12.4 Each review will involve health and social care services to make an explicit decision on whether the person continues to need Aftercare.

12.5 Any changes in S117 status of the individual (or personas referred to in the Act) will be recorded in PARIS by the social worker and in PARIS by the NHS Mental Health Act Office (e.g. transfers / discharge) as soon as they are discharged from S117.

13.0 Discharge from S117 Aftercare Service

13.1 Section 117 imposes a duty on the IW CCG, IW NHS Trust and IWC to provide Aftercare services under that section until all organisations are satisfied the person no longer needs such services.

13.2 The most clear-cut circumstance in which Aftercare would end is where the person's mental health improved to a point where they no longer needed services to meet needs arising from or related to their mental disorder. If these services included for example care in a specialised residential setting, the arrangements for their move to more appropriate accommodation would need to be in place before support under S117 is finally withdrawn.

13.3 Consideration of discharge from S117 will be made, where possible, between the Care Programme Approach (CPA) Care Coordinator, allocated social worker, the individual, their carer, nearest relative, multi-disciplinary team and service providers, following a reassessment of the individual's health and social care needs.

13.4 Discharge from S117 Aftercare will be agreed at a multi-disciplinary review involving representatives of health and social care. If only one agency is involved in providing Aftercare services, the remaining agency can discharge S117 and will notify the other agency of the discharge.

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13.5 The Code of Practice states that S117 services should not be withdrawn solely on the grounds that:

- The patient has been discharged from the care of the specialist mental health services
- An arbitrary period has passed since the care was first provided
- The patient is deprived of their liberty under the MCA
- The patient has returned to hospital informally or under section 2 or,
- The patient is no longer on a Community Treatment Order (CTO) or S17 leave

13.6 Aftercare services may be reinstated if it becomes obvious that they have been withdrawn prematurely, e.g. where a patient's mental condition begins to deteriorate immediately after services are withdrawn.

13.7 Individuals cannot be discharged from Section 117 if they are also subject to S17A Aftercare under supervision or if they are a conditionally discharged S37 / 41 patient, or on S17 leave from Section 3, 37, 45A, 47, or 48.

13.8 All discharges from S117 must be recorded and updated on the electronic record. The decision to discharge S117 must also be clearly recorded in the 'patient' notes with details of who was involved in the decision making and reasons.

13.9 When a person disengages from services or wishes to discharge him / herself from S117, a review must be arranged, and risk assessment undertaken.

13.10 Where a person no longer requires the support of specialist mental health services, S117 status will not be viewed as a barrier to their discharge from services. If discharge of S117 status is not appropriate at this time – then a full review of their health and social care needs will be undertaken and recorded prior to discharge from services. Within the description of their remaining needs – those that arise from or relate to the mental disorder for which they were detained (i.e. are an Aftercare need) and be clearly indicated – along with a care plan for how these will be met by other services (e.g. primary care, voluntary sector etc.).

The needs assessment and care plan will be recorded on each organisation's systems (i.e. PARIS).

14.0 Dispute Resolution

14.1 Any disputes regarding IW CCG and IWC responsibility for S117 will be escalated as appropriate through existing line management arrangements and brought to the attention of the shared funding panel chairs (IWC, IW CCG and West Hampshire CCG).

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15. Appendices

Appendix A: S 117 Aftercare procedure and Process Guidance

The following guidance sets out a series of recommendations that will need to be adapted depending upon the circumstances of each individual person; for some people, this will be the bare minimum that is required. Conversely, for some people the review will not need to be as comprehensive and only parts of this guidance may assist.
It is not intended to be prescriptive or mandatory, but more a guide as to the essential legal and practical issues that must be considered.

