Bundle Mental Health Act Committee 29 March 2019

1 MHAC19/17 - Apologies

2 MHAC19/18 - Declarations of Interest

3 MHAC19/19 - Minutes of last meeting to be confirmed and review of Summary Action Log

1) To confirm as a correct record the Minutes of the last meeting held on 3rd January 2019.
2) To deal with any matters arising not dealt with elsewhere on the agenda
3) To review the Summary Action log.

Mental Health Act Committee DRAFT Minutes - 3rd January 2019.docx

MHAC Summary Action Plan live version.doc

4 MHAC19/20 - Minutes of the Power of Discharge Sub-Committee

1) To receive the Minutes of the Power of Discharge Sub-Committee meeting held on 14th December 2018 for information purposes.
2) To receive an oral update from the Chair on relevant feedback from the Sub-Committee meeting.

Draft Minutes Power of Discharge Sub Committee 14th December 18.docx

5 MHAC19/21 - Defining a Health Based Place of Safety for young people under age 18 years – MHA Section 136 - Wendy Lappin

MHAC19.21 - Under 18 years – MHA Section 136 Data Report.doc

6 MHAC19/22 - Mental Health Act/Mental Health Measure Performance Report- Wendy Lappin

MHAC19.22 - MHA Committee Performance Report coversheet.docx

MHAC19.22.1 - Performance Report.pdf

MHAC19.22.2 MH Performance Report.pptx

7 MHAC19/23 - Child and Adolescent Mental Health Services (CAMHs) Update - Peter Gore-Rees/Sue Hamilton

8 MHAC19/24 - Update on the approval functions for Approved Clinicians & Section 12(2) Doctors in Wales - Heulwen Hughes

MHAC19.24 - Update on the approval functions of Approved Clinicians & section 12(2) Doctors in Wales.docx

9 MHAC19/25 - Independent Mental Health Advocacy Performance Report - Lesley Singleton

10 MHAC19/26 - Deprivation of Liberty Safeguards - Update Report - Christopher Pearson

MHAC19.26 - - Deprivation of Liberty Safeguards Update Report.docx

MHAC19.26.1 - DOLS Hospital Breakdown.xlsx

MHAC19.26.2 - DOLS Application Process.doc

MHAC19.26.3 - Is the Patient Deprived of their Liberties.doc

11 MHAC19/27 - HIW Monitoring Report - Hilary Owen / Wendy Lappin

MHAC19.27 - Healthcare Inspectorate Wales Monitoring Report.doc

12 MHAC19/28 - Policy Position in relation to the Code of Practice and Mental Health Act - Wendy Lappin

MHAC19.28 - Policy position in relation to the Code of Practice and Mental Health Act.doc

MHAC19.28.1 - Appendix A COPW Policies.pdf

13 MHAC19/29 - Independent Review of Mental Health Act - Steve Forsyth

MHAC19.29 - Independent review of the MHA.doc

MHAC19.29.1 - MHA Review FINAL.pdf

14 MHAC19/30 - Consideration of Changes to future MHAC and POD meetings

MHAC19.30 - Report on consideration for future of MHAC and POD.docx

15 MHAC19/31 - Mental Health Act Committee Annual Report

MHAC19.31 - Annual Report v0.1.docx

16 MHAC19/32 - Issues of Significance to inform Chair's Report to Board

17 MHAC19/33 - Date of Next Meeting

Mental Health Act Committee

Draft Minutes of the Mental Health Act Committee held on Thursday 3rd January 2019
Boardroom, Carlton Court

Present

Marian Wyn Jones [Chair]	Vice Chair, BCUHB
Bethan Russell-Williams	Independent Member
Cheryl Carlisle	Independent Member

In Attendance

Andy Roach	Director MH&LD
Chris Pearson	Safeguarding Specialist Practitioner/DoLSs & MCA
Fiona Wright	Operations Manager, Children & Young People
Heulwen Hughes	Approval Manager for Approved Clinicians
Jill Timmins	Director of Operations & Service Delivery
Sandra Ingham	Business Support Manager [BCUHB]
Satya Schofield	Associate Hospital Manager
Steve Forsyth	Director of Nursing MH&LD
Teresa Owen	Executive Director of Public Health

Agenda Item	Action
MHAC19.01 – Apologies Alberto Salmoiraghi, Gill Harris, Lyn Meadows, Peter Gore Rees, Alison Cowell, Hilary Owen, Wendy Lappin, Chris Rogers	
MHAC19.02 – Declarations of Interest MHAC19.02.1 There were no declarations of interest made at the meeting.	
MHAC19.03 – Minutes of last meeting and summary action log Minutes of the meeting held on 21st September were agreed as an accurate record Section 12[2] – update provided by AS, suggestion for a rotor system in the future and agreed that all GPs be invited to apply for course.	

Action: Update to be provided at meeting in March and to Gwynedd following recent concerns. MHM – it was reported that more updated information was provided at QSE, the Chair to raise at CBMG Committee as Part 1 invalidated and validated the following month – closed DOLs – booklet requested as part of mandatory training, for those unable to access online training. Handbook needs to be based on the computer programme and published bilingually – Update in March Actions were recorded therein	
MHAC19.04 – Minutes of Power of Discharge Sub Committee **Resolved:** That the minutes of the Sub Committee held on 21st September 2018 be received	
MHAC19.05 – Mental Health Act / Mental Health Measure Monitoring Data / Presentation JT provided the group with an update on the key issues: Section 4 – A low use of section 4 was reported within the Health Board and agreed it would be beneficial to see benchmarking across the rest of Wales at the next meeting. Rectifiable errors – there has been a rise in rectifiable errors with the Health Board accounting for 31% across Wales. Benchmark for the whole of Wales to be provided at the next meeting and a suggestion that further training be provided for staff. Section 136 – There has been an increase in repeat referrals and it was agreed a deep dive be carried out to ascertain the reasons behind this. It was noted the contingency planning was not where it should be for these individuals. SF took this opportunity to provide the group with an update on his recent experience on the triage vehicle. This is a pilot scheme with a Police Officer Mental Health Professional who police can all upon for urgent mental health support. Further discussions followed around the increase in S136 referrals and it was confirmed that recent data shows a high number of people being discharged without being detained who were not previously known to the service. <u>Under 18 Admissions</u>	

5 out of 6 admissions were initiated out of hours, it should be noted that this number is being reduced due to the joint working relationship with the Children and Young Adults Mental Health Team [CAMHS]. Discussions were held around the allocated bed in Heddfan for under 18 admissions and it was noted there was no similar facilities available in Abergele. There were issues highlighted over the Christmas period which resulted in this facility being unavailable in Heddfan but this has now been resolved. Further work is required with CAMHS to look at which environments are most child friendly. The Committee agreed it is not appropriate for under 16s to be placed with Adult MH patients and there needs to be a safe environment for children. SS asked about Care and Treatment Plans [CTPs] and if there were any plans for moving to electronic patient records. AR advised that this had been delayed due to various issues around IT and that training and support is being provided to enhance the completion of CTPs. The Division is compliant with patients having CTPs, however further work was required on the quality of those being produced. <u>Mental Health Measure</u> The group were advised of an error on page 20 of the report – the target was 90% and not 92% as indicated. It was reported that the Health Board currently stood at 89.2%. Part 1 – discussions were held around the low whole time equivalent in some of the teams and the increase in referrals. SF advised that the number of "Did not Attend" [DNAs] were increasing, demand continues to rise and the backlog continues to increase. CTP – It was noted that the data needs to be separated out. HMP Berwyn is now being reported under Adults East. JT advised there were issues with Berwyn and JT will pick up with Simon Delayed Transfer of Care [DTOC] – it was reported that there are challenges in terms of complex patients with both physical and mental health needs, with 12 DToC in the East currently. **RESOLVED:** That the report be noted and an action plan was requested to establish how compliance against the measure would be achieved.	
MHAC19.06 – Defining a Health Based Place of Safety for young people under the age of 18yrs – MHA Section 136 JT confirmed that the number of detentions were decreasing and the amount of time being spent in a place of safety was also decreasing. **Resolved:** That the report be noted.	

MHAC19.07 – Child and Adolescent Mental Health Services [CAMHS] Update Teresa Owen attended the meeting for this item It was noted the issues specific to the Central area were around recruitment and retention. TO advised that national CAMHS trends vary, but many areas are experiencing increasing demands and the trend is not specific to North Wales. Further work needs to be done academically with wider thinking required on how to support children and young people at an earlier stage, to potentially improve general resilience. In November, 72% of patients received an assessment within 28 days, with therapeutic interventions at 39%. Prior to confirmation of the waiting list funding, trajectories for March 2019 were 56% receiving an assessment and 80% being provided with therapeutic intervention. In order to improve performance, agency staff have been working across all areas, including Central. Substantive staff were currently taking on overtime to assist in reducing waiting lists and improving targets. CC expressed concern regarding increased pressures on Local Authorities and families who are finding it difficult to access services. TO updated on the recent 2-day visit organised by Welsh Government and whilst there were issues which needed to be addressed, examples of good practice were also reported. MJ asked about WG funding received for therapy services and how it would be used. AR advised that the monies had been given with the caveat that there would be an improvement in the figures for Part 1 of the measure. It was acknowledged that closer working with Primary Care was required as once a patient is transferred to Secondary Care they were automatically included in the figures for the measure and in many cases they did not need to be there. **Resolved:** That the report be noted on the second quarter of the year.	
MHAC19.08 – Update on the approval functions for Approved Clinicians and Section 12(2) Doctors in Wales AS provided the group with an update under matters arising earlier in the meeting. HH confirmed confirmation had been received that funding would be available for training. CP confirmed that there were significant issues in the West with approved clinicians. A piece of work would be carried out this year to look at the reduction in Section 12(2) Doctors and what could be done to increase the numbers, it was	

reported that the fee for this work had never increased since being introduced. It was noted that there should be some discretion so the Health Board could consider reviewing the fee. It was noted that hospital psychiatrists had now become approved clinicians which had reduced the problems within the hospital. JT asked whether there was any work being carried out with GP trainees – the Health Board is taking on more management of GP practices which should give more flexibility on what we can expect. Discussions with WL to enquire whether information re Section 12 doctors is being shared with AMHPs. It was that the Director of Primary Care be consulted to take this to the next Cluster Leads meeting. **Action:** JT to discuss with AS **Resolved:** That the report be noted	
MHAC19.09 – Independent Mental Health Advocacy Performance Report AR to ensure update provided for next meeting	
MHAC19.10 – Deprivation of Liberty Safeguards – Update Report CP advised that there should be an increase in the number of assessments carried out from March 2019. There remains concern around supervisory signatures during out of hours with Silver on-call having to nominate and delegate to a clinician or someone on 8a or above. CP confirmed that training on the law and guidance could be arranged if required. CP expressed his concern at the number of assessments being requested when the patient has capacity. He requested that something be included in the assessment document specific to DOLs to assist in identifying whether the patient has capacity. It was noted that this was an area picked up in the HASCAS and Ockenden report. CP confirmed that training was being provided but there was an increase in the number of people not turning up. AR agreed to discuss this with Operational Leads, CP advised that he would be happy to provide more bespoke training locally. AR asked for information on the numbers who had not turned up and the reasons being given. **Action:** CP to produce a document to assist staff in understanding the DOLs process.	

Action: Update to be provided at the next meeting.	
MHAC19.11 – HIW Monitoring Report HIW Visit to Hergest – it was reported that documentation was good around MH Act, copies of assessments in notes, MH administration team were proactive, but there were issues in terms of medical nursing and social reports, linkage to number of local doctors. Recording patients had been informed of their rights was not always done. Action plan will be produced and presented to QSE at a later date. **Resolved:** The Committee agreed for this report to be shared	
MHAC19.12 – Mental Health Measure Deep Dive Session The Director of Mental Health & Learning Disabilities outlined the main challenges facing the Division with regard to compliance with the Measure. It was important to recognise the development of the strategy and the work with primary care, it was not necessarily investment that was required to improve the service but education and support for practices, to avoid people being referred inappropriately, with better signposting to a range of low level intervention services. It was reported that the GP often required an assessment for mental illness and the only option was a referral to primary care. • Demand and Capacity – these are legacy issues dating back to when the Measure was first introduced in 2012. At the time there were already some practitioners in post and some further posts were added. There has been a variance in terms of investment across the Local Authorities. There is also an issues around data collection. It is important to look at the surge in referrals for both Adults and Children to see if they peak at certain times and if so what is the cause. AR reporte that he had attended a recent meeting of the Together for Mental Health Partnership Board [T4MH], where discussions were held around the difficulties within the Division around referrals. It was noted that there is not the required level of step down to primary care and that this is a whole system problem. The lack of data around community pathway activity was a real concern. • JT confirmed that in terms of core budgets BCU is the lowest in North Wales for Adult Community Services. Gwynedd and Flintshire are in need of further financial input as a priority with heavy investment in services. It was noted that as many as 25%	

of referrals sit on secondary care caseloads when they should have been transferred to Primary Care. Discussions were held around 117s and the concern around the lack of discharging. A piece of work is required to transfer client groups out to the clusters as a priority. Discussions will be held with Executive Director of Primary Care to take this forward. Concerns were also raised on behalf of the Local Authorities and the pressures on Adult Mental Health Professionals and Safeguarding. The current overspend within the Division is primarily around CHC and Core Services. Additional funding has been made available for transformation and the Division must address the challenges in reducing the number of referrals from primary care. It is important we look at service models that are a safer alternative to admissions which will be a big challenge, all evidence will demonstrate that once this has been done we will see a reduction – it is anticipated this piece of work would be completed by end of March. Assurance was provided to the Committee that service improvements will continue to be made	
MHAC19.13 – CAMHS Deep Dive Session TO advised that there were two deep dives sessions arranged for January. It was also noted that there had been a recent two-day visit from Welsh Government to look at "Together for Children and Young People". Informal feedback received at the end of the visit highlighted the need to improve internal and external communications. The primary care element was viewed positively, however, the team indicated further work is needed on the vision element of the service. Out of Hours provision access to emergency bed was a concern, and continued working with MH Division was agreed. Overall, TO noted that the team needs time to focus strategically on the future service delivery model and to do so as a North Wales team rather than on an area basis. TO to provide an update from WG review at the next meeting.	
MHAC19.14 – Issues of Significance to inform Chair's report to Board The Chair agreed to raise any issues of significance with the Board	
MHAC19.15 – Any other Business	

AR confirmed that he would be working with Dawn Sharp to look at reviewing the Mental Health Act Committee and the Power of Discharge from a governance perspective to ensure we meet our strategic duties.	
MHAC19.16 - Date of Next Meeting Friday 29th March 2019 – Carlton Court Boardroom [time to be agreed]	

BCUHB MENTAL HEALTH ACT COMMITTEE Summary Action Plan – Live Document – last updated 22/03/2019 17:33				
Officer	**Minute Reference and Action Agreed**	**Original Timescal**	**Latest Update Position**	**Revised Timescale**
28th July 2017				
CP	**MHAC18.38.4** – A booklet providing details of DoLs to be provided for staff who do not have access to e-learning	Ongoing	Issue raised within DoLS Report	Closed
CP	**MHAC18.38.4** – A report to be brought back, providing more detail on the benefits to the service and the quality provided	March	Raised within case scenario contained within papers	Closed
CP	**MHAC18.38.4** – Patient story to be provided at the next meeting	March	Raised within case scenario contained within papers	Closed
WL	**MHAC18.39.4** – Verbal update on the review of policies linked to the Mental Health Act to be provided at next meeting	March		
	MHAC18.40 – Benchmarking to be brought back to the next meeting	March	Update will be available at the meeting in March	
JT	**MHAC19.08** – Approved Clinicians & Section 12(2) Doctors – JT & AS do discuss with Chris Stockport re taking discussions to Cluster Leads meeting	March		Ongoing
CP	**MHAC19.10** – CP to produce a document to assist staff in understanding the DoLS process	March	Document included in the papers	Closed

Power of Discharge Sub Committee

Draft Minutes of the Power of Discharge Sub Committee held on Friday 14th December 2018
Seminar Room, Llandudno Hospital

Present:

Marian Wyn Jones [Chair]	Vice Chair, BCUHB
Frank Brown	Associate Hospital Manager
Jackie Parry	Associate Hospital Manager
Satya Schofield	Associate Hospital Manager
Shirley Cox	Associate Hospital Manager
Shirley Davies	Associate Hospital Manager

In Attendance

Jill Timmins	Director of Operations & Service Delivery
Sandra Ingham	Business Support Manager [BCUHB]
Steve Forsyth	Director of Nursing
Wendy Lappin	MH Act Manager [BCUHB]

Agenda Item	Action
POD18.25 – Apologies POD 18.25.1 Apologies were received from Gill Harris, Andy Roach, John Williams, Diane Arbabi, Christine Robinson, Jacky Parry, Lyn Meadows, Cheryl Carlisle	
POD18.26 – Declarations of Interest POD 18. There were no declarations of interest made at the meeting.	
POD18.27– Membership POD18.27.1 It was noted that the membership for the Sub Committee is now at full capacity **Resolved:** That the update to membership be noted	
POD18.28 – Minutes of last meeting and summary action log POD 18.28.1 - The minutes of the meeting held on 21st September 2018 were agreed as an accurate record.	

POD18.28.2 – **Matters Arising** POD18.28.2.1 – WL provided clarification on the completion of forms and held responsibility for ensuring they were completed accurately and contained all the relevant information. It was important that staff were clear on the difference between "next of kin" and "nearest relative" **Action:** HIW report for Hergest to be distributed before the next meeting. POD18.28.2.2 - Mixture of ages highlighted in report, 4 key areas, MH Act administration side was seen a huge positive, dormitory style of the ward is very dated, leadership and management very positive, improvements since last visit were noted in the report. The Chair advised that there had been huge improvements in Hergest and clarification was provided on the patient pathway currently in Hergest. The Action log was updated therein.	SI
POD18.29 – Hospital Managers Update POD18.29.1 - Concern was expressed at the number of patients being discharged by a responsible clinician. It was felt this is a process clinicians go through when they are made aware a request for an appeal had been and the decision is often made prior to the hearing when it will be accepted. The role of the Hospital Manager needs to be reinforced, the hearing is an important part of a patient's discharge. SF explained that often when a section 2 is applied, the patient may not be known to the consultant. There would be cause for concern if this happened on a regular basis with patients who are known to the service and are regularly detained. POD18.29.2 - WL explained that paperwork for hearings was produced and distributed at least 2 months prior to the hearing, it is at this time the administrative team will arrange and confirm a date for the hearing. It is the ongoing responsibility of the clinician to have regular updates with patients and if, during one of these sessions, the patient is deemed fit to be discharged, the hearing will inevitably be cancelled. It may be that the administrative process needs to be changed. **Action:** WL to discuss what process is used within other Health Boards across Wales POD18.29.3 - The concerns around the hearings stemmed from the number of locum consultants who were not always aware of the patient's background and there being no continuity for patients. POD18.29.4 - Discussions were held around a recent scrutiny session when during one particular session there was also an unannounced visit from HIW which put staff under considerable pressure. WL	WL

advised that the dates were set well in advance, it was agreed if the AHMs arrived at a unit in these circumstances they should use their judgement as to whether the session should be cancelled. POD18.29.5 - Discussions were held around the recent training for Associate Manager in Cardiff, SS felt it was good and there were a lot of ideas that could be rolled out in BCUHB. **Action**: WL to distribute information from the training POD18.29.6 - WL advised that a feedback session with Associate Hospital Managers had been arranged for 8th February 2019 where the training was to be discussed as part of the agenda. POD18.29.7 - The Chair advised that Senior Managers should be told when important information was not available at hearings. WL explained that a leaflet had been produced which was distributed to the relevant staff members when reports were being requested which is often 2 weeks prior to the hearing, there are occasions when staff have been unable to produce the report due to excessive workload. In such cases discussions are held with their line manager. A request was made for risk assessments to be provided separately from the case file for hearings as this was often missing from the file. There were discussions around reports not being provided for hearings, WL **Action:** WL to ask the Mental Health Act staff to include risk assessments when requesting reports. **Action:** SF to discuss missing information with Heads of Nursing **Action:** JT and SF to discuss the problems around reports with Divisional Directors. POD18.29.8 - The Chair asked for clarification on the Audits and what the objectives were. Assurance required that the recommendations have been taken forward. **Resolved:** That the report be noted and the actions outlined be progressed	WL WL SF JT/SF
POD18.30 – Combined Mental Health Act / Mental Health Measure Report POD18.30.1 – It was reported that the discussion was under target for part 1a and b, due to sickness and annual level. We have been encouraging teams to reach the targets and there has been areas of improvement over the past 3 years. POD18.30.2 - Some areas have struggled historically in meeting the Mental Health Measure targets. There was a request for a paper to be	

prepared and further investment for additional staff to assist in improving targets, an action plan was requested to address the issues and noted that additional investment was required in additional staff to help meet targets. POD18.30.3 – targets are consistently nearly achieving for Part 2 with a validated position of 87.8% and the latest figures indicating 89%. It is important that the quality of Care and Treatment Plans [CTP] continue. JT advised that an All Wales Review has been produced by the Delivery Unit which also includes an action plan, training is being reviewed and discussions are being held in supervision meetings. POD18.30.4 – It was noted that CAMHS were struggling to reach targets. Welsh Government have confirmed they are looking at where the gaps are and have commissioned a piece of work around capacity analysis which should help in improving services. It was noted that this was not specific to Wales and is a UK wide problem. POD18.30.5 – JT advised there had been an increase in the number of 5[2]s. A review will be carried out to ensure forms are being completed appropriately and to look at training requirements. POD18.30.6 - SF suggested clarification was required when the lapse occurred, if it was towards the end of the section this was a cause for concern, it was important that further information was provided. Discussions were held on what was being considered as a lapse, in some cases it may be the responsible clinician was withdrawing permanent detention, in this case it would not be considered a lapse. **Action:** JT to discuss with Divisional Directors the number of S136 who were known to the service and look at how often they were reviewed. POD18.30.7 - The Chair asked for clarification on the under 18 bed available in Abergele and how often this is used. JT advised that there was not a dedicated bed but a place of safety which has been used quite often with some patients being as young as 12. It was noted that CAMHS have done a lot of work and this is reflected in the numbers which have shown a significant decrease, details indicate that a significant number of patients in the East come from various locations across the UK. **Resolved:** That the report be noted	JT
POD18.31 – Item for Information – Under 18s MHA S136 Data Report **RESOLVED:** That the reported be noted.	

POD18.32 – Issues of Significance to inform the Chair's Report to the Mental Health Act Committee POD18.32 – The Chair agreed to raise all issues of concern in her Assurance report to the Board	
POD18.33 – Any other Business There were no additional items to be discussed.	
POD18.34 – Date of Next Meeting Friday 29th March 2019 – Boardroom, Carlton Court	

Mental Health Act Committee

29th March 2019

GIG CYMRU NHS WALES
Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

To improve health and provide excellent care

Report Title:	*Under 18 years – MHA Section Data report*
Report Author:	*Wendy Lappin, Mental Health Act Manager*
Responsible Director:	*Andy Roach, Mental Health and Learning Disabilities*
Public or In Committee	*Public*
Purpose of Report:	*To provide an updated in relation to the activity within the division for young people under the age of 18 years – Section 136.*
Approval / Scrutiny Route Prior to Presentation:	*This paper prior to presentation at the Power of Discharge Committee Meeting will be presented to the MH&LD Q-SEEL meeting for the Senior Management Team and then to the Divisional Directors Meeting and Andy Roach.*
Governance issues / risks:	*All areas should have agreed a protocol and have a designated place of safety provision for young people within their area.*
Financial Implications:	*None*
Recommendation:	*The committee is asked to note the report*

Health Board's Well-being Objectives *(indicate how this paper proposes alignment with the Health Board's Well Being objectives. Tick all that apply and expand within main report)*	√	**WFGA Sustainable Development Principle** *(Indicate how the paper/proposal has embedded and prioritised the sustainable development principle in its development. Describe how within the main body of the report or if not indicate the reasons for this.)*	√
1.To improve physical, emotional and mental health and well-being for all	√	1.Balancing short term need with long term planning for the future	√
2.To target our resources to those with the greatest needs and reduce inequalities	√	2.Working together with other partners to deliver objectives	√
3.To support children to have the best start in life	√	3. Involving those with an interest and seeking their views	√
4.To work in partnership to support people – individuals, families, carers, communities - to achieve their own well-being	√	4.Putting resources into preventing problems occurring or getting worse	√

5.To improve the safety and quality of all services	√	5.Considering impact on all well-being goals together and on other bodies	√
6.To respect people and their dignity	√		
7.To listen to people and learn from their experiences	√		

Special Measures Improvement Framework Theme/Expectation addressed by this paper

Governance and Leadership – to ensure compliance with the Mental Health Act and Mental Health (Wales) Measure.

http://www.wales.nhs.uk/sitesplus/861/page/81806

Equality Impact Assessment

Retrospective looking report therefore no EqIA required.

(If no EqIA carried out, please briefly explain why. EqIA is required where a change of policy or direction is envisaged and/or where budgets are being reduced. It is particularly important that the biggest, most strategic decisions are subjected to an EqIA – see http://howis.wales.nhs.uk/sitesplus/861/page/47193)

Under age 18 years – MHA Sec 136 Data

Data Report up to December 2018

YEAR	**No of Admissions for assessment**	**Average time spent in PoS**
January 2014 – December 2014	18 admissions age range 13-17	Unavailable
January 2015 – December 2015	15 admissions age range 13-17	11 hours
January 2016 – December 2016	38 admissions age range 12-17	11.8 hours
January 2017 – December 2017	52 admissions age range 12 – 17	13.25 hours
January 2018 – December 2018	22 admissions age range 13 - 17	9.57 hours

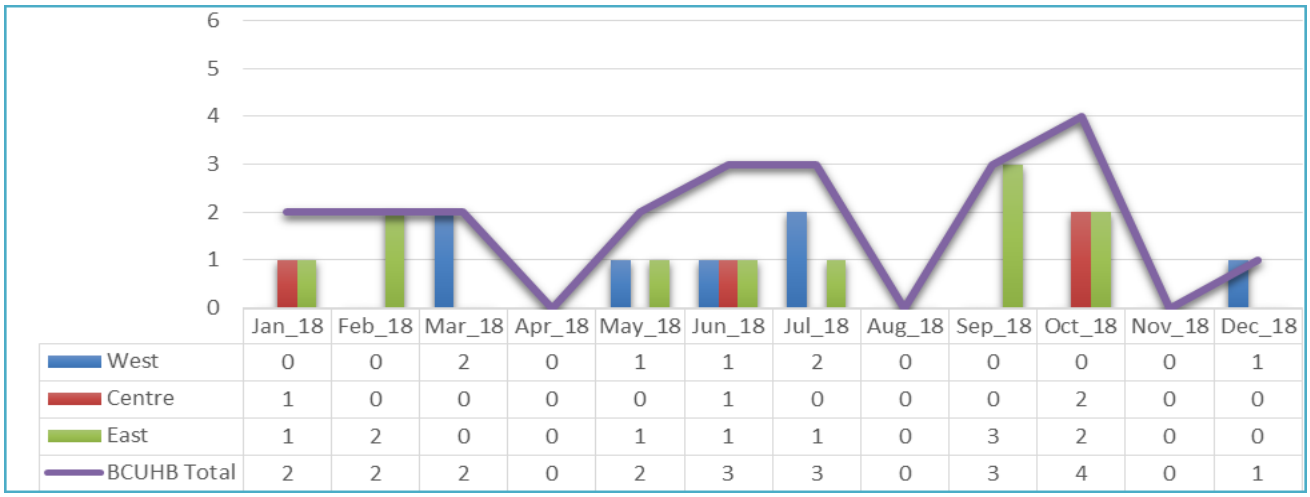
January 2018 – December 2018	**No Assessed**	**AGE OF CHILD**
17 admissions age range 13-17	0	12
Average time PoS – 9:06 hours	2	13
	3	14
	2	15
	4	16
	10	17
OUTCOME following assessment	**No**	
Returned Home	12	
Returned to Care Facility	4	
Admission Children's Ward	0	
Admission Adult Mental Health Ward	1	
Admission NWAS / CAMHS service	2	
Admission out of area placement	1	
Other (friends, Hotel, B&B, family)	2	Stayed within the 136 Suite until transfer

COUNTIES ORIGINATED FROM AND WHERE ASSESSED.

County	POS East	POS Central	POS West
Wrexham	8	1	
Flintshire			
Denbighshire	2	2	1
Conwy		1	2
Gwynedd			2
Ynys Mon			2
Other	1 x Shropshire		

Seventeen of the children originated from their own homes and five from care homes. All children from the care homes are Welsh residents.

Section 136 twelve month trend up to and including Dec 18



	Jan_18	Feb_18	Mar_18	Apr_18	May_18	Jun_18	Jul_18	Aug_18	Sep_18	Oct_18	Nov_18	Dec_18
West	0	0	2	0	1	1	2	0	0	0	0	1
Centre	1	0	0	0	0	1	0	0	0	2	0	0
East	1	2	0	0	1	1	1	0	3	2	0	0
BCUHB Total	2	2	2	0	2	3	3	0	3	4	0	1

Mental Health Act Committee

29th March 2019

Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

To improve health and provide excellent care

Report Title:	Mental Health Act Committee Performance Report
Report Author:	Hilary Owen, Head of Governance Wendy Lappin, Mental Health Act Manager
Responsible Director:	Andy Roach, Director of Mental Health and Learning Disabilities
Public or In Committee	Public
Purpose of Report:	To provide an update in relation to the (Mental Health Act and Mental Health Measure) Activity within the Division
Approval / Scrutiny Route Prior to Presentation:	Divisional Q-SEEL Meeting Divisional Directors Meeting Andy Roach, Director of Mental Health and Learning Disabilities
Governance issues / risks:	The Mental Health Act detentions fall into a category of being legal or illegal (invalid) which may result in challenges from legal representatives on behalf of their clients. All detentions are checked for validity and any invalid detentions are reported through Datix, investigated and escalated as appropriate.
Financial Implications:	The rise of MHA detentions has a financial implication, two doctors are required to assess for some of the sections and a conflict of interest between clinicians as specified under the MHA needs to be avoided. This results in the use of S12(2) approved doctors and those that work as GP's and outside of the Health Board. Legal advice is obtained in relation to some detentions and the use of the Mental Health Act to which there is no budget for.
Recommendation:	The committee is asked to note the report.

