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Bwrdd Iechyd Prifysgol  
Bae Abertawe  
Swansea Bay University  
Health Board



<b>Meeting Date</b>	<b>04 August 2022</b>	<b>Agenda Item</b>	<b>2.1</b>
<b>Report Title</b>	<b>Mental Health Act Activity Report: Apr-Jun 2022</b>		
<b>Report Author</b>	Penny Cram – Interim Mental Health Act Manager		
<b>Report Sponsor</b>	Janet Williams – Service Group Director		
<b>Presented by</b>	Janet Williams – Service Group Director		
<b>Freedom of Information</b>	Open		
<b>Purpose of the Report</b>	The purpose of the paper is to present to the Mental Health Legislative Committee the Mental Health Act activity report, in relation to Hospital Managers' scheme of delegated duties under the Mental Health Act 1983 and the functions included in section 23.		
<b>Key Issues</b>	<p>The hospital managers must ensure that patients are detained only as the Act allows, that their care and treatment fully comply with it, and that patients are fully informed of, and supported in exercising their statutory rights.</p> <p>Hospital managers must also ensure that a patient's case is dealt with in line with other legislation which may have an impact, including the Human Rights Act 1998, Mental Capacity Act 2005 and Mental Health (Wales) Measure 2010.</p>		
<b>Specific Action Required</b> <i>(please choose one only)</i>	<b>Information</b>	<b>Discussion</b>	<b>Assurance</b>
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Recommendations</b>	<p>Members are asked to:</p> <p>Receive this report</p>		

## **Mental Health Act Activity Report April - June 2022**

### **1. INTRODUCTION**

The report provides assurance in respect of the work that has been undertaken by Mental Health and Learning Disabilities (MHLD) Services during the quarter, that those functions of the Mental Health Act 1983 (the Act), which have been delegated to officers and staff under the policy for Hospital Managers' Scheme of Delegation, are being carried out correctly, and that the wider operation of the Act across the Health Board area is operating properly

The hospital managers must ensure that patients are detained only as the Act allows, that their care and treatment fully comply with it, 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 other legislation which may have an impact, including the Human Rights Act 1998, Mental Capacity Act 2005 and Mental Health (Wales) Measure 2010.

### **2. BACKGROUND**

#### **Mental Health Act 1983 (as amended 2007)**

An activity report, along with definitions of relevant sections of the Act is included below. This summarises key points of the use of the Act within SBU Health Board. Rates of detention under different sections of the Act typically fluctuate between each reporting period therefore, only significant points are highlighted.

#### **KEY TO SECTIONS**

##### **Part 2 – Compulsory Admission to Hospital or Guardianship**

- Section 5(4)      Nurses Holding Power (up to 6 hours)
- Section 5(2)      Doctors Holding Power (up to 72 hours)
- Section 4          Emergency Admission for Assessment (up to 72 hours)
- Section 2          Admission for Assessment (up to 28 days)
- Section 3          Admission for Treatment (6 months, renewable)
- Section 7          Application for Guardianship (6 months, renewable)

- Section 17A      Community Treatment Order (6 months, renewable)

### **Part 3 - Patients Concerned with Criminal Proceedings or Under Sentence**

- Section 35      Remand for reports (28 days, maximum 12 weeks)
- Section 36      Remand for treatment (28 days, maximum 12 weeks)
- Section 38      Interim Hospital Order (Initial 12 weeks, maximum 1 year)
- Section 47/49    Transfer of sentenced prisoner to hospital
- Section 48/49    Transfer of un-sentenced prisoner to hospital
- Section 37      Hospital or Guardianship Order (6 months, renewable)
- Section 37/41    Hospital Order with restriction (Indefinite period)
- Section 45A      Hospital Direction and Limitation Direction
- CPI 5            Criminal Procedure (Insanity) & Unfitness to Plead  
(Indefinite period)

### **Part 4 & Part 4A – Concerned with medical treatment for mental disorder**

Part 4 of the Act deals with people who have been detained in hospital, including those who are on section 17 leave, those who are absent without leave, and Community Treatment Order patients who have been recalled to hospital.