PREPARATION FOR DISCHARGE /REVIEW MEETING

In advance of a S117 discharge meeting, the professionals give consideration to their preliminary views on the following issues:

1. What "needs" does the person have? These include health, social care and general needs.
2. Which of the identified "needs" arise as a result of (i.e. are caused by) the people's mental disorder?
3. Conversely, which of the identified "needs" do not arise from the person's mental disorder? Importantly, consider the reasons why they are not.
4. What services could be offered to the person to meet their identified "needs"; arising both from the person's mental disorder and other general needs.
5. Which of the identified services relating solely to needs arising from the person's mental disorder, are important to prevent deterioration in their mental disorder leading to readmission to hospital?
6. Equally, which of the identified services are not required to prevent a relapse in the person's mental disorder leading to an admission to hospital? Consider the reasons why they are not so required.

It is useful for the professionals to have given some thought to this prior to meeting and before discussing with the individual and/or Nearest Relative.
The approach which the team should take when reviewing and discussing their views on the above issues are clarified in more detail below.

S117 DISCHARGE PLANNING MEETING

A s.117 planning meeting should be convened prior to discharge from hospital with sufficient time for any services to be put in place before the discharge takes place. It is an essential part of the Care Programme Approach and Care Act assessment process. A review should then take place approximately once every 6 months post discharge, unless and until the duty under s.117 is jointly discharged by both the CCG/NHS Trust and local authority.

The patient should be invited to attend together with any representative they would like to be present. In addition, the key professionals that should attend the pre-discharge meeting are:

- Responsible clinician/Consultant Psychiatrist;
- Key ward nurse
- Care Coordinator
- All other appropriate members of the MDT, including, for example:
    - Clinical Psychologist;
    - Occupational Therapist;
    - Ward Manager/Deputy

- Any other appropriate person e.g. Advocate, Nearest relative, solicitor

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- Representative from the Local Authority such as allocated social worker or duty social worker
- Probation officer

S117 REVIEW MEETING FOR PEOPLE IN THE COMMUNITY

The same list applies with the addition of:

- Care home manager or keyworker
- Support worker
- Personal assistant
- Housing warden

It is recommended that a minute taker is also present.

STAGES OF THE S117 PLANNING MEETING

Any planning meeting (or subsequent review) should follow the format set out below– and that the needs, services, rationale for decisions, and desired outcomes from each step are recorded.

Step One – Identify Needs

What “needs” does the person have? These should include health (physical and mental health), social care and general needs (please see below).

A need that is being met is still a need even if the manifestations are not visible as a result of the need currently being met: consider what would happen if the service or support meeting the need ceased. All the needs should be listed.

The MDT should consider the following needs which are commonly considered (please note that this list of needs is by no means exhaustive):

- Activities of daily living
- Mobility
- Personal Care
- Managing a home
- Managing mental health including treatment and therapeutic interventions
- Accessing the community
- Using health care systems
- Psychological or emotional
- Meaningful activity/occupation/interests
- Contact with family/friends
- Managing finances
- Practising cultural and faith beliefs

Risks in relation to the individual should also be considered and identified as well as issues with treatment for mental health needs and the impact on the individual such as side effects or compliance with treatment plans

Step Two – Determine which are Aftercare Needs or General Needs

Which of the identified “needs” arise i.e. are caused by or because of the person’s mental disorder (e.g. learning disability, dementia, schizophrenia and/or personality disorder)? Needs “caused by” may include symptoms and manifestations of the mental disorder as well as the mental disorder itself.

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Using the template provided identify the "aftercare needs" and list any aftercare needs along with the reasons why they are S117 aftercare needs. Conversely, which of the identified "needs" do not arise from the person's mental disorder (and importantly, the reasons why they do not)? These would be deemed as Care Act needs if they are within its scope or general needs which the individual may meet themselves or have informal support to do so.

A need, which if addressed would improve the person's mental state or prevent a deterioration is not necessarily an aftercare need. The test **is whether** the need arises directly from or is related to the mental disorder and if met would reduce the risk of deterioration of the mental disorder and accordingly the risk of readmission

Similarly, set out the reasons as to why each of the needs identified is not an S117 aftercare need.

Step Three – Identify Services/Support

What services could be offered to the person to meet their identified "needs" (both those arising from their mental disorder and other general needs)? Which of the identified services relate **solely** to needs arising from the person's mental disorder or the risk of deterioration, and are important to prevent deterioration in the person's mental disorder which could lead to a readmission to hospital?