Health Board's Well-being Objectives *(indicate how this paper proposes alignment with the Health Board's Well Being objectives. Tick all that apply and expand within main report)*	√	**WFGA Sustainable Development Principle** *(Indicate how the paper/proposal has embedded and prioritised the sustainable development principle in its development. Describe how within the main body of the*	√

		report or if not indicate the reasons for this.)	
1.To improve physical, emotional and mental health and well-being for all	√	1.Balancing short term need with long term planning for the future	√
2.To target our resources to those with the greatest needs and reduce inequalities	√	2.Working together with other partners to deliver objectives	√
3.To support children to have the best start in life		3. Involving those with an interest and seeking their views	
4.To work in partnership to support people – individuals, families, carers, communities - to achieve their own well-being		4.Putting resources into preventing problems occurring or getting worse	√
5.To improve the safety and quality of all services	√	5.Considering impact on all well-being goals together and on other bodies	
6.To respect people and their dignity	√		
7.To listen to people and learn from their experiences			

Special Measures Improvement Framework Theme/Expectation addressed by this paper

Governance and Leadership – to ensure compliance with the Mental Health Act and Mental Health (Wales) Measure

http://www.wales.nhs.uk/sitesplus/861/page/81806

Equality Impact Assessment

Retrospective looking report therefore no EQIA

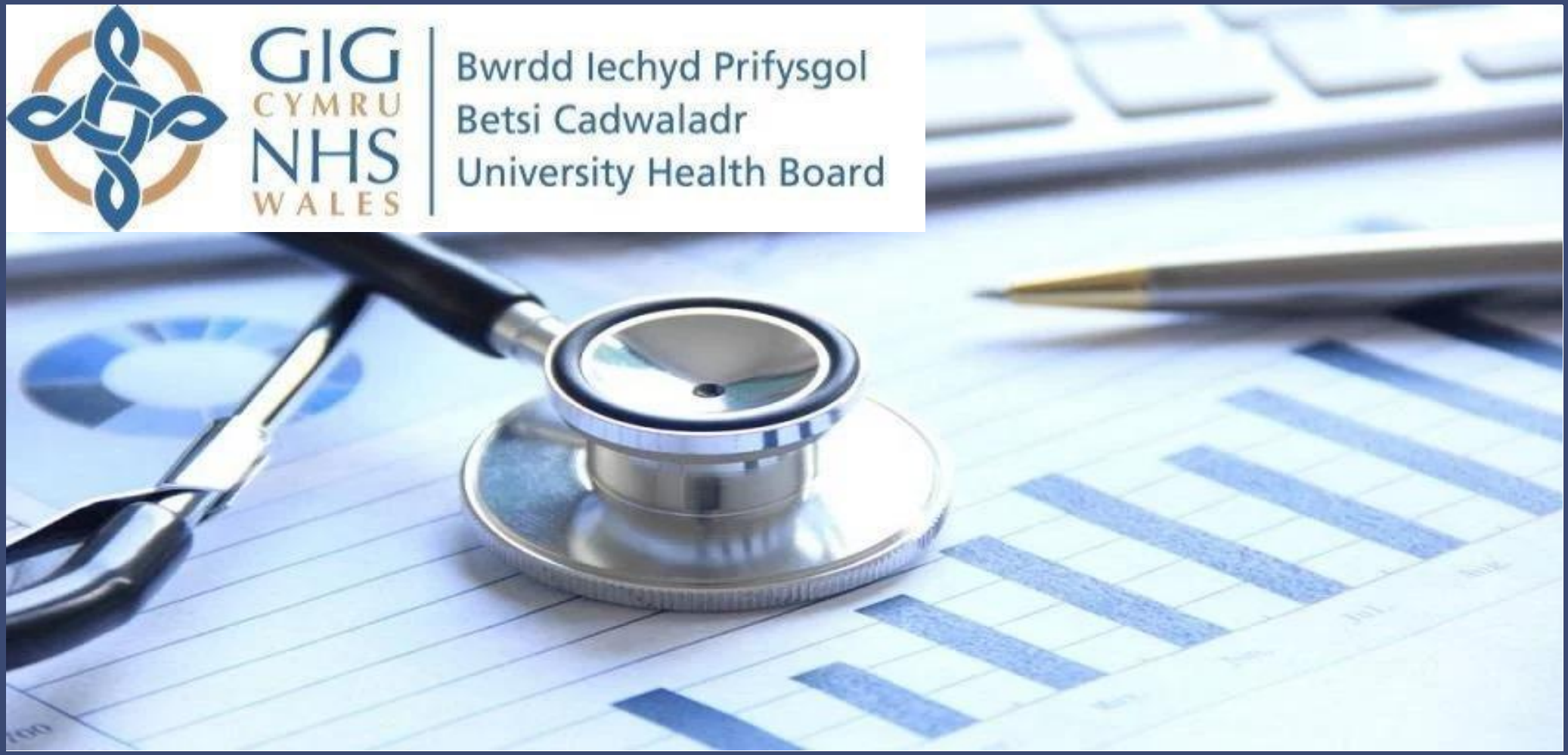
http://howis.wales.nhs.uk/sitesplus/861/page/47193)

Disclosure:
Betsi Cadwaladr University Health Board is the operational name of Betsi Cadwaladr University Local Health Board

Mental Health Act Committee Performance Report

GIG CYMRU NHS WALES

Bwrdd Iechyd Prifysgol
Betsi Cadwaladr
University Health Board



Mental Health Act Committee
Performance Report

December 2018

CONTENTS:

Report to Mental Health Act Committee

This report provides assurance to the Mental Health Act Committee of our compliance against key sections of the legislative requirements of the Mental Health Act 1983 as amended 2007. The report also includes an Appendix which details the exceptions being reported under the Mental Health Measure.

Seven Domains

We present performance to the committee using the 7 domain framework against which NHS Wales is measured. This report is consistent with the 7 domain performance reporting for our Finance and Performance Committee and Quality, Safety and Experience Committee. The Mental Health Act and Mental Health Measure committee are responsible for scrutinising the performance for Mental Health indicators under Timely Care and Individual Care.

Advisory Reports & Exception reports

Each report for the Mental Health Act will be presented as an advisory report.

Reports for the Mental Health Measure are consistent with the Exception report process, exception reports are included where performance is either worse than the required standard or the Board require sight of the actions being taken to maintain or improve performance. After we have achieved an indicator for three consecutive months, it will be stood down from exception reporting.

Advisory Report Definitions

Section 5(4) Nurses Holding Power (up to 6 hours): Criteria: "…the patient is suffering from mental disorder to such a degree that it is necessary for his health and safety or for the protection of others for him to be immediately restrained from leaving the hospital". Secondly the nurse must believe that "…it is not practicable to secure the immediate attendance of a practitioner or clinician for the purposes of furnishing a report under subsection (2)

Section 5(2) Doctors Holding Power (up to 72 hours): Criteria is: that an application for compulsory detention "ought to be made". Patient must be in-patient, can be used in general hospital.

Section 4: Admission for emergency (up to 72 hours): Criteria: "it is of urgent necessity for the patient to be admitted and detained under section 2" and that compliance with the provisions relating to application under that section "would involve undesirable delay"

Section 2: Admission for assessment (up to 28 days): Criteria needs to be met:
a) is suffering from mental disorder of a nature or degree which warrants the detention of the patient in a hospital for assessment (or for assessment followed by medical treatment) for at least a limited period;
b) ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons

Section 3: Admission of treatment (up to 6 months, renewable for 6 months, 12 monthly thereafter): Criteria
a) is suffering from mental disorder of a nature or degree which makes it appropriate for him/her to receive medical treatment in hospital;
b)it is necessary for the health and safety of the patient or for the protection of other persons that he/she should receive such treatment and it cannot be provided unless he is detained under this section;
c)appropriate medical treatment is available for him/her

Section 17A: Supervised Community Treatment, also referred to as a CTO – its duration is up to 6 months, renewable for 6 months and 12 months thereafter.

Section 17E: Recall – the recall can last for up to 72 hrs. The clinical team must decide to release from Recall, Revoke or Discharge

Section 17F: Revocation. Once a patient has been revoked, essentially the Section 3 comes back into force - which can last up to 6 months, renewable for 6 months, then 12 monthly thereafter.

Advisory Report Definitions

Section 135 Warrant to search and remove: Section 135(1) – warrant to enter and remove: Section 135(1) empowers a magistrate to authorize a police constable to remove a person lawfully from private premises to a place of safety. Section 135(2) – warrant to enter and take or retake. Section 135(2) concerns the taking into custody of patients who are unlawfully absent.

Section 136 Place of Safety (up to 24 hours): The powers of section 136 provide authority for a police officer who finds a person who appears to be suffering from mental disorder, in any place other than a private dwelling or the private garden or buildings associated with that place, to remove or keep a person at, a place of safety under section 136(1) or to take a person to a place of safety under section 136(3)

Section 35: Remand to hospital for report on accused's mental condition – for up to 28 days but can be extended to a maximum of 12 weeks.

Section 36: Remand of accused person to hospital – up to 28 days but duration will be set by the Court – maximum of 12 weeks.

Section 37: Hospital Order or Guardianship Order - up to 6 months, renewable for 6 months, 12 monthly thereafter
Section 37/41: Hospital Order with Restrictions – made with no time limit

Section 38: Interim Hospital Order – up to 12 weeks, but duration set by the Court – maximum 12 months

Section 47/49: Transfer of sentenced prisoners (including with restrictions)

Section 48/49: Transfer of other prisoners (including with restrictions) for urgent assessment

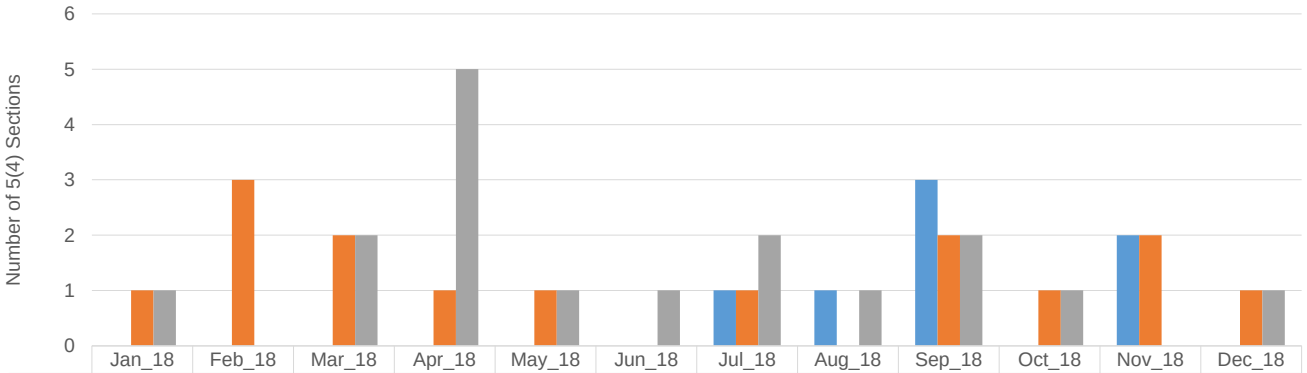
Section 62: Emergency Treatment of a detained patient regardless of section status

Rectifiable Errors: concerned with errors resulting from inaccurate recording, errors which can be rectified under Section 15 of the Act

Fundamentally Defective Errors: concerned with errors which cannot be rectified under section 15

Lapses of section: refers to sections that have come to the end of their time period. It is not good practice for sections to lapse and reasons are investigated.

Section 5(4) - BCUHB	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 5(4) during Quarter		Quarter 5(4) Sections
Section 5: Application in respect of patients already in hospital	2	4	↓	8	13	↓	10	1	Centre	4
								2	East	2
								2	West	2



	Jan_18	Feb_18	Mar_18	Apr_18	May_18	Jun_18	Jul_18	Aug_18	Sep_18	Oct_18	Nov_18	Dec_18
West	0	0	0	0	0	0	1	1	3	0	2	0
Centre	1	3	2	1	1	0	1	0	2	1	2	1
East	1	0	2	5	1	1	2	1	2	1	0	1

A Section 5(4) will be used if a staff nurse feels that it is necessary to detain a patient to await the arrival of a doctor for assessment. The 5(4) will be used if there are no doctors immediately available and the staff nurse feels this is in the best interest of the patient.

All 5(4) sections within this period were appropriate and were converted to a 5(2) within a short period.

LAPSES

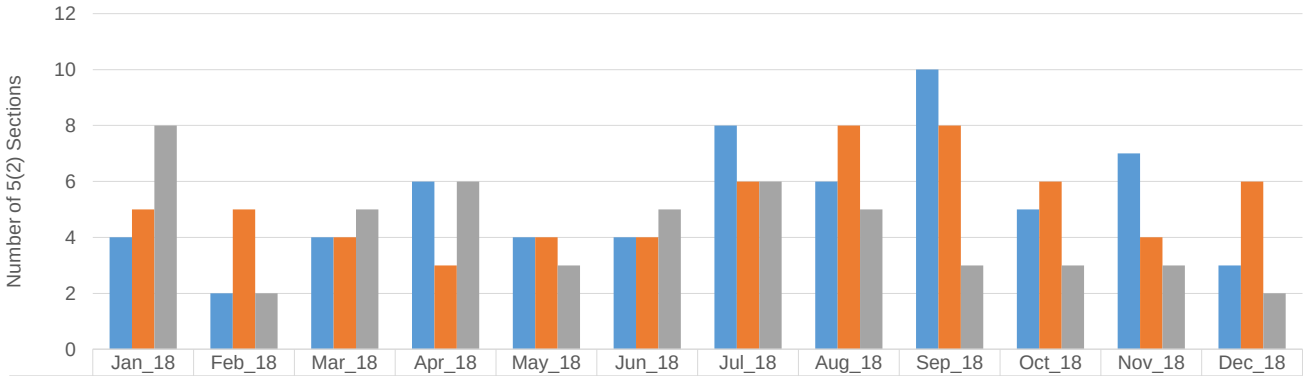
There were no lapses for this quarter.

WEST		
Month	**Duration (hh:mm)**	**Outcome**
Nov_18	01:55	Section 5(2)
Nov_18	00:42	Discharged

CENTRE		
Month	**Duration (hh:mm)**	**Outcome**
Oct_18	01:10	Section 5(2)
Nov_18	00:20	Section 5(2)
Nov_18	00:35	Section 5(2)
Dec_18	00:50	Section 5(2)

EAST		
Month	**Duration (hh:mm)**	**Outcome**
Oct_18	01:10	Section 5(2)
Dec_18	03:30	Section 5(2)

Section 5(2) - BCUHB	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 5(2) during Quarter		Quarter 5(4) Sections
Section 5: Application in respect of patients already in hospital	11	14	↓	39	60	↓	44	1	Centre	16
								2	West	15
								3	East	8



	Jan_18	Feb_18	Mar_18	Apr_18	May_18	Jun_18	Jul_18	Aug_18	Sep_18	Oct_18	Nov_18	Dec_18
West	4	2	4	6	4	4	8	6	10	5	7	3
Centre	5	5	4	3	4	4	6	8	8	6	4	6
East	8	2	5	6	3	5	6	5	3	3	3	2

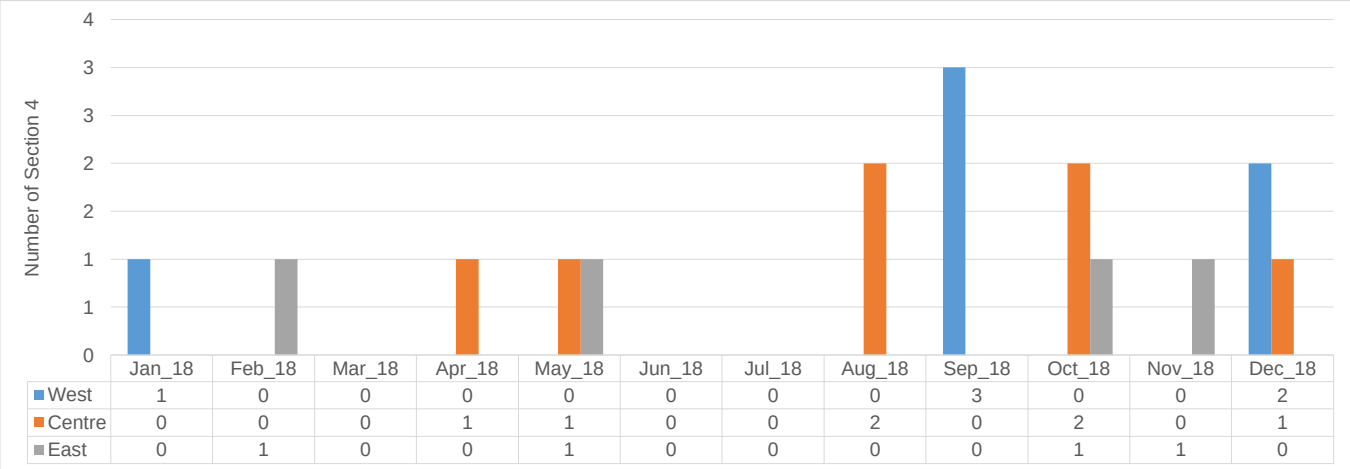
Section 5(2) Outcomes

	Oct 2018	Nov 2018	Dec 2018
Section 2:	4	4	2
Section 3:	3	5	4
Informal:	4	0	3
Lapsed:	1	0	0
Invalid:	0	0	0
Discharged:	4	3	2
Other:	0	0	0

A Section 5(2) on occasions will be enacted within the acute hospital wards, during this quarter there were none.

One Section 5(2) was left to lapse within the West. The patient was subsequently discharged.

Section 4 - BCUHB	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 4 during Quarter		Quarter Section 4
Section 4: Admission for assessment: Cases of emergency	3	1	↑	7	5	↑	4	1	Centre	3
								2	East	2
								2	West	2



	Jan_18	Feb_18	Mar_18	Apr_18	May_18	Jun_18	Jul_18	Aug_18	Sep_18	Oct_18	Nov_18	Dec_18
West	1	0	0	0	0	0	0	0	3	0	0	2
Centre	0	0	0	1	1	0	0	2	0	2	0	1
East	0	1	0	0	1	0	0	0	0	1	1	0

The use of section 4 is a relatively rare event and figures remain low.

Section 4 will be used in emergency situations where it is not possible to secure two doctors for a section 2 immediately and it is felt necessary for a persons protection to detain under a section of the Mental Health Act.

WEST

Month	Duration (hh:mm)	Outcome
Dec_18	24:30	Section 2
Dec_18	11:10	Section 2

CENTRE

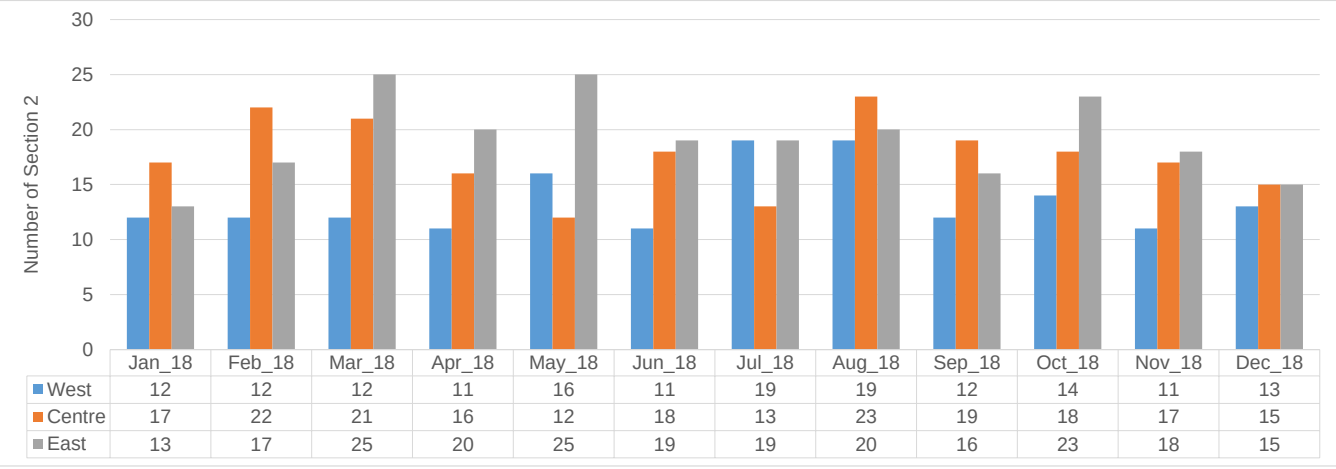
Month	Duration (hh:mm)	Outcome
Oct_18	01:35	Section 2
Oct_18	21:00	Section 2
Dec_18	03:00	Section 2

EAST

Month	Duration (hh:mm)	Outcome
Oct_18	11:45	Informal
Nov_18	01:10	Section 2

Advisory Report - Section 2

Section 2 - BCUHB	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 2 during Quarter		Quarter Section 2
Section 5: Admission for assessment	43	46	↓	144	160	↓	151	1	East	56
								2	Centre	50
								3	West	38



	Jan_18	Feb_18	Mar_18	Apr_18	May_18	Jun_18	Jul_18	Aug_18	Sep_18	Oct_18	Nov_18	Dec_18
West	12	12	12	11	16	11	19	19	12	14	11	13
Centre	17	22	21	16	12	18	13	23	19	18	17	15
East	13	17	25	20	25	19	19	20	16	23	18	15

* data is an as at position and is subject to change

Section 2 Outcomes

	Oct 2018	Nov 2018	Dec 2018
Section 3:	11	14	11
Informal:	22	13	18
Lapsed:	4	1	0
Pending:	0	0	0
Discharged:	12	9	9
Transferred:	19	6	13
Invalid and Other:	1	0	0

It is hard to interpret these figures in isolation. However it has to be noted that in the East there are more beds and these figures are on the basis of the applications as opposed to address of residence.

There were two under 18's placed on a Section 2 this quarter. These were within age appropirate settings and following S136 assessments.

EXCEPTIONS:

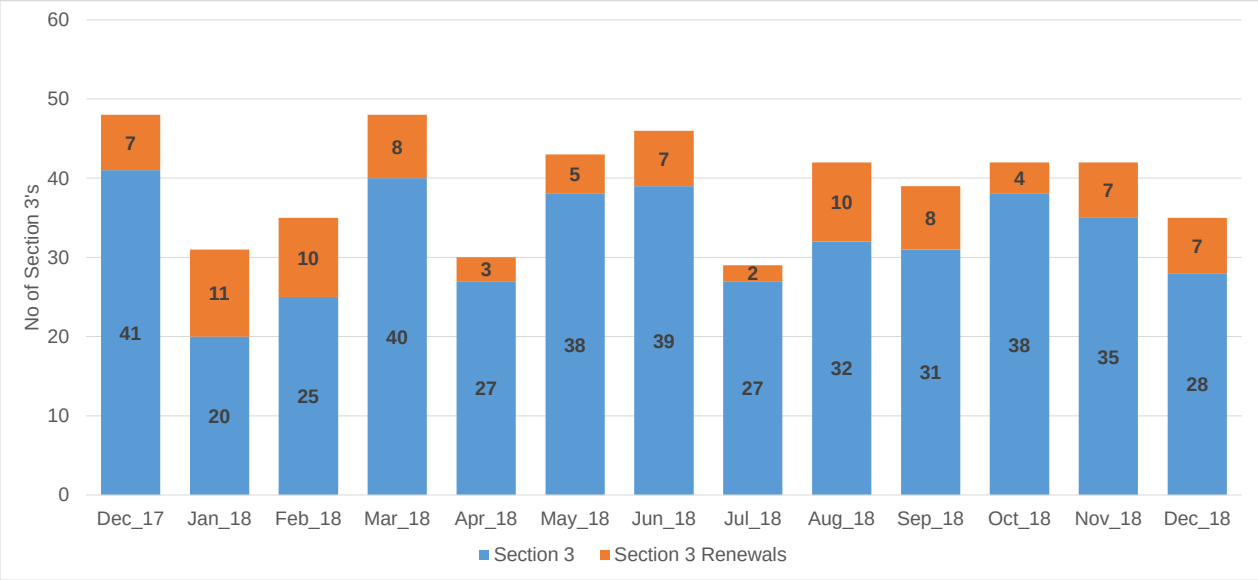
One section 2 was deemed Invalid within the West area.

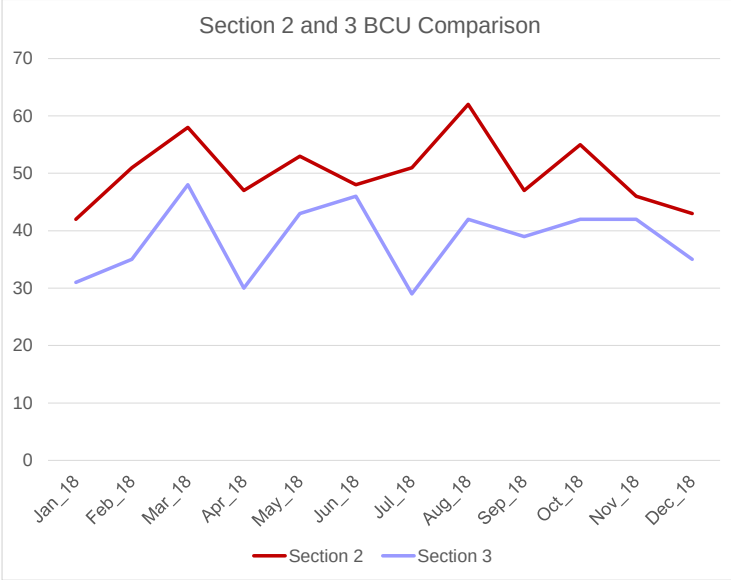
Within the Central area 4 section 2's lapsed. Two of these patients were subsequently assessed and placed on a section 3.

Within the East area 1 Section 2 lapsed, this patient was not detained further.

Advisory Report - Section 3

Section 3 - BCUHB	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 3 during Quarter		Quarter Section 3
Section 3 (Including Renewals): Admission for treatment	35	42	↓	119	110	↑	116	1	East	44
								2	Centre	38
								3	West	37





* data is an as at position and is subject to change

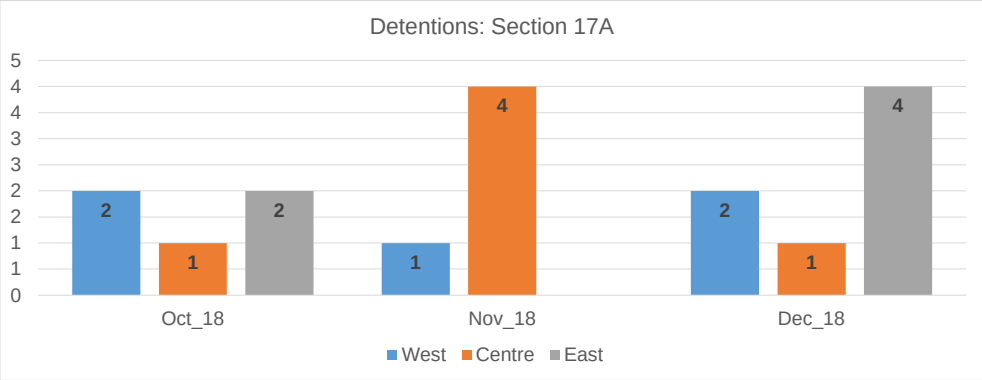
These numbers also include any renewal sections undertaken within the month. As with the data for section 2 it is hard to interpret these figures in isolation and prevoius months figures are prone to change due to admissions into the Health Board.

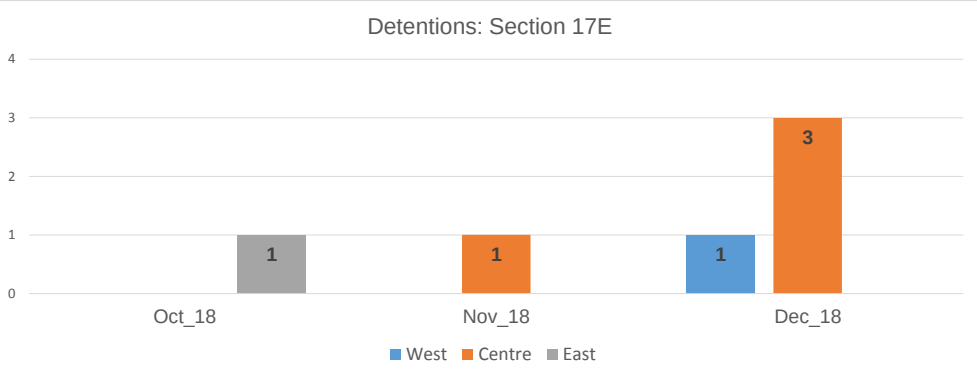
This quarter no under 18 year olds were placed on a Section 3.

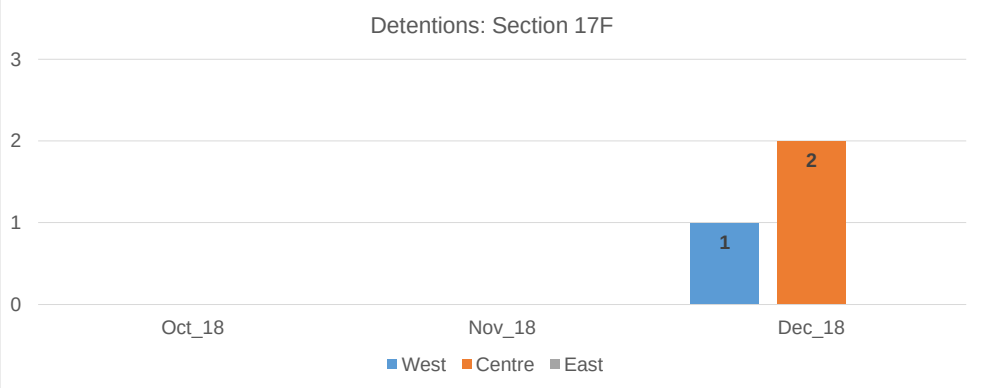
Advisory Report - Section 17A - F

Section 17 A-F - BCUHB	Latest Month	Previous Month	Monthly Trend
Section 17A (Including Renewals)-17F: Community Treatment Orders	14	6	↑

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 17 during Quarter		Quarter Section 17
26	27	↓	32	1	Centre	12
				2	East	7
				2	West	7







This quarterly data 17A shows the numbers of patients who are being placed on a CTO for the first time, as well as any renewals within the month.

The number of patients subject to a CTO at the end of December: West: 12, Central: 14 and East: 18.

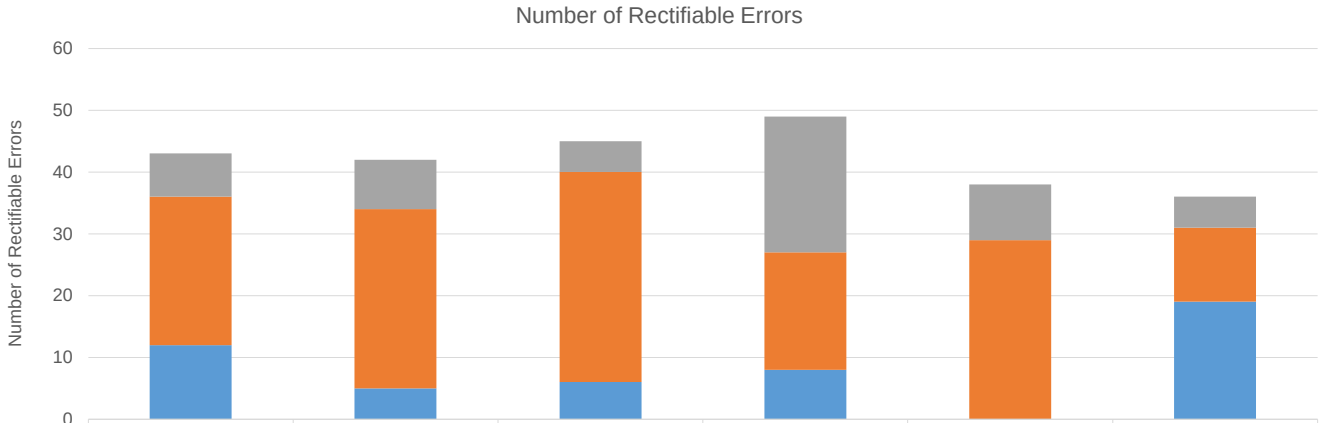
Three patients were discharged from their CTO , 2 within the West and 1 within the East.

Once CTO was found to be fundamentally defective this was a transfer into the Health Board.

Advisory Report - Mental Health Act Errors

Fundamental and Rectifiable Errors	Latest Month	Previous Month	Monthly Trend
Fundamental and Rectifiable Errors in line with Health Boards in Wales	36	40	↓

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Errors during Quarter		Quarter Errors
126	136	↓	118	1	Centre	61
				2	East	36
				3	West	29



	Jul_18	Aug_18	Sep_18	Oct_18	Nov_18	Dec_18
East	7	8	5	22	9	5
Centre	24	29	34	19	29	12
West	12	5	6	8	0	19

Rectifiable Errors

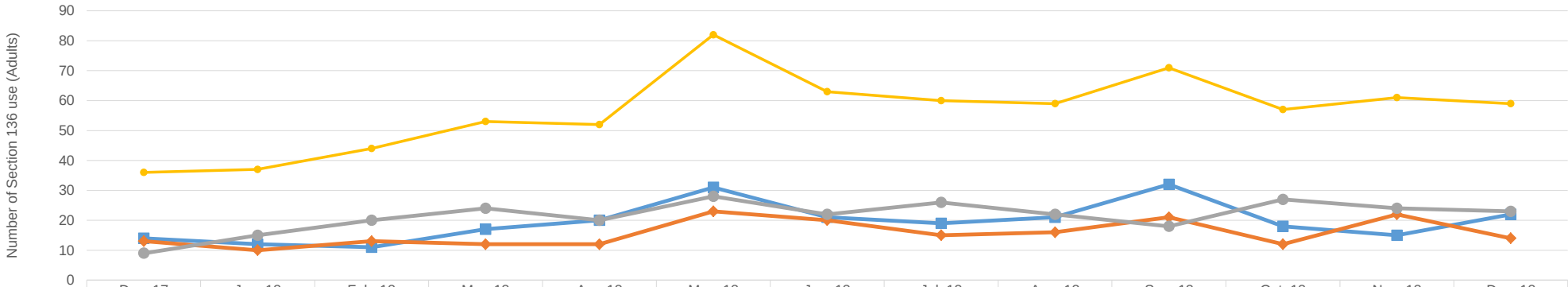
The number of rectifiable errors is gradually decreasing.