Part 4A of the Act deals with people who are on a Community Treatment Order

### **Part 10 – Miscellaneous and Supplementary**

- Section 135(1)    Warrant to enter and remove (up to 24 hours)
- Section 135(2)    Warrant to enter and take or retake (up to 24 hours)
- Section 136      Removal to a place of safety (up to 24 hours)

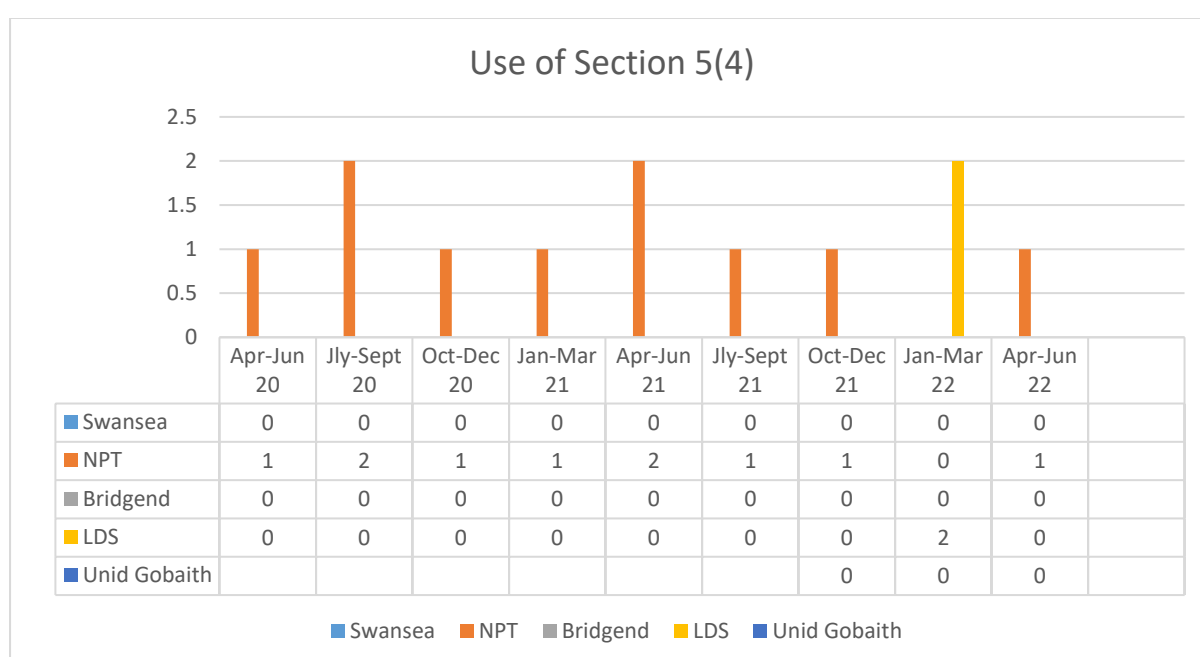
## Mental Health Act 1983 - Data Collection and Exception Reporting

The data below summarises some of the key points of the use of the Mental Health Act 1983 during the reporting period, together with comparison data for the previous 2-year period:

### Detention under Section 5 – Holding Powers

**Section 5(4)** is used by mental health and learning disability nurses in mental health in-patient settings for up to 6 hours to allow for a further assessment to take place.