Conversely, which of the identified care and support services are **not** required to prevent a relapse in the people's mental disorder leading to an admission to hospital (again, with reasons). For example where the need relates to a physical health condition which they are not able to manage when not suffering from the mental disorder?

When considering which of the appropriate services would meet the person's assessed needs, the MDT should consider both primary and secondary health services, third sector services (such as citizens advice bureau, job centre and charities) and local authority services. The source of the service to meet the assessed need **does not** impact upon/determine whether an assessed need is an S117 aftercare need or a general need. An assessed s.117 aftercare need could have a service provided by a primary healthcare organisation. Equally, a general need could be addressed by a secondary mental health service.

The Courts have been very clear that the nature and extent of services required to meet assessed aftercare needs must, to a degree, fall within the discretion of the authorities. This means that as long as the CCG/NHS Trust and Local Authority are reasonable in their approach to the services that are identified to meet any assessed s.117 aftercare needs, the Courts will be reluctant to interfere with the exercise of professional discretion.

Overall, does the person have any s.117 aftercare needs i.e. those which meet **both** limbs of the test –
(1) a need arising from or related to the person's mental disorder and
(2) reducing the risk of deterioration of the person's mental disorder and (accordingly requiring readmission to hospital again for treatment of their mental disorder)

as opposed to general health or social care needs?

S117 relates only to the mental disorder for which the person was detained in hospital and not to subsequent new or different mental disorders the person may develop in the future

Step Four – Who Provides?

Once the aftercare services have been identified, the MDT or lead professional needs to set out *which* of the aftercare services could be met by the NHS Trust (and how) and which aftercare services require bespoke commissioning by other agencies usually the Local Authority. Also, which needs the person will meet themselves or with informal support.

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CONSULTATION AND INVOLVEMENT

The professionals involved have responsibility for and should take the lead in any s.117 aftercare planning and review. Nevertheless, it is imperative that the MDT or lead professional consults with and takes account of the person's view, their Nearest Relative's and any other carer or family's views, any formal advocates such as IMHA's and any other representatives the individual wishes to be involved.

The minutes of the s.117 planning meetings and subsequent reviews must demonstrate this consultation has taken place or has been attempted; to do this effectively, at each stage of the planning meeting or review the MDT or lead professional should:

(1) set out its professional views on the aspects covered in that stage,
(2) invite the views of the people etc (and records them)
(3) acknowledge any views of the individual or their representative etc which are pertinent and where the views differ and any impacts on decisions made.

S117 REVIEWS

The S117 review process should continue to capture the detail of the S117 discharge planning meeting and the first review should take place at minimum 6 months following discharge and thereafter annually or sooner if there are changes to the person's needs.

S117 Review Procedure
The review should reconsider the needs of the individual as originally identified in **Step One**. Are those needs the same or there are new needs or have some needs changed or dissipated? Once identified then within **Step Two** determine if the new or changed needs are:
(1) a need arising from or related to the person's mental disorder and
(2) reducing the risk of deterioration of the person's mental disorder and (accordingly requiring readmission to hospital again for treatment of their mental disorder)
If so they are therefore S117 aftercare needs and continue to require to met through the aftercare responsibilities of health and the local authority and should be recorded as such. If they are general needs then they also require assessment, evaluation and recording within existing care plans.

Within **Step Three** the identification of the required provision of service or support should be undertaken accordingly and **Step Four** the agency assigned to provide, commission and fund this recorded
In the case of a S117 review there is a **Step Five** which records the outcome of the review process. Are aftercare services still required?

S117 Review Processes
In some cases, the review will be an MDT meeting, or joint review by two professionals representing the CCG/NHS Trust and the Local Authority and for others this will be undertaken by the lead agency involved with the person. This can be the case for example where an individual's mental health needs have become more stable and they are no longer in contact with secondary care mental health services and the lead agency is the Local Authority who are commissioning the care. The lead agency will conduct the review either through a single meeting or a series of meetings with key people involved. A face to face meeting with the individual subject to S117 is required in the care setting or own home, however other parts of the review could be completed through telephone discussions or individual meetings.

