Community care & aftercare

Answers some of the common questions about community care and aftercare and explains the options available.

- Community care
- Terms you need to know
- Aftercare, leave and guardianship
- Supervised community treatment
- Your rights around care services
- Useful contacts
**What is community care?**

The phrase 'community care' is used to describe the various services available to help people manage their physical and mental health problems in the community e.g. nursing or social work support, home help, day centres, counselling, supported accommodation.

Community care is usually arranged by social services departments or Community Mental Health Teams (CMHTs). The system for delivering community care services to most adults is called 'care planning'.

**What is the Care Programme Approach (CPA)?**

The Care Programme Approach is a process of care planning used if you have significant mental health needs. It involves mental health professionals assessing your needs and drawing up a care plan, which should be reviewed regularly.

For more information on the CPA, see our [Leaving Hospital](#) section.

**How do I get assessed for community care services?**

Any person who appears to need community care services – including anyone with known mental or physical health problems – has the right to have their needs assessed by their local authority, as do their carers.

The first step is a community care assessment, which is usually arranged by the local authority's social services department.

- The assessment should take place within a reasonable time of social services finding out that you may need community care services.

- You do not have to make a formal application for an assessment.

- If social services know that you may need services, they should offer to assess you without you having to ask – they have a legal duty.

- If your GP or CMHT believes that your mental health needs are not serious enough to require the Care Programme Approach, you may still have a right to an assessment of your community care needs.

If you are having problems getting an assessment, you can complain and should get legal advice. For more information see [Complaining about health and social care](#). Our [Useful contacts](#) page has information on getting legal advice. An advocate may also be able to help you with this.

See [Advocacy](#) for more information.

For further information on care planning and discharge from hospital, see our [Leaving hospital](#) section.

**Can they take away my community care services?**

Community care services can be stopped or reduced if you no longer need them; however, your needs must be assessed again before this can happen. If you think you still need the same services or same level of services, you should seek legal advice.
## Terms you need to know

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
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<tr>
<td>Approved Mental Health Professional (AMHP)</td>
<td>A mental health professional approved by a local social services authority to carry out duties under the Mental Health Act. An AMHP can be a social worker, nurse, occupational therapist or chartered psychologist.</td>
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<tr>
<td>Community Mental Health Team (CMHT)</td>
<td>Provides mental health care support in the community and usually includes social workers, community psychiatric nurses (CPNs), psychologists and psychiatrists.</td>
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<td>Hospital managers (also known as Mental Health Act managers)</td>
<td>An independent team of people in a hospital who make sure that the requirements of the Mental Health Act are properly applied. They have certain important responsibilities and can make decisions related to your detention – for example, they can hear your application to be discharged and decide whether or not to discharge you.</td>
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<td>Independent Mental Health Advocate (IMHA)</td>
<td>An advocate trained to work under the Mental Health Act and who is available to advise and help certain patients, e.g. those who are detained under certain sections of the MHA, are under guardianship, are on a community treatment order, or who discuss certain rare treatments with health staff.</td>
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<td>Informal patient</td>
<td>A person being treated in psychiatric hospital, who is not detained under a section of the MHA: also known as a 'voluntary patient'.</td>
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<td>Medical treatment for mental disorder</td>
<td>Includes nursing and also care, habilitation and rehabilitation under medical supervision (section 145 MHA).</td>
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<td>Mental Health Act 1983 (MHA)</td>
<td>The main Act of Parliament that covers the care and treatment of people with mental health problems. It has been amended by the Mental Health Act 2007.</td>
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<td>Mental Health Tribunal (the tribunal)</td>
<td>An independent panel that decides if a person detained under the Mental Health Act 1983 should remain subject to compulsory detention or supervision in the community.</td>
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### Nearest relative

Section 26 of the Mental Health Act determines who may be considered as your nearest relative – a person with certain rights and powers under the Act. That person may be your next-of-kin, but you may need legal advice to check this.

### Responsible clinician (RC)

The mental health professional with overall responsibility for a person's care and treatment in hospital. This may be a doctor but can also be some other health professional.

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**What is section 117 aftercare?**

Some people who have been kept in hospital under the Mental Health Act can get free help and support after they leave hospital.

The law that gives this right is section 117 of the Mental Health Act, and is often referred to as 'section 117 aftercare'.

We have more information on section 117 aftercare in our Leaving Hospital section.

**What is section 17 leave?**

Your responsible clinician may let you leave hospital for a certain time even though you are detained under section. This is often called 'section 17 leave', because it is section 17 of the Mental Health Act that allows this.

Your leave could be:

- very short (e.g. for half an hour or a few hours)
- for a weekend (to go home, for example)
- for longer (up to a week)

Your responsible clinician can place certain conditions on you, such as telling you where you have to stay while you are on leave. The responsible clinician can make you go back (recall you) to hospital at any time.

**What is guardianship?**

Section 7 of the Mental Health Act says that a guardian can be appointed to you if you:

- are 16 or over, and
- have a mental disorder of a nature or degree that warrants guardianship, and
• need a guardian for your welfare or to protect other people.

Guardianship is used to encourage people who live in the community to use services or to live in a particular place. It is often used with people who lack the mental capacity to avoid danger or being exploited, but can also be used for people with mental capacity who are considered to be vulnerable because of their mental health problems.

You can only be placed under guardianship if two doctors recommend this and another person then applies for you to be placed under guardianship. The application can be made by your nearest relative, but in most cases is made by an Approved Mental Health Professional (AMHP). The application is made to the local social services authority.

The guardian can require you to do certain things, e.g. live at a specified place, or attend particular places and times for treatment, occupation, education or training. But being under guardianship is not the same as being detained under a section of the MHA and you should still be free to come and go.