The Central area shows a higher number of errors for the majority of the months recorded. This may be due to their activity being higher throughout the report.

Within this period the Health Board has had two invalid sections.
1 x CTO - following transfer this was classed as fundamentally defective after scrutiny revealed that the preceeding Section 3 was not valid therefore rendering the CTO invalid.
1 x S2 - the medical recommendations for the Section 2 were 6 days apart medical recommendations can be 5 clear days apart maximum. The patient was subsequently reassessed and detained on a Section 3.

Lapses are noted throughout the report and amount to 4 x S2 and 1 x 5(2) in October and 1 x S2 in November.

Section 135 - 136	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of S.136 during Quarter		Quarter S.136 detentions
Section 135 and 136: Patient transfers to a place of safety (Adults)	59	61	↓	177	190	↓	175	1	East	74
								2	West	55
								3	Centre	48



	Dec_17	Jan_18	Feb_18	Mar_18	Apr_18	May_18	Jun_18	Jul_18	Aug_18	Sep_18	Oct_18	Nov_18	Dec_18
West	14	12	11	17	20	31	21	19	21	32	18	15	22
Centre	13	10	13	12	12	23	20	15	16	21	12	22	14
East	9	15	20	24	20	28	22	26	22	18	27	24	23
BCU	36	37	44	53	52	82	63	60	59	71	57	61	59

The data above does not include S135 or under 18's.

The trend for S136 for the last quarter appears to be on a downward turn although the total figures for 2016/17 = 669, 2017/18 = 664, to date the number of S136 detentions is 575 for this financial year, this will appear to indicate that if the trend continues 2018/19 will show a higher number of 136 detentions previously.

There was 1 x S135 assessment in the East this quarter resulting in a section 2 admission.

East - one S136 was granted the 12 hour extension due to the patient not being fit for assessment, this person was discharged with CMHT follow up.

There were two persons who were noted to be in Custody as the first place of safety one in the West and one in the East. Both were discharged.

Advisory Report - Section 135 and 136

Section 136	Latest Month	Previous Month	Monthly Trend
Section 136: Patient transfers to a place of safety (Adults)	59	61	↓

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)
177	190	↓	175

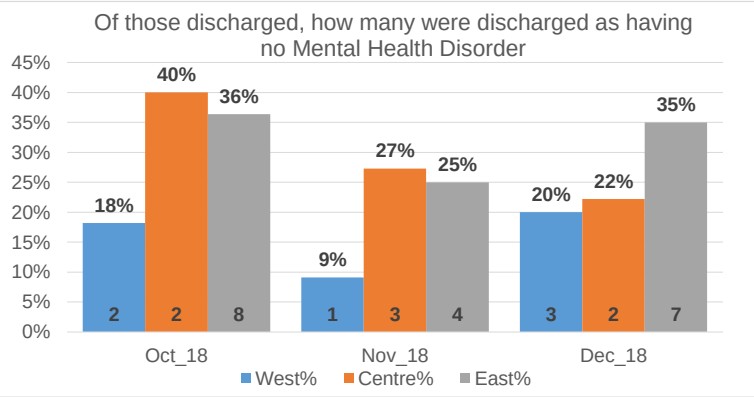
Area Rank by numbers of S.136 during Quarter		Quarter S.136 detentions
1	East	74
2	West	55
3	Centre	48

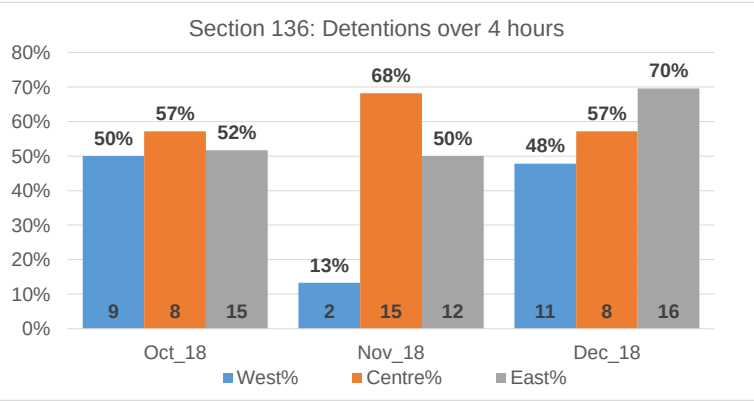
Section 136 Outcomes

	Oct 2018	Nov 2018	Dec 2018
Discharged:	38 62.30%	38 63.33%	44 73.33%
Informal Admission:	9 14.75%	14 23.33%	9 15.00%
Section 2:	12 19.67%	7 11.67%	7 11.67%
Section 3:	2 3.28%	1 1.67%	0 0.00%
Other:	0 0.00%	0 0.00%	0 0.00%

Section 136 - Known to Service

	Oct 2018	Nov 2018	Dec 2018
Yes	24	25	25
Yes (percentage)	41.38%	40.98%	41.67%





The data shows figures from outcomes recorded and whether a patient is known to service.

Whilst a large proportion of 136's are discharged those with no mental disorder alone tends to be around 20%.

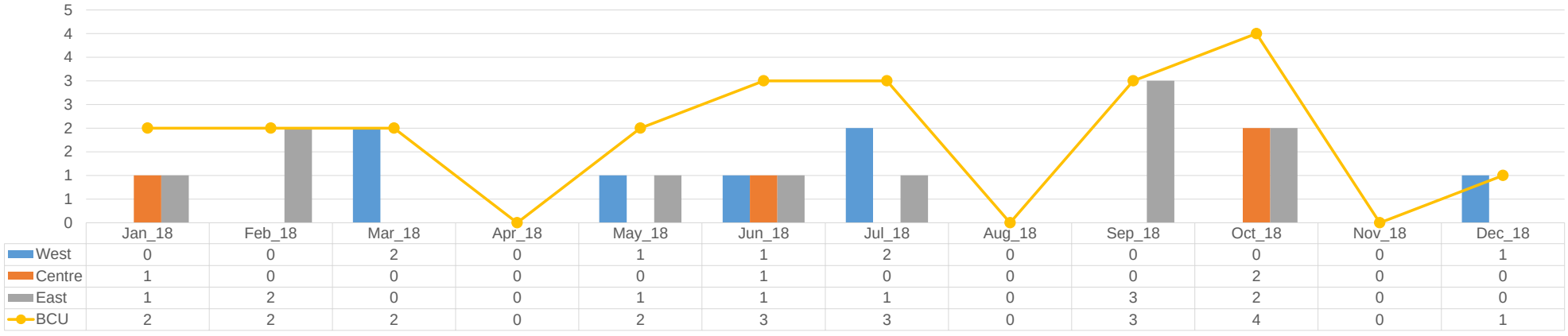
Total percentages for the months for those discharged with no mental disorder are:
October 19%
November 13%
December 20%

Total percentage for the months for detentions over 4 hours are:
October 52%
November 47%
December 56%

There has been one instance this quarter where a 12 hour extension was required.

Advisory Report - Section 136: Under 18 detentions

Section 135 - 136 (Under 18)	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of S.136 (<18) during Quarter		Quarter <18 S.136 use
Section 135 and 136: Patient transfers to a place of safety (<18)	1	0	↑	5	6	↓	6	1	Centre	2
								1	East	2
								3	West	1



	Jan_18	Feb_18	Mar_18	Apr_18	May_18	Jun_18	Jul_18	Aug_18	Sep_18	Oct_18	Nov_18	Dec_18
West	0	0	2	0	1	1	2	0	0	0	0	1
Centre	1	0	0	0	0	1	0	0	0	2	0	0
East	1	2	0	0	1	1	1	0	3	2	0	0
BCU	2	2	2	0	2	3	3	0	3	4	0	1

A total of 5 under 18's were assessed this quarter between the ages of 14 and 17 years.

Two assessments resulted in discharge and three in admissions, two under section 2 and one as informal to age appropriate beds. The section 2 admissions involved the s136 being recorded up to 24 hours due to bed allocation.

Quartely figures continue to record a decrease in under 18 assessments.

Advisory Report - Section 136: Under 18 Admissions

Month of Admission	Place of Assessment	Outcome	Assessing Clinician	Total Hours	Age
October	Heddfan	Admission	CAMHS	24:00:00	15
October	Ablett	Admission	CAMHS	03:00	16
October	Ablett	Admission	CAMHS	24:00:00	15
October	Heddfan	Discharged	CAMHS	09:20	17
December	Hergest	Discharged	CAMHS	04:00	14

Out of the 5 young persons assessed all originated from their own homes.

Three out of the five detentions were initiated out of hours.

The Assistant Area Directors of the CAMHS service are notified straight away if a young persons, 15 and under who is detained under a S136. Within hours the MHA office notify, out of hours the responsibility lies with the duty staff.

Average PoS hours: 12:52 hrs this is an increase on the previous quarter figures of (07:54 hrs) the 24 hour detentions will have a bearing on this.

Under 18's admitted to Adult Psychiatric Wards

There were two under 18's who stayed within the S136 suiter whist an appropriate bedf was being found. These young persons remained within the suite as this was deemed the most suitable place to meet their needs at the time.

Advisory Report - Forensic

Section	Jan 2018	Feb 2018	Mar 2018	Apr 2018	May 2018	Jun 2018	Jul 2018	Aug 2018	Sep 2018	Oct 2018	Nov 2018	Dec 2018
Section 35:	0	0	0	0	0	0	0	0	0	0	0	0
Section 37:	3	2	2	3	3	3	4	4	3	3	2	2
Section 37/41:	6	6	6	6	6	6	6	7	8	8	8	8
Section 38:	0	0	0	0	0	0	0	0	0	0	0	0
Section 47:	0	0	0	0	0	0	0	0	0	0	0	0
Section 47/49:	6	6	6	5	6	6	5	5	5	5	6	6
Section 48:	0	0	0	0	0	0	0	0	0	0	0	0
Section 48/49:	0	0	1	1	1	1	1	1	1	1	1	1
Section 3:	3	4	3	3	3	3	3	3	3	3	3	3
Informal:	0	0	0	0	0	0	0	0	0	0	0	0
Total:	18	18	18	18	19	19	19	20	20	20	20	20

Ty Llywelyn Medium Secure Unit is a 25 bedded all male facility. The nature of the forensic sections does not always generate rapid activity.

There are times when section 3 patients will be detained within the unit.

The unit is now fully functional and can accommodate 25 patients.

Advisory Report - Transfers

Total Transfers for the Quarter

	Oct 2018	Nov 2018	Dec 2018
Internal Transfers	29	9	14
External Transfers (Total)	3	6	7
External Transfers (In)	1	5	3
External Transfers (Out)	2	1	4

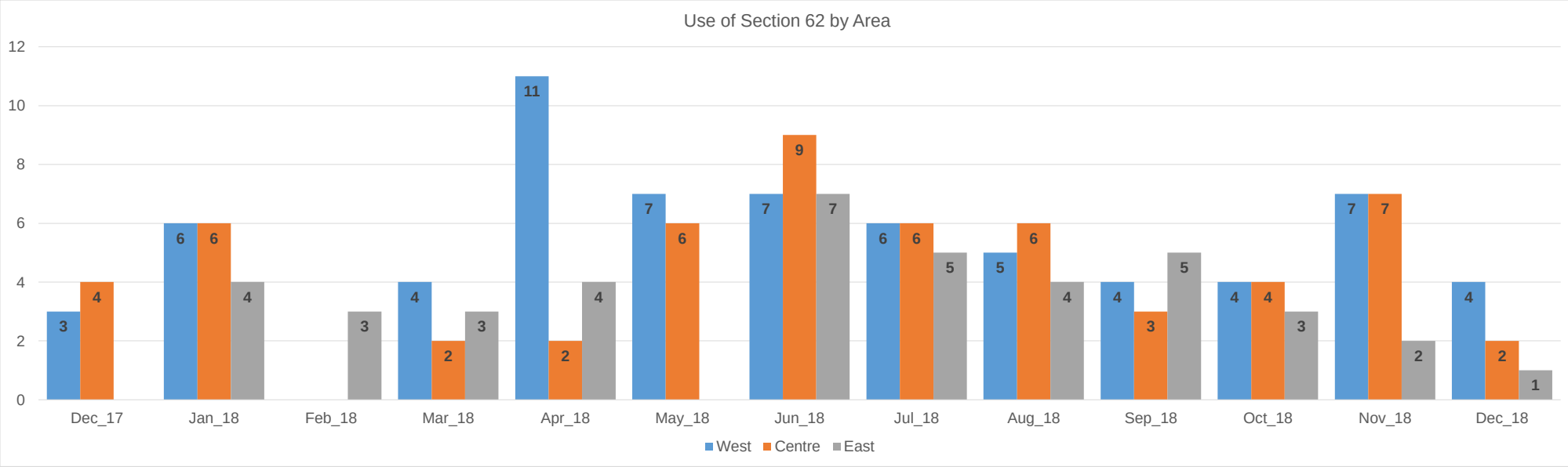
Internal Transfers
This data only includes detained patient transfers between BCU facilities, including the transfer of rehab patients which will be part of their patient pathway.

External Transfers
This data only includes detained patient transfers both in and out of BCU facilities. The majority will be facilities in England and will also include any complex cases requiring specialist service. Those repatriated are returning to their home area or transferring in for specialised care.

The table details IN - where the patient has come from and their local area and OUT where the patient has gone to.

Month	Transfers In
Oct_18	St Helens, Prescot (Gwynedd)
Nov_18	Potters Bar to NWAS (Wrexham)
Nov_18	HMP Altcouse (Conwy)
Nov_18	Delfryn to Carreg fawr (Conwy)
Nov_18	Warrington to Ablett (Denbighshire)
Nov_18	Cygnet to NWAS (Denbighshire)
Dec_18	Cygnet Bury to NWAS (Ynys Mon)
Dec_18	Breightmet Centre, Bolton (Flintshire)
Dec_18	Cygnet, Middlesex (Gwynedd)

Month	Transfers Out
Oct_18	admit to Cygnet Sheffield (Denbighshire)
Oct_18	Cygnet Hospital,, Sheffield (Denbighshire)
Nov_18	Clatterbridge Hospital (Repatriated)
Dec_18	Essex (Wrexham)
Dec_18	Pontypridd (Wrexham)
Dec_18	Bowmere, Chester (Repatriated)
Dec_18	Ysbyty Ystrad Fawrn Caerphilly (Repatriated)



Monitoring of section 62 is a requirement of the Code of Practice (25.38).

Reason for S62 use:
Medication changes
Patient no longer able to give consent to treatment or refusing consent
ECT
Awaiting a Second Opinion Appointed Doctor (SOAD) to arrive and three month consent to treatment has expired.

Integrated Quality and Performance Report – Quality, Safety & Experience Committee

GIG CYMRU NHS WALES

Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

February 2019

About this Report

This **Integrated Quality & Performance Report** is intended to provide a clear view of current performance against a selected number of **Key Performance Indicators (KPI)** that have been grouped together to triangulate information. This report should be used to inform decisions such as escalation and de-escalation of measures and areas of focus and as such the resulting Actions should be recorded and disseminated accordingly using the '**Outcomes & Actions**' sheet provided.

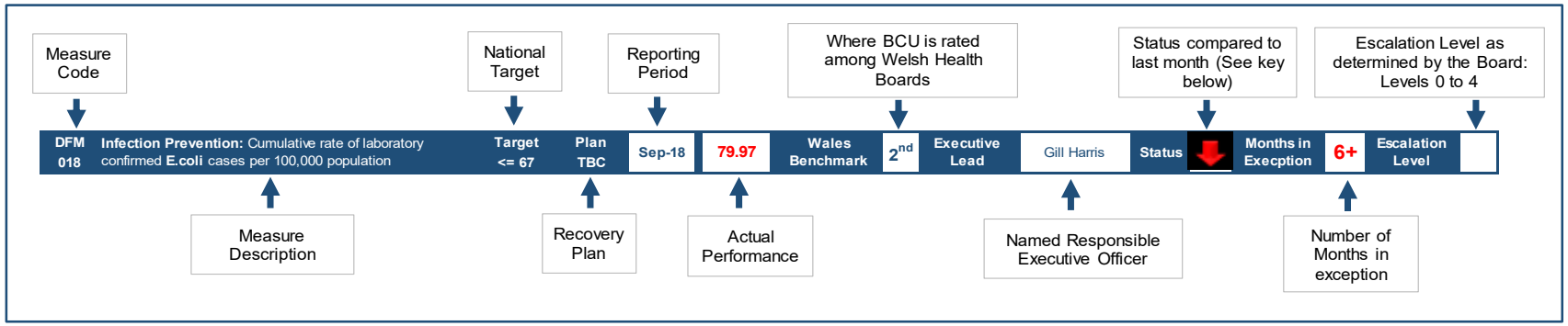
Escalated Exception Reports

When performance on a measure is worse than expected, the Lead for that measure is asked to provide an exception report to assure the relevant Committee that a) that they have a plan and set of actions in place to improve performance, b) that there are measurable outcomes aligned to those actions and c) that they have a defined timeline/ deadline for when performance will be 'back on track'. Although these are normally scrutinised by Quality & Safety or Finance & Performance Committees, there may be instances where they need to be 'escalated' to the Board. These will be included within the relevant Chapter on an 'as-required' basis.

Statistical Process Control Charts (SPC)

Where possible SPC charts are used to present performance data. This will assist with tracking performance over time, identifying unwarranted trends and outliers and fostering objective discussions rather than reacting to 'point-in-time' data.

Description of the KPI bar Components:



Status Key:

Achieved & Improved	↑	Achieved but Worse	↓	Achieved Static	→
Not Achieved Static	←	Not Achived but Improved	↑	Not Achieved Worse	↓

Integrated Quality and Performance Report

Quality, Safety & Experience Committee Version

February 2019

Executive Summary

Of the 50 Measures reported under the remit of the Quality, Safety & Experience (QSE) Committee, performance has improved against 29, remains static for 6 and is worse for 15 in comparison to the last report.

Chapter	Better	Worse	Same
Quality	16	7	2
Infection control	3	3	2
Immunisation	6	1	1
Mental Health	3	3	1
Primary Care	1	1	0
Total	**29**	**15**	**6**

Quality: The Health Board has improved performance against 16 of the 25 measures within the Quality chapter. Improvements include a significant improvement in the number of Concerns replied to within 30 days, continued improvement in Clinical Coding and the achievement of all targets regarding research. However improvements are required with regards the number of incidents assured within agreed timeframes and in reducing the number of Healthcare Acquired Pressure Ulcers (HAPU).

Infection Control: The Health Board is the best performing in Wales with regards reducing S.Aureus infections, and 2nd best for reducing E.Coli infections. However, at 4th in Wales in terms of C.Difficile, there is still room for improvement.

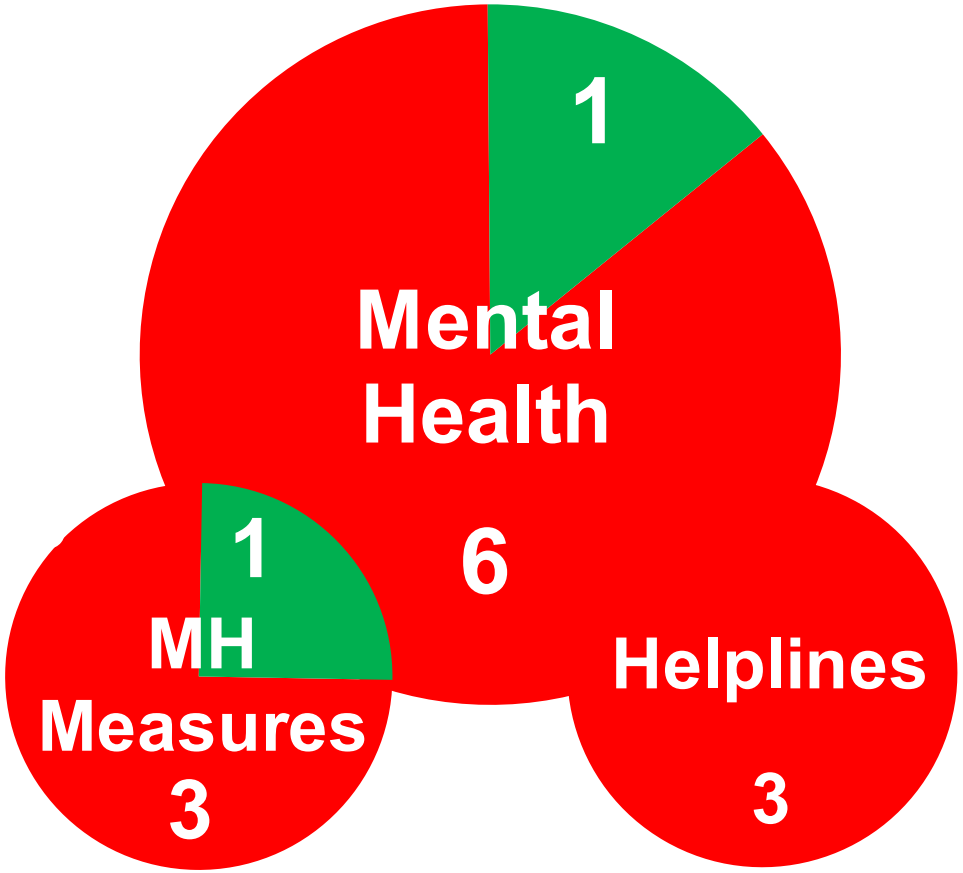
Prevention: The Health Board is the best in Wales with regards Children's Immunisations, being the only Health Board to achieve the 95% rate for Hexavalent 6 in 1 measure, and achieved the highest rate of MMR vaccines. Furthermore, the Betsi Cadwaladr is the best performing Health Board in Wales in terms of Flu Vaccinations for Over 65's, Under 65's at risk groups and for pregnant women.

Mental Health: Performance against the Assessment and Treatment within 28 Days Measures in both Adult Mental Health and Child & Adolescent Mental Health Services is worse in January 2019 with particular concern regarding patients beginning treatment within 28 days at 56.80% and 24.50% respectively.

Primary Care:
Performance against the Number of GP Practices open core hours has significantly improved. And Although the rate of GP practices open in the evenings has fallen, the Health Board is no longer in Special Measures regarding these measures.

Chapter 4 - Summary

Mental Health



Measure	Status	(Target)
MHM1a - Assessments within 28 Days	65.20%	>= 80%
MHM1b - Therapy within 28 Days	48.80%	>= 80%
MHM2 - Care Treatment Plans (CTP)	89.90%	>= 95%
MHM3 - Copy of Agreed plan within 10 Days	100%	100%
Helplines: CALL	230.5	Improve
Helplines: DAN	7.0	Improve
Helplines: Dementia	61.0	Improve

Chapter 4 – Mental Health

Assessment / Therapy within 28 days (Adult)

LM 074A	% of assessment by the LPMHSS undertaken within 28 days of the date of referral: Adult	Target >= 80%	Plan	Jan-19	64.80%	Wales Benchmark	N/A	Executive Lead	Andy Roach	Status	↓	Months in Exception	6+	Escalation Level	
LM 075A	% of therapeutic interventions started within 28 days following an assessment by LPMHSS: Adult	Target >= 80%	Plan	Jan-19	56.80%	Wales Benchmark	N/A	Executive Lead	Andy Roach	Status	↓	Months in Exception	6+	Escalation Level	

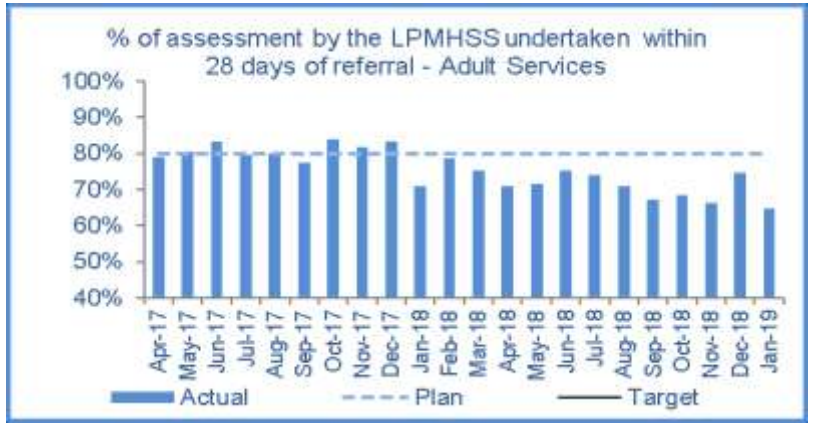
Actions: Patients are treated in turn has been widely adopted which has impacted on performance and is clinically the right action for patients

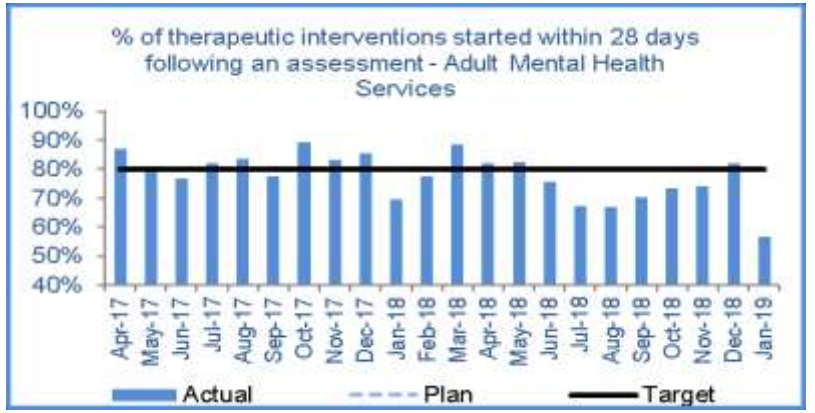
- Timely weekly reporting direct to teams
- MHM Lead(s) supporting allocated area to increase focus on specific issues / actions plan
- Regular and timely data cleansing & validation
- Closer monitoring & scrutiny of referral activity
- Increased Senior Manager focus & support
- Clinical & Social care staff deployed to focus on areas performing below target
- Exploring other opportunities to respond to demand
- STR workers are now in post and working through the interventions backlog identifying patients who still require interventions

Outcomes: Further education

- Correct & validated information
- Teams timely informed and engaged
- Decreased waiting times
- Recruitment

Timelines: Whilst the Division expects to meet the target, the deep dive interventions in relation to the percentage of patients who are assessed and discharged with no therapeutic intervention; means the solution to target achievement is a complete service transformation for this identified group. Timescales will be agreed dependant on pilot opportunities with Primary Care. The Division have twinned with Cardiff & Vale who have already progressed this approach.





Integrated Quality and Performance Report

Quality, Safety & Experience Committee Version

February 2019

Chapter 4 – Mental Health

Assessment/ Therapy within 28 days (CAMHS)

LM 074B	% of assessment by the LPMHSS undertaken within 28 days of the date of referral: CAMHS	Target >= 80%	Plan	Jan-19	68.50%	Wales Benchmark	N/A	Executive Lead	Andy Roach	Status	↓	Months in Exception	6+	Escalation Level	
LM 075B	% of therapeutic interventions started within 28 days following an assessment by LPMHSS: CAMHS	Target >= 80%	Plan	Jan-19	24.50%	Wales Benchmark	N/A	Executive Lead	Andy Roach	Status	↓	Months in Exception	6+	Escalation Level	

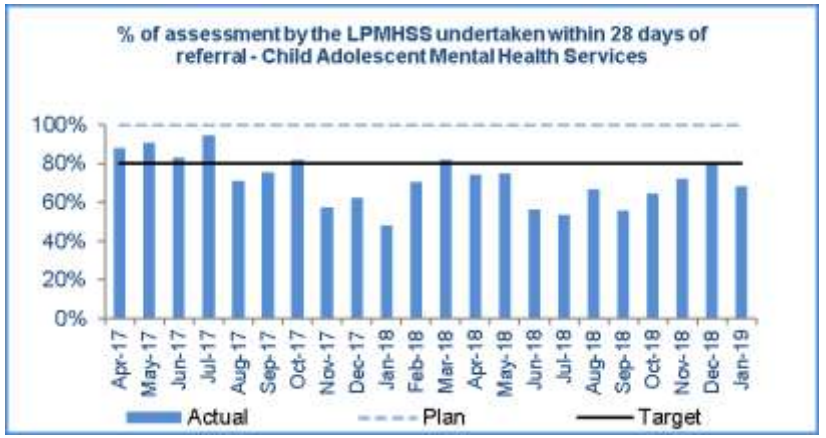
West – Assessments: 20 within 28 days (91%), Therapy: 5 within 28 days (22%)
Conwy – Assessments: 3 within 28 days (19%), Therapy: 7 within 28 days (64%)
Denbighshire Assessments: 2 within 28 days (20%), Therapy: 8 within 28 days (47%)
Flintshire – Assessments: 17 within 28 days (81%), Therapy: 1 within 28 days (3%)
Wrexham – Assessments 32 within 28 days (82%) Therapy: 6 within 28 days (21%)

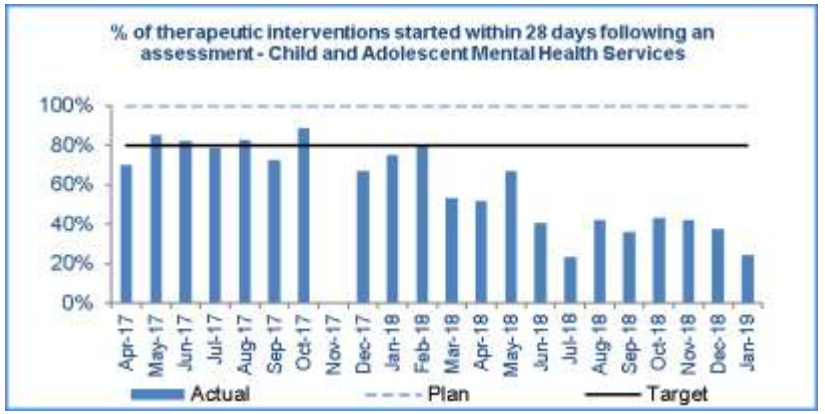
Actions:

- Weekly demand and capacity meetings being held.
- All urgent referrals are assessed within 12 – 24 hours, target is 48 hours.
- Recruitment to vacancies including reconfiguring the workforce with WOD support to create different posts
- Management of long term sickness due to serious illness in central area
- Trajectories produced for each team
- Non-recurrent funding secured with agency staff appointed across the teams
- Funding secured as part of Local Authority Crisis bid
- Recurrent Psychological Therapies funding secured – training being arranged
- Refresh of Crisis bid to be undertaken and submitted to Welsh Government for 2019/20 funding

Timelines Based on current demand and current/known capacity:

- West: Assessment targets will be maintained. Therapy targets will be met in April 2019
- Central: Assessment targets and Therapy targets will require recruitment to the vacancies, cover for sickness and an additional investment of 6 WTE to meet the current demand during 2019.
- East: Assessment targets will be maintained, Therapy targets will be met in March 2019. Forecasts assume no significant increases in demand or reduction in capacity.





Integrated Quality and Performance Report

Quality, Safety & Experience Committee Version

February 2019

Chapter 4 – Mental Health Care Treatment Plan

DFM 085	% of LHB residents (all ages) to have a valid CTP completed at the end of each month	Target >= 90%	Plan 89.7%	Jan-19	89.90%	Wales Benchmark	5th	Executive Lead	Andy Roach	Status	↑	Months in Exception	6+	Escalation Level	

Actions:

Detailed & timely reports disseminated to teams and individual care coordinators.
The Mental Health Measure Leads are aligned to local areas to improve performance and overall quality of services to patients.
Regular data cleansing & caseload validation
Close and regular monitoring of activity and compliance rates
Developed and implemented local action plans to improve targets.