In these circumstances the lead agency currently involved notifies the other agency of the review and any changes to the status of the individual in respect of S117 and changes to the support and services provided. This notification should be made using the template provided and must be acknowledged by the receiving agency clearly stating whether the outcomes of the

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review are accepted. This notification will be signed by the reviewing Lead agency and sent promptly after the completion of the review and the receiving agency will have 10 working days to acknowledge receipt and agreement. Any disputes with the outcome of the review should be dealt with using the escalation process described in the Joint IOW S117 Policy. If a dispute is not raised by the end of 10 working days, it will be assumed that the agencies involved agree with the outcome of the review.

Where both the CCG/NHS Trust and the Local Authority are still involved with the regular provision of care and support then a joint review should take place and the template provided should be completed with joint authorising signatures.

RECORDING AND DOCUMENTATION

To ensure clarity and have a clear audit trail of decision making it is imperative that a record of the conclusions of each step of the discharge planning meeting or review are set out as described above. It is essential that substantiating reasons are described for every conclusion that is drawn or decision made, or service provided and recorded using the attached template.

Minutes should accurately reflect all of the key points in discussions around identifying the “needs” of the individual, differentiating between s.117 aftercare needs, and general health/social care needs and the services to meet assessed needs.

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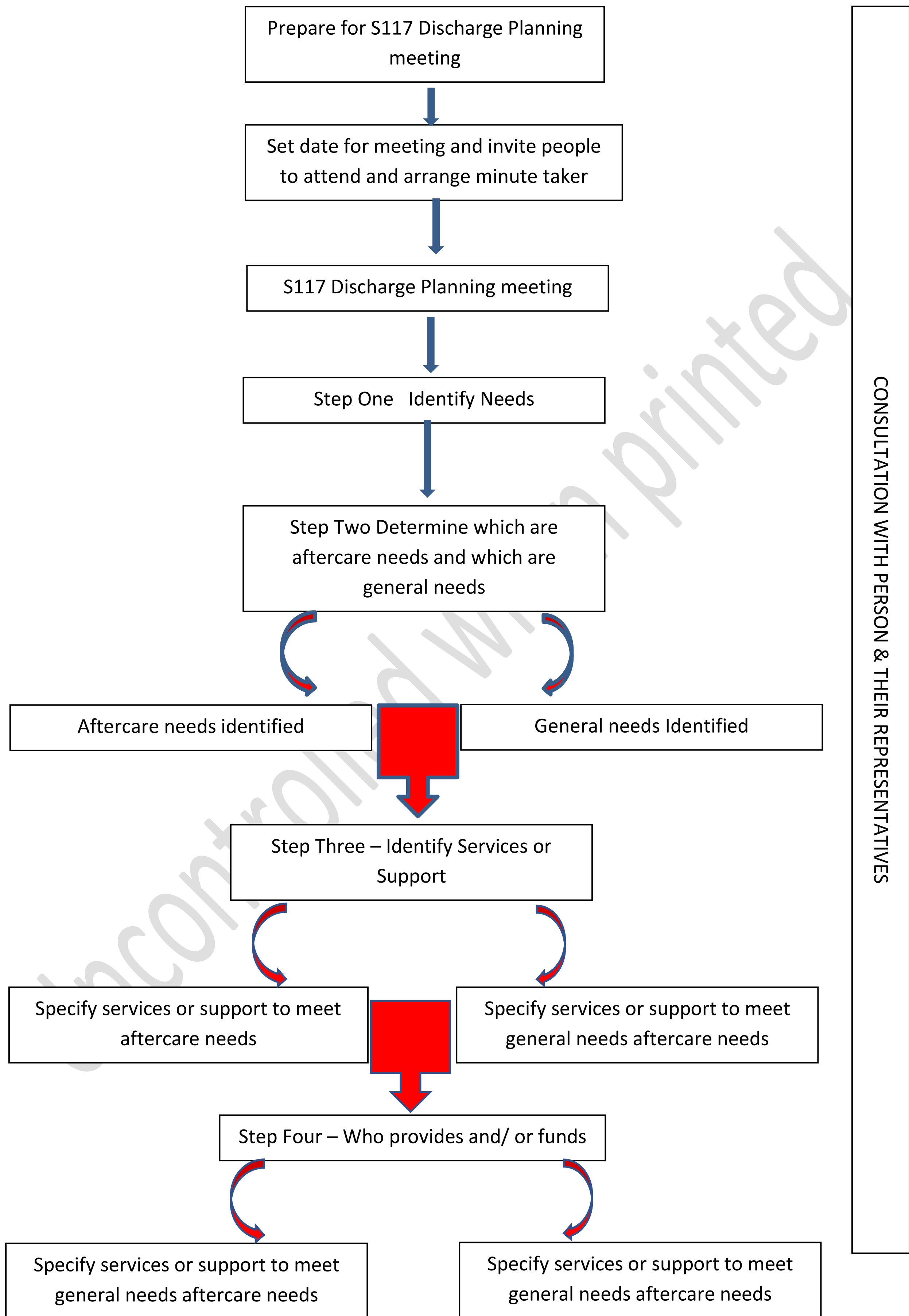
Appendix B S 117 Meeting Procedure and Process Flowchart



