

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	2637
Author:	Oliver Bolam
Department:	Children and Families
Contact:	Oliver Bolam (Job Title: Head of Specialist Services, Email: oliver.bolam@nottinghamcity.gov.uk, Phone: 01158763482)
Subject:	Reimbursement of Social Care Charges
Total Value:	£84,434.80 (Type: Revenue)
Decision Being Taken:	To reimburse a citizen £84,434.80. Approve the creation of a specific S117 Aftercare Provision reserve to manage future claims.
Reasons for the Decision(s)	<p>The citizen in question has been entitled to free aftercare services, according to Section 117 (Mental Health Act 1983, amended 2007) since 22-10-1997. He remained in hospital until 10-9-1999. This meant that up until he was discharged from hospital all the care he received was free at the point of delivery. However, from 10-9-1999 until 4-5-2016 (when his 117 status was recognised and his contribution was stopped) the citizen was making a contribution to the placement cost of the residential care home he is resident in. He should not have made any contribution and now needs to be reimbursed for the whole amount he has paid.</p> <p>It is now incumbent upon NCC to refund the citizen for any contributions they have made. The total amount has been calculated by Adult Residential Services to be £84, 434.80. This includes interest accrued during that period.</p> <p>This DDM also seeks approval to set up a specific reserve which will support an identified resource to meet the cost of future claims. This is necessary because it is difficult to ensure that 117 entitlement is always picked up at the point that services are provided. Whilst the vast majority of cases are identified it is likely that, going forward, further cases may be identified where 117 was not established. The reserve allows for the effective management of future claims and the value of the reserve will be reviewed for appropriateness on a regular basis by service and finance colleagues.</p>

Other Options Considered: It is a point of law which means that those citizens who are entitled to Section 117 are entitled to free aftercare services. This means that it is a duty for NCC to repay this amount and therefore there is no alternative. Without establishing a separate reserve it would still be a duty to repay citizens in cases where 117 status was not identified however this would create a budget pressure in the year any repayments are made.

Background Papers: NA

Published Works: Mental Health Act 1983 (Amended 2007)

Affected Wards: Citywide

Colleague / Councillor Interests:

Consultations: Those not consulted are not directly affected by the decision.

Crime and Disorder Implications: NA

Equality: EIA not required. Reasons: This decision relates to a one off refund payment to a citizen and establishing a budget reserve. There are no equality impact considerations.

Decision Type: Portfolio Holder

Subject to Call In: Yes

Call In Expiry date: 31/10/2016

Advice Sought: Legal, Finance

Legal Advice:

Section 117(2) MHA 1983 places a duty on local authority social care services and/or local clinical commissioning groups (where applicable) to provide after-care services for a person to whom this section applies. For the purposes of this legal advice, this citizen is entitled to s.117 aftercare services provided by NCC.

Further, as this is a freestanding duty to provide after-care services and in the absence of an express power to charge for services provided under it, case law has confirmed that such services must be provided free of charge.

As this citizen has been charged in error, it is appropriate the citizen is reimbursed and that there is no alternative option to this.

**Claire Knowles
Team Leader
Children & Adults Legal Team
09.09.16**

Advice provided by Claire Knowles (Team Leader) on 09/09/2016.

Finance Advice:

The value of this decision will be funded through the use of identified funding established to cover occurrences such as these in relation to Section 117 Aftercare responsibilities. The approval to set up a specific reserve will support an identified resource to meet the cost of future claims. The value of the reserve will be reviewed for appropriateness on a regular basis by service and finance colleagues.

Advice provided by Darren Revill (Finance Analyst) on 26/09/2016.

Signatures

Alex Norris (Portfolio Holder for Adults and Health)
SIGNED and Dated: 22/10/2016
Alison Michalska (Corporate Director for Children and Adults)
SIGNED and Dated: 20/10/2016