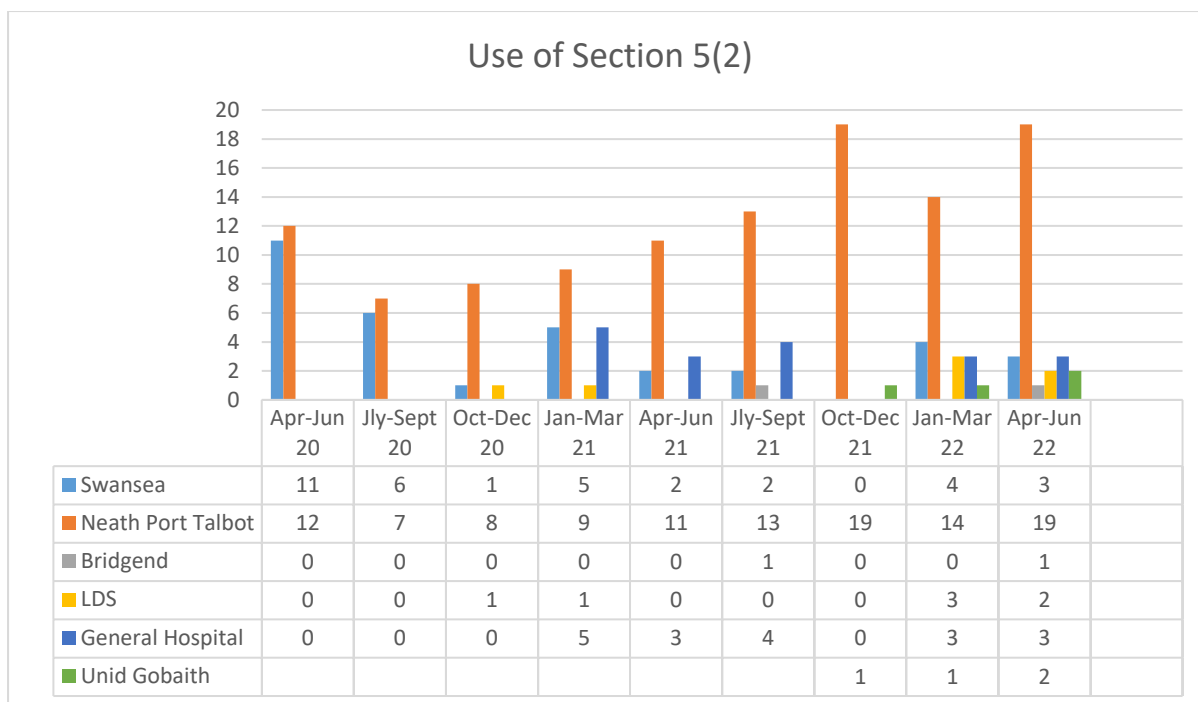
Section 5(4) was used on 1 occasion on Ward F, Neath Port Talbot Hospital



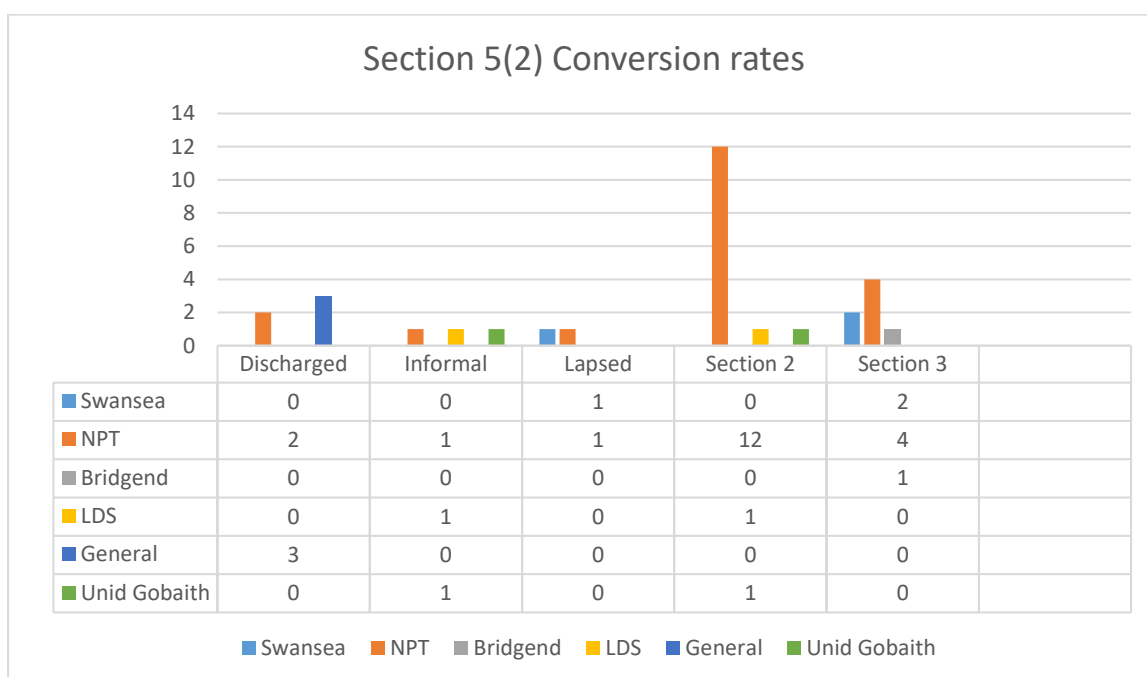
*The graph above shows use of section 5(4) together with comparison data over 2 years*

**Section 5(2)** is used by Doctors in both mental health and general hospital settings to detain an in-patient for up to 72 hours to allow for a mental health act assessment to take place.