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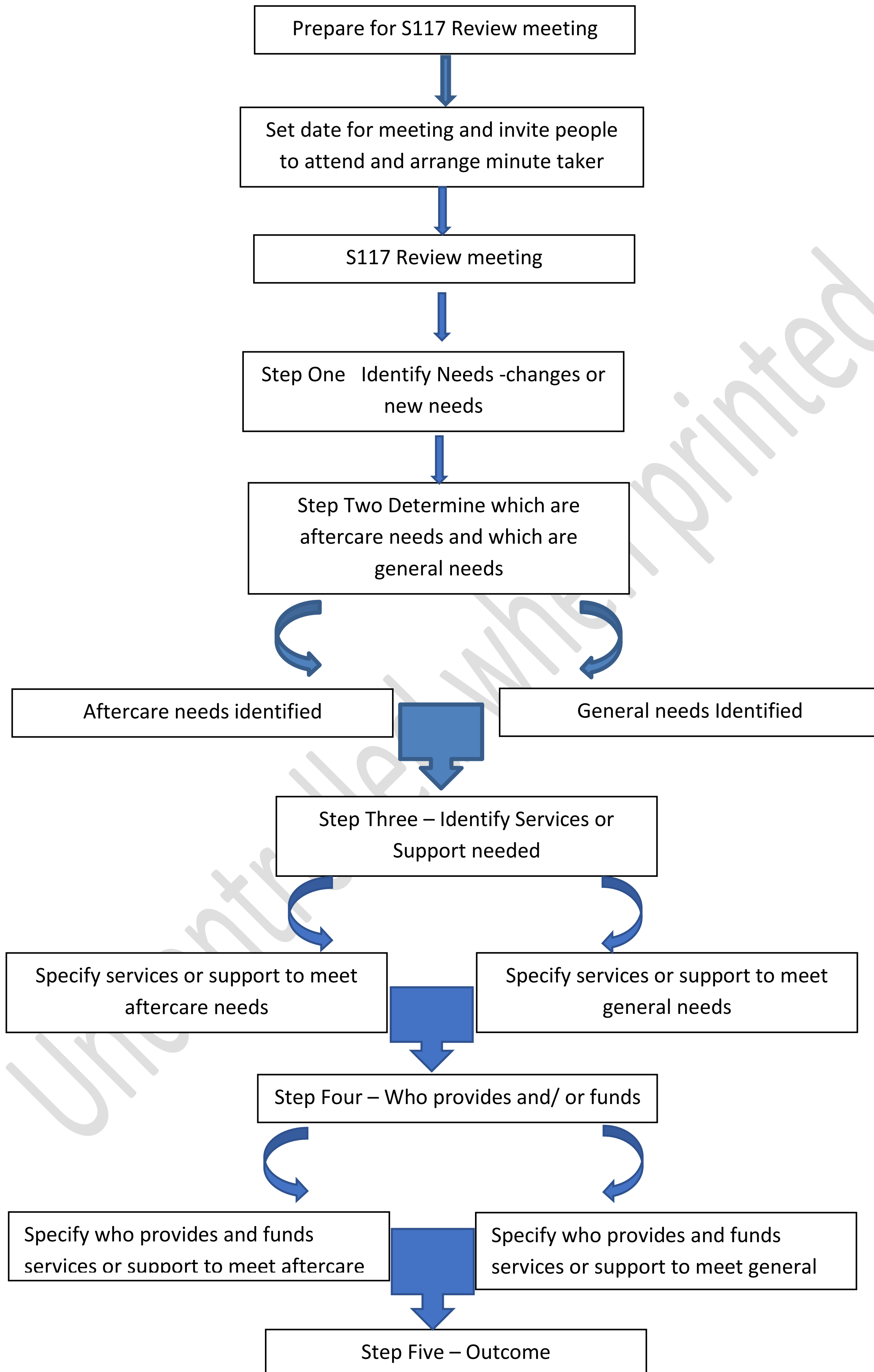
Appendix C Joint S 117 Review Meeting Procedure and Process Flowchart