Even if you are under guardianship, you should be consulted about where you are required to live under the guardianship conditions, unless you are unable to make the decision at that particular time. If your guardianship follows a section 3, you should not be charged for services as they should be free under section 117 aftercare. If in doubt about whether you need to pay for services, you should seek advice.

Objecting to guardianship

You cannot prevent a guardian being appointed under section 7 of the MHA, but your nearest relative can object. Before applying for you to be placed under guardianship, an AMHP must consult your nearest relative, as long as this is reasonably practicable and would not involve unreasonable delay. If your nearest relative objects, the AMHP cannot apply for you to be under guardianship without taking legal proceedings to remove (displace) your relative from acting as nearest relative.

The Mental Health Act contains rules for deciding who your nearest relative is. If you do not wish this person to act as your nearest relative, you can apply to the County Court to remove (displace) this person and to appoint someone else. However, you would need to show a good reason why the person who is nearest relative under the rules is unsuitable to act as such, or is not physically or mentally capable. You might need help from a legal adviser to do this.

Renewing guardianship

Guardianship lasts for up to six months and can be renewed: initially for a further six months, and then for a year at a time.

Ending guardianship

• If you have been placed under guardianship, you can apply to the Mental Health Tribunal for discharge from guardianship.

• Your nearest relative can also discharge you from guardianship, unless he or she has been displaced (see above), in which case he or she can apply to the tribunal instead.

• The local social services authority can also discharge you from guardianship at any time.

• The guardianship will end automatically if you are detained in hospital under section 3 of the MHA.
What is supervised community treatment (SCT)?

Supervised community treatment (SCT) allows a person who has been detained under certain sections of the MHA to be discharged back into the community under a community treatment order (CTO). To find out more, see our information on CTOs.

Can I be charged for my care services?

As a general rule, social services are allowed to charge you for any community care services you receive. They have to charge you for accommodation they have arranged, for example in a residential care home, and may want to charge you even if you are required to live there under guardianship. This may not always be lawful, so if in doubt, you should seek advice about your rights from a lawyer. Our Useful contacts page has information on getting legal advice.

How much you pay depends on your finances, which are assessed by a means test. You do not have to pay for NHS services. You also cannot be charged for any services provided as part of your aftercare under section 117 of the MHA. If you are subject to a CTO you are entitled to section 117 aftercare and cannot be charged for services provided to you. Even if your CTO ends, if you still need section 117 services, you cannot be charged for them. If you think the authorities are charging you wrongly for aftercare services, you should get legal advice about stopping them from charging you.

See our page on section 117 aftercare for more information.

Can I insist on being given care services?

Although there is a legal duty to assess your need for services, this does not mean that you have a legal right to receive any specific service. Services will only be provided if the authorities assess you as 'needing' them, and decide that it is 'necessary to provide them'. The final decision on what you 'need' rests with health and social services. If you are assessed as having an 'eligible need', you are entitled to a service. There is national guidance about eligibility criteria which social services should use when assessing you. You may not receive the exact services you want unless the authorities agree you need them, but if you disagree with their decision, you can make a formal request for what you need, and if necessary, make a complaint or get legal advice.

What can I do if I disagree about my care services?

You can make a formal complaint to social services if you don't agree with the result of your assessment, or you have been waiting for one for an unreasonable length of time.

See Complaining about health and social care for more information.

If I don't want any services, do I have to have them?

You have a right to refuse any community care services offered to you and can only be forced to accept services if you are under the Mental Health Act and professionals have certain powers over you, such as:

- where you are on conditional discharge
- where you are on section 17 leave
- you are placed under guardianship, or
- you are subject to a Community treatment order

If none of these powers apply to you, health and social services might agree to leave you alone if you refuse services, even if they believe you would benefit from services. However, if they believe that your mental health is at risk of deteriorating, they may consider assessing whether you need to go back into hospital under section.

Useful contacts

If you are having problems getting an assessment, you should get legal advice. A mental health advocate may be able to help you with this. Call the Mind Legal Advice Service to help you find one in your area and see Advocacy for more information.

Care Quality Commission

0115 8736250
[cqc.org.uk](http://cqc.org.uk)

Edgeley House, Tottle Road, Riverside Business Park, Nottingham NG2 1RT
For complaints about the use of the Mental Health Act.

Carers UK

0808 808 7777
[carersuk.org](http://carersuk.org)

Citizens Advice

[citizensadvice.org.uk](http://citizensadvice.org.uk)

Civil Legal Advice

0845 345 4 345
[gov.uk/civil-legal-advice](http://gov.uk/civil-legal-advice)
A free and confidential service for people eligible for legal aid in England and Wales.

Healthcare Inspectorate Wales

029 2092 8850
[hiw.org.uk](http://hiw.org.uk)
Regulates and improves the quality of health and social care and protects the rights of people detained under the MHA in Wales.

The Law Society

020 7242 1222
[lawsociety.org.uk](http://lawsociety.org.uk)
For a list of mental health solicitors.
Local Government Ombudsman (England)
PO Box 4771, Coventry CV4 0EH
0300 061 0614
lgo.org.uk

The Parliamentary and Health Service Ombudsman (England)
Millbank Tower, Millbank, London SW1P 4QP
0345 015 4033
ombudsman.org.uk
Investigates complaints about poor treatment or service provided through the NHS.

The Public Services Ombudsman (Wales)
0845 601 0987
ombudsman-wales.org.uk
1 Ffordd yr Hen Gae, Pencoed CF35 5LJ
Investigates complaints about public bodies in Wales, including local government and NHS services.

Revolving Doors
020 7253 4038
revolving-doors.org.uk
Units 28–29, The Turnmill, 63 Clerkenwell Road, London EC1M 5NP
For people with mental health problems in contact with the criminal justice system.

This information was published in March 2017. We will revise it in 2019.