Section 5(2) was used on 30 occasions.



**The graph above shows use of section 5(2) with comparison data over 2 years**



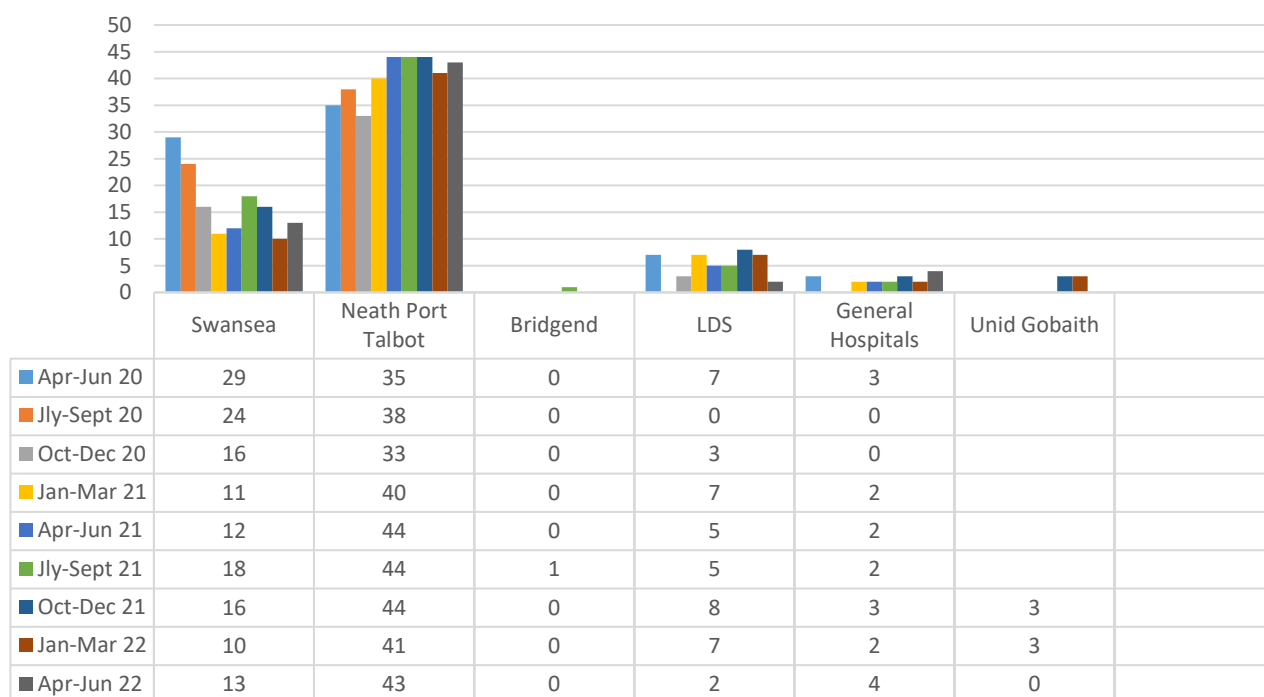
**The graph shows section 5(2) conversion rates for the reporting period**

## Section 2 – Admission for Assessment

**Section 2** authorises the compulsory admission of a patient to hospital for assessment (or for assessment followed by medical treatment), for mental disorder, for up to 28 days.

