

SCHEDULES

SCHEDULE 4

Section 75

DIRECT PAYMENTS: AFTER-CARE UNDER THE MENTAL HEALTH ACT 1983

PART 1

AFTER-CARE UNDER THE MENTAL HEALTH ACT 1983: DIRECT PAYMENTS

- 1 (1) Sections 31 (adults with capacity to request direct payments), 32 (adults without capacity to request direct payments) and 33 (direct payments: further provision) apply in relation to section 117 of the Mental Health Act 1983 but as if the following modifications were made to those sections.
- (2) For subsection (1) of section 31, substitute—
- “(1) This section applies where an adult to whom section 117 of the Mental Health Act 1983 (after-care) applies requests the local authority to make payments to the adult or a person nominated by the adult that are equivalent to the cost of providing or arranging for the provision of after-care services for the adult under that section.”
- (3) In subsection (5) of that section—
- (a) in paragraph (a), for “meeting the adult’s needs” substitute “discharging its duty under section 117 of the Mental Health Act 1983”, and
- (b) in paragraph (b), for “to meet the adult’s needs” substitute “to discharge its duty under that section”.
- (4) In subsection (7) of that section, for “to meet the needs in question” substitute “to discharge its duty under section 117 of the Mental Health Act 1983”.
- (5) For subsection (1) of section 32, substitute—
- “(1) This section applies where—
- (a) an adult to whom section 117 of the Mental Health Act 1983 (after-care) applies lacks capacity to request the local authority to make payments equivalent to the cost of providing or arranging for the provision of after-care services for the adult under that section, and
- (b) an authorised person requests the local authority to make such payments to the authorised person.”
- (6) In subsection (4)(a) of that section, for “the adult’s needs for care and support” substitute “the provision to the adult of after-care services under section 117 of the Mental Health Act 1983”.
- (7) In subsection (6) of that section—
- (a) in paragraph (a), for “meeting the adult’s needs” substitute “discharging its duty under section 117 of the Mental Health Act 1983”, and

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- (b) in paragraph (b), for “to meet the adult’s needs” substitute “to discharge its duty under that section”.
- (8) In subsection (7) of that section, for “the provision of the care and support” substitute “the provision of after-care services under section 117 of the Mental Health Act 1983”.
- (9) In subsection (9) of that section, for “to meet the needs in question” substitute “to discharge its duty under section 117 of the Mental Health Act 1983”.
- (10) In subsection (2)(a) of section 33, for “meet needs” substitute “discharge its duty under section 117 of the Mental Health Act 1983”.
- (11) For subsection (3) of that section, substitute—
 - “(3) A direct payment is made on condition that it be used only to pay for arrangements under which after-care services for the adult are provided under section 117 of the Mental Health Act 1983.”

PART 2

PROVISION TO BE INSERTED IN SOCIAL SERVICES AND WELL-BEING (WALES) ACT 2014

“SCHEDULE A1

DIRECT PAYMENTS: AFTER-CARE UNDER THE MENTAL HEALTH ACT 1983

General

- 1 Sections 50 (direct payments to meet an adult’s needs), 51 (direct payments to meet a child’s needs) and 53 (direct payments: further provision) apply in relation to section 117 of the Mental Health Act 1983 but as if the following modifications were made to those sections.

Modifications to section 50

- 2 For subsection (1) of section 50 substitute—
 - “(1) Regulations may require or allow a local authority to make payments to an adult to whom section 117 of the Mental Health Act 1983 (after-care) applies that are equivalent to the cost of providing or arranging for the provision of after-care services for the adult under that section.”
- 3 In subsection (3) of that section—
 - (a) in paragraph (a), for “who has needs for care and support (“A”)” substitute “in respect of the provision to the adult (“A”) of after-care services under section 117 of the Mental Health Act 1983”, and
 - (b) in paragraph (c)(i), for “of meeting A’s needs” substitute “of discharging its duty towards A under section 117 of the Mental Health Act 1983”.
- 4 In subsection (4) of that section—
 - (a) in paragraph (a), for “who has needs for care and support (“A”)” substitute “to whom section 117 of the Mental Health Act 1983 applies (“A”)”, and

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- (b) in paragraph (d)(i), for “meeting A’s needs” substitute “discharging its duty towards A under section 117 of the Mental Health Act 1983”.
- 5 In subsection (5) of that section—
- (a) in paragraph (a), for “A’s needs for care and support” substitute “the provision to A of after-care services under section 117 of the Mental Health Act 1983”, and
 - (b) in paragraph (b), for “towards the cost of meeting A’s needs for care and support” substitute “equivalent to the cost of providing or arranging the provision to A of after-care services under section 117 of the Mental Health Act 1983”.
- 6 In subsection (6)(b) of that section, for “A’s needs for care and support” substitute “the provision to A of after-care services under section 117 of the Mental Health Act 1983”.

Modifications to section 51

- 7 For subsection (1) of section 51 substitute—
- “(1) Regulations may require or allow a local authority to make payments to a person in respect of a child to whom section 117 of the Mental Health Act 1983 (after-care) applies that are equivalent to the cost of providing or arranging the provision of after-care services for the child under that section.”
- 8 In subsection (3)(a) and (b) of that section, for “who has needs for care and support” (in each place it occurs) substitute “to whom section 117 of the Mental Health Act 1983 applies”.
- 9 In subsection (5)(a) of that section, for “meeting the child’s needs” substitute “discharging its duty towards the child under section 117 of the Mental Health Act 1983”.

Modifications to section 53

- 10 In subsection (1) of section 53—
- (a) in the opening words, for “50, 51 or 52” substitute “50 or 51”,
 - (b) omit paragraphs (a), (b) and (c),
 - (c) in paragraph (i), for “a local authority’s duty or power to meet a person’s needs for care and support or a carer’s needs for support is displaced” substitute “a local authority’s duty under section 117 of the Mental Health Act 1983 (after-care) is discharged”, and
 - (d) in paragraph (k), for “50 to 52” substitute “50 and 51”.
- 11 Omit subsections (2) to (8) of that section.
- 12 After subsection (8) of that section insert—
- “(8A) Regulations under sections 50 and 51 must specify that direct payments to meet the cost of providing or arranging for the provision of after-care services under section 117 of the Mental Health Act 1983 (after-care) must be made at a rate that the local authority estimates to be equivalent to the reasonable cost of securing the provision of those services to meet those needs.”
- 13 In subsection (9) of that section—
- (a) for “, 51 or 52” substitute “or 51”, and

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- (b) for “care and support (or, in the case of a carer, support)” substitute “after-care services”.
- 14 In subsection (10) of that section, for “care and support (or, in the case of a carer, support) to meet needs” substitute “after-care services”.