



S117 of the Mental Health Act

City of York Council

Internal Audit Report 2015/16

Business Unit: Adult Social Services (AS)
 Responsible Officer: Assistant Director Adult Social Services
 Date Issued: 12 April 2016
 Status: Final
 Reference: 11590/001

| | P1 | P2 | P3 |
|------------------------------|-------------------|----------|----------|
| Actions | 1 | 1 | 0 |
| Overall Audit Opinion | Limited Assurance | | |

Summary and Overall Conclusions

Introduction

Section 117 of the Mental Health Act 1983 (MHA) imposes a duty on Clinical Commissioning Groups (CCGs) and Local Authorities (LAs) to provide or arrange for the provision of aftercare services for individuals who have left hospital after ceasing to be detained under sections 3, 37, 45A, 47 or 48 of the MHA.

People who are detained under the relevant sections of the MHA are automatically entitled to the aftercare under s117 as part of their discharge, and will have a care plan jointly agreed by the NHS Provider Trust and the LA. Care provided as part of s117 must be provided free of charge to the service user.

There have been some recent changes that have come in as a result of the Care Act 2014 – these mainly concern residency of the individual and therefore which LA is responsible for paying for the parts of the care provided through the LA.

Objectives and Scope of the Audit

The purpose of this audit was to provide assurance to management that procedures and controls within the system will ensure that:

- There are effective arrangements in place to ensure:
 - Eligibility for s117 aftercare is confirmed;
 - Correct identification of responsible CCG;
 - Effective utilisation of commissioned services;
 - Appropriate agreement / allocation of health and social care funding (partnership working);
 - Consideration of value for money.
- Requests for non-commissioned services are analysed to identify trends, demand and scope for future commissioning decisions.
- Reviews are undertaken on a timely and consistent basis and include all parties.
- There are arrangements in place to handle complaints in accordance with the MHA and learning from complaints is used to improve the process.

The work carried out included review of the process for discharges from s117 and the arrangements for apportioning financial responsibility for funding for care.

The audit examined the processes in place at the council and the NHS Partnership Commissioning Unit. The audit was carried out as a joint audit with North Yorkshire Audit Services. This report will focus on council procedures; an additional report was issued by North Yorkshire Audit Services to their client organisations.

Key Findings

S117 operates as a part of the overall social care arrangements within the council, and procedures around assessing the care needs, commissioning a package and reviewing the package and eligibility are operated in line with the council's procedures for adult social care. There are additional factors however to consider with services provided under s117, including the correct identification of the responsible local authority and a periodic review of the eligibility to receive care under s117. Failure to consider the additional requirements of s117 can lead to additional issues at a later date, including additional costs and procedures to be followed in subsequent instances of care provision.

The key finding in the report relates to reviewing of eligibility for s117 aftercare not being included in the standard process for the review of care packages. Although there is a procedure for triggering reviews when they are due there is currently a backlog of reviews for some care packages, including some s117 care packages. Services provided under s117 are commissioned in line with standard arrangements for social care services.

Although the authority is generally aware of its responsibilities in relation to s117, there exists no comprehensive set of embedded procedural documentation to support the s117 process. Key parts of the process that should be based on standardised formal procedures are the joint working relationship with the NHS Provider Trusts and CCGs as well as the additional step in the review process for a care package to include whether it would be appropriate to discharge the recipient from s117. Decisions made relating to allocation of responsibility and funding arrangements may also benefit from being based on formal procedures. A key finding in the report relates to procedural documentation.

Complaints made in relation to s117 would be made in line with standard council complaints procedures. No complaints specific to s117 were identified.

Overall Conclusions

It was found that the arrangements for managing risk were poor with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation. Our overall opinion of the controls within the system at the time of the audit was that they provided Limited Assurance.

1 Reviews

Issue/Control Weakness

There is no procedure in place to review eligibility for s117 aftercare

Risk

The council's s117 provisions may be inadequately monitored and additional costs may be incurred. The council may also be in breach of the MHA Code of Practice

Findings

The council undertakes reviews of adult social care packages and uses Frameworki in order to monitor when reviews are due. The eligibility for the care package to be provided under s117 is not included as part of the review however and there is no current procedure or guidance currently available to staff to add this into the review.

The Department of Health Code of Practice (Mental Health Act 1983) states that "The duty to provide after-care services exists until both the CCG and the local authority are satisfied that the patient no longer requires them. The circumstances in which it is appropriate to end s117 aftercare will vary from person to person and according to the nature of the services being provided."

It is therefore necessary for the council to have a procedure to identify where s117 eligibility has ended and how to correctly remove the eligibility in conjunction with the CCG in order to comply with official guidance and deliver s117 aftercare only to those persons eligible.

Agreed Action 1.1

A procedure for undertaking reviews of s117 eligibility will be brought in with the new Care Management System, Mosaic

Priority

1

Responsible Officer

Assistant Director
Adult Social Care
[MM]

Timescale

October 2016

2 Policy and procedural documentation

Issue/Control Weakness

There is no embedded s117 policy and limited formal procedural documentation

Risk

There may be a lack of clarity in what the appropriate procedures are in terms of best practice and legislative requirements

Findings

There is no embedded policy for all parts of s117 within the council, and limited formal documentation for working practices and procedural requirements, including joint working and communication arrangements for working with NHS organisations in coordinating the provision of s117 care, identification of the liable organisations and reasonable apportioning of cost. As s117 aftercare provision operates inside standard arrangements for adult social care provision it is important that the aspects of the aftercare provision that are specific to s117 are documented for reference and review, and so it can be ensured that all parts of the s117 aftercare provision are in compliance with the latest best practice and legislative requirements of the MHA.

Agreed Action 2.1

Work will be undertaken to agree and formalise and working procedures to align with Tees Esk Wear Valley.

Priority

2

Responsible Officer

Assistant Director
Adult Social Care
[MM]

Timescale

October 2016

Audit Opinions and Priorities for Actions

Audit Opinions

Audit work is based on sampling transactions to test the operation of systems. It cannot guarantee the elimination of fraud or error. Our opinion is based on the risks we identify at the time of the audit.

Our overall audit opinion is based on 5 grades of opinion, as set out below.

| Opinion | Assessment of internal control |
|-----------------------|---|
| High Assurance | Overall, very good management of risk. An effective control environment appears to be in operation. |
| Substantial Assurance | Overall, good management of risk with few weaknesses identified. An effective control environment is in operation but there is scope for further improvement in the areas identified. |
| Reasonable Assurance | Overall, satisfactory management of risk with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made. |
| Limited Assurance | Overall, poor management of risk with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation. |
| No Assurance | Overall, there is a fundamental failure in control and risks are not being effectively managed. A number of key areas require substantial improvement to protect the system from error and abuse. |

Priorities for Actions

| | |
|------------|--|
| Priority 1 | A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management. |
| Priority 2 | A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management. |
| Priority 3 | The system objectives are not exposed to significant risk, but the issue merits attention by management. |

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