



# News Release

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## Long-Term Care – Significant reduction in Older People admitted to hospital under Section 3 of Mental Health Act 1983 – A Coincidence or Cost Cutting?

In February 2000 the Department of Health issued guidance to local authorities that patients detained in hospital under section 3 of the Mental Health Act should be entitled to after care services under s117 of the same act and this can include residential care and **must not be charged for**. This was followed in July 2003 by the Local Government Ombudsmen’s Report advising councils who have wrongly charged people for section 117 after care to compensate them with financial restitution with interest. The report provides advice and guidance to councils who, over the last 10 years, have been unlawfully charging or allowing vulnerable people, many were forced to sell their homes to pay for their own care.

The Ombudsmen advised social services departments that they should "put mechanisms in place to identify those persons improperly charged, or improperly deprived of financial assistance, and establish arrangements for reimbursing them or their estates

Latest figures issued by the Department of Health of inpatients formally detained in hospitals under the Mental Health Act 1983 show a marked decrease in the number of older people admitted to hospital under Section 3 since guidance on funding responsibility was issued in February, 2000.

<i>Extract from table</i>	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>
<b>Patients detained under Sec 3 MHA 1983 in NHS facilities and Independent Hospitals</b>	9,652	9,699	9,660	8,995	9,088
<b>Patients detained under Sec 3 MHA 1983 in NHS facilities</b>	9,091	9,030	8,955	8,149	8,467

Source: Department of Health

Philip Spiers partner of the NHFA says ' This reduction in the use of powers under section 3 of the Mental Health Act does not surprise us and would appear to be another instance of the statutory authorities putting cost cutting before the well-being of older people. The NHFA has identified many cases of entitlement to Section 117 funding over the past few years and in several instances been successful in obtaining significant refunds from councils. The coincidence is that we have also seen an increase in councils using their powers under section 7 of the Mental Health Act to enforce guardianship orders on vulnerable mentally ill people. The advantage to councils adopting this route is that they can dictate what care must be provided but are not obliged to pay for it under Section 117.

There are many circumstances where older people suffering from mental health problems will have to pay for their care but many should not either through this act or eligibility to NHS continuing Care funding. It's essential that older people, their families and carers seek independent specialist advice when the need for care arises. Only after possible entitlement to local authority funding or NHS care have been identified should homes be sold and financial products be sought to meet the costs.'

NHFA advice is free and available to all regardless of means and can be accessed through a *freephone* Care Advice Line **0800 99 88 33**, web site, [www.nhfa.co.uk](http://www.nhfa.co.uk)

*ends*

#### **Notes for Editors:**

This problem relates to many older people who are considered to be a risk to themselves or others because of mental illness or dementia and are consequently admitted to hospital under Section 3 of the Mental Health Act 1983. After treatment they may be discharged from hospital but continue to need care in a care home. This care should be free of charge under Section 117 of the same act.

Local Government Ombudsmen's Report: [www.lgo.org.uk/pdf/special-report-web.pdf](http://www.lgo.org.uk/pdf/special-report-web.pdf)

Department of Health Admissions Report: [www.publications/doh.gov/public/inpatients2003.pdf](http://www.publications/doh.gov/public/inpatients2003.pdf)

#### **About NHFA**

Independent of all care providers, financial institutions and authorities NHFA provides free advice and information on obtaining and paying for long-term care. NHFA advice is free and available to all regardless of means and encompasses the many financial and legal issues older people and their families should consider when the need for care arises.

Combines specialist financial advice with the complexities of our care system including local authority assessment and charging procedures, health authority responsibilities, DWP benefits and related legal matters.

Free Publications include Long Term Care Guides and an extensive range of 'Infosheets' on common problems including 'Treatment of Couples', 'Treatment of Property', 'Deprivation of Assets', 'The Legal Framework', 'Local Authority Charging Procedures', 'NHS Nursing Care Contribution', 'Immediate Need Care Fee Payment Plans' and 'Issues Surrounding Choice'.

The aim of the NHFA is to enable older people meet the cost of chosen care for life whilst also preserving their original capital and with that their independence, dignity and right of choice.