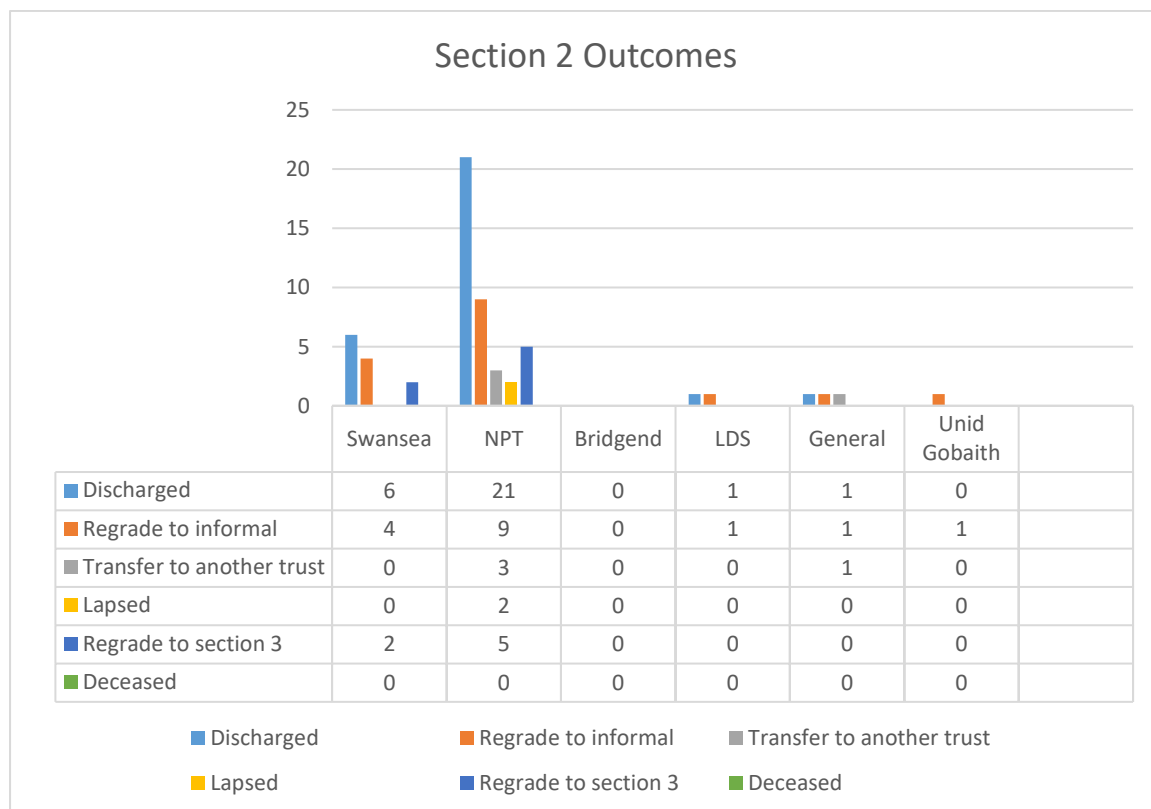
Section 2 was used on 62 occasions

## Use of Section 2

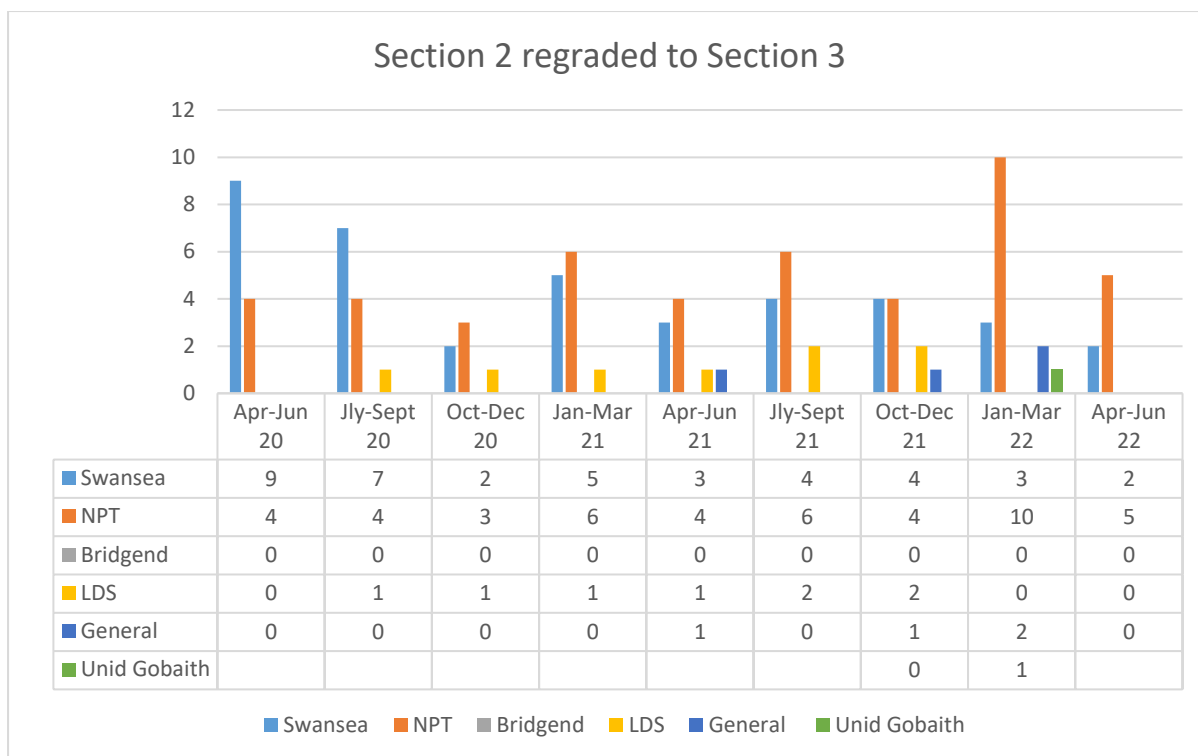


The graph above shows the use of section 2 with comparison data over 2 years

## Section 2 Outcomes



The graph shows section 2 outcomes for the reporting period

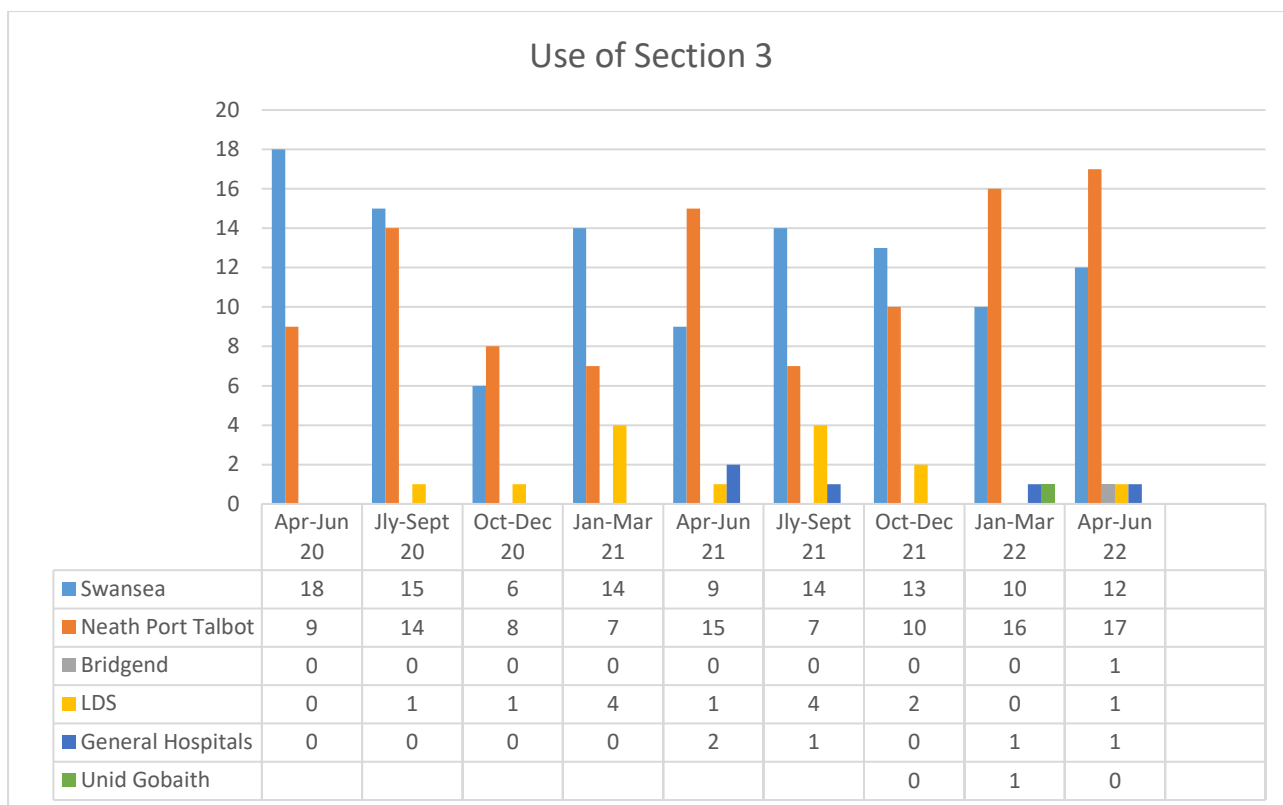


*This table shows the number of section 2 detentions regraded to section 3, with comparison data from previous 2 years*