Outcomes

Further education
Correct & validated information
Teams informed and engaged

Timelines

With sustained focus, the Division expects to be back on track Q1.

Chapter 4 – Mental Health Helplines

DFM 082	Number of mental health calls to the 'CALL' helpline	Target Improve	Plan Improve	Qtr3 18/19	230.50	Wales Benchmark	2nd	Executive Lead	Andy Roach	Status	↑	Months in Exception	6+	Escalation Level		
DFM 083	Number of calls relating to dementia to the 'Dementia' helpline	Target Improve	Plan Improve	Qtr3 18/19	61.00	Wales Benchmark	1st	Executive Lead	Andy Roach	Status	↑	Months in Exception	6+	Escalation Level		
DFM 084	Number of calls relating to drugs and alcohol to the 'DAN 24/7' helpline	Target Improve	Plan Improve	Qtr3 18/19	7.00	Wales Benchmark	1st	Executive Lead	Andy Roach	Status	↓	Months in Exception	6+	Escalation Level		

A variety of Promotional events have occurred during Q3 to increase the usage of the helplines. This has included attendance at Health awareness events, use of social media, working with Capital FM radio and Filming with ITV Wales in a barber shop (LL19 Barbers) about their work with men and mental health and the ICAN work. A new shift manager has also been appointed , so more events can be attended thus increasing awareness of all the helplines and the DAN mobile van, which has a digital advertisement of the DAN & C.A.L.L. Helplines travels throughout various locations in Wales to promote the helpline services

Mental Health Act Committee *29 March 2019*	GIG CYMRU NHS WALES Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board ***To improve health and provide excellent care***

Report Title:	*Update on the approval functions of Approved Clinicians & section 12(2) Doctors in Wales*
Report Author:	*Heulwen Hughes, All Wales Approvals Manager for Approved Clinicians and section 12(2) Doctors*
Responsible Director:	*Dr Evan Moore, Executive Medical Director*
Public or In Committee	*Public*
Purpose of Report:	To provide an update on the arrangements and service developments for the approval and re-approval of Approved Clinicians and section 12(2) Doctors in Wales. Additions and removals to the all Wales registers of Approved Clinicians and section 12(2) Doctors (due to the timing of the Committee meeting, the report will contain information from the previous month).
Approval / Scrutiny Route Prior to Presentation:	The report has been scrutinised by the Medical Director prior to submitting to the Committee.
Governance issues / risks:	*Ensuring the All Wales process is being implemented.*
Financial Implications:	
Recommendation:	To note the arrangements for approval and re-approval of Approved Clinicians and section 12(2) Doctors in Wales.

Health Board's Well-being Objectives *(indicate how this paper proposes alignment with the Health Board's Well Being objectives. Tick all that apply and expand within main report)*	√	**WFGA Sustainable Development Principle** *(Indicate how the paper/proposal has embedded and prioritised the sustainable development principle in its development. Describe how within the main body of the report or if not indicate the reasons for this.)*	√
1.To improve physical, emotional and mental health and well-being for all	√	1.Balancing short term need with long term planning for the future	
2.To target our resources to those with the greatest needs and reduce inequalities		2.Working together with other partners to deliver objectives	

3.To support children to have the best start in life		3. Involving those with an interest and seeking their views	
4.To work in partnership to support people – individuals, families, carers, communities - to achieve their own well-being		4.Putting resources into preventing problems occurring or getting worse	
5.To improve the safety and quality of all services		5.Considering impact on all well-being goals together and on other bodies	
6.To respect people and their dignity			
7.To listen to people and learn from their experiences			

Special Measures Improvement Framework Theme/Expectation addressed by this paper

http://www.wales.nhs.uk/sitesplus/861/page/81806

Equality Impact Assessment

(If no EqIA carried out, please briefly explain why. EqIA is required where a change of policy or direction is envisaged and/or where budgets are being reduced. It is particularly important that the biggest, most strategic decisions are subjected to an EqIA – see http://howis.wales.nhs.uk/sitesplus/861/page/47193)

Update on the Approval Functions of Approved Clinicians and Section 12(2) Doctors in Wales 15 November – 4 March 2019

Situation

Betsi Cadwaladr University Health Board is responsible for initial approval, re-approval, suspension and termination of Approved Clinicians and section 12(2) Doctors in Wales.

Background

The change introduced to the Mental Health Act 1983 was the abolishing of Responsible Medical Officers (RMOs) and Community Responsible Medical Officers (CRMOs) and the introduction of Approved/Responsible Clinicians (ACs and RCs) in their place.

The Minister for Health and Social Services agreed that as of the 3rd November 2008 Wrexham Local Health Board (LHB) would act as the Approval Body for Approved Clinicians and section 12(2) Doctors on behalf of the LHBs in Wales. The transfer of function from Wrexham Local Health Board to Betsi Cadwaladr University Health Board took place on the 1st October 2009.

Service Developments

New web-based MHA Register for Wales

The feedback at the Department of Health National Reference Group (NRG), in respect of how the database is working in England, was discussed at the last panel meeting. The NRG had reported the use was minimal and was not adding the value they had hoped and were disappointed in the developments received from LAB Lateral. The All Wales Approval Panel were adamant that local records were completely up to date, and supported the local service provision.

In terms of assuring complete accuracy of information, a review of the absolute value of progressing a National Database in Wales is being undertaken

The Approval Team has contacted the Mental Health Act Managers from across Wales with regards to how a National Database would benefit their teams. Just five responses were received from a possible seventeen.

The Approval Team have also contacted and are in liaison with NWIS to look into further developing the Microsoft Access database that is already in use. A meeting with NWIS is to take place within the next couple of months.

Arrangements for Approval of Approved in Wales

Following the introduction of the new approval process, the Approval Team have highlighted to BCUHB Medical Staffing, issues in relation to employing locum psychiatrists who are not AC approved in Wales and who are not already AC approved in England and aren't on the Specialist Register of the General Medical

Council. Due to the new approval process, such psychiatrists would be required to submit a portfolio of evidence in order to become AC approved in Wales. Compiling a portfolio can take approximately six months to complete. Heulwen will be meeting with the All Wales Mental Health Act Administrators' Forum in April 2019 and will highlight this issue.

Approved Clinician/section 12(2) Induction and Refresher Training

The next induction/refresher training will take place from 11th – 13th June 2019 in Newport, South Wales. Training dates for the remainder of 2019 have been secured and venues booked.

Additions and Removals to the all Wales registers of Approved Clinicians and section 12(2) Doctors 29th August – 14th November 2018

Approved Clinicians (ACs)

New Applications Received	**7**
Number of applications from professions other than Psychiatrists	
Mental Health/Learning Disability Nurse	0
Social Worker	0

Occupational Therapist	0
Psychologist	0
Number of applications approved	7
Number of ACs already approved in England	4
Number of applications with panel	0
Number of applications not approved	0
Re-approval Applications Received (5 Yearly)	**4**
Number of applications re-approved	2
Number of applications with panel	2
Number of applications pending awaiting further evidence	0
Number of applications not approved	0
Number of ACs reinstated following suspension	**1**
Number of re-approvals which have come to an end	10
Expired	4
Retirement	0
No longer working in Wales	5
No longer registered with professional body	1
AC requested	0
Registered without a licence to practise	0
Total Number of Approved Clinicians on Register (Includes re-approvals)	**398**

Section 12(2) Doctors

Number of Applications Received:	**19**
New Applications Received	**12**
Applications from GPs	1
Applications from Psychiatrists	11

Application from Forensic Medical Examiner	0
Re-approval Applications (5 years)	**6**
Applications from GPs	2
Applications from Psychiatrists	4
Applications from Forensic Medical Examiners	0
Number of Applications with Panel	**1**
Transferred from AC register	**0**
Number of Approvals which have come to an end:	**4**
Expired	1
Become an Approved Clinician	2
No longer working in Wales	0
No longer registered	1
Registered without a licence to practice	0
Retired	0
Under Police Investigation	0
RIP	0
Suspended from Medical Practitioners List	0
Total Number of S12(2) Doctors currently approved (Includes re-approvals)	**151**

Mental Health Act Committee *29 March 2019*	Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board ***To improve health and provide excellent care***

Report Title:	***Deprivation of Liberty Safeguards (DoLS) Update Report***
Report Author:	Chris Pearson, Safeguarding Specialist Practitioner /DoLS Manager
Responsible Director:	Gill Harris, Executive Director of Nursing and Midwifery
Public or In Committee	*Public*
Purpose of Report:	The DoLS Supervisory Body are accountable to report all data relating to deprivation because patients are detained in hospital under statutory legislation. The report also provides a wider perspective on the recruitment and training of Best Interest Assessors (BIA); Supervisory Body functions and responsibilities; the provision of training, advice and support delivered to BCUHB staff.
Approval / Scrutiny Route Prior to Presentation:	This is a standing item for the MHA Committee that requires an oversight of DoLS and its activity and relationship to the use of the Mental Health Act 1983 (as amended 2007) and training and development for staff in mental health settings.
Governance issues / risks:	DoLS activity and issue of risks and mitigating factors are addressed within the governance framework of the Area Safeguarding Forums; MH/LD Safeguarding Forum; Consent, Capacity Strategic Working Group; Safeguarding Performance and Governance Group; Quality and Safety Group. The Mental Health Act Committee report on DoLS is shared with these groups given there is an interrelationship and interface with DoLS, Mental Capacity Act and the Mental Health Act 1983 and related Codes of Practice..
Financial Implications:	Not applicable
Recommendation:	The Committee is asked to note the content of the report

Health Board's Well-being Objectives *(indicate how this paper proposes alignment with the Health Board's Well Being objectives. Tick all that apply and expand within main report)*	√	**WFGA Sustainable Development Principle** *(Indicate how the paper/proposal has embedded and prioritised the sustainable development principle in its development. Describe how within the main body of the report or if not indicate the reasons for this.)*	√
1.To improve physical, emotional and mental health and well-being for all	√	1.Balancing short term need with long term planning for the future	√
2.To target our resources to those with the greatest needs and reduce inequalities	√	2.Working together with other partners to deliver objectives	√

3.To support children to have the best start in life		3. Involving those with an interest and seeking their views	
4.To work in partnership to support people – individuals, families, carers, communities - to achieve their own well-being	√	4.Putting resources into preventing problems occurring or getting worse	√
5.To improve the safety and quality of all services	√	5.Considering impact on all well-being goals together and on other bodies	√
6.To respect people and their dignity	√		
7.To listen to people and learn from their experiences	√		

Special Measures Improvement Framework Theme/Expectation addressed by this paper

http://www.wales.nhs.uk/sitesplus/861/page/81806

Equality Impact Assessment

(If no EqIA carried out, please briefly explain why. EqIA is required where a change of policy or direction is envisaged and/or where budgets are being reduced. It is particularly important that the biggest, most strategic decisions are subjected to an EqIA – see http://howis.wales.nhs.uk/sitesplus/861/page/47193)

Disclosure:
Betsi Cadwaladr University Health Board is the operational name of Betsi Cadwaladr University Local Health Board

Deprivation of Liberty Safeguards (DoLS) Update Report

1. Purpose of Report

1.1 The report provides Quarter 3 update on the DoLS data. The report also identifies current challenges of capacity and demand of DoLS applications and any mitigating actions; the recruitment and training of Best Interest Assessors (BIA); and challenges to the role and functions of the Supervisory Body. It highlights the provision of training to health board staff and the interface between mental capacity, DoLS and the Mental Health Act 1983.

2. Introduction/Context

2.1 The Deprivation of Liberty Safeguards was introduced in April 2009. The safeguards as set out in Schedule A1 are an amendment to the Mental Capacity Act 2005 introduced by the Mental Health Act 2007. DoLS is supported by a supplement to the Mental Capacity Act Code of Practice. The safeguards were introduced to ensure that any deprivation of liberty of a person who may lack capacity complies with the Convention on Human Rights (ECHR). A DoLS authorisation provides a legal framework and protection when a deprivation of liberty is considered unavoidable and in the person's best interests when in a hospital setting.

2.2 Following the Supreme Court judgment (Cheshire West) in March 2014, the total number of DoLS applications within BCUHB has significantly increased creating pressure within the Supervisory Body to manage capacity and demand.

Figure 1

Applications Activity	Applications				
	West	**Central**	**East**	**England**	**Total**
Q1	26	57	75	16	174
Q2	16	69	85	11	181
Q3	22	66	74	20	182
Total	64	192	234	47	537

2.3 Figure 1 Narrative**:**

Though the total number of applications appear to suggest that the projected end of year figures for applications will be lower for 2018/19 than in 2017/18; there is anecdotal evidence to suggest that wards are not putting in a DoLS when it applies or put in so late the patient is nearer discharge. There are significantly lower applications from the West area compared to East and Central. This has always been the case since I started making comparisons in 2017. As we increase the number of available BIAs, we should see a steady increase in 2019/20 because of a

greater presence of BIAs' on the wards. We are also discussing with Wards in mental health units when the Mental Health Act 1983 should apply rather than DoLS.

3. Deprivation of Liberty Safeguards

3.1 Within BCUHB, the DoLS activity is reported annually to Healthcare Inspectorate Wales (HIW) by the DoLS team. HIW produce a retrospective All Wales Monitoring report on DoLS activity within Health Boards and Local Authorities. It is evident that all those Supervisory Bodies responsible for DoLS in Wales are struggling to meet demand. The same picture is also evident in England. So the issue of capacity and demand is not an anomaly within BCUHB, it is recognised as a concern nationally.

3.2 In May 2018, the end of year report on DoLS identified that actions are in place to mitigate the risks of capacity and demand by arranging recruitment to four (4) additional Best Interest Assessor (BIA) Posts. Safe recruitment has taken place and 3 by November 2018 and recruitment for the vacant BIA post will commence in January 2019. Each BIA is appointed to a safeguarding area team and the current complement of BIAs are located as follows:

West – 1 BIA in post (1 Vacancy)
Central – 2 BIAs in post
East - 2 BIAs in post

3.3. The three newly appointed BIAs have undertaken their training for the Best Interest Assessor award at Manchester University and are due to submit their assignments in January 2019 and should be qualified to practice in England and Wales by March 2019. The increase in BIAs who can practice should see a significant improvement over time in meeting the timeliness standards set within the DoLS Code of Practice.

3.4 In order to continue to meet capacity demands the DoLS team will retain the services of a Sessional BIA to undertake assessments until the full integration of qualified BIA staff is complete.

4. Supervisory Body:

4.1 There is a challenge that additional appointments of BIAs will inevitably increase the number of completed DoLS authorisations required to be signed off by those with responsibility within the Office of the Medical Directorate. I reported to the last Committee meeting in early January that actions were being taken to appoint named Supervisory Body signatories at Band 8a and above. To date (26/02/19), we have received 38 names to be considered and approved to carry out the function of signatory for the Health Board in granting or refusing a DoLS Standard Authorisation.

Once staff are approved in their signatory function, it will significantly reduce any risks to people waiting for a DoLS authorisation.

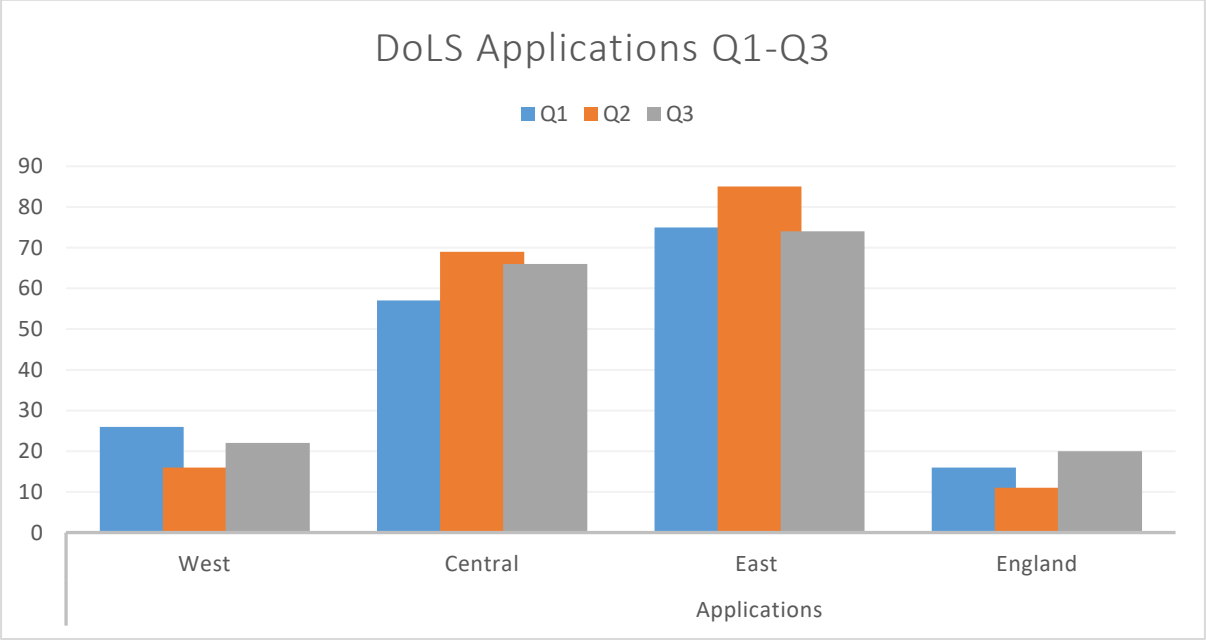
4.2 The DoLS Manager has put together a governance framework to support signatories which will include the provision of bespoke training in undertaking the role, functions and responsibilities of a Signatory; access to information around current guidance and relevant case law; peer support and reflective practice; an external annual training event for all signatories which will include current case law and guidance of the role of the Supervisory Body (See Appendix 2). At the point of writing this report we have trained 7 staff. During March 2019 the DoLS Manager has arranged training with those nominated signatories which should see an even greater increase to this role which will be updated at this Committee meeting.

5. DoLS Activity

5.1 The information below sets out some key information around DoLS and relevant data. If there are issues to address there is a narrative added to the data activity. There is an embedded spread sheet below that populates the number of applications per hospital for each area.

The range of applications for a request for a DoLS are outlined in Figure 2 below.

Figure 2: Applications by Divisional Area:



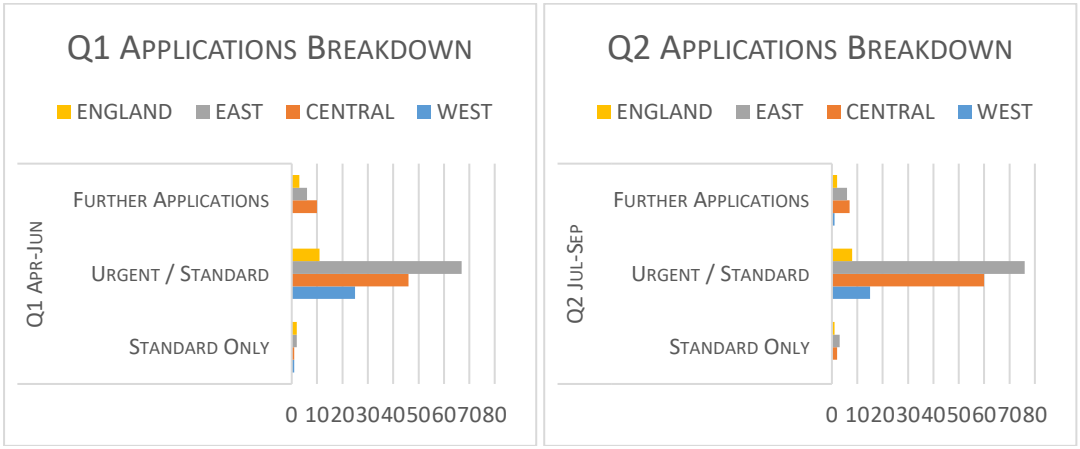
5.2 Figure 2 Narrative:

There has been an on-going rise in applications in the Central division to the extent it favours comparably to East division, especially taking into account applications a few years ago were half the total received each quarter to East area. This is predominantly due to an increase in staff awareness through training and education at both Level 3 MCA/DoLs in the Mental Health/LD Division. This is also influenced by the presence of a BIA regularly in contact and familiar with the hospital wards in

their area. The level of awareness of DoLS should continue to rise when all the BIAs become indepedently operational and link to area safeguarding teams. The addition of a further appointment to the vacant BIA post in the West should help raise awareness in that area.

5.3 The number of applications received from England shows a rise to the extent the figure is almost equally comparable in the West Division. This anomally in the West area is being addressed with a significant increase in bespoke training planned from February 2019 across 6 community hospital sites. It should be noted that this training was planned following the DoLS Manager attending the West Safeguarding Forum and the opportunity to explore with relevant Managers in that meeting how best to engage MCA/DoLS Level 3 training with staff in those hospital sites. Attendance by the DoLS Manager at all 3 safeguarding forums should result in similar opportunities arising to engage with staff.

Figure 3: Application Breakdown by Area



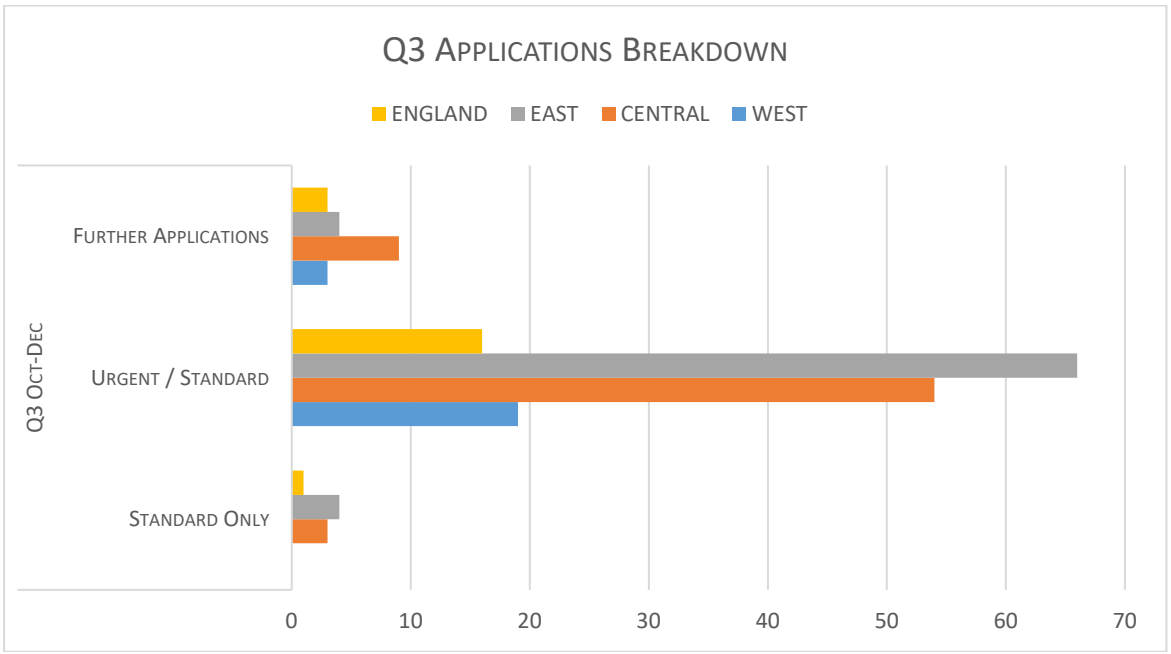
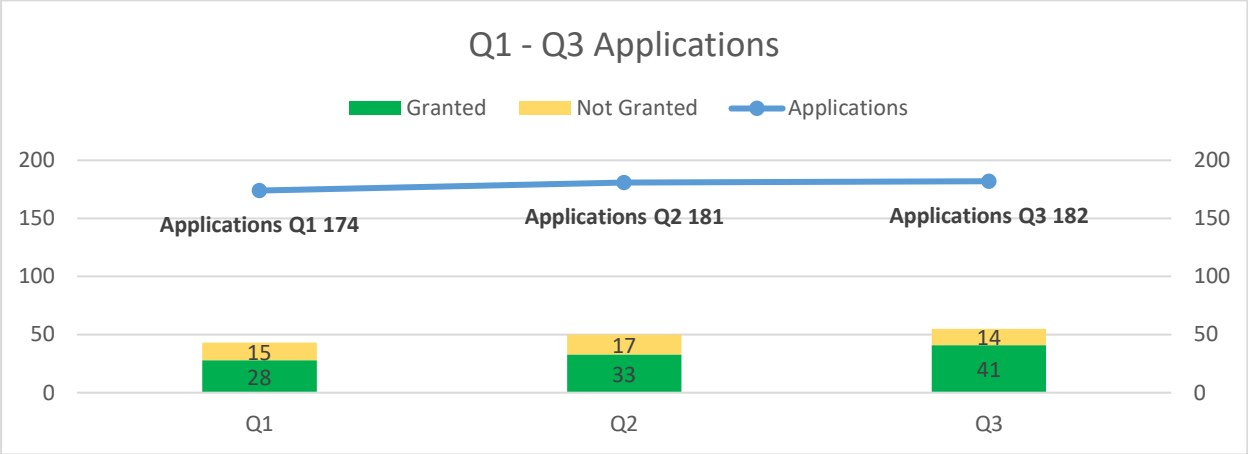


Figure 3 Narrative:

5.4 Further applications relate to patients who are granted a DoLS by the Supervisory Body. Often areas which have a long stay hospital are more likely to see an increase in this number. This certainly applies to Central and East area and that includes Independent Hospitals or Hospices.

Figure 4: Application Outcomes



	Q1	Q2	Q3
Applications	174	181	182
Applications Allocated to BIA	46	55	56
Assessed by BIA	43	54	42
Granted	28	33	41
Not Granted	15	17	14

Figure 5: Data relating to Non-Compliance with Forms:

Q1 Application Issues	Q1			
	West	Central	East	England
Total Application Received	26	57	75	16
Issues with Forms	16	20	33	3
% of Applications with Issue	62%	35%	44%	19%

Q2 Application Issues	Q2			
	West	Central	East	England
Total Application Received	16	69	85	11
Issues with Forms	9	49	48	3

% of Applications with Issue	56%	71%	56%	27%

Q Application Issues	Q3			
	West	Central	East	England
Total Application Received	22	66	74	20
Issues with Forms	15	40	40	4
% of Applications with Issue	68%	61%	54%	20%

Figure 6: Non-Compliance Graph:

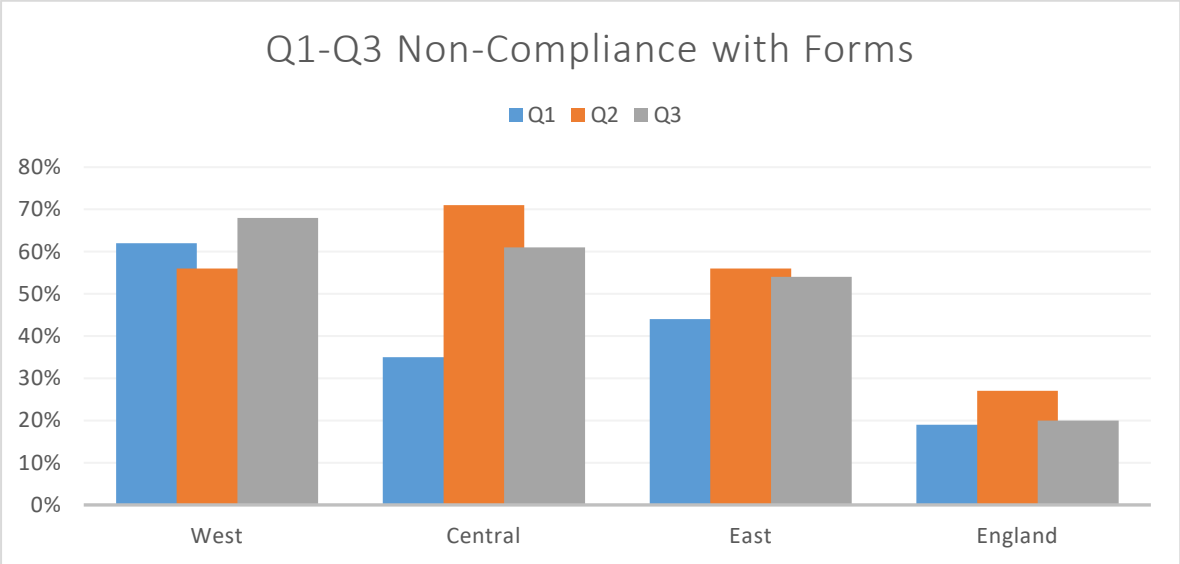


Figure 5 & 6 Narrative:

5.5 With the support of the Information Officer within Corporate Safeguarding enabling the DoLS Team to collect and collate data, it has given a greater breadth and depth of analysing data since April 2018. There is a considerable amount of activity within the team dealing with receiving applications that have minor and major issues with their completion compliance, sometimes to the point of contradiction; eg; patient referred for a DoLS but ward have ticked the individual has capacity.

5.6 There are a range of issues identified within the applications at the point of receipt by the DoLS Team. These includes not identifying individuals lacking capacity to be accommodated in hospital; not specifying what levels of care and treatment individuals receive; whether individuals are objecting to being in hospital; not putting on the form relevant signatures, times or dates that correspond to legal requirements. Any major issues with applications are returned to the sender with an outline of how to correct the form. The current % of non-compliance shows the message is yet to be imbedded in practice.

5.7 There are also emerging issues relating to the use of DoLS within Mental Health Units when it is evident that the Mental Health Act should be considered as set out in the Mental Health Act Code of Practice, Ch.13.33 -13.38 revised 2016 (see Figure 7 below).

5.8 There are emerging issues about hospital wards expecting the S12 Doctor, who is assessing in terms of DoLS, to provide some clarity in terms of mental health when there are questions around someone's capacity to go home. The role of the s12(2) Doctor is clearly to determine if the individual patient has a mental disorder and is eligible for DoLS in hospital. It is not to assess capacity and suitability to go home, this should be referred instead to the relevant mental health team. Additionally, there are some Local Authority areas whose social workers are asking wards in the East area to complete mental capacity assessments about going home when it is the social worker's decision to complete such assessments given they are the decision maker. I will be raising this matter within the appropriate corporate safeguarding forum as this seems to be an on-going issue that BIAs identify in their assessments.

Figure 7: Application Requests not Granted:

NOT GRANTED**	Q1	Q2	Q3
Not Granted	15	17	14
Capacity	3	3	4
MHA	4	2	4
Discharged Prior to Form 5 Completed	3	10	1
Discharged Prior to Full Assessment	0	1	0
Ferreira	3	1	1
Died Prior to Form 5 Completed	1	0	0
Died Prior to Form 5 Authorised	1	0	0
Discharged Prior to Form 5 Authorised	1	1	0
Discharge Prior to BIA completing Form 3 & 3a	0	0	3
No Mental Disorder	0	0	1

** includes out of area placements in hospital

Figure 7: Narrative:

5.8 The number of applications allocated to the BIA and s12(2) Doctor which resulted in DoLS not being granted in 22% of cases, were because the patients in 9 cases were accommodated in a mental health unit and met the criteria for detention under the Mental Health Act 1983 rather than DoLS. The same percentages of patients (22%) across all hospitals were deemed to have capacity so did not meet the DoLS criteria.

6. Training

6.1 Currently the DoLS Team (DoLS Manager and a BIA) provide training across BCUHB at Level 2 and Level 3. This training is mandatory for mental health and learning disability division. There is an emerging picture of non-attendance at

this 3 hr training course which is provided across the 3 Divisions. The vast majority of staff attend this training within their divisional area which is offered on a three monthly cycle rotation at locations in East, West and Central. It is possible that staff can attend any of the sessions in any area but that will be a decision taken by the manager of any attendee.

6.2 At the last MHA Committee meeting I shared concerns about the drop in attendance at MH/LD mandatory Level 3 training in September 2018. Since September 2018 there continues to be a marked drop in attendance. The outcomes from the Mental Health Division were for their managers to be informed to record reasons for any non-attendance.