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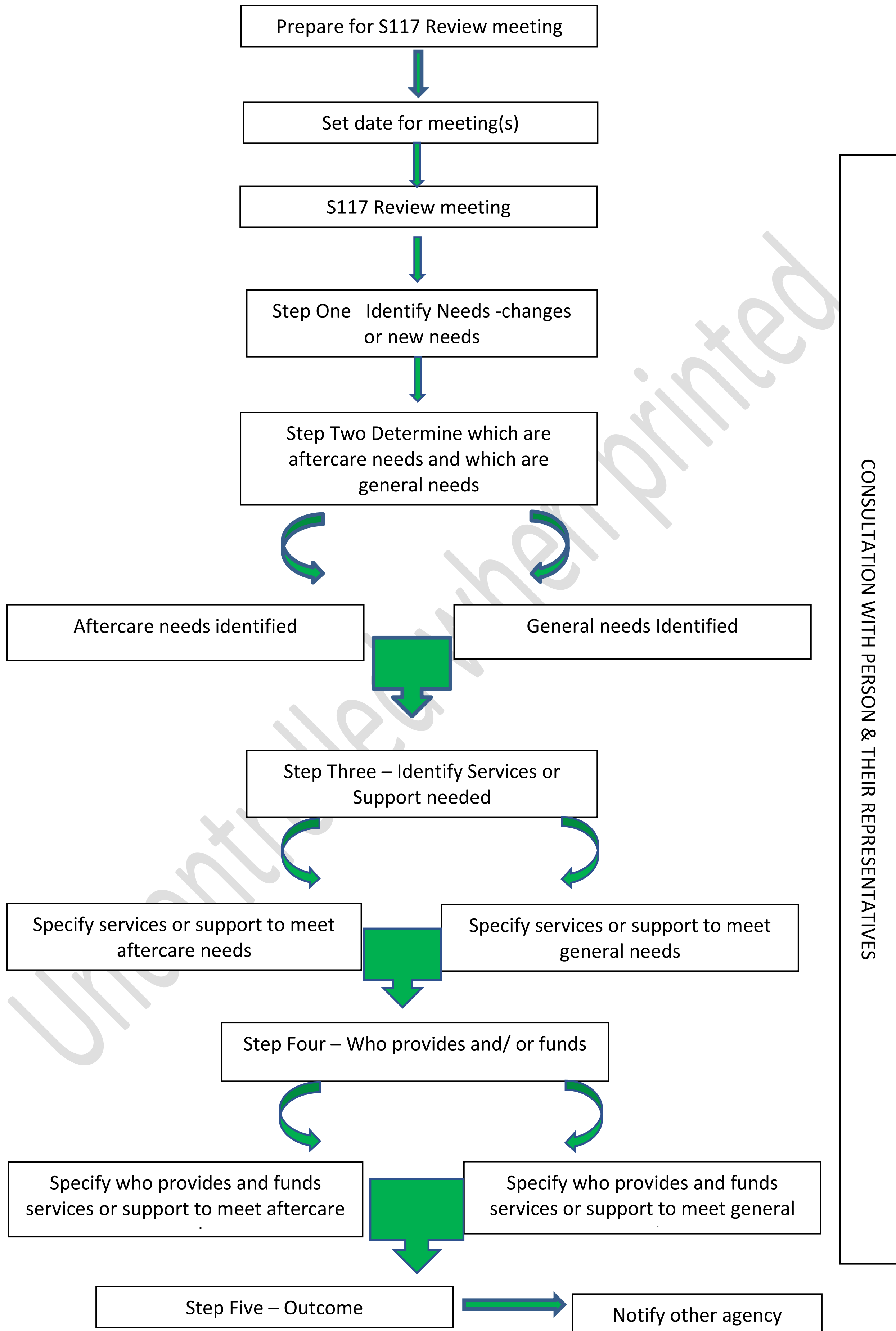
Appendix D Lead Agency s 117 Review Meeting Procedure and Process Flowchart



