

Hospital Discharge

Duty of Care

Local Authorities and NHS bodies owe all patients a duty of care. In addition, these bodies have statutory responsibilities to provide care.

When is it 'Safe' to Discharge?

A patient must not be discharged unless

- 1) A clinical decision has been made that the patient is 'safe' to be discharged or transferred; and
- 2) Assessments have taken place to determine what the patient's interim and long term care needs are likely to be upon discharge.

The Discharge Process

Once a patient is 'safe' to be discharged:

1. Hospital staff should provide information about the discharge process in an understandable and accessible format.
2. A Discharge Co-ordinator should be appointed to manage assessment of the patient's short and/or long term needs. Discharge planning should start promptly.
3. An advocate may be needed.

If the patient lacks capacity, an Independent Mental Capacity Advocate ("IMCA") may be appointed. Decisions about the patient's care and support needs (such as where the patient will live and receive care) may require a best interests meeting

If the patient has capacity, an advocate may still be useful to ensure their views, wishes and feelings are represented. Family representatives, Attorneys and/or Deputies should be actively involved.

4. Health & social care needs assessments should be undertaken to identify needs upon discharge.
 - Consideration of eligibility for NHS Continuing Healthcare (a package of care and support funded by the NHS which is not means tested or subject to any financial contribution) is the starting point because unless Continuing Healthcare needs have been considered, there is a risk that a need may not be recognised.
 - The notion of 'Discharge to Assess' means eligibility assessments should generally be completed in the Community, and not in an acute Hospital environment. Rehabilitation, therapy, intermediate, or reablement care packages funded by the NHS and/or Local Authority may be required to ensure interim needs are

met pending a full eligibility assessment.

- NHS Fast Track funding should be considered for patients with a 'rapidly deteriorating condition which may be entering a terminal phase'. If the criteria is satisfied, an NHS-funded care package must be implemented within 48 hours.
5. If a relative or friend is to provide care upon discharge, they are entitled to a carers assessment by the Local Authority to identify what support may be available to assist with caring responsibilities.
 6. An 'Expected Date of Discharge' ("EDD") should be provided. This may change.
 7. A discharge care plan should be prepared which details the patient's on-going health needs and medication. A copy should be provided to the patient's GP and place of discharge.

What does 'Discharge to Assess' mean?

'Discharge to assess' is one of the fundamental changes introduced by the revised National Framework for NHS Continuing Healthcare October 2018.

The idea is that a patient's eligibility for NHS Continuing Healthcare should not be assessed whilst in an acute Hospital environment. This is because it may be difficult to accurately identify and assess needs in an acute setting. Interim care packages should be considered to facilitate an eligibility assessment in the Community.

What interim care packages may be available pending completion of an NHS Continuing Healthcare eligibility assessment?

The NHS and/or Local Authority may provide:

1. **Intermediate care.** A time-limited programme of care designed to assist a person to maintain or regain the ability to live independently. It is usually organised and funded by the NHS to address healthcare needs. A Local Authority may contribute to the cost of care required to meet social care needs.
2. **Rehabilitation or therapy.** Often this is an NHS-funded programme of care to target rehabilitation potential.
3. **Re-ablement care.** A programme of care and support organised by a Local Authority provided for a specified period to enable a patient to maintain or regain the ability to live independently in their own home. It must be provided free of charge for the first 6 weeks. Provision beyond 6 weeks at no cost is at the discretion of a Local Authority.

What issues commonly arise?

- Disagreements as to whether it is 'safe' for a patient to be discharged.
- Pressure to discharge a patient without an appropriate interim care package.
- Difficulty with access to intermediate, rehabilitation, therapy or reablement care.
- Delayed discharge caused by lack of availability in a rehabilitation or therapy unit, or an interim care facility.
- The potential for patient's eligibility for NHS Continuing Healthcare to be overlooked because of the 'Discharge to assess' notion.
- Difficulties making best interests decisions with regard to care, support and accommodation options on behalf of patients who lack capacity.

Disputes

If a patient and/or their representative disagrees with a discharge decision, or has concerns that the appropriate provision is not in place to meet interim care needs, concerns should be raised with the Hospital Discharge Co-ordinator. An informal, round-table discussion is often effective. Unresolved concerns may need to be formalised using the Hospital's Complaints procedure.

How can Lester Aldridge assist?

At Lester Aldridge we have experience of working with families and their loved ones to provide support during the discharge process both in relation to best interests decision making, the assessment process and ensuring the provision of suitable care post discharge. We can:

- Liaise with the Hospital Discharge team to ensure that all of the necessary needs assessments are completed in advance of Hospital discharge.
- Discuss and explore 'safe' discharge concerns.
- Negotiate provision of NHS and/or Local Authority funded interim care packages to ensure a patient is not discharged with unmet, immediate needs.
- Facilitate a best interests meeting to ensure decisions to be made with regard to care, support and accommodation options on behalf of patients who lack capacity are made in compliance with the legal framework.
- Liaise with the CCG to ensure a patient is screened and assessed for NHS Continuing Healthcare post discharge once an interim care package has been completed. In addition, we can provide full advice and representation in relation to all aspects of the NHS Continuing Healthcare eligibility assessment process.

- When the screening process (the Checklist Assessment) determines that an individual is not eligible for an NHS Continuing Healthcare eligibility assessment, we can provide full advice and representation in relation to Local Authority funded care packages if the evidence suggests that there is unlikely to be merit in challenging a negative Checklist Assessment.