Date/Month	Available Places & Venue	Total Places Available	No Booked to Attend compared to & of total places available	Actual Attendees	% of Attendees	% Non-Attendees
4 Sept 18	Y. Gwynedd – 40	40	12 (30%)	6	50%	50%
17 Sept 18	Glan Clwyd – 31	31	15 (48%)	10	66.7%	33.3%
2 Oct 18	ByN	40	40	12	30%	70%
6 Nov 18	G Clwyd	28	28	18	64%	36%
19 Dec 18	MGH	25	22	12	54%	46%

6.3 The progression and development of a handbook is still being explored as it will need to replicate the content on Level 1 on–line mandatory awareness training. This is managed through ESR and a process will need to be put in place to also record this completion of the handbook training also on ESR. Discussion on this aspect involve a wider number of people than just the DoLS Manager and has been raised in the mandatory training review group.

6.5 Despite the pressures in the Team in managing DoLS applications and the issues that arise from them, the Team have managed to deliver training during Q1 to Q3 as follows.

Figure 8: Mandatory and Bespoke Training

Training	**Q1**	**Q2**	**Q3**	**Q4**
Mandatory	109	37	42	
Bespoke	30	23	108	
Total overall	139	60*	150	

*** No training provided in Aug 2018**

6.6 The DoLS Manager over the past year has attended the newly formed MH/LD Safeguarding Forum and contributed towards any issues relating to mental capacity and DoLS. Additionally, in Q3 the DoLS Manager has attended Safeguarding Forums in West and Central areas. One important outcome from the West Forum was an invitation to the DoLS Manager to provide bespoke

training to staff connected to the 6 community hospitals over 2019/2020. This should result in time in greater awareness of DoLS and an increase in appropriate applications.

6.7 BIA Network:

The DoLS Team Manager currently leads on supporting a regional network held quarterly for BIAs across the 6 Local Authorities and also includes IMCA, s12(2) Doctors, and Supervisory Body officers from each of the attending agencies. The objectives are to share and discuss good practice and the impact and discussion of updated case law. One meeting is set aside as an annual event for all BIAs, IMCAs and S12(2) Doctors. This event is already open to Local Authority Supervisory Body staff. This year BIAs will be sharing anonymised case scenarios so learning lessons can be considered about good practice and the interface of case law with a prominent Barrister. Unfortunately, one Local Authority has declined to attend this year's event.

7. Advice and Support

7.1 The DoLS Team continuously provide day to day support and advice to staff about mental capacity issues and its application, as well as advice on completing applications under DoLS. The DoLS Team have in place a governance scrutiny around receiving applications from hospitals and, if necessary, will elicit further information that is required as part of the DoLS process. Ward Managers can inform the DoLS team if they are aware of any their ward staff who wish us to deliver training on the application of MCA 2005 or DoLS. Contact in the first instance is through bcu.dolsadmin@wales.nhs.uk

8. Recommendation

8.1 That Committee note the content of the report.

APPENDICES

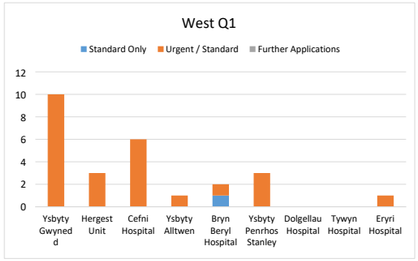
APPENDIX 1:

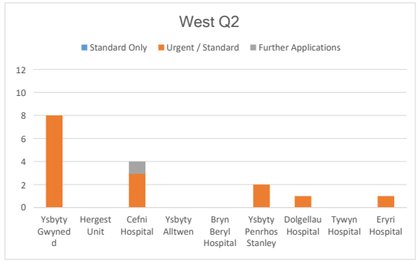
Case Scenarios of what difference the involvement of the BIA and DoLS Team makes to patients:

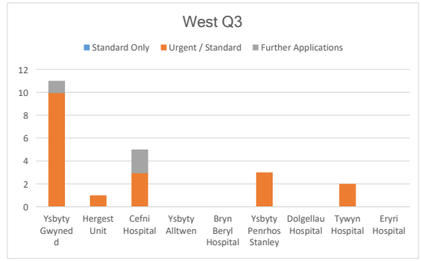
1. BIA asked to assess a patient who is deemed to lack capacity in hospital. Ward describe that a specific family member is very difficult, verbally aggressive towards staff and not acting in their relative's best interest. The BIA on interview with the patient and family member finds there are quite legitimate concerns raised by the family member about the care of the patient (significant weight loss not addressed, poor documentation) and their particular disability which had not been taken into account. The BIA consulted a whole range of staff including IMCA, mental services, ward staff, consultants, social worker and Care Home Manager. Instead of the perception of the family member being 'difficult', the BIA brought about a significant change to that view that the relative was rightly concerned about the patient's care needs. The concerns identified about this case were referred to safeguarding. The BIA's involvement ensured that a patient who is vulnerable has their rights proactively protected, that family members are not deemed subjectively difficult but are expressing legitimate concerns and they are actively listened to and by doing so change the perception of 'uncaring' staff to 'caring staff' who espouse the values and culture of a caring organisation.
2. Patient in a long term hospital is already subject to a DoLS for 12 months and plan is to discharge within the period. BIA asked to assess for a further DoLS application. A short authorisation is recommended by the BIA so that plans for discharge can be accelerated and a 'condition' applied by the Supervisory Body that discharge should facilitated to avoid drift in the care planning discharge and so encouraging regular best interest meetings and so mean a less restrictive care plan and avoiding institutionalisation. A short option of a DoLS supports the rights of an individual to the less restrictive option. The BIA supported the relative (RPR) and a s39D to ensure RPR rights to appeal against DoLS to the Court of Protection and thus avoid a Steven Neary type scenario ("the tail wagging the dog"). Patient discharged.
3. A patient in a mental health unit is referred for a DoLS application. Patient already subject to MHAct but when it expires/discharged from Section MHA plan to use DoLS while remains inpatient as it is the less restrictive option. DoLS. Manager contacts ward staff to advise that 'less restrictive' does not automatically mean DoLS is the option. Emerges in discussion that patient is still receiving most of her care and treatment for mental disorder and still lacks capacity to agree to be accommodated in the mental health unit. If to remain in hospital, then the less restrictive option is MHAct - Ch.13.33 -13.38 Code of Practice 2016, not DoLS. Patient remained detained under MHAct until discharge arranged.
4. carequery why a Already subject to MHAct so request that on discharge from MHAct is put on DoLS.

Breakdown of Applications by Hospital

WEST

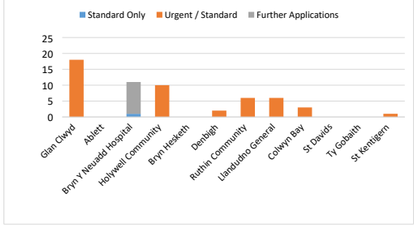


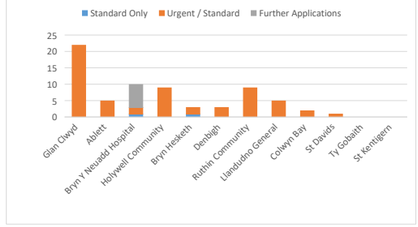


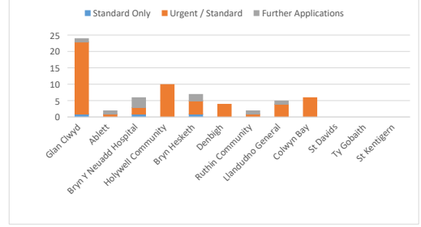


WEST	Q1 Apr-Jun			Q2 Jul-Sep			Q3 - Oct-Dec			Total Standard	Total Urgent / Standard	Total Further Applications	West Std %	West Urg/Std %	West Further %
	Standard Only	Urgent / Standard	Further Applications	Standard Only	Urgent / Standard	Further Applications	Standard Only	Urgent / Standard	Further Applications						
Ysbyty Gwynedd		10			8			10	1	0	28	1	0%	18%	4%
Hergest Unit		3						1		0	4	0	0%	3%	0%
Cefni Hospital		6			3	1		3	2	0	12	3	0%	8%	12%
Ysbyty Alltwen		1								0	1	0	0%	1%	0%
Bryn Beryl Hospital	1	1								1	1	0	0%	1%	0%
Ysbyty Penrhos Stanley		3			2			3		0	8	0	0%	5%	0%
Dolgellau Hospital					1					0	1	0	0%	1%	0%
Tywyn Hospital								2		0	2	0	0%	1%	0%
Eryri Hospital		1			1					0	2	0	0%	1%	0%
	1	25	0	0	15	1	0	19	3	1	59	4	0%	92%	6%

CENTRAL

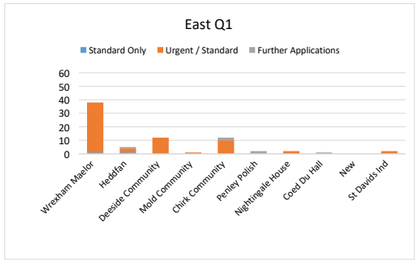


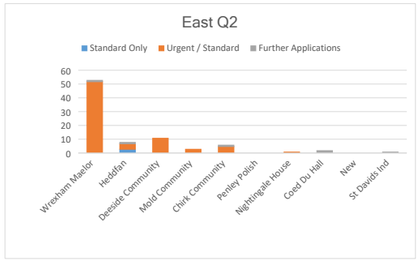


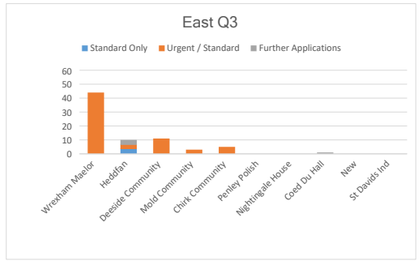


CENTRAL	Q1 Apr-Jun			Q2 Jul-Sep			Q3 - Oct-Dec			Total Standard	Total Urgent / Standard	Total Further Applications	Central Std %	Central Urg/Std %	Central Further %
	Standard Only	Urgent / Standard	Further Applications	Standard Only	Urgent / Standard	Further Applications	Standard Only	Urgent / Standard	Further Applications						
Glan Clwyd Hospital		18			22		1	22	1	1	62	1	17%	39%	4%
Ablett Unit					5			1	1	0	6	1	0%	4%	4%
Bryn Y Neuadd Hospital	1		10	1	2	7	1	2	3	3	4	20	50%	3%	77%
Holywell Community Hospital		10			9			10		0	29	0	0%	18%	0%
Bryn Hesketh Unit				1	2		1	4	2	2	6	2	33%	4%	8%
Denbigh Infirmary		2			3			4		0	9	0	0%	6%	0%
Ruthin Community Hospital		6			9			1	1	0	16	1	4%	10%	4%
Llandudno General Hospital		6			5			4	1	0	15	1	4%	9%	4%
Colwyn Bay Hospital		3			2			6		0	11	0	0%	7%	0%
St Davids Hospice					1					0	1	0	0%	1%	0%
Ty Gobaith Hospice										0	0	0	0%	0%	0%
St Kentigern Hospice		1								0	1	0	0%	1%	0%
	1	46	10	2	60	7	3	54	9	6	160	26	3%	83%	13%

EAST

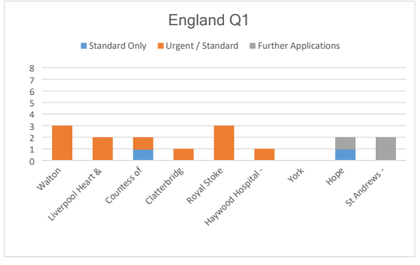


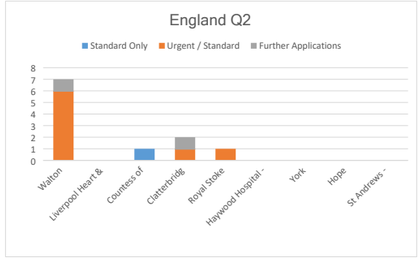


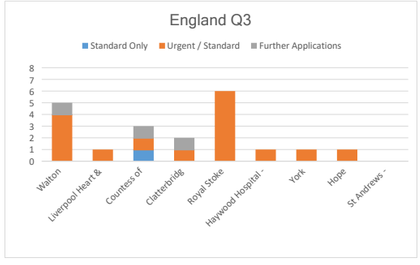


EAST	Q1 Apr-Jun			Q2 Jul-Sep			Q3 - Oct-Dec			Total Standard	Total Urgent / Standard	Total Further Applications	East Std %	East Urg/Std %	East Further %
	Standard Only	Urgent / Standard	Further Applications	Standard Only	Urgent / Standard	Further Applications	Standard Only	Urgent / Standard	Further Applications						
Wrexham Maelor Hospital	1	37			52	1		44		1	133	1	11%	64%	6%
Heddfan Unit	1	3	1	3	4	1	4	3	3	8	10	5	89%	5%	31%
Deeside Community Hospital		12			11			11		0	34	0	0%	16%	0%
Mold Community Hospital		1			3			3		0	7	0	0%	3%	0%
Chirk Community Hospital		10	2		5	1		5		0	20	3	0%	10%	19%
Penley Polish Hospital			2							0	0	2	0%	0%	13%
Nightingale House Hospice		2			1					0	3	0	0%	1%	0%
Coed Du Hall			1			2			1	0	0	4	0%	0%	25%
New Hall										0	0	0	0%	0%	0%
St Davids Ind Hospital		2				1				0	2	1	0%	1%	6%
	2	67	6	3	76	6	4	66	4	9	209	16	4%	89%	7%

ENGLAND







England	Q1 Apr-Jun			Q2 Jul-Sep			Q3 - Oct-Dec			Total Standard	Total Urgent / Standard	Total Further Applications	England Std %	England Urg/Std %	England Further %
	Standard Only	Urgent / Standard	Further Applications	Standard Only	Urgent / Standard	Further Applications	Standard Only	Urgent / Standard	Further Applications						
Walton Centre		3			6	1		4	1	0	13	2	0%	6%	13%
Liverpool Heart & Chest		2						1		0	3	0	0%	1%	0%
Countess of Chester	1	1		1			1	1	1	3	2	1	33%	1%	6%
Clatterbridge		1			1	1		1	1	0	3	2	0%	1%	13%
Royal Stoke Hospital		3			1			6		0	10	0	0%	5%	0%
Haywood Hospital - Stoke		1						1		0	2	0	0%	1%	0%
York House								1		0	1	0	0%	0%	0%
Hope House	1		1					1		1	1	1	11%	0%	6%
St Andrews -N'hampton			2							0	0	2	0%	0%	13%
	2	11	3	1	8	2	1	16	3	4	35	8	9%	74%	17%

DEPRIVATION OF LIBERTY SAFEGUARDS FLOWCHART 1:

THE APPLICATION PROCESS

Urgent situation: Patient may already be deprived of their liberty and has now become so urgent that deprivation needs to begin before the request is made.

Contact the DoLS Team for advice or support on tel: 01352 803297 or email: BCU.DoLSAdmin@wales.nhs.uk

Planned admission: request to be made in advance

Make sure you have the following information:

- Patient is over 18 years
- What care and or treatment you are providing for the Patient?
- What restrictions are being used and what less restrictive options have been tried or considered?
- What harm would the patient come to if not deprived of their liberty?
- Relevant assessments and care plans
- Details of family or close friends, if any, especially if an individual holds a Lasting Power of Attorney (LPA) for Health and Welfare
- Identify the right supervisory body and if possible alert them

Complete Form 1 (standard request, urgent authorisation and request for extension to the urgent [Q 1-13 & Q15])

Take steps to help the person understand the effect of the authorisation and their right to appeal.

Complete Form 1 (Q 1-10 & Q15)

Send this information to the Supervisory Body with relevant assessments (e.g. specialist nursing assessments).

Tell the Patient about the reason for the authorisation request and process and also tell any close family or friends. If suitable, offer access to information in print or on the internet about the right of appeal. Be ready to give assessors (and IMCA if involved) prompt access to: the Patient, relevant notes, staff involved in care of the person.
An urgent authorisation can never be given without a request for a standard authorisation being made simultaneously.

DEPRIVATION OF LIBERTY SAFEGUARDS FLOWCHART 2:
(when a DoLs is granted)

MANAGING AUTHORITY RESPONSIBILITIES DURING AN AUTHORISATION

Standard authorisation is granted

Notify the Patient and Patients representative of the outcome: help patient to understand. Record end date, details of RPR and any conditions. Ensure staff understand the authorisation.

DoLS authorisation is NOT granted

Notify the patient of the outcome: help the patient understand. Take account of reason.

Comply with any conditions: alert the Supervisory Body (SB) immediately if conditions cannot be met (DoLS Team tel: 01352 803297 or email: BCU.DoLSAdmin@wales.nhs.uk).

Support relevant person and relevant person's representative (RPR) to understand the right to ask for a review or appeal to the Court of Protection and alert the Supervisory Body if RPR fails to visit.

Changes in situation: if the relevant person is discharged, dies, or their situation changes e.g. they regain mental capacity or you feel they are no longer deprived of their liberty, notify the supervisory body who will review.

Comply with outcome of review: Change record: Inform relevant person, RPR and staff.

If the patient dies while a DoLS is in place inform the DoLS Team.

There cannot be more than 1 urgent authorisation within the same period of admission.

Request a new authorisation: DoLS authorisations cannot be extended. If it is likely that a new authorisation will be required for this person, submit a new request to the Supervisory Body for a standard authorisation using Form 2. This should be done if possible **four weeks before the expiry of the current authorisation.**

Is the patient deprived of their liberty? 'The Acid Test'

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You must be able to answer **YES** to all three questions

1. Is the patient aged 18 or over?
2. Does the patient have a disorder or disability of the mind? (such as confusion, delirium, dementia, brain injury, stroke etc)
3. Does the patient lack the capacity to agree to be accommodated in a hospital for their care or treatment?

A patient will be deprived of their liberty if they meet the above criteria and are:

- Subject to **continuous supervision and control**
- And are **not free to leave*** (* In the Ferreira [2017] case, the 'Acid Test' for a DoLS would not apply for immediately necessary life sustaining treatment in a hospital. This decision needs to be recorded in the patient's medical notes). If in doubt, contact the DoLS Team.

Continuous supervision and control

- Staff have continuous supervision and control of the care and movements of the patient for a significant period of time.

(These measures **DO NOT** need to be as restrictive as 1-1 nursing, using equipment that restricts movement, prescribing medication to manage challenging behaviour etc)

Not free to leave

- 'If the patient who lacks capacity tried to leave on their own, would you try to stop them? If the answer is **YES**, then they are not free to leave (See note on Ferreira case)

(The patient does not need to demonstrate a sustained objection or be persistently asking or trying to leave.)

THE PATIENT IS LIKELY TO BE DEPRIVED OF THEIR LIBERTY IF THE ABOVE CRITERIA ARE MET

For help and advice please contact the DoLS Team:
01352 803297 &
BCU.DoLSAdmin@wales.nhs.uk

Mental Health Act Committee

29th March 2019

Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

To improve health and provide excellent care

Report Title:	Healthcare Inspectorate Wales (HIW) Monitoring Report
Report Author:	Wendy Lappin, Mental Health Act Manager
Responsible Director:	Andy Roach, Director of Mental Health and Learning Disabilities
Public or In Committee	Public
Purpose of Report:	To provide an updated in relation to the inspections conducted by Healthcare Inspectorate Wales, to highlight findings in relation to the Mental Health Act and the Mental Health Wales Measure.
Approval / Scrutiny Route Prior to Presentation:	This paper prior to presentation at the Power of Discharge Committee Meeting will be presented to the MH&LD Q-SEEL meeting for the Senior Management Team and then to the Divisional Directors Meeting and Andy Roach.
Governance issues / risks:	None
Financial Implications:	None
Recommendation:	The committee is asked to note the report

Health Board's Well-being Objectives *(indicate how this paper proposes alignment with the Health Board's Well Being objectives. Tick all that apply and expand within main report)*	√	**WFGA Sustainable Development Principle** *(Indicate how the paper/proposal has embedded and prioritised the sustainable development principle in its development. Describe how within the main body of the report or if not indicate the reasons for this.)*	√
1.To improve physical, emotional and mental health and well-being for all	√	1.Balancing short term need with long term planning for the future	√
2.To target our resources to those with the greatest needs and reduce inequalities	√	2.Working together with other partners to deliver objectives	√
3.To support children to have the best start in life		3. Involving those with an interest and seeking their views	√
4.To work in partnership to support people – individuals, families, carers, communities -	√	4.Putting resources into preventing problems occurring or getting worse	√

to achieve their own well-being			
5.To improve the safety and quality of all services	√	5.Considering impact on all well-being goals together and on other bodies	√
6.To respect people and their dignity	√		
7.To listen to people and learn from their experiences	√		

Special Measures Improvement Framework Theme/Expectation addressed by this paper

Governance and Leadership – to ensure compliance with the Mental Health Act and Mental Health (Wales) Measure.

http://www.wales.nhs.uk/sitesplus/861/page/81806

Equality Impact Assessment

Retrospective looking report therefore no EqIA required.

(If no EqIA carried out, please briefly explain why. EqIA is required where a change of policy or direction is envisaged and/or where budgets are being reduced. It is particularly important that the biggest, most strategic decisions are subjected to an EqIA – see http://howis.wales.nhs.uk/sitesplus/861/page/47193)

Healthcare Inspectorate Wales (HIW) Monitoring Report

1. Purpose of report

To provide an update in relation to the Inspections conducted by Healthcare Inspectorate Wales (HIW) within a period of twelve months. To highlight findings in relation to the Mental Health Act and Mental Health Wales Measure.

2. Introduction/Context

HIW is the independent inspectorate and regulator of all health care in Wales.

HIW conduct announced and unannounced visits to services offered by Betsi Cadwaladr University Health Board. Their primary focus is on:

Making a contribution to improving the safety and quality of healthcare services in Wales

Improving citizen's experience of healthcare in Wales whether as a patient, service user, carer, relative or employee

Strengthening the voice of patients and the public in the way health services are reviewed

Ensuring that timely. useful, accessible and relevant information about the safety and quality of healthcare in Wales is made available to all

This report provides assurance that following inspections and recommendations that these actions are followed up.

3. Inspections (within the last 12 months)

3.1 Ablett Unit NEW

Inspection Date: 16-18 January 2019
Publication of report due: To be confirmed

Initial verbal feedback received from the inspection was positive.

Any information contained within the report once published in relation to the Mental Health Act or Mental Health Measure will be cited once the report has been received.

3.2 Nant Y Glyn CMHT UPDATE

Inspection date: 6 – 7 of November 2018 joint review with CIW
Publication of report due: The report has been received for factual accuracy; no publication date is currently confirmed.

Any information contained within the report once published in relation to the Mental Health Act or Mental Health Measure will be cited once the report has been received.

3.3 Hergest Unit UPDATE

Inspection date: 4 - 5 of September 2018
Publication of report due 6 December 2018

The summary of the report found that the Hergest Unit provided safe care, however, it is highlighted that the health board must ensure that their provision of mental health services meets the requirements of its population and ensuring that patients access the most appropriate service in a timely manner. The summary highlights that staff interacted and engaged with patients respectfully, and that there are established governance arrangements that assisted staff in the provision of safe and clinically effective care.

Improvements are noted within the summary to be in relation to the capacity of mental health services within the health board to meet the need of the population, medicines management practice and arrangements for maintaining safe and secure environment of care.

No immediate concerns were identified and no immediate assurance issues identified.

In relation to the Mental Health Act and the Mental Health Measure the improvement plan highlights the actions below:

Improvement Needed	Service Action	Timescale
The Health Board must ensure that there is a record of what information the patient has received under Section 132 of the Act, along with the details and outcomes of the discussion, as guided by the Code, chapter 4.	To be included in existing rolling programme of Mental Health Act training already implemented across the division. All registered nurses to be made aware of recording standards regarding the explanation of rights under section 132.	Complete
The health board must ensure that all disciplines submit their	Issue to be highlighted in Mental Health Act training.	Complete

heading reports in a timely manner.	Information leaflet to be developed to advise staff of their responsibilities with regard to timely submission of hearing reports.	
The health board must ensure that statutory consultees record their discussion with the SOAD.	Information leaflet to be developed to advise statutory consultees of their responsibilities. A communication is to be provided to those staff identified as statutory consultees on SOAD forms to advise them of the requirement to record in the notes following conversation.	Complete

3.4 Abergele CAMHS UPDATE

Inspection date: 25 – 27 June 2018
Publication of report: 28 September 2018

The visit focused on the Kestrel Ward CAMHS.

The summary of the report found that all employees interacted and engaged with patients respectfully, established evidence of governance for safe and clinically effective care and multi-disciplinary working with coordinated engagement of community and paediatric teams. Improvements were highlighted around the upkeep of outside areas, information displayed and systems for maintaining the safety of patients and staff this was in relation to personal alarms and nurse call buttons within the reach of the bed.

In relation to the Mental Health Act and the Mental Health Wales Measure the improvement plan highlighted the actions below.

Improvement Needed	**Service Action**	**Timescale**
The Health Board must ensure that the ward displays relevant patient information in a suitable format.	Source and display age appropriate Mental Health Act Information posters.	Complete
The Health Board should consider including body maps in all patient records	Discuss the pros and cons of using body map recording with adolescents in the next safety sub committee	Complete

4.	Assessment of risk and key impacts

Policies –Policies are an ongoing project that requires updating and change as statute and documents change.

The MHLD Policy Implementation Group is working to ensure policies are kept up to date and reviewed by appropriate personnel, this is reported on monthly to the divisional Q-SEEL meeting and reported up to QSG.

5.	Equality Impact Assessment

This is a retrospective report therefore no EQIA required.

6.	Conclusions / Next Steps

Policies – On going.

HIW Inspections – Inspections will be reported on and information updated on a three monthly basis.

7.	Recommendations

It is recommended that the Committee notes this report.

Mental Health Act Committee

29th March 2019

Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

To improve health and provide excellent care

Report Title:	BCUHB Policy Position in relation to the Mental Health Act
Report Author:	Wendy Lappin, Mental Health Act Manager
Responsible Director:	Andy Roach, Director of Mental Health and Learning Disabilities
Public or In Committee	Public
Purpose of Report:	To provide an updated in relation to the policies that are in place or under development as specified within the Code of Practice for Wales that are required under the Mental Health Act.
Approval / Scrutiny Route Prior to Presentation:	This paper prior to presentation at the Power of Discharge Committee Meeting will be presented to the MH&LD Q-SEEL meeting for the Senior Management Team and then to the Divisional Directors Meeting and Andy Roach.
Governance issues / risks:	None
Financial Implications:	None
Recommendation:	The committee is asked to note the report

Health Board's Well-being Objectives *(indicate how this paper proposes alignment with the Health Board's Well Being objectives. Tick all that apply and expand within main report)*	√	**WFGA Sustainable Development Principle** *(Indicate how the paper/proposal has embedded and prioritised the sustainable development principle in its development. Describe how within the main body of the report or if not indicate the reasons for this.)*	√
1.To improve physical, emotional and mental health and well-being for all	√	1.Balancing short term need with long term planning for the future	√
2.To target our resources to those with the greatest needs and reduce inequalities	√	2.Working together with other partners to deliver objectives	√
3.To support children to have the best start in life	√	3. Involving those with an interest and seeking their views	√
4.To work in partnership to support people – individuals, families, carers, communities -	√	4.Putting resources into preventing problems occurring or getting worse	√

to achieve their own well-being			
5.To improve the safety and quality of all services	√	5.Considering impact on all well-being goals together and on other bodies	√
6.To respect people and their dignity	√		
7.To listen to people and learn from their experiences	√		

Special Measures Improvement Framework Theme/Expectation addressed by this paper

Governance and Leadership – to ensure compliance with the Mental Health Act and Mental Health (Wales) Measure.

http://www.wales.nhs.uk/sitesplus/861/page/81806

Equality Impact Assessment

Retrospective looking report therefore no EqIA required.

EQIA's are produced for all policies.

(If no EqIA carried out, please briefly explain why. EqIA is required where a change of policy or direction is envisaged and/or where budgets are being reduced. It is particularly important that the biggest, most strategic decisions are subjected to an EqIA – see http://howis.wales.nhs.uk/sitesplus/861/page/47193)

BCUHB Policy Position in relation to the Mental Health Act

1. Purpose of report

To provide an update in relation to the policies that are in place or under development that link with the Code of Practice and the Mental Health Act.

2. Introduction/Context

All policies that are in relation to patient care should be written with the Code of Practice for Wales in mind and take into consideration the Mental Health Act, Human Rights Act and the Mental Capacity Act.

Within the Code of Practice for Wales 2016 it states:

"It is essential that compliance with the legal requirements of the Mental Health Act 1983 (the Act) and the Mental Health Act Code of Practice for Wales (the Code) are monitored. Local health boards (LHB) and local authorities (LA) should have agreed governance processes for ensuring the appropriate policies and procedures in place are regularly reviewed" (CoPW A1.1).

The Code does not specify the exact title of a policy but refers to the content providing notes to assist and the relevant chapter that would be referenced. Some policies will be considered within various categories and be cross referenced.

The categories that recommended policies with the Code are set out in are:

- Ward/unit level polices
- Organisational level policies
- Admission and discharge policies
- Collaborative policies
- Technical policies
- Best practice guidance.

This list is attached as Appendix A.

The Mental health and Learning Disabilities Division has a structured process in the development, ratification and implementation of all policies. This has been developed following the introduction of the Policy on Policies and the guidance expressed to be followed from the Health Board which has been derived from the Hascas and Ockenden reports.

The information below shows the position of the policies that are currently on the health Boards intranet or are in production at the time of writing this report (February 2019). Those highlighted in red have been identified as high risk.