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Appendix E Equality Impact Assessment (EIA) Screening Tool

Document Title:	Mental Health Act 1983 S117 Aftercare Joint Policy Isle Of Wight
Purpose of document	To provide guidance to staff in all agencies on the Isle of Wight on the application of section 117 of the Mental Health Act to the care planning for people discharged from hospital treatment under the MHA.
Target Audience	All staff in mental health services in the Isle of Wight NHS Trust, Isle of Wight Council and isle of Wight Clinical Commissioning Group.
Person or Committee undertaken the Equality Impact Assessment	Stephen Ward, MHA & MCA Lead

1. To be completed and attached to all procedural/policy documents created within individual services.

2. Does the document have, or have the potential to deliver differential outcomes or affect in an adverse way any of the groups listed below?

   If no confirm underneath in relevant section the data and/or research which provides evidence e.g. JSNA, Workforce Profile, Quality Improvement Framework, Commissioning Intentions, etc.

   If yes please detail underneath in relevant section and provide priority rating and determine if full EIA is required.

		Positive Impact	Negative Impact	Reasons
Gender	Men			
	Women			
Race	Asian or Asian British People			
	Black or Black British People			
	Chinese people			
	People of Mixed Race			
	White people (including Irish people)			
	People with Physical Disabilities,	Yes		This policy affects only persons who have a mental disorder and is designed to support recovery and

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	Learning Disabilities or Mental Health Issues			prevent recurrence of hospital admission. It applies equally to and does not have a differential impact on any other groups.
Sexual Orientation	Transgender			
	Lesbian, Gay men and bisexual			
Age	Children			
	Older People (60+)			
	Younger People (17 to 25 yrs)			
Faith Group				
Pregnancy & Maternity				
Equal Opportunities and/or improved relations				

Notes:

Faith groups cover a wide range of groupings, the most common of which are Buddhist, Christian, Hindus, Jews, Muslims and Sikhs. Consider faith categories individually and collectively when considering positive and negative impacts.

The categories used in the race section refer to those used in the 2001 Census. Consideration should be given to the specific communities within the broad categories such as Bangladeshi people and the needs of other communities that do not appear as separate categories in the Census, for example, Polish.

3. Level of Impact

If you have indicated that there is a negative impact, is that impact:			
		YES	**NO**
Legal (it is not discriminatory under anti-discriminatory law)			
Intended			

If the negative impact is possibly discriminatory and not intended and/or of high impact then please complete a thorough assessment after completing the rest of this form.

3.1 Could you minimise or remove any negative impact that is of low significance? Explain how below:	
3.2 Could you improve the strategy, function or policy positive impact? Explain how below:	
3.3 If there is no evidence that this strategy, function or policy promotes equality of opportunity or improves relations – could it be adapted so it does? How? If not why not?	
Scheduled for Full Impact Assessment	Date:
Name of persons/group completing the full assessment.	
Date Initial Screening completed	

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