3. Policies on the Intranet

REFERENCE	TITLE OF POLICY	DATE FOR REVIEW	STATUS
MHLD SM004	Guidelines for substance misuse management within BCUHB Psychiatric Inpatient settings	Feb-15	Under Review
MH02	Protocol for the exceptional admission fo children under the age of 18 years to an acute psychiatric inpatient unit	Apr-15	Under Review
MHLD 0003	Transfer and discharge of care protocol	Oct-15	Under Review
MHLD 0002	Seclusion Policy	Mar-16	Ratified working through HB process
MHLD 0009	Major Incident Protocol Ty Llywelyn Medium Secure Unit	Jun-16	Under Review Out for Consultation
MHLD 0008	Threats to the person procedures in forensic establishments	Jun-16	Under Review Out for consultation
MHLD 0006	Ty Llywelyn Medium Secure Unit Therapeutic Earnings Policy	Jun-16	Under Review Out for Consultation
MHLD DIV 003	Protocol for the control and administration of depot and long acting antipsychotic injections	Feb-17	Under review Out for consultation
Mat 28	Women's CPG Maternal mental health guideline	Jun-17	Under review Out for consultation
MHLD 0005	Patients visitors protocol Ty llywelyn Medium Secure Unit	Jun-17	Under review Out for consultation
(MH01) MH1	Children Visiting Mental Health Wards	Jun-17	Under Review
MHLD 0004a	Rapid Tranquillisation protocol for use in adults 18 years of age and above in the psychiatric and learning disabilites inpatient setting	Nov-17	Under review
	Draft 136 Protocol	Dec-17	Under Review
MM19	Protocol for prescribing and monitoring high dose antipsychotic therapy (HDAT)	Apr-18	Under Review
MHLD 0001	Acute Care Operating Framework	Aug-18	Under Review
MHLD AC006	Electroconvulsive Therapy Service Specification	Aug-18	Under Review

MHLD AC001	Adult Liaison Psychiatry Service Specification	Aug-18	Under reivew
MM22	Guidelines for the use of Clozapine in adults	Oct-18	Under Review
MHLD 0021	Medicines Management Guildelines for the Adult Mental Health Home Treatment Teams	Jan-19	Under Review
MHLD 0043	Resticted Items Policy	Feb-19	Under Review Out for consultation
MHLD 0020	CAMHS to adult transition policy	Mar-19	Under Review
MM25	Standard Operating Procedure for the Supply of Take Home Prenoxad Injection 1mg/mL	01/04/2019	
MHLD 0029	Perinatal Mental health Service Operational Policy	Jun-19	
MHLD 0031	Guideline for monitoring physical health in adults with psychosis or schizophrenia, and people taking antipsychotics for other mental health disorders	Nov-19	
MHLD AC008	Missing / Absconding patient policy	Dec -19	
MHLD 0045	Bed Escalation	Jan-20	
MHLD 0024	Adults with a learning disability requiring admission to acute psychiatric in-patient services	Mar-20	
MHLD CPG 002	Procedure for supervision within MHLD CPG	May-20	
MHLD 007 (MHLD 0027)	Open Door Policy	Jul-20	
MHLD 0030	Policy for information to patients (s132/3 MHA)	Aug-20	
MHLD 0028	MHLD Division Staffing Escalation Procedure	Aug-20	Additional review undertaken, ratified working through HB process
MHLD 0041	Use of Handcuffs within Ty Llywelyn Medium Secure Unit	Aug-20	Additional Review undertaken
MHLD 0047	Physical Restraint Guidelines	Oct-20	Ratified as Draft working through HB process
MHLD 0034	Section 5(2) doctors holding power in Psychiatric Units	Oct 20	

MHLD 0033	Policy for implementation of section 5(4) Nurses Holding Power	Oct 20	
MHLD AC002	Therapeutic Engagement and Observation Policy	Dec-21	Ratified as Draft working through HB process
MHLD 0025	Ty Llywelyn Section 17 and Therapeutic Leave policy relating to patients detained under the MHA 1983	Dec-20	
MHLD 0032	Procedure for review of a patients detention or CTO conducted by the Managers Discharge Panel	Jan 21	
MHLD 0035	HTT Operational Policy	Apr-21	
MHLD SM003	Pregnancy testing in the substance misuse service	Jun-21	
MHLD 010	Guideline for the use of antipsychotics in the management of behavioural and psychological symptoms of Dementia (BPSD)	Jul-21	
Mat 10	Management of Pregnant Women Misuseing Substances	Jul-21	
MHLD 0042	Associate Hospital Managers Procedure	Jul-21	
MHLD 0026	Admission receipt and scrutiny of statutory documentation policy	Aug-21	
MHLD 0036	Needle Syringe Provisions for young people guidelines	Aug-21	
MHLD 0037	Substance misuse service guidelines re DVLA guidance on fitness to drive	Aug-21	
MHLD 0038	Substances misuse service allocation waiting list protocol	Aug-21	
MHLD 0039	SMS standard operating procedure for collection of prescribed substitute medication by North Wales Police	Aug-21	
MHLD 0040	Ty Llywelyn Patient's Postal Packets and Section 134 Policy	Aug-21	
MHLD 0046	Section 5(2) doctors holding power in acute and community hospitals	Oct-21	
MHLD 0013	Searching patients and their property policy	Nov-21	
MM17	Guidelines for the management of delirium/acutely disturbed or violent behaviour in vulnerable / older adults	Nov-21	
MHLD 0044	Section 17 Leave of Absence Policy	Nov-21	As draft whilst going through Board approval

4. Policies Under Development

TITLE OF POLICY	STATUS
Gym Policy	Consultation for ratification March
Community Forensic Operational Policy	Ratified progressing through HB process
Ty Llywelyn Operational Policy	Due to go out for Consultation
Sexual Safety Policy	Under development
V&A policy - Proactive reduction and therapeutic management of behaviours which challenge	Ratified progressing through HB process
Clinical Risk Management Procedure	Under development
Learning from Deaths Policy	Consultation requires amendments
Integrated Case Notes SOP	Under development
Non Medical Approved Clinician Policy	Under development
Community Treatment Order Policy	Out for consultation
Risk Management Procedure	Out for consultation
Prescribing Guidelines for Memory Drugs	Out for consultation

6. Assessment of risks and key impacts

The Policy Implementation Group has highlighted five policies that they feel are high risk and need to be progressed and ratified as soon as practicably possible. When assessing the policies out of date consideration has been given to the policy, the implication of the policy being accessible to staff and whether the details within are adequate for staff to still be able to follow and work towards. Patient safety is paramount in deciding whether it is more of a risk to remove that policy than to leave and policies have been scrutinised to determine that they are still appropriate to be worked towards. Any policies that would be deemed inappropriate would be removed.

7. Equality Impact Assessment

This is a retrospective report therefore no EQIA required. All policies developed do not progress through to ratification without the production and presentation of an EQIA.

8. Conclusions / Next Steps

For the MHLD Policy Implementation Group to continue to monitor policies and ensure that any out of date policies are identified a lead and progressed to review as necessary.

9. Recommendations

It is recommended that the Committee notes this report.

Appendix 1 Policy guidance from the Code of Practice.

Ward/unit level policies – these policies should be developed at an organisational level but may be adapted for specific locations. Some, but not all, policies will apply to patients who are subject to a community treatment order (CTO)

Monitoring advice: The local health board's responsibility for monitoring the Act and the Code will normally be delegated to the 'hospital managers'. The impact on patients and staff of any policies developed should be regularly reviewed.

All policies should be developed to ensure that the care and treatment patients receive is in line with the guiding principles. Such as:

- patients should be offered treatment and care in supportive environments that are safe for them, staff and the public. The physical and cultural environment should support practitioners to deliver therapies and interventions which focus on patient recovery, other positive clinical and personal outcomes and promote the maintenance of patients' dignity to the fullest possible extent

and

- restrictions that apply to all patients in a particular setting (blanket or global restrictions) should be avoided and should never be for the convenience of the provider. Any restrictions should be the minimum necessary to safely provide the care and treatment required having regard to whether the purpose for the restriction can be achieved in a way that is less restrictive of the person's rights and freedom to act.

The data reporting requirements should be clear and any data that is generated as a result of these policies should be reported to the local health board as required.

An annual report on the use of restrictive practice policies should be received and considered by the local health board, this should include aggregated data.
The policies should be able to evidence outcomes that demonstrate a reduction in the use of restrictive practice. Quality assurance of the decision making processes is recommended and this process should be audited. Healthcare Inspectorate Wales (HIW) may also inspect these policies.

Policy	Notes	Chapter
Visiting arrangements - including restrictions on visiting	Visiting arrangements policy to be agreed with hospital manager; any restrictions on visiting should be agreed and documented with reasons.	11
Access to technology. Personal use of mobile phones	The policy on the use of mobile phones and technology should include accessing hospital Wi Fi and the use of social media. Consideration should be made of patient privacy when using the phone.	11
Locked doors	The policy should be considered as part of ward/unit management systems and appropriateness and use reviewed.	11&26

Policy	Notes	Chapter
Blanket restrictions	Any policy that may implement blanket restrictions should consider the Human Rights and Mental Capacity Acts.	8 &13
Access and exit to ward/ unit area	Any policy should include how patients can access and exit the ward/unit and patient should be provided with this information in a suitable format. The policy should also consider how technology is used to manage doors and barriers.	8
Conducting personal and other searches	The policy should cover searches to detained patients, their visitors and property. Details of the audit process for personal and other searches should be included.	8
Observation Seclusion Use of restraint Observation with children Seclusion with children Use of restraint with children Use of restraint and safe holding with older people	Hospital managers should satisfy themselves that policies are in place for each of these areas and that they have a clear guidance section as well as the main policy. The policies should be flexible and reflect the need of individual risk assessments. Guidance on reviewing of regimes should also be included.	8, 19 & 26
Patients going missing	This policy should be developed, at the organisational level, with local police and other relevant agencies.	28

Organisational level policies – these are policies that should be implemented in a consistent manner across the organisation (may be relevant to CTOs)

Monitoring advice: Whilst effectiveness monitoring is undertaken at ward and unit level and feedback given to the hospital manager or relevant local authority; the overall monitoring of these policies is at organisational level so agreed monitoring processes should be in place. Local health board oversight of both data and processes is recommended

Policy	Notes	Chapter
Human rights	All service providers and service commissioners should have in place a human rights and equality policy for service provision which should be reviewed at least annually - *Please see specific section on monitoring of Human Rights Policies included at the end of this section.*	3
Raising concerns and whistleblowing	All organisations to have this policy in place and ensure it is accessible to all	6

Policy	Notes	Chapter
Risk assessment, management and formulation	A robust evidence based policy on risk assessment, management and formulation should be based on the principles of positive risk management.	1,17,22,26,27 & 38
Choosing between the Act and a DoLs authorisation	Whilst this should be in a policy format there should be clear guidance on the issues involved in the decision making process and the use of professional judgement in the application of appropriate legislation.	13
Complaints	All organisations will have complaints processes in place – it is recommended that these are considered specifically in the context of how it supports the raising of complaints in respect of the Act and if specific guidance should be issued and should refer to HIW role in complaints.	4,6,12,17,20,25 & 40
Management of patient information	Hospital managers' responsibility but ability to disclose information can be delegated to relevant staff. Records must be kept of incidences of disclosure without consent.	10 & 38
Record keeping	To reflect the Act, any local protocols and any professional body requirements.	16,30&35
Harassment and prevention of bullying	To be in place but to specifically look at the Act and to be considered as part of the equality impact exercise this should include reference the Home Office PREVENT2 agenda.	8
PREVENT2 Home Office policy on radicalisation	Please refer to the "Revised Duty Guidance" 2015 - Home Office[57]	8
Visits by children	To reflect principles of safeguarding children.	11
Monitoring the use of section 5	To monitor frequency and reasons.	18
Referrals to the Mental Health Review Tribunal for Wales	As prescribed in the Act and in line with section 68 ensuring that people who need to be referred are done so within the prescribed time limits.	37
Policies for the management of patients whose treatment is prescribed by certificates	To include; • exceptions to certificate requirements (sections 62,64b,64c and 64e) • continuation of treatment pending a new certificate • certificates that no longer authorise treatment.	25
Local authority duties in respect of children detained under the Act	Policy should ensure that directors of children's services are notified when a child is detained under the Act.	19

[57] https://www.gov.uk/government/publications/prevent-duty-guidance

Policy	Notes	Chapter
Local authorities and guardianship	Policies to describe how the organisation will discharge its duty in respect of these and reflect the content of the Act and the Code.	19
Displacement of nearest relative		5,14 & 37

Collaborative policies

Monitoring advice: local monitoring arrangements should be in place and agreed with all the organisations involved. Governance arrangements between local authorities, local health boards and where relevant the police/criminal justice system must be clear and lines of responsibility for reporting of data identified.

Policy	Notes	Chapter
Local partnership agreements to deal with people in mental health crisis	To reflect local implementation of the Mental Health Care Crisis Concordat Wales[1] http://gov.wales/docs/dhss/publications/151214reporten.pdf	14,16,19,21 & 34
Safe and appropriate admissions	Policies to describe how the organisation will discharge its duty in respect of these and reflect the content of the Act and the Code. They should also consider local implementation of the Crisis Care Concordat.	14,29 & 37
Police assistance for people undertaking assessments with a view to making application for use of the Act		16
Use of 135/136 in adults		6,14,16,17,24, 28 & 29
Use of 135/136, places of safety for children		6,14,16,17,24, 28 & 29
Transportation of patients		16 & 17
Emergency admissions under section 4		6,14,15 & 17
Effective discharge planning and bed management	To include how to record and respond to delays in placing patients	14 & 22
Discharge and section 117 after-care policies	This policy should be developed on a multi agency basis and in particular relevant local authorities	33 & 34
Commissioning policies- locating people closer to home	Independent sector commissioning to be undertaken in line with the "NHS Wales National Collaborative Framework for Adult Mental Health and Learning Disability Hospitals" and that NHS placements apply the same principles.	14,16,17 & 22
Carer input to commissioning		33

Policy	Notes	Chapter
Independent Mental Health Advocates (IMHA) confidentiality policy	IMHAs to have these policies in place and include the duty to disclose information to staff where there is evidence of risk and harm	6
Nominating deputies	Policies to describe how the organisation will discharge its duty in respect of these and reflect the content of the Act and the Code.	7
Second professionals		4,10,11 & 25

Policies that are required as part of the technical operation of the Act and the Code

Monitoring advice –These policies must cover the legal requirements of the Act and are likely to be externally scrutinised by HIW and if necessary the Mental Health Review Tribunal for Wales

Policy	Notes	Chapter
Receipt of applications for detention (LA and LHB)	Policies to describe how the organisation will discharge its duty in respect of these and reflect the content of the Act and Code.	35
Hospital manager scheme of delegation (LHB)		37
Receipt of guardianship applications (LA)		37
Review of CTO or detention (LHB)		37
Authority for detaining patient (LHB)		37
Reviews of CTO or detentions (LHB)		37
Need to hold a review before detention expires (LHB)		32
Renewal of detention (LHB)		32
Recall to hospital of patients on a CTO		35,37,42
Information for patients on a CTO and others (LHB)		29
CTO's listening to concerns raised by families and carers		29

Best practice policies – service improvement and enhancement recommendations		
Monitoring advice: to monitor against general standards for care delivery within organisations		
Policy	Notes	Chapter
Communication	It is strongly recommended that organisations consider an overall policy on communication issues pertinent to the Act.	N/A
Health promotion	Consideration should be given to the development of a health promotion policy in respect of detained patients and those on CTO's be put in place	N/A
Access to primary healthcare provision	It is the responsibility of service providers and commissioners to ensure that good access to primary care is available to all patients. This should include services wider than registration with a GP and should consider the full range of community based services.	N/A
Meeting physical needs	The service providers should consider a policy that addresses how people's physical health care needs will be met. Evidence shows that people with mental health problems, learning disabilities and autism have poorer health than others in the population.	N/A
Specific groups for example: learning disabilities and autism, those with dementia and the needs of children.	It is recommended consideration is given to whether policies regarding how the needs of particular groups of people should be met are required.	N/A

Mental Health Act Committee

Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

To improve health and provide excellent care

29th March 2019

Report Title:	Independent Review of the Mental Health Act
Report Author:	Wendy Lappin, Mental Health Act Manager
Responsible Director:	Andy Roach, Mental Health and Learning Disabilities
Public or In Committee	Public
Purpose of Report:	To provide an update in relation to the Independent Review of the Mental Health Act and the recommendations published in December 2018.
Approval / Scrutiny Route Prior to Presentation:	This paper prior to presentation at the Power of Discharge Committee Meeting will be presented to the MH&LD Q-SEEL meeting for the Senior Management Team and then to the Divisional Directors Meeting and Andy Roach.
Governance issues / risks:	None
Financial Implications:	None
Recommendation:	The committee is asked to note the report

Health Board's Well-being Objectives *(indicate how this paper proposes alignment with the Health Board's Well Being objectives. Tick all that apply and expand within main report)*	√	**WFGA Sustainable Development Principle** *(Indicate how the paper/proposal has embedded and prioritised the sustainable development principle in its development. Describe how within the main body of the report or if not indicate the reasons for this.)*	√
1.To improve physical, emotional and mental health and well-being for all	√	1.Balancing short term need with long term planning for the future	√

2.To target our resources to those with the greatest needs and reduce inequalities	√	2.Working together with other partners to deliver objectives	√
3.To support children to have the best start in life	√	3. Involving those with an interest and seeking their views	√
4.To work in partnership to support people – individuals, families, carers, communities - to achieve their own well-being	√	4.Putting resources into preventing problems occurring or getting worse	√
5.To improve the safety and quality of all services	√	5.Considering impact on all well-being goals together and on other bodies	√
6.To respect people and their dignity	√		
7.To listen to people and learn from their experiences	√		

Special Measures Improvement Framework Theme/Expectation addressed by this paper

Governance and Leadership – to ensure compliance with the Mental Health Act and Mental Health (Wales) Measure.

http://www.wales.nhs.uk/sitesplus/861/page/81806

Equality Impact Assessment

Retrospective looking report therefore no EqIA required.

(If no EqIA carried out, please briefly explain why. EqIA is required where a change of policy or direction is envisaged and/or where budgets are being reduced. It is particularly important that the biggest, most strategic decisions are subjected to an EqIA – see http://howis.wales.nhs.uk/sitesplus/861/page/47193)

Independent Review of the Mental Health Act

The Independent Review of the Mental Health Act was commissioned by Government in October 2017 and began with the Terms of Reference being published on the 4th of October which detailed the background, purpose of the review, expected outputs, leadership, co-production, governance and devolution.

The Independent Review was conducted throughout 2018 which involved engagement with Service Users, Carers and Professionals facilitated through surveys, meetings and conferences, commissioning of academic literature allowed the latest evidence on themes under the Mental Health Act to be gathered.

An interim report was published in May 2018 with the final report and recommendations published on the 6th of December 2018. This report is accessible via the link below:

https://www.gov.uk/government/publications/modernising-the-mental-health-act-final-report-from-the-independent-review

The final report sets out recommendations covering 4 principles that the review believes should underpin the reformed Act:

- choice and autonomy – ensuring service users' views and choices are respected
- least restriction – ensuring the Act's powers are used in the least restrictive way
- therapeutic benefit – ensuring patients are supported to get better, so they can be discharged from the Act
- people as individuals – ensuring patients are viewed and treated as rounded individuals

The review looked at:

- rising rates of detention under the Act
- the disproportionate number of people from black and minority ethnic groups detained under the Act
- processes that are out of step with a modern mental health care system (https://www.gov.uk/government/publications/modernising-the-mental-health-act-final-report-from-the-independent-review)

The Mental Health Network NHS Confederation provided a briefing paper in December 2018 Issue 310 as attached.

MHN Briefing 310
MHA review FINAL.pc

RECOMMENDATIONS

The review has made the following recommendations to the government to enable to Mental Health Act to be modernised and fulfil the criteria that the panel feel is essential.

The recommendations include proposed changes to current parts of the Mental Health Act and introductions of new ideas. Recommendations provided below are not in full but snapshot aspects that initially will affect the Health Board. The full recommendations are detailed within the report.

Proposed changes to current practices

1 **A purpose and new set of principles should be included in the Act**. These four principles covering the areas Choice and Autonomy, Least Restrictive, Therapeutic Benefit and People as Individuals should be included within the Statutory documentation to enable professionals to record how these have been taken into consideration. It is suggested that CQC take this into consideration in their monitoring and review role.

2 **Nearest Relative (NR)**. To be replaced by a Nominated Person (NP) which the patient will be able to choose under section 26 MHA. Displacement should be done via a Mental Health Review Tribunal rather than the County Court. For those who do not have capacity the AMHP will have the power to nominate an interim NP. Patients under Part III who currently do not have the rights to a NR will have limited eligibility to a NP in relation to care planning. NP will be consulted with in relation to treatment and care planning rather than informed about changes.

3 **IMHA's** The IMHA service will be opt out. It will be a statutory requirement that each patient whether informal or formal is allocated an IMHA. The IMHA will assist the patients with the Advanced Choice Document.

4 **Section 132 Information to patients and rights** Information is to be clearer and improved in relation to the complaints procedure which needs to be made known to the patient and their Nominated Person. Staff dealing with the complaints should have an understanding of the MHA.

5 **Detention and timeframes.** If a person has been subject to a Section 3 within the last 12 months unless a material change has happened then any re-detention should be under section 3 and not section 2.

Section 2. A second clinical opinion to be conducted at 14 days. The time period for right of appeal to be extended past the current 14 days.

Section 3. Timeframes to be changed to initially 3 months, followed by a further 3 months and then 6 months rather than the current 6,6 and then yearly. An RC and AMHP will be required to confirm 10 days prior to a Tribunal that the patient still meets the criteria for detention.

Bed availability. A time limit to be introduced to find a bed.

6 **Tribunals**. A patient should have an automatic referral to a Tribunal at 4 months since their detention, followed by 12 months and then annually thereafter currently this is 6 months then every 3 years thereafter. For Part III patients it is recommended every 12 months, currently this is 3 yearly. The tribunal will be given additional powers such as granting leave and transfer between hospitals. Section 67 to be expanded so that SOADs and CQC could refer patients to a tribunal. Specific training to be provided to the Tribunal panel members so that they are aware of the patients needs.

7 **CTO's**. Proposal for a CTO to require two doctors (inpatient and community consultant) and an AMHP. CTO timeframe to be 6-6-12 with each renewal involving an AMHP and two doctors unless a review has been held by the Tribunal. CTO's should end after 24 months, If longer than the two years it must be authorised again by an AMHP and two doctors. Automatic referrals will need to be made within each period if the patient does not exercise their right to a Tribunal. It is recommended that if the changes are put in place a review will be held in five years with the view to abolish if outcomes are not improved.

8 **Hospital Managers**. The managers of the hospital (the MHA office) will continue to have the duty to scrutinise documents and renewal documents. The power of Associate Hospital managers to order discharge from hospital will be removed. The Government and CQC to consider a new 'Hospital Visitors' role to be developed to look at day to day life and ensure the patient is being treated with dignity and respect.

9 **Children**. Admissions to an adult unit CQC should be informed within 24 hours. Section 17 of the Childrens Act 1989 to be amended so that an admitted child is considered a child in need and therefore will have access to services from the local authority. Young people aged 16/17 should not be admitted or treated on the basis of parental consent. The MCA tests should be used in the process for determining the young persons ability to make decisions, the presumption of capacity not to be used for those under 16.

Introduction of new ideas

1 **Care and Treatment Plans**. CTP's should be developed through shared decision making between the patient and the clinicians. These must be

formulated within 7 days of admission and reviewed and signed off by 14 days. Patients will have the right to objection via a Tribunal if they did not agree with the treatment plans and the ability to request a SOAD following the 14 day sign off. A new statutory document advanced choice document (ACD) to be developed to enable patients to make a range of choices and statements in relation to their inpatient care and treatment.

2 **Deaths in Detention**. A family liaison role to be developed to support families, families should receive none means tested legal aid and patients who are under DOLS/LPS should be considered as a death in state detention so that it triggers an investigation by a coroner and an inquest with a jury.

3 **Tackling the rise in detentions**. There should be more accessible and responsive mental health crisis services and community based mental health services to respond to people's needs and keep them well.

4 **Admissions**. Section 131 (voluntary admission) to be moved above section 2 and 3 within the Act to give it more prominence. Capacity to consent to admission to always be recorded on the application forms. Detention criteria to be strengthened.

5 **MCA (DOLS/LPS).** Only the MCA framework (DOLS to be LPS) to be used where a person lacks capacity to consent to their admission or treatment for mental disorder but it is clear that they are not objecting. The ability to hold the patient in hospital for 72 hours under MCA/LPS whilst it is determined if they are objecting.

6 **CQC**. To develop stricter criteria in relation to NICE guidelines, ward maintenance and structures and provisions.

7 **Cultural requirements**. Cultural appropriate advocacy should be available to all ethnic backgrounds and communities. Safeguards should be created so that people are able to continue spiritual practices or religion whilst in hospital. More research and funding should be available.

8 **Policing**. Ambulance services should establish formal standards to S136 conveyances. 2023/24 should see the removal of police cells as a place of safety. NHS England should take over the commissioning of health services in police custody.

9 **Criminal Justice System**. Magistrates courts to have powers amended to bring them in line with Crown Courts.

Recommendations have also been made in relation to data collection and cross referencing, the publishing timescales of data, Quality Improvement programmes, the availability and use of s12(2) doctors and linking staff morale with patient experience.

It is noted that there is a difference between the Tribunal workings in Wales compared to England and it is hoped that the recommendations will ensure that patients who are subject to the MHA in Wales or England will be treated the same and have the same rights and opportunities.

The review considered the use of the MHA and MCA and whether these should be fused together at the current time this is not a recommendation that is being made only that each Act is updated and kept separate.

The recommendations have been submitted to the Government.

Implications to the Health Board

The above recommendations will have implications to the Health Board and are bullet pointed below:

- Strengthened assurance that patients are detained appropriately
- Strengthened assurance that patients have access to an IMHA
- Additional administrative tasks for the Mental Health Act Office
- Additional reports required and assessments by Professionals
- Additional monitoring and checks
- Increased use of S12(2) doctors and financial implications
- Increased data assurance and availability enabling comparisons and benchmarking.

Acknowledgments

The independent review of the Mental Health Act was conducted by Professor Sir Simon Wessely, Steven Gilbert, Sir Mark Hedley and Rabbi Baroness Julia Neuberger.

Briefing
December 2018 Issue 310

Mental Health Network
NHS CONFEDERATION

Modernising the Mental Health Act

A summary of the final report of the Independent Review of the Mental Health Act

Key points

- In October 2017, the government announced an independent review of the Mental Health Act would take place.
- An interim report from the review team was published in May 2018.
- It highlighted a range of issues relating to before and during detention, as well as issues relating to specific groups of people including BAME communities.
- The final report was published in December 2018.
- This briefing summarises key points from the final report for Mental Health Network members.

Introduction

In October 2017, the Prime Minister, The Rt Hon Theresa May MP, announced an independent review of the 1983 Mental Health Act (MHA). Chaired by Professor Sir Simon Wessely, the review was tasked with making recommendations for improvements "in relation to rising detention rates, racial disparities in detention, and concerns that the act is out of step with a modern mental health system".[1] The review team were asked to look at both legislation and practice.

On 1 May 2018 the review team published an interim report, which summarised their work to date and outlined emerging priority areas. The second stage of the review probed further into 18 separate topic areas which were highlighted in the interim report.

The review's final report was published on 6 December 2018 and makes a total of 154 recommendations.[2] This briefing sets out an overview of the final report for Mental Health Network members, with a particular focus on those recommendations relevant to service providers.

Review activity

Supporting Professor Sir Wessely as vice chairs to the review were Steven Gilbert (a service user and lived experience consultant), Sir Mark Hedley (a retired high court judge), and Rabbi Baroness Julia Neuberger (former chief executive of The King's Fund and chair of the Liverpool Care Pathway Review). In turn, the review was supported by four governance groups (a working group, a service user and carer group, an African and Caribbean group, plus an advisory panel). Eighteen topics groups were also established to explore the priority areas identified in the review's interim report.

The Mental Health Network's chief executive, Sean Duggan, chaired the review's topic group on reducing detention rates. Over the course of the review, the Mental Health Network hosted two private roundtables for members to meet with Professor Sir Wessely and members of the review team.

The review team undertook extensive engagement. This included holding over 50 focus groups and examining over 1,500 survey responses from service users and carers. The review also held seven public workshops with over 550 attendees, as well as a series of bespoke roundtables on priority areas. This included a roundtable at 10 Downing Street to discuss priorities for African and Caribbean communities.

Lastly, a short note on scope. The MHA applies to England and Wales. However, the health policy aspect of the act is the responsibility of the Welsh Government, while the justice side of the act is the responsibility of the UK Government. Therefore, the recommendations in the review cover England for health, but both Wales and England for justice.

The case for change

The review sets out a clear case for change. Rates of detentions in psychiatric hospitals have more than doubled since 1983, with the steepest rises seen over the last decade and during the late 80s and early 90s. From 2005/06 to 2015/16, the reported number of uses of the MHA to detain people in hospital increased by 40 per cent. The review states that emerging data from the last three years suggest that this trend may be changing. A considered analysis of the data relating to these trends is set out in the report, including consideration of which societal and legal factors, as well as issues relating to patterns of service provision, could be contributing to rising rates of detentions.

The review also provides a thoughtful consideration of the experience of service users. Overall, the review finds, they "have been disturbed and saddened by what we have heard from patients". Too many people are described as being cared for in wards which are below standard, and the experience of care is too often found wanting. The review "heard repeatedly of the distressing and unacceptable experiences from people from ethnic minority communities and in particular black African Caribbean men. Fear of what may happen if you are detained, how long you may be in hospital and even if you will get out are all widespread in ethnic minority communities".

The review found that "there is unacceptable overrepresentation of people from black and minority ethnic groups amongst people detained; and people with learning disabilities and or autism are at a particular disadvantage". There is a need, says the review, to achieve a greater focus on rights-based approaches.

New Mental Health Act principles

The review recommends that a statement of fundamental purpose and principles should be articulated in the MHA's opening section. They would provide the basis for all actions taken under the act, setting the standards against which decisions can be held to account and providing service users with clear expectations for their care and treatment.

The review proposes this should enshrine the concepts of:

- **Choice and autonomy**: Ensuring service users' views and choices are respected.
- **Least restriction**: Ensuring the act's powers are used in the least restrictive way.
- **Therapeutic benefit**: Ensuring patients are supported to get better, so they can be discharged from the act.
- **The person as an individual**: Ensuring patients are viewed and treated as rounded individuals.

These four principles form the basis for the 154 recommendations set out by the review. The following section summarises those proposed actions. Later in this briefing, the government's initial response to those recommendations is outlined as well as a consideration of next steps.

"If there is one theme that runs through this review, it is to ensure that the voice of the patient is heard louder and more distinctly, and that it carries more weight, than has been the case in the past."

PRINCIPLE ONE: CHOICE AND AUTONOMY

Making decisions about care and treatment

The review makes approximately 30 recommendations relating to strengthening the principle of choice and autonomy. As the review states:

"If there is one theme that runs through this review, it is to ensure that the voice of the patient is heard louder and more distinctly, and that it carries more weight, than has been the case in the past. It is our intention that even when deprived of their liberty, patients will have a greater say in decisions, including decisions about how they are treated. We also want to make it harder to have those decisions overruled."

In relation to making decisions about care and treatment, the review seeks to increase service user involvement by ensuring shared decision-making is the basis, as far as possible, for care planning and treatment decisions made under the act. It also seeks to establish a new basis for making treatment decisions which respects both the service user's expertise and knowledge and that of the clinician. Further, it recommends making it harder for clinicians to administer treatment which a service user has refused and strengthening challenges to treatment. The review also recommends providing in statute the right for people to express their choices in advance, and better recording of service users views.

Recommendations of particular interest here include proposing the introduction of statutory advance choices documents (ACDs) that enable adults to make a range of choices and statements about their care and treatment. Service users should also be able to request a second opinion appointed doctor (SOAD) review from once their care and treatment plan has been finalised or 14 days after their admission, whichever is the sooner; and again, following any significant changes to treatment. Service users should be able to appeal treatment decisions at the Mental Health Tribunal following a SOAD review. The review also recommends that mental healthcare providers should be required to demonstrate that they are co-

producing mental health services, including those used by service users under the MHA.

Family and carer involvement

The review recommends that service users should be able to choose a new nominated person to replace the current nearest relative role under section 26 of the MHA. A new interim nominated person selection mechanism should be created for those who have not nominated anyone and do not have capacity to do so. Nominated persons should have the right to be consulted on care plans, and to challenge treatment decisions before the Mental Health Tribunal where the service user does not have the capacity to do it themselves.

Advocacy

The review recommends enhancing and extending advocacy provision. Specifically, it recommends that the statutory right to an independent mental health advocate (IMHA) should be extended so that it includes all mental health inpatients, including informal patients. In addition, it should also include patients awaiting transfer from a prison or an immigration detention centre, as well as people preparing their advance choice documents that refer to detention under the MHA. IMHA services should be 'opt out' for all who have a statutory right to it, and the Care Quality Commission (CQC) should monitor access. Commissioning by local authorities should also be strengthened so that the requirement for IMHAs to be available to meet the needs of different groups, particularly ethnic minority communities, is made clear, in light of the public sector equality duty.

Complaints

The review makes a number of recommendations relating to complaints. Among them, it recommends that section 132 of the MHA should be amended to require managers of hospitals to provide clearer information on making complaints to patients and their nominated person. Information going to hospital boards should be separated between complaints made by patients detained under the MHA and complaints made by informal patients.

Deaths in detention

Lastly in this section, the review makes a number of important recommendations relating to responding to deaths in detention. It recommends that a formalised family liaison role should be developed to offer support to families of individuals who die unexpectedly in detention. Further, it recommends that guidance should make clear that a death under deprivation of liberty safeguards (DoLS) or liberty protection safeguards (LPS) in a psychiatric setting should be considered to be a death in state detention, as this would trigger the duty for an investigation by a coroner. An inquest with a jury should also be held.

PRINCIPLE TWO: LEAST RESTRICTION

Tackling rising rates of detention

In relation to tackling the rising rates of detention, the review states that there is "no clear single driver for the rising rates of detention" and that "similarly there is no simple solution to addressing them". Bringing rates of detention down will require government and other agencies to work together to develop a long-term approach, supported by better partnership working on the ground. The review calls for the government and national bodies to fund and undertake a major programme of research into service models, as well as clinical and social interventions, and their relationships to rates of detention.

The review heard of many examples of services providing alternatives to detention, as well as interventions to prevent a crisis or the escalation of crisis. These included a case study of a mental health crisis house run by Look Ahead Care and Support that was visited by Professor Sir Wessely. The service provides a non-clinical alternative to an acute hospital admission. The review recommends that there should be more accessible and responsive mental health crisis services and community-based mental health services that respond to people's needs and keep them well. The government should resource policy development looking into alternatives to detention, and prevention of crisis.

Criteria for detention

Considering criteria for detention, the review states that there is "great value in patients being able to be treated as an inpatient voluntarily with their own

consent wherever possible, in line with the principles of least restriction and patient choice". It recommends that people should be treated as an inpatient with consent wherever possible. A service user's capacity to consent to their admission must always be assessed and recorded, including on the application form. In order to be detained under the MHA, the review states that a service user must be objecting to admission or treatment. Otherwise they should be admitted informally or be made subject to an authorisation under the framework provided under the Mental Capacity Act (MCA). Detention criteria concerning treatment and risk should also be strengthened.

A statutory care and treatment plan

The review recommends that a statutory care and treatment plan (CTP) is developed soon after the point of detention, which should evolve at each state of the process. This should be the responsibility of the responsible clinician (RC). The CTP should be in place within seven days and reviewed at 14 days. During the assessment period, the plan should be developed, so that by the time of a long-term order being imposed under section 3, there is a clear account of why detention is needed and what it seeks to achieve. The plan "will continue to develop during detention and should be updated before renewals of detention periods, and appeals to the tribunal. Increasingly it will focus on how to support the ending of detention and the aftercare that should be in place on discharge". The review sets out a number of components that should be covered within the plan. The new CTP is described as "a cornerstone" of the review, which will enable the delivery of all four key principles.

Length of detention

A further area of consideration for the review was how periods of detention could be shortened. The review recommends a number of changes to the code of practice. That includes amending the guidance so that, where a person has been subject to detention under section 3 within the last 12 months, an application for detention under section 2 can only be made where there has been a material change in the person's circumstances.

Further, the review states that the detention stages and timelines should be reformed so that they are less restrictive through a number of changes. This includes introducing a requirement for a second clinical opinion at 14 days of a section 2 admission for assessment, as well as extending the right of appeal for section 2 beyond the first 14 days. In addition, the review recommends introducing a new time limit by which a bed must be found following an order for detention, as well as requiring the RC and the approved mental health professional (AMHP) to certify ten days in advance of a tribunal hearing for section 3 that the person continues to meet the criteria for detention.

Challenging detention

During the review, the team heard from service users and carers that they would appreciate having greater access to the tribunal, and for the tribunal to have greater powers afforded to it. Careful consideration is paid to these questions in the review and a number of recommendations made. In doing so, the review makes clear that they have worked closely with the judiciary to develop their recommendations and are mindful of the need to undertake a full impact analysis for any future consultation.

The review recommends that the tribunal should have the power, during an application for discharge, to grant leave from hospital and direct transfer to a different hospital, as well as a limited power to direct the provision of services in the community. Among a range of other recommendations, it states that where the tribunal believes that the conditions of a patient's detention breaches the Human Rights Act 1998, they should bring this to the attention of the CQC. A statutory power should be introduced for IMHAs and nominated persons to apply for discharge to the tribunal on behalf of the service user. There should be an automatic referral to the tribunal four months after the detention started, then after 12 months and then annually after that. For part III patients, automatic referrals should take place once every 12 months.

The Mental Health Act or the Mental Capacity Act?

As the review points out, both the MHA and the MCA provide different legal frameworks to treat someone without consent, and to deprive them of their liberty by detaining, or confining, them in hospital. The MCA can only be used where the person lacks capacity

to consent to their confinement. Where the MCA is enacted, professionals must use the DoLS process to authorise detention and protect the patient's rights. The review states that "we have been particularly concerned to hear that the MHA has been used, at least in some cases, because it is easier to use than DoLS". Further it states that "we want to take use of the MHA back to the position that it can only be used for people who are obviously objecting to treatment".

The review makes a number of relevant recommendations here, including that only the MCA framework (DoLS, in future the LPS) should be used "where a person lacks capacity to consent to their admission or treatment for mental disorder but it is clear that they are not objecting". They further suggest that "a patient could be held in hospital for a statutory period of up to 72 hours under MCA LPS amendments whilst it is determined whether the person is objecting".

Community treatment orders

Introduced in 2007, community treatment orders (CTOs) are a form of supervised community treatment for people who had previously been detained in hospital under section 3. The review finds that, overall, "the academic literature currently does not give much support to the theory that CTOs reduce re-admission". Further, the review raises some concerns relating to the fact that a 'Black or Black British' person is over eight times more likely to be given a CTO than a white person.[3] On the other hand, the review states, they heard from service users, carers and professionals that there are a small number of people for whom CTOs represent the least restrictive option.

A large number of recommendations are made that are relevant to this issue, a number of which are highlighted below.

The review recommends that the criteria for CTOs should be revised in line with detention criteria. It further recommends that the onus should be on the RC to demonstrate that a CTO is a reasonable and necessary requirement to maintain engagement with services and protect the safety of the service user and others. The evidence threshold should be raised for demonstrating that contact with services has previously reduced, and that this led to significant decline in mental health. Applications for a CTO should be made by the inpatient RC, with the community supervising clinician who will be responsible following discharge, and an AMHP. The nominated person/interim nominated person will have the power to object to both applications and renewals of CTOs.

CTOs should have an initial period of six months, renewed at the end of the first period, and then at 12 months. Each renewal must involve two approved clinicians and an AMHP, unless the tribunal has recently reviewed the order. CTOs should end after 24 months, though provision should be made for the RC to make a new application.

Coercion and restrictive practices

The review recommends that wards should not use coercive behavioural systems and restrictions to achieve compliance from patients, but should develop, implement and monitor alternatives. Further, providers should take urgent action to end unjustified use of 'blanket' restrictions applied to all service users.

PRINCIPLE THREE: THERAPEUTIC BENEFIT

The third principle underpinning the review is to achieve better and more therapeutic experiences for those who are detained under the MHA, as well as preventing crisis and the requirement for detention.

Care planning and aftercare

The review acknowledges significant issues with the complexity of the system and different sets of entitlements service users may have. The team heard of a number of issues relating to the provision of section 117, and say that they would have liked to have recommended the extension of aftercare to more categories of service users who may benefit from it. Within the current financial envelope they have concluded this is not possible in the short or medium term without the risk of creating further inequalities.

In the short to medium term they make a number of recommendations including the creation of a new high-quality care plan with a statutory footing. There should be a statutory care plan (SCP) for people in contact with community health teams, inpatient care and/or social care services. The SCP will encompass existing rights under the Care Act, NHS continuing healthcare and personalised budgets (and section 117 entitlements if someone has been detained on an eligible section). The new SCP should follow service users through the system, and incorporate the new statutory care and treatment plan when someone is detained, as well as discharge planning and aftercare provision.

The review recognises the value of better discharge planning. The period after discharge carries with it an increased risk of suicide. Being admitted as an involuntary patient can have major impacts in all aspects of someone's life, including housing, employment, welfare benefits and childcare. The review recommends that discharge planning should be improved, as part of the care and treatment plan during detention, to ensure it is being considered from day one, and should be recorded and updated in the SCP post detention.

Hospital visitors

Associate hospital managers (AHMs) are local, lay people appointed by the hospital or trust who have the power, on the behalf of hospital managers, to discharge service users. The review heard that there is no national job description or framework for the role of AHMs. There is no formal or ongoing training, nor a requirement for updated knowledge on National Institute for Health and Care Excellence (NICE) treatment standards. Some areas face challenges in recruiting AHMs that have experience of the ethnicity, culture, age and gender of the service users they are dealing with.

AHMs are described as a scarce resource, "hard-working, and committed to the task of participating in improving the way those with the severest illnesses are looked after". The review suggests that "if their discharge hearing function is removed, we think that they would have capacity to take on a new role which would enable them to make the most of these qualities". The review goes further to say that there would be value in replacing the current AHM role with a new hospital visitors role, the main purpose of which would be to monitor day-to-day life in the hospital and ensure that service users are treated with dignity and respect, that they receive the treatment they need, and that their rights are protected.

The review recommends that the managers of the hospital should continue to have the duty to scrutinise applications for detention and a duty to scrutinise renewal documents. The power of AHMs to order discharge following a hearing should be removed.

Inpatient social environments

The review is clear that commissioners and providers must do more to improve the social environments of wards. In doing so, they should learn from co-produced and service-user led initiatives such as Starwards and the Dragon Café.

The review recommends that the CQC should develop new criteria for monitoring the social environments of wards. These criteria should be the yardstick against which wards are registered and inspected, plus this should be reflected in ratings and enforcement decisions. It further recommends that service users should have a daily one-to-one session with permanent staff in line with NICE guidelines.

Inpatient physical environments

The review states that "detained patients... are often placed in some of the worst estate that the NHS has, just when they need the best". They further observe that "the physical environment of wards has become affected by an increasingly risk- and infection-averse approach which can create the kind of institutional atmosphere that psychiatry has been trying to move away from for the last half century, because of its negative impact on patient experience. For example, rimless toilets, heavy wipe clean armchairs, hard flooring and bare walls that are easier to clean, but absorb little sound make buildings oppressively noisy".

The review recommends that the physical environment of wards needs to be improved, through co-design and co-production with people of relevant lived experience, to maximise homeliness and

therapeutic benefit and minimise institutionalisation. Risk assessments of issues such as infection control should be designed specifically for mental health inpatient care, and not lifted from other health settings. The unintended psychosocial effects must also be considered. Further, it is recommended that a review should be undertaken of the physical requirements for ward design for mental health units (e.g. the building notes, regulatory standards). The design of this review should be co-produced with people with lived experience.

The backlog of maintenance and repairs needs to be addressed so that mental health facilities are brought up to standard, and all dormitory accommodation should be updated without delay to allow service users to have their own room. Definitions of single sex accommodation should be tightened up. Lastly, and critically, the review recommends that "the government and the NHS should commit in the forthcoming spending review to a major multi-year capital investment programme to modernise the NHS mental health estate".

PRINCIPLE FOUR: THE PERSON AS AN INDIVIDUAL

Person-centred care

The review is clear about the need to recognise individual and cultural needs, as well as strengths. Care must also be trauma informed, and the review notes the work of the Women's Mental Health Taskforce in this area. Maintaining contact with family and the outside world is also seen as vitally important.

The review recommends that the CQC should review and update their inspection and monitoring of individual treatment and care to provide assurance that it meets the needs of different minority groups. Reasonable adjustments should be made to enable people to participate fully in their care, including in relation to communication abilities.

Further to the above, the physical health of service users should be monitored, so that physical illness and conditions (for example diabetes and asthma) can be identified and treated. The CQC should pay particular regard to obtaining service user (and carer) input from those who might find it difficult to articulate their views, including those in secure and out-of-area placements, those with learning disabilities or autism and children and young people.

Recognition of patient individuality at the tribunal

The review recommends that training should be developed for panel members in specialisms including children and young people, forensic, learning disability, autism, and older people. Further to this, statistics should be collected on the protected characteristics of those applying for a tribunal hearing, and their discharge rates.

The experiences of people from Black, Asian and minority ethnic (BAME) communities

The review highlights the unacceptable inequalities experienced by people from BAME communities in terms of access, experience and outcomes from mental health treatment and care. Adults of black African and Caribbean heritage are more likely than any other ethnic group to be detained under the MHA.[4]

The review describes its recommendations here as representing "a shift in tackling racial inequalities by accepting that the structure of existing systems needs to change gradually to improve overall quality of services. The input of service users, carers and communities is crucial in achieving this change".

The review's primary recommendation relating to this issue is for an organisational competence framework (OCF) and a patient and carer experience tool to be developed and implemented first by the NHS, but ultimately for rollout to wider public services. This follows the recommendation of the Crisp Commission to identify a clear and measurable set of race equality standards for acute mental health services, which it was suggested should be developed to test whether the Workforce Race Equality Standard (WRES) is improving services.

The review endorses ongoing work by NHS England to develop an OCF for mental health – the Patient and Carer Race Equality Framework (PCREF). The review states that it believes that goals should focus

on several core areas of competence: awareness, staff capability, behavioural change, data and monitoring, and service development.

The review further recommends that regulatory bodies such as the CQC should use their powers to support improvement in equality of access and outcomes. The Equality and Human Rights Commission should make use of their existing legal powers to ensure that organisations are fulfilling their public sector equality duty. In addition, culturally-appropriate advocacy should be provided consistently for people of all ethnic backgrounds and communities, in particular for individuals of black African and Caribbean descent and heritage. Behavioural interventions to combat implicit bias in decision-making should be piloted and evaluated.

The review makes some very specific recommendations relating to the workforce and ensuring this is more representative of the communities served. In line with the NHS Workforce Race Equality Standard programme, the review calls for greater representation of people of black African and Caribbean heritage in all professions, in particular psychology and occupational therapy. Further, people of black African and Caribbean heritage should be supported to rise to senior levels of all mental health professions, especially psychiatry and psychiatric research, psychiatric nursing and management.

Children and young people

While many of the recommendations made in other areas of this report also apply to children and young people, the review focuses on two areas in making some recommendations relating specifically to the needs of children and young people. Those are the legal basis for admission and treatment and proper safeguards and procedures.

The review recommends that legislation and guidance should make clear that the only test that applies to those aged 16/17 to determine their ability to make decisions in relation to admission and treatment is contained in the MCA. In young people under 16, competence should be understood in this context as the functional test under the MCA, although without the presumption of capacity that applies in relation to those over 16. Young people aged 16 or 17 should not be admitted or treated on the basis of parental consent. The MCA (DoLs or LPS) or MHA should be used as appropriate if they are unable to consent to their treatment.

Further, government should consult on the ability of parents to consent to admission and treatment for those under 16. Every inpatient child or young person should have access to an IMHA who is trained to work with young people and their families. In addition, every inpatient child or young person should have a personalised care and treatment plan which records the views and wishes of the child or young person on each issue. Initial reviews should take place within five days of emergency admission (or three days if it is to adult facility) and at a minimum of four-to-six weekly intervals after that.

Amongst a range of other recommendations, it is suggested that for children and young people placed in an adult unit, or out-of-area, the CQC should be notified within 24 hours. The CQC should record both the reasons for placement and its proposed length.

People with learning disabilities and autism

The review highlights a range of concerns about the way the MHA works for people with learning disabilities, autism or both. In brief, those recommendations are that health and social care commissioners should have a duty to collaborate to ensure provision of community-based support and treatment for people with a learning disability, autism, or both to avoid admission into hospital and support a timely discharge back into the community. The review also recommends that the MHA code of practice is amended to clarify best practice when the MHA is used for people with autism, learning disabilities or both.

Further, the mental health services dataset should include specific data to monitor the number of detentions and circumstances surrounding that detention of people with autism, learning disabilities or both.

Policing and the Mental Health Act

The review notes that the use of police cells as places of safety has reduced by 95 per cent over the period

from 2011/12 to 2017/18. This is positive progress. We must build on this and strive to ensure that people experiencing a mental health crisis are treated with dignity and respect.

The review recommends that by 2023/24 investment in mental health services, health-based places of safety and ambulances should allow for the removal of police cells as a place of safety in the act and ensure that the majority of people detained under police powers should be conveyed to places of safety by ambulance. This is subject to satisfactory and safe alternative health-based places of safety being available.

Further to this, ambulance services should establish formal standards for responses to section 136 conveyances and all other mental health crisis calls. Ambulance commissioners and ambulance trusts should improve the ambulance fleet, including commissioning bespoke mental health vehicles. Equality issues, particularly police interactions with people from ethnic minority communities under the MHA, should be monitored and addressed. This should be under the proposed Organisational Competence Framework where possible.

Criminal justice system

A large number of recommendations are made by the review relevant to the provision of care of service users in the criminal justice system. These can be read in full in the report, but in part relate to the powers of magistrates' courts and tribunals. Further, it is recommended that prison should never be used as 'a place of safety' for individuals who meet the criteria for detention under the MHA. In addition, it is recommended that a new statutory, independent role should be created to manage transfers from prisons and immigration removal centres. The time from referral for a first assessment to transfer should have a statutory time limit of 28 days.

System-wide enablers

In addition to the recommendations outlined above, the review also highlights a number of additional points where it calls for better use of data and leveraging digital technology to support efficiency and effectiveness. Specifically, the review recommends that an agreed, accurate national baseline of the use of mental health services should be established, following a pilot programme to develop robust methodology. Amongst other recommendations, it suggests that a national MHA data hub should be established to pull together and routinely analyse MHA data across NHS services, exploring possibilities for developing linkages across the various datasets, local authorities and policing.

In addition, NHS Improvement and NHS England should fund the establishment of a national quality improvement (QI) programme relating specifically to the MHA.

The review also makes a thoughtful consideration about the workforce and how this can be best supported. The review recommends the factors that affect the timely availability of section 12-approved doctors and AMHPs should be reviewed and addressed. The government should consider introducing a minimum waiting time standard for the commencement of an MHA assessment.

NHS England and NHS Improvement should consider the implications of the evidence linking staff morale and patient experience in the context of detained patients, and take action accordingly.

"The review recommends that by 2023/24 investment in mental health services, health-based places of safety and ambulances should allow for the removal of police cells as a place of safety"

The government's response

Responding to the publication of the report, Prime Minister Theresa May said:

"The disparity in our mental health services is one of the burning injustices this country faces that we must put right. For decades it has somehow been accepted that if you have a mental illness, you will not receive the same access to treatment as if you have a physical ailment. Well, that is not acceptable.

"I commissioned this review because I am determined to make sure those suffering from mental health issues are treated with dignity and respect, with their liberty and autonomy respected.

"By bringing forward this historic legislation – the new Mental Health Bill – we can ensure people are in control of their care, and are receiving the right treatment and support they need.

"I'm grateful to Prof Sir Simon Wessely and his team for their tireless work on this vitally important review".[5]

The government has stated it will issue a formal response to the review's recommendations in the new year before preparing to bring forward legislation.

On publication, the government said it accepts two of the review's recommendations to modernise the MHA. Those detained under the act will be allowed to nominate a person of their choice to be involved in decisions about their care. Currently, they have no say on which relative is contacted. This can lead to distant or unknown relatives being called upon to make important decisions about their care when they are at their most vulnerable. People will also be able to express their preferences for care and treatment and have these listed in statutory 'advance choice' documents.[6]

Mental Health Network viewpoint

On behalf of Mental Health Network members, we have previously shared our deep concerns relating to rising numbers of people being detained under the MHA and of the over-representation of people from BAME communities. We very much welcomed the announcement of this review in October 2017.

During the second phase of the review we were impressed by the strong focus on improving the patient experience and the level of engagement that was undertaken with a wide variety of stakeholders.

We welcome the recommendations that, if implemented, would allow patients a greater say in the care they receive while detained, and will provide alternatives to detention following years of rises in detention rates. Taken as a whole, the recommendations will also start to address the unacceptable disparity of rates of detention between different BAME groups.

The successful implementation of the review's recommendations is reliant on extra revenue and capital funding for mental health services, and we hope to see this reflected in the upcoming NHS long-term plan funding settlement and spending review. We welcome the government's initial response and look forward to working with them on plans to take these important recommendations forward.

References

1. HM Government (May 2018), ***The independent review of the Mental Health Act: Interim report***, [online pdf], accessed November 2018.
2. HM Government (December 2018), ***Modernising the Mental Health Act: Increasing Choice, Reducing Compulsion. Final Report of the Independent Review of the Mental Health Act***, [online pdf], accessed December 2018.
3. NHS Digital (October 2018), ***Mental Health Act Statistics: Annual Figures 2017–18***, [online pdf], accessed November 2018.
4. Ibid.
5. HM Government (December 2018), ***Government commits to reform the Mental Health Act***, [online], accessed December 2018.
6. Ibid.

The Mental Health Network is the voice of mental health and learning disability service providers for the NHS in England. We represent providers from the not-for-profit, commercial and statutory sectors – including more than 90 per cent of NHS trusts and foundation trusts providing secondary mental health services. We work with government, NHS bodies, parliamentarians, opinion formers and the media to promote the views and interests of our members and to influence policy on their behalf.

For more about our work, visit **www.nhsconfed.org/mhn** or email **mentalhealthnetwork@nhsconfed.org**

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We consider requests on an individual basis.

Mental Health Network
Portland House
Bressenden Place
London SW1E 5BH

Tel 020 7799 6666
Email mentalhealthnetwork@nhsconfed.org
www.nhsconfed.org/mhn

Follow the Mental Health Network on Twitter
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Mental Health Act Committee

29 March 2019

GIG CYMRU NHS WALES
Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

To improve health and provide excellent care

Report Title:	**Mental Health Act Committee and Power of Discharge Sub-Committee – future arrangements**
Report Author:	Dawn Sharp, Assistant Director and Deputy Board Secretary
Responsible Director:	Andy Roach, Director of Mental Health and Learning Disabilities
Public or In Committee	Public
Purpose of Report:	Following the request to examine the role and remit of the Health Board's Mental Health Act Committee (MHAC) and the Power of Discharge (POD) Sub-Committee this report sets out the background, legal advice and options available for the Committee to determine.
Approval / Scrutiny Route Prior to Presentation:	Director of Mental Health and Learning Disabilities and Chairman of the Committee.
Governance issues / risks:	No significant risks identified.
Financial Implications:	No additional funding currently required in respect of this paper.
Recommendation:	**That Members** **(1) agree to proceed with Option 3 and ask the Deputy Board Secretary to amend the Terms of Reference and cycle of business and seek approval of the Board with a view to implementing the new arrangements from September 2019;** **(2) consider options regarding future Chairing of the POD; and** **(3) consider the future frequency of meetings.**

Health Board's Well-being Objectives *(indicate how this paper proposes alignment with the Health Board's Well Being objectives. Tick all that apply and expand within main report)*	√	**WFGA Sustainable Development Principle** *(Indicate how the paper/proposal has embedded and prioritised the sustainable development principle in its development. Describe how within the main body of the report or if not indicate the reasons for this.)*	√
1.To improve physical, emotional and mental health and well-being for all	√	1.Balancing short term need with long term planning for the future	√
2.To target our resources to those with the greatest needs and reduce inequalities	√	2.Working together with other partners to deliver objectives	√

3.To support children to have the best start in life	√	3. Involving those with an interest and seeking their views	√
4.To work in partnership to support people – individuals, families, carers, communities - to achieve their own well-being	√	4.Putting resources into preventing problems occurring or getting worse	√
5.To improve the safety and quality of all services	√	5.Considering impact on all well-being goals together and on other bodies	√
6.To respect people and their dignity	√		
7.To listen to people and learn from their experiences	√		
Special Measures Improvement Framework Theme/Expectation addressed by this paper *http://www.wales.nhs.uk/sitesplus/861/page/81806* – leadership and governance.			
Equality Impact Assessment An Equality Impact Assessment is not considered necessary for a paper of this type.			

Disclosure:
Betsi Cadwaladr University Health Board is the operational name of Betsi Cadwaladr University Local Health Board

Mental Health Act Committee and Power of Discharge Sub-Committee – future arrangements

1 Members will be aware of previous discussions and the request to examine the role and remit of the Health Board's Mental Health Act Committee (MHAC) and the Power of Discharge (POD) Sub-Committee essentially to ascertain what alternative solutions could be considered to address duplication in reporting between the two bodies. The suggestion from the Members was to give consideration to some form of merger.

2 As a result, a scoping exercise was undertaken to establish the arrangements in other Health Boards in Wales. The majority currently have both a MHAC and a POD with broadly similar business being presented.

3 Legal advice was sought in terms of options available and whether it would be permissible to disband the Mental Health Act Committee and transfer its responsibilities to the Quality, Safety and Experience (QSE) Committee, retaining the Power of Discharge Sub-Committee as a Sub-Committee of QSE.

4 The guidance issued by Welsh Government in 2010 (and model terms of reference) clearly states (in the footnotes):

'*LHB's may determine that the functions set out within the 'Mental Health Act Monitoring Committee' should be incorporated within the remit of the standing committee established to oversee all aspects of quality & patient safety. Alternatively it may be established as a sub-committee of that broader standing committee. The 'Hospital Managers Power of Discharge Committee' may also be set up as a sub-committee of that standing committee, although, unlike the Monitoring Committee, LHB's must establish a specific committee or sub-committee to perform this role'.*

5 NHS Wales Legal and Risk Services have confirmed that they have not been able to locate any updated guidance from Welsh Government since that issued in 2010. Whilst the Mental Health Act Code of Practice was updated in 2016, they have not been able to trace any updated guidance to accompany the 2016 Code of Practice. The 2016 Code of Practice does not provide the level of clarity produced in the 2010 guidance in respect of the two separate committees, however it says nothing that leads inevitably to the conclusion that the position has changed since 2010. Legal and Risk Services also reviewed the 2014 Mental Health Act Manual by Richard Jones and noted the following:

'special rules apply to the exercise of the hospital managers' power to discharge patients from detention or SCT...Otherwise, hospital managers (meaning the organisation, or individual, in charge of the hospital) may arrange for their functions to be carried out, day to day, by particular people on their behalf...unless the Act or regulations say otherwise, organisations may delegate their functions under the Act to any one and in any way which their constitution or (in the case of NHS bodies) NHS legislation allows them to delegate their other functions...it is for the organisation (or individual) concerned to decide what arrangements to put into place to monitor and review the way in which functions under the Act are exercised in its behalf-but many organisations establish a Mental Health Act steering or scrutiny group especially for that task'.

6 In light of this, they concluded that it would be acceptable to disband the MHAC so long as its functions were transferred to the Quality, Safety and Experience Committee.

7 With respect to the Power of Discharge Committee, Legal and Risk Services believe that it is still the intention that this Committee stands alone. The 2008 Code of Practice clearly states:

'Section 23 (Mental Health Act 1983) gives hospital managers the power to discharge an unrestricted patient from detention or supervised community treatment (SCT). Discharge of a restricted patient requires the consent of the Secretary of State for Justice.

The power may be exercised on behalf of the hospital managers by three or more members of a committee or sub-committee ***formed for that purpose****. It is helpful to patients and staff that any such committee is referred to in a way which clearly indicates that the* ***committee is formed solely to consider whether hospital managers' power of discharge should be exercised'****.*

8 Whilst the above content is not repeated in the 2016 Code of Practice, they would not advise the Health Board to steer away from the guidance.

9 It would appear that this then leaves three potential options:-

- to retain the status quo
- to retain the POD Sub-Committee and disband the MHAC and incorporate
- the substantive business of the MHAC into QSE
- to retain both the MHAC and the POD but to rationalise the business
- currently being presented.

10 With regard to **Option 1,** members have already raised concerns about duplication and time constraints.

11 **Option 2** - Whilst the Health Board could move to a different model, Members of the Board may be concerned about doing this at a point when the Health Board remains in Special Measures, particular if then viewed as an outlier in Wales. Furthermore, the current workload of QSE is extensive and given it has only recently moved to bi-monthly meetings this arrangement needs to stabilise before QSE's workload is expanded.

12 **Option 3 – Preferred option** - Retain both the MHAC and the POD but rationalise the business currently being presented and hold both meetings on the same day (in a condensed timeframe of morning or afternoon). This would potentially mean changes to the agenda in the following areas:-

- Cease submitting separate IMHA, S136 and CAMHS reports as the data is already incorporated into the overarching performance activity report.

- Remove the MHM compliance section from the performance report as this is already presented to QSE.
- HIW updates – only present these to MHAC not the POD. These reports should only be where HIW have specifically made recommendations concerning the Mental Health Act. NB the wider HIW reports are presented to QSE.

Other Considerations

- Not all Health Boards have the Vice-Chairman of the Board acting as the Chair of the POD, some nominate another IM and Members may therefore wish to consider this further.
- Members may wish to reduce the frequency of meetings perhaps meeting three times per year instead of quarterly as at present.

RECOMMENDED: That Members

(1) Agree to proceed with Option 3 and ask the Deputy Board Secretary to amend the Terms of Reference and cycle of business and seek approval of the Board with a view to implementing the new arrangements from September 2019;
(2) Consider options regarding future Chairing of the POD; and
(3) Consider the future frequency of meetings.

Mental Health Act Committee* Annual Report 2018/19

*Including an overview of the work of the Power of Discharge Sub-Committee

1. Title of Committee:

Mental Health Act Committee (MHAC)

2. Name and role of person submitting this report:

Andy Roach, Director of Mental Health and Learning Disabilities

3. Dates covered by this report:

01/04/2018-31/03/2019

4. Number of times the Committee met during this period:

The Committee was routinely scheduled to meet four times and otherwise as the Chair of the Committee deemed necessary. During the reporting period, it met on three occasions. Attendance at meetings is detailed within the table below:

The Power of Discharge Sub-Committee also met on four occasions during the year on the same dates and attendance of the core Sub-Committee membership is also detailed below.

Members of the Committee	11th May 2018	21st Sept 2018	3rd Jan 2019	29th Mar 2019
Bethan Russell-Williams	✓	✓	✓	
Cheryl Carlise	◆	A	✓	
Lynn Meadows	◆	✓	A	
Margaret Hanson (Chair)	✓	◆	◆	◆
Marian Wyn Jones (Chair)	◆	✓	✓	
Medwyn Hughes	✓	◆	◆	◆

Directors in attendance	11th May 2018	21st Sept 2018	3rd Jan 2019	29th Mar 2019
Alberto Salmoiraghi	✓	✓	A	
Andy Roach	A	A	✓	
Jen French	A	◆	◆	◆
Jill Timmins	◆	✓	✓	
Gill Harris	A	A	A	
Steve Forsyth	◆	◆	✓	

◆ Not a member of the Committee at this time.
A Apologies
In addition to the above core membership, other Directors and Officers from the Health Board regularly attend meetings of the Committee. Additionally, the Committee benefits from Staff Side, Unllais, and Local Authority Social Services Representation attendance and in year has been supported by the regular attendance of nominated Associate Hospital Managers. For a full list of attendance, please see the detailed Minutes which can be accessed on the Health Board's website via the following link:-
http://www.wales.nhs.uk/sitesplus/861/page/88168

Power of Discharge Sub-Committee

Members of the Committee	11th May 2018	21st Sept 2018	14th Dec 2018	29th Mar 2019
Margaret Hanson (Independent Member – Chair)	✓	◆	◆	◆
Marian Jones (Independent Member – Chair)	◆	✓	✓	
Bethan Russell-Williams (Independent Member)	✓	A	A	✓
Lyn Meadows (Independent Member)	◆	✓	A	
Cheryl Carlisle (Independent Member)	◆	A	A	
Delia Fellowes (Independent Member)	◆	✓	A	
Diane Arbabi (Independent Member)	◆	A	A	
Frank Brown – Associate Hospital Manager	✓	✓	✓	✓
Shirley Cox- Associate Hospital Manager	✓	A	✓	✓
Ann Owens – Associate Hospital Manager	✓	✓	A	✓
Jacky Parry – Associate Hospital Manager	✓	A	✓	✓

Christine Robinson – Associate Hospital Manager	A	✓	A	
Satya Schofield – Associate Hospital Manager	✓	A	✓	
John Williams – Associate Hospital Manager	✓	✓	A	

5. Assurances the Committee is designed to provide:

The Committee is designed to provide advice for MHAC to the Board on the following key areas as set out in its Terms of Reference as follows:-

- ensure that those acting on behalf of the Board in relation to the provisions of Mental Health and Capacity legislation, including the Measure, have the requisite skills and competencies to discharge the Board's responsibilities;
- identify matters of risk relating to Mental Health and Capacity legislation and seek assurance that such risks are being mitigated;
- monitor the use of the legislation and consider local trends and benchmarks;
- consider matters arising from the Hospital Managers' Power of Discharge Sub-Committee;
- ensure that **all** other relevant associated legislation is considered in relation to Mental Health and Capacity legislation;
- consider matters arising from visits undertaken by Healthcare Inspectorate Wales Review* Service for Mental Health in particular, issues relating to Mental Health Act 1983 and monitor action plans that inform responses to HIW reports;
- consider any reports made by the Public Services Ombudsman for Wales regarding complaints about Mental Health and Capacity legislation;
- receive and review reports on the approval for all Wales Approved Clinicians and Section 12(2) Doctors;
- consider and approve on behalf of the Board any LHB policy which relates to the implementation of mental health and capacity legislation as well as any other information, reports etc. that the Committee deems appropriate;
- receive and review DoLS reports regarding authorisations and associated reasons;
- receive and review reports on the implementation of the Mental Health Measure and be satisfied that positive outcomes for people are being achieved;
- receive and review the results of internal audit reports relating to care and treatment plans, as well as any other relevant reports relating to the Mental Health Measure;
- receive the results of clinical audits and any other reviews relating to the use of the Mental Health Act and oversee the implementation of recommendations;
- consider any other information, reports, etc. that the Committee deems appropriate.
- investigate or have investigated any activity (clinical and non-clinical) within its terms of reference. It may seek relevant information from any:
    - employee (and all employees are directed to cooperate with any legitimate request made by the Committee); and
    - other committee, sub-committee or group set up by the Board to assist it in the delivery of its functions.
- obtain outside legal or other independent professional advice and to secure the attendance of non members with relevant experience and expertise if it considers it necessary, in accordance with the Board's procurement, budgetary and other requirements;

- *Note – HIW report recommendations are the remit of Quality Safety and Experience Committee (QSE) however any specific recommendations relating to Mental Health or the Mental Capacity Act will be the remit of this Committee who will respond as appropriate ensuring the Board and QSE are appraised accordingly.

During the period that this Annual Report covers, the Committee operated in accordance with its terms of reference V3.0 which were operative from March 2018. The terms of reference are attached as Appendix 1.

An integral part of the process is the requirement for the Committee to undertake a self-assessment. This year the Health Board has adopted a different approach as recommended by Wales Audit Office with quarterly reviews of Committee performance being undertaken collectively by the Committee Business Management Group who perform a more integrated governance role in this respect. Modifications to the overall Committee structure have been undertaken in year.

6. Overall *RAG status against Committee's/Group's/Forum's annual objectives / plan: AMBER

The summary below reflects the Committee's assessment of the degree to which it has met these objectives. The supporting narrative included alongside the assessment below describes this in more detail.

Objective as set out in Terms of Reference	Was sufficient assurance provided? RAG	Was the assurance positive? RAG	**Supporting narrative**
Ensure that those acting on behalf of the Board in relation to the provisions of Mental Health and Capacity legislation, including the Measure, have the requisite skills and competencies to discharge the Board's responsibilities.			Periodic updates provided to the Committee and training
Identify matters of risk relating to Mental Health and Capacity legislation and seek assurance that such risks are being mitigated;			Reduction in S136 – 52 in 2017/18 reduced to 20 in 2018/19. Issues remain around detention of U16. There has been a Joint Parliamentary Bid with 6 Local Authorities. Decrease in U18 S136, staff trained at L3 Safeguarding Children, SOP being developed for CAMHS
Monitor the use of the legislation and consider local trends and benchmarks;			Improved performance reporting information.
Consider matters arising from the Hospital Managers' Power of Discharge Sub-Committee;			Meetings of the Sub-Committee now held prior to the full Committee in order for the Committee to consider views of the Sub-Committee in a timely manner - effective rescheduling.
Ensure that **all** other relevant associated legislation is considered in relation to Mental Health Act and Capacity legislation;			Mental Capacity Act monitored as part of DoLS reports

Consider matters arising from visits undertaken by Healthcare Inspectorate Wales Review* Service for Mental Health in particular, issues relating to Mental Health Act 1983 and monitor action plans that inform responses to HIW reports			Regular reporting to Committee. Process in place to monitor HIW Action Plans: • Local QSEEL • Divisional QSEEL • Corporate QSG
Consider any reports made by the Public Services Ombudsman for Wales			No specific reports made during the year.

regarding complaints about Mental Health Act and Capacity legislation			
Receive and review reports on the approval for all Wales Approved Clinicians and Section 12(2) Doctors;			Difficulties remain in recruiting Section 12(2) Doctors. This is a national problem.
Consider and approve on behalf of the Board any LHB policy which relates to the implementation of mental health and capacity legislation as well as any other information, reports etc. that the Committee deems appropriate;			Updating and review of policies taken place.
Receive and review DoLS reports regarding authorisations and associated reasons			Concerns remain around increasing breaches of legislative timeframes. This is a national problem. • Safeguarding
Receive and review reports on the implementation of the Mental Health Measure and be satisfied that positive outcomes for people are being achieved			Mental Health Measure targets are set by Welsh Government. The Division currently reports by exception to the Board on a monthly basis. There is weekly reporting by county / by service / by target direct to the Locality Managers and their teams. The MHM administration team provide support with guidance, training, reports, data cleanse, data entry on an on-going basis. The MHM team are providing support, training, advice and performance reports/data cleansing to the local management teams. Clinical Network managers are accountable for following local action plans to improve targets monitored through Operational meetings.
Receive and review the results of internal audit reports relating to care and treatment plans, as			Concerns around MH Measure not always meeting the target.

well as any other relevant reports relating to the Mental Health Measure			MHM is presented to QSE with reporting and business cycles.
Receive the results of clinical audits and any other reviews relating to the use of the Mental Health Act and oversee the implementation of recommendations;			No clinical audits registered.
Consider any other information, reports, etc. that the Committee deems appropriate.			Additional reports including review of best practice elsewhere and benchmarking and national data set considered.
Investigate or have investigated any activity (clinical and non-clinical) within its terms of reference.			Nothing specifically requested by the Committee this year.
Obtain outside legal or other independent professional advice and to secure the attendance of non-members with relevant experience and expertise if it considers it necessary, in accordance with the Board's procurement, budgetary and other requirements;			One training session for Committee and Sub-Committee members held during the year including one facilitated by Dr Sharmi covering Violence & Aggression, MH Act, Dementia and Medication .

7. Main tasks completed / evidence considered by the Committee during this reporting period:

- Defining a Health Based Place of Safety for young people under age 18 years – MHA Section 136
- Independent Mental Health Advocacy
- Child and Adolescent Mental Health Services (CAMHs) Updates
- Updates on the approval functions for Approved Clinicians & Section 12(2) Doctors in Wales
- For Information - Mental Health Strategy - Together for Mental Health in North Wales
- IMHA Performance Report The report provided an update on the IMHA performance reported to Welsh Government and emerging themes identified by services users
- Health Inspectorate Wales Monitoring Report - The report provided an update in relation to the inspections conducted by Healthcare Inspectorate Wales into Mental Health Division service.
- Standing Orders – Scheme of Delegation – endorsed

- Oversight of the work of the Power of Discharge Sub-Committee
- Mental Health Act / Mental Health Measure Monitoring Data- The report provided an update in relation to the Mental Health Act and Mental Health Measure Activity within the Division
- Membership
- Independent Mental Health Advocacy Performance Report - Analytical Review of S136 in North Wales
- Review Cycle of Business for 2018/19

Full details of the issues considered and discussed by the Committee are documented within the agenda and minutes which are available on the Health Board's website and can be accessed from the following link:-
http://www.wales.nhs.uk/sitesplus/861/page/88168

8. Key risks and concerns identified by this Committee in-year which have been highlighted and addressed as part of the Chair's assurance reports:

Meeting	Key risks and concerns identified
11th May 201	• The Committee continue to remain concerned at the pressure placed on practitioners across all sites with the increasing number of assessment requests. Plans are in place to increase the number of Best Interest Assessors [BIA], once recruited agreement will be required on accommodation. • The Committee again discussed alternative places of safety for young people rather than placing them in a S136 suite. The Committee expressed the opinion that the latter should never be used for children and young people and sought assurance that this is the case. • The Committee were also updated in respect of two significant case developments since presentation of the last DoLs report which can be accessed via the following link: http://www.wales.nhs.uk/siteplus/docu,emts/861/20180511%20Committee%10Agenda%20bundle.pdf [report MHA18.24 refers]
21st Sept 2019	• Notification received from North Wales Police that Force Medical Officers would no longer be available. Requests are being made for consultants to provide a fitness to plead assessment, when the request is refused due to capacity, they are then presented as being suicidal in Accident and Emergency when an assessment has to be carried out. This is putting the consultants under considerable pressure. North Wales Police will be invited to attend December meeting to help resolve the issue. • A further 4 Best Interest Assessors have been recruited and it was anticipated that this could increase the number of Deprivation of Liberty referrals. Still concern around the quality of referrals and the lack of information contained in the forms. Discussions to be held with Senior Staff to see whether further training is required. • A leaflet will be produced providing staff who do not have access to e-learning, detailed information around Deprivation of Liberties. • Concern raised around staff having the appropriate training for dealing with S136 for under 18s. Work being done regarding capacity and demand management, amid concerns around staff retention. Delivery Unit expected to conclude work around Demand and Capacity early 2019, which is hoped will help address challenges in delivering the Measure in CAMHS

	• Mental Health Act Register will not go live until early next year because of delay in the General Data Protection {GDPR] implementation. Further work required to increase the number of Approved Clinicians and Section 12[2] Doctors. Further discussion will take place between Medical Director of MHLD and the Office of the Medical Director before the December meeting.
3rd Jan 2019	• The Committee remained concerned at the pressure placed on practitioners because of the increase in the number of Deprivation of Liberty Assessments being requested when patient has capacity. Although training is provided, there was an increase in the number of people not turning up. The issue needs to remain on the Health Board's Corporate Risk register. • CAMHS performance against the Mental Health Act and Mental Health Measure targets were a cause of concern. Reasons for missing the targets centered around increased demand in CAMHS referrals and reduction in capacity due to sickness, maternity leave and vacancies impacting on the sustainable delivery of targets & driving down performance. Whilst feedback from a two-day visit from Welsh Government to consider Together 4 Children and Young People was awaited, there was concern about internal and external communications. The crisis pathway for young people in distress and Out of Hours access to the emergency bed was an ongoing issue
29th Mar 2019	

9. Focus for the year ahead:

The primary focus of the Committee over the next twelve months will be scrutinising in particular those areas in paragraph 6 above with a 'Red'/ 'Amber' rating, in addition to monitoring those corporate level risks in the Corporate Risk and Assurance Framework that may be assigned to the Committee during the year (NB there are currently no specific risks assigned to this Committee – risks relating to the wider remit of Mental Health are monitored by the Quality, Safety and Experience Committee).

Drawing these elements out specifically the focus will therefore be on the following areas:-

- Under 18 Section 136
- Continuing to improve the MHA and MHM performance reporting.
- Monitoring of HIW reports and any actions arising therefrom which relate to the Mental Health Act.
- The ongoing difficulties in recruiting Section 12(2) Doctors which is a national problem.
- The position regarding increased challenge of meeting legislative timeframes in respect of DoLS and associated Mental Capacity Act legislation.

The Committee has established a Cycle of Business for the year ahead covering the breadth of its work. This is attached as Appendix 2 with the Cycle of Business for the POD Sub-Committee attached as Appendix 3.

Appendix 1
Betsi Cadwaladr University Health Board
Terms of Reference and Operating Arrangements

MENTAL HEALTH ACT COMMITTEE

1. INTRODUCTION

1.1 The Board shall establish a committee to be known as the **Mental Health Act Committee**. The detailed terms of reference and operating arrangements in respect of this Committee are set out below. Background information in relation to the Mental Health Act, the Mental Health Measure and the Mental Capacity Act is set out in Annex 1. The Committee will also consider, when appropriate, any other legislation that impacts on mental health and mental capacity. It will regularly report to the Board and advise it of any areas of concern.

2. PURPOSE

2.1 The purpose of the Committee is to consider and monitor the use of the Mental Health Act 1983 (MHA), Mental Capacity Act 2005 (which includes the Deprivation of Liberty Safeguards (DoLS) (MCA) and the Mental Health (Wales) Measure 2010 (the Measure) and give assurance to the Board that:

- Hospital Managers' duties under the Mental Health Act 1983;
- the functions and processes of discharge under section 23 of the Act;
- the provisions set out in the Mental Capacity Act 2005, and
- in the Mental Health Measure (Wales) 2010

These are all exercised in accordance with statute and that there is compliance with:

- the Mental Health Act 1983 Code of Practice for Wales
- the Mental Capacity Act 2005 Code of Practice
- the Mental Capacity Act 2005 Deprivation of Liberty Safeguards Code of Practice
- the Human Rights Act 1998
- the United Nations Convention on the Rights of People with Disabilities
- the associated Regulations and local Policies

3. DELEGATE POWERS AND AUTHORITY

3.1 The Committee, in respect of its provision of advice and assurance will and is authorised by the Board to: -

- ensure that those acting on behalf of the Board in relation to the provisions of Mental Health and Capacity legislation, including the Measure, have the requisite skills and competencies to discharge the Board's responsibilities;
- identify matters of risk relating to Mental Health and Capacity legislation and seek assurance that such risks are being mitigated;

- monitor the use of the legislation and consider local trends and benchmarks;
- consider matters arising from the Hospital Managers' Power of Discharge Sub-Committee;
- ensure that **all** other relevant associated legislation is considered in relation to Mental Health and Capacity legislation;
- consider matters arising from visits undertaken by Healthcare Inspectorate Wales Review* Service for Mental Health in particular, issues relating to Mental Health Act 1983 and monitor action plans that inform responses to HIW reports;
- consider any reports made by the Public Services Ombudsman for Wales regarding complaints about Mental Health and Capacity legislation;
- receive and review reports on the approval for all Wales Approved Clinicians and Section 12(2) Doctors;
- consider and approve on behalf of the Board any LHB policy which relates to the implementation of mental health and capacity legislation as well as any other information, reports etc. that the Committee deems appropriate;
- receive and review DoLS reports regarding authorisations and associated reasons;
- receive and review reports on the implementation of the Mental Health Measure and be satisfied that positive outcomes for people are being achieved;
- receive and review the results of internal audit reports relating to care and treatment plans, as well as any other relevant reports relating to the Mental Health Measure;
- receive the results of clinical audits and any other reviews relating to the use of the Mental Health Act and oversee the implementation of recommendations;
- consider any other information, reports, etc. that the Committee deems appropriate.
- investigate or have investigated any activity (clinical and non-clinical) within its terms of reference. It may seek relevant information from any:
  - employee (and all employees are directed to cooperate with any legitimate request made by the Committee); and
  - other committee, sub-committee or group set up by the Board to assist it in the delivery of its functions.
- obtain outside legal or other independent professional advice and to secure the attendance of non-members with relevant experience and expertise if it considers it necessary, in accordance with the Board's procurement, budgetary and other requirements;

*Note – HIW report recommendations are the remit of Quality Safety and Experience Committee (QSE) however any specific recommendations relating to Mental Health or the Mental Capacity Act will be the remit of this Committee who will respond as appropriate ensuring the Board and QSE are appraised accordingly.

Sub Committees/Panels

3.2 The Committee may, subject to the approval of the Health Board, establish Sub-Committees or task and finish groups to carry out on its behalf specific aspects of Committee business.

3.3 Sub-Committee - In accordance with Regulation 12 of the Local Health Boards (Constitution, Procedure and Membership) (Wales) Regulations 2003 (SI 2003/149 (W.19), the Board has appointed a Sub-Committee of this Committee, to be known as the Power of Discharge Sub-Committee, terms of reference for which are attached as Annex 2.

3.4 Panel -Three members drawn from the pool of designated Associate Hospital Managers will constitute a panel to consider the possible discharge or continued detention under the MHA of unrestricted patients and those subject to Supervised Community Treatment Order(SCT).

3.5 The Board retains final responsibility for the performance of the Hospital Managers' duties delegated to particular people on the staff of Betsi Cadwaladr University Local Health Board, as well as the Power of Discharge Sub-Committee.

4. MEMBERSHIP

4.1 Members

Four Independent Members of the Board to include one who is a Member of the Quality, Safety and Experience Committee and one who shall be the Chair of the Power of Discharge Sub-Committee.

4.2 In attendance

Director of Mental Health & Learning Disabilities
Executive Director of Nursing and Midwifery
Medical Director for Mental Health & Learning Disabilities
Nursing Director for Mental Health & Learning Disabilities
Mental Health Act Manager
Service User Representative
Carer Representative
Social Services Representative
North Wales Police Representative
Welsh Ambulance Services NHS Trust Representative
IMCA Advocacy provider Representative
IMHA Advocacy provider Representative
MCA representative
DoLS representative
Two Associate Hospital Managers (as nominated by the Power of Discharge Sub-Committee) appointed for a period of four years with re-appointment not to exceed a maximum of eight years in total.

Other Directors will attend as required by the Committee Chair, as well others from within or outside the organisation who the Committee considers should attend, taking into account the matters under consideration at each meeting.

4.3 Member Appointments

4.3.1 The membership of the Committee shall be determined by the Board, based on the recommendation of the Health Board Chair - taking account of the balance of skills and expertise necessary to deliver the Committee's remit and subject to any specific requirements or directions made by the Welsh Government. This includes the appointment of the Chair and Vice-Chair of the Committee who shall be Independent Members. The Vice-Chair of the Health Board will be the Chair of this Committee and shall retain the role of Chair of this Committee throughout their tenure of appointment.

4.3.2 Other appointed Independent Members shall hold office on the Committee for a period of up to 4 years. Tenure of appointments will be staggered to ensure business continuity. A member may resign or be removed from the Committee by the Board. Independent Members may be reappointed up to a maximum period of 8 years.

4.4 Secretariat

4.4.1 Secretary: as determined by the Board Secretary.

4.5 Support to Committee Members

4.5.1 The Board Secretary, on behalf of the Committee Chair, shall:

- Arrange the provision of advice and support to Committee members on any aspect related to the conduct of their role; and
- Ensure the provision of a programme of development for Committee members as part of the overall Board Development programme.

5. COMMITTEE MEETINGS

5.1 Quorum

5.1.1 At least two Independent Members must be present to ensure the quorum of the Committee, one of whom should be the Committee Chair or Vice-Chair.

5.2 Frequency of Meetings

5.2.1 Meetings shall routinely be held on a quarterly basis.

5.3 Withdrawal of individuals in attendance

5.3.1 The Committee may ask any or all of those who normally attend but who are not members to withdraw to facilitate open and frank discussion of particular matters.

6. RELATIONSHIP AND ACCOUNTABILITIES WITH THE BOARD AND ITS COMMITTEES

6.1 Although the Board has delegated authority to the Committee for the exercise of certain functions as set out within these terms of reference, it retains overall responsibility and accountability for ensuring the quality and safety of healthcare for its citizens through the effective governance of the organisation.

6.2 The Committee is directly accountable to the Board for its performance in exercising the functions set out in these Terms of Reference.

6.3 The Committee, through its Chair and members, shall work closely with the Board's other Committees to provide advice and assurance to the Board through the:

- joint planning and co-ordination of Board and Committee business; and
- sharing of information

In doing so, contributing to the integration of good governance across the organisation, ensuring that all sources of assurance are incorporated into the Board's overall risk and assurance arrangements.

6.4 The Committee shall embed the corporate goals and priorities through the conduct of its business, , and in doing and transacting its business shall seek assurance that adequate consideration has been given to the sustainable development principle and in meeting the requirements of the Well-Being of Future Generations Act.

7. REPORTING AND ASSURANCE ARRANGEMENTS

7.1 The Committee Chair shall:

- report formally, regularly and on a timely basis to the Board on the Committee's activities, via the Chair's assurance report as well as the presentation of an annual Committee report;

- ensure appropriate escalation arrangements are in place to alert the Health Board Chair, Chief Executive or Chairs' of other relevant committees of any urgent/critical matters that may affect the operation and/or reputation of the Health Board.

7.2 The Board Secretary, on behalf of the Board, shall oversee a process of regular and rigorous self-assessment and evaluation of the Committee's performance and operation.

1. APPLICABILITY OF STANDING ORDERS TO COMMITTEE BUSINESS

8.1 The requirements for the conduct of business as set out in the Standing Orders are equally applicable to the operation of the Committee, except in the following areas:

- Quorum

2. REVIEW

9.1 These terms of reference and operating arrangements shall be reviewed annually by the Committee and any changes recommended to the Board for approval.

Approval:
Audit Committee 14.9.17
Health Board 21.9.17
Reported to MHAC 10.11.17

V3.0 approved

Annex 1

BACKGROUND INFORMATION REGARDING THE ASSOCIATED LEGISLATION

Mental Health Act 1983 (as amended by the Mental Health Act 2007)

The Mental Health Act 1983 covers the legal framework to allow the care and treatment of mentally disordered persons to be detained if deemed to be a risk to themselves or others.
It also provides the legislation by which people suffering from a mental disorder can be detained in hospital to have their disorder assessed or treated against their wishes.

The MHA introduced the concept of "Hospital Managers" which for hospitals managed by a Local Health Board are the Board Members. The term "Hospital Managers" does not occur in any other legislation.

Hospital Managers have a central role in operating the provisions of the MHA; specifically, they have the authority to detain patients admitted and transferred under the MHA. For those patients who become subject to Supervised Community Treatment (SCT), the
Hospital Managers are those of the hospital where the patient was detained immediately before going on to SCT - i.e. the responsible hospital or the hospital to which responsibility has subsequently been assigned.

Hospital Managers must ensure that patients are detained only as the MHA allows, that their treatment and care is fully compliant with the MHA and that patients are fully informed of and supported in exercising their statutory rights. Hospital Managers must also ensure that a patient's case is dealt with in line with associated legislation.

With the exception of the power of discharge, arrangements for authorising day to day decisions made on behalf of Hospital Managers have been set out in the Health Board's
Scheme of Delegation.

Mental Health Measure

The Mental Health (Wales) Measure received Royal Assent in December 2010 and is
concerned with:

- providing mental health services at an earlier stage for individuals who are experiencing mental health problems to reduce the risk of further decline in mental health;
- making provision for care and treatment plans for those in secondary mental health care and ensure those previously discharged from

secondary mental health services have access to those services when they believe their mental health may be deteriorating;
- extending mental health advocacy provision.

Mental Capacity Act

The MCA came into force mainly in October 2007. It was amended by the Mental Health
Act 2007 to include the Deprivation of Liberty Safeguards (DoLS). DoLS came into force in
April 2009.

The MCA covers three main issues:

- The process to be followed where there is doubt about a person's decision-making abilities and decisions therefore where 'Best Interest' may need to be made on their behalf (e.g. about treatment and care)
- How people can make plans and/or appoint other people to make decisions for them at a time in the future when they can't take their own decisions
- The legal framework for caring for adult, mentally disordered, incapacitated people in situations where they are deprived of their liberty in hospitals or care homes (DoLS) and/or where Court of Protection judgements are required.

Thus the scope of MCA extends beyond those patients who have a mental disorder.

Annex 2

POWER OF DISCHARGE SUB-COMMITTEE
TERMS OF REFERENCE AND OPERATING ARRANGEMENTS

1. INTRODUCTION

1.1 The Board shall establish a sub-committee to be known as the Power of Discharge Sub-Committee. The detailed terms of reference and operating arrangements in respect of this Sub-Committee are set out below.

2. PURPOSE

2.1 The purpose of the Power of Discharge Sub-Committee (hereafter, the Sub-Committee) is to advise and assure the Board that the processes associated with the discharge of patients from compulsory powers that are used by the Sub-Committee are being performed correctly and in accordance with legal requirements.

3. DELEGATED POWERS AND AUTHORITY

3.1 The Sub-Committee, in respect of its provision of advice and assurance will and is authorised by the Board to:-

- Comment specifically upon the processes employed by the Sub-Committee's Panel in relation to the discharge of patients from compulsory powers, and whether these processes are fair, reasonable and compliant with the Mental Health Act and are in line with other related legislation, including, the Mental Capacity Act 2005, the Human Rights Act 1998 and the Data protection Act 1998 and that the appropriate systems are in place to ensure the effective scrutiny of associated discharge documentation.

- undertake the functions of Section 23 of the Mental Health Act 1983, in relation to hearing cases of detained powers ensuring that three or more members of the Sub-Committee form a Panel and only a minimum of three members in agreement may exercise the power of discharge. The Panel will be drawn from the pool of members formally designated as Hospital Manager as reported to the Sub-Committee.

- investigate or have investigated any activity (clinical and non-clinical) within its terms of reference. It may seek relevant information from any:

    - employee (and all employees are directed to cooperate with any legitimate request made by the Committee); and

    - other committee, sub-committee or group set up by the Board to assist it in the delivery of its functions.

- obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers it necessary, in accordance with the Board's procurement, budgetary and other requirements;

3.2 The Sub-Committee will, as part of its process of hearing cases, be made aware of operational issues affecting the patient's care and treatment, including discharge arrangements. These are not matters for which the Sub-Committee shall have responsibility. Even so, Sub-Committee members are not precluded from raising such matters with those holding operational responsibility. In addition, such issues can be raised on an anonymised basis or through the Board itself.

4. MEMBERSHIP

4.1 Members

Three Independent Members of the Board.
A maximum of ten (10) appointed MHA Managers (as nominated and agreed by the Sub-Committee) (Appointed for a period of four years with appointment not to exceed a maximum of eight years in total).

4.2 Attendees

Director of Mental Health
Senior Mental Health Clinicians
Mental Health Act Manager
Officer Representatives for Learning Disabilities and Children's Services

Other Directors will attend as required by the Committee Chair, as well any others from within or outside the organisation who the Committee considers should attend, taking into account the matters under consideration at each meeting.

4.3 Member Appointments

4.3.1 The membership of the Committee shall be determined by the Board, based on the recommendation of the Health Board Chair - taking account of the balance of skills and expertise necessary to deliver the Committee's remit and subject to any specific requirements or directions made by the Welsh Government. This includes the appointment of the Chair and Vice-Chair of the Committee who shall be Independent Members. The Vice-Chair of the Board shall be the Chair of this Sub-Committee.

4.3.2 Appointed Independent Members shall hold office on the Committee for a period of up to 4 years. Tenure of appointments will be staggered to ensure business continuity. A member may resign or be removed from the Committee by the Board. Independent Members may be reappointed up to a maximum period of 8 years.

4.4 Secretariat

4.4.1 Secretary: as determined by the Board Secretary.

4.5 Support to Committee Members

4.5.1 The Board Secretary, on behalf of the Committee Chair, shall:

- Arrange the provision of advice and support to Committee members on any aspect related to the conduct of their role; and
- Ensure the provision of a programme of development for Committee members as part of the overall Board Development programme.

5. SUB-COMMITTEE MEETINGS

5.1 Quorum

At least two Independent Members and four Associate Hospital Managers must be present to ensure the quorum of the Sub-Committee one of whom should be the Chair or Vice-Chair.

5.2 Frequency of Meetings

Meetings shall routinely be held on a quarterly basis.

5.3 Withdrawal of individuals in attendance

The Sub-Committee may ask any or all of those who normally attend but who are not members to withdraw to facilitate open and frank discussion of particular matters.

6. RELATIONSHIP & ACCOUNTABILITIES WITH THE BOARD AND ITS COMMITTEES/GROUPS

6.1 Although the Board has delegated authority to the Sub-Committee for the exercise of certain functions as set out within these terms of reference, it retains overall responsibility and accountability for ensuring the quality and safety of healthcare for its citizens through the effective governance of the organisation.

6.2 The Sub-Committee is directly accountable to the Board (via the Mental Health Act Committee) for its performance in exercising the functions set out in these Terms of Reference.

6.3 The Sub-Committee, through its Chair and members, shall work closely with the Board's other Committees to provide advice and assurance to the Board through the:

6.3.1 joint planning and co-ordination of Board and Committee business; and
6.3.2 sharing of information

in doing so, contributing to the integration of good governance across the organisation, ensuring that all sources of assurance are incorporated into the Board's overall risk and assurance arrangements.

6.4 In terms of the Board's assurance on the Mental Health Act requirements, the remit of the Sub-Committee is limited to the exercise of powers under Section 23 of the Mental Health Act 1983, rather than the wider operation, which would be the remit of the Mental Health Act Committee.

6.5 The Sub-Committee shall embed the corporate goals and priorities through the conduct of its business, , and in doing and transacting its business shall seek assurance that adequate consideration has been given to the sustainable development principle and in meeting the requirements of the Well-Being of Future Generations Act.

7. REPORTING AND ASSURANCE ARRANGEMENTS

7.1 The Committee Chair shall:

7.1.1 report formally, regularly and on a timely basis to the Board on the Sub-Committee's activities, via the Chair's assurance report;

7.1.2 ensure appropriate escalation arrangements are in place to alert the Health Board Chair, Chief Executive or Chairs' of other relevant committees of any urgent/critical matters that may affect the operation and/or reputation of the Health Board.

7.2 The Board Secretary, on behalf of the Board, shall oversee a process of regular and rigorous self-assessment and evaluation of the Sub-Committee's performance and operation as part of the overall review of the Mental Health Act Committee.

8. APPLICABILITY OF STANDING ORDERS TO COMMITTEE BUSINESS

8.1 The requirements for the conduct of business as set out in the Health Board's Standing Orders are equally applicable to the operation of the Sub-Committee, except in the following areas:

- Quorum
- owing to the nature of the business of the Sub-Committee, meetings will not be held in public.

9. REVIEW

9.1 These terms of reference and operating arrangements shall be reviewed annually by the Sub-Committee and any changes recommended to the Board, with reference to the Mental Health Act Committee for approval.

V3.0 approved

BCU Mental Health Act Committee Cycle of Business 2018-19

Agenda Item	11.05.18		03.01.19	29.03.19
Opening Business				
Apologies	**x**	**x**	**x**	**x**
Declaration of Interests	**x**	**x**	**x**	**x**
Previous Minutes, Matters Arising and Summary Action Plan	**x**	**x**	**x**	**x**
Minutes of previous POD meeting and oral update from the earlier meeting	**x**	**x**	**x**	**x**
For Discussion (Standing Items)				
Deprivation of Liberty Safeguards: Quarterly Report	**x**	**x**	**x**	**x**
Hospital Manager's Update Report (Oral summary only based on feedback from earlier POD meeting)	**x**	**x**	**x**	**x**
Combined Mental Health Act and Mental Health Measure Report	**x**	**x**	**x**	**x**
CAMHS Services Update	**x**	**x**	**x**	**x**
Section 136 Progress Report and Street Triage Update Report	**x**	**x**	**x**	**x**
Approval for All Wales Approved Clinicians and Section 12(2) Doctors)	**x**	**x**	**x**	**x**
IMHA Performance Report (6-Monthly narrative update Report but with statistics submitted quarterly) (inc INCA update where appropriate)	**x**	**x stats only**	**x**	**x stats only**

Consideration of any HIW/Inspection reports/Audit reports etc as appropriate	x	x	x	x
Governance				
Agree CoB for coming year				x
Committee Annual Report and review of TOR and POD TOR		x		
Closing Business				
Issues of Significance	x	x	x	x
Any Other Business	x	x	x	x
Date of Next meeting(s)	x	x	x	x

BCU Power of Discharge Sub Committee Cycle of Business 2018-19

Agenda Item	11.	11-May	21-Sep	07-Dec	22-Mar
Opening Business					
Apologies	x	x	x	x	x
Previous Minutes, Matters Arising and Summary Action Plan	x	x	x	x	x
For Discussion (Standing Items)					
Membership updates	x	x	x	x	x
Combined Mental Health Act and Mental Health Measure Report	x	x	x	x	x
Hospital Manager's Update to include periodic updates on training and appraisals	x	x	x	x	x
HIW updates	x	x	x	x	x
Section 136 Progress Report and Street Triage Update Report	x	x	x	x	x
Governance					
Agree CoB for coming year				x	
Committee Annual Report and review TOR		x			x
Closing Business					
Issues of Significance	x	x	x	x	x
Any Other Business	x	x	x	x	x
Date of Next meeting(s)	x	x	x	x	x