### Section 3 – Admission for Treatment

**Section 3** provides for the compulsory admission of a patient to hospital for treatment for mental disorder. The detention can last for an initial period of six months. Then can be renewed for up to a further 6 months after review , followed by yearly renewals thereafter.

Section 3 was used on 32 occasions



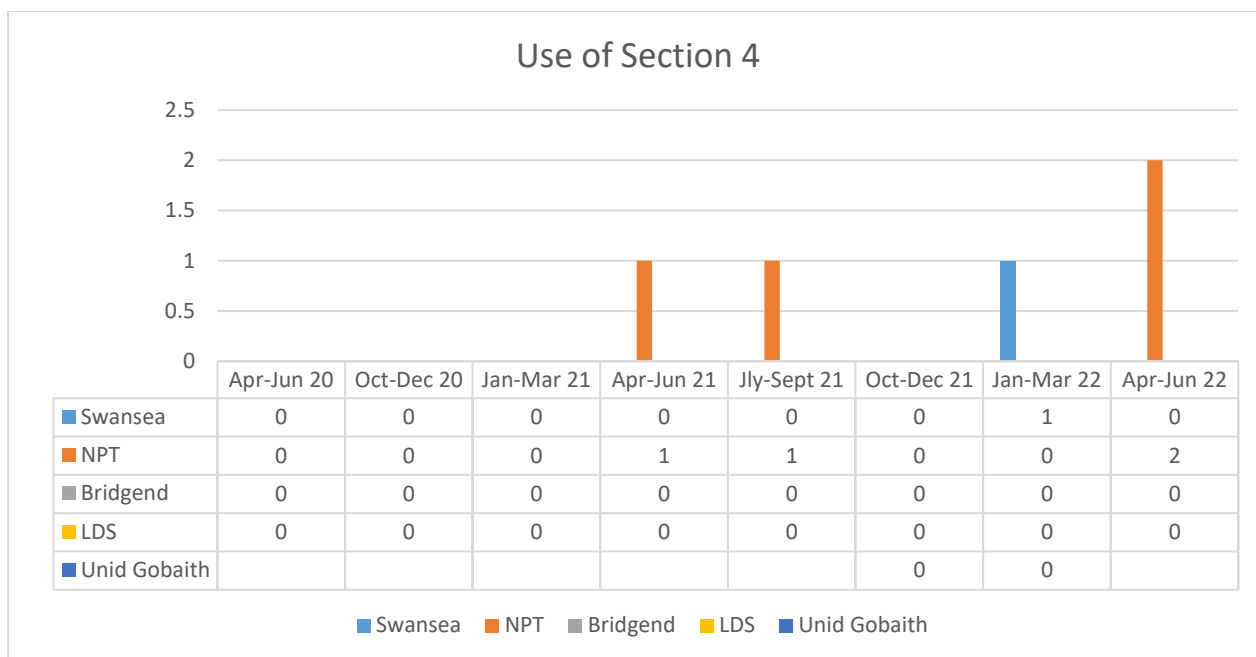
*The graph above shows new section 3 with comparison data over 2 years*

#### **Section 4 – Emergency Admission for Assessment**

The use of section 4 of the Mental Health Act 1983 is to enable an admission for assessment to take place in cases of urgent necessity. It should only be used to avoid an unacceptable delay and as such is infrequently used and specifically examined by Mental Health Act Managers when this is the case.

Section 4 was used twice during this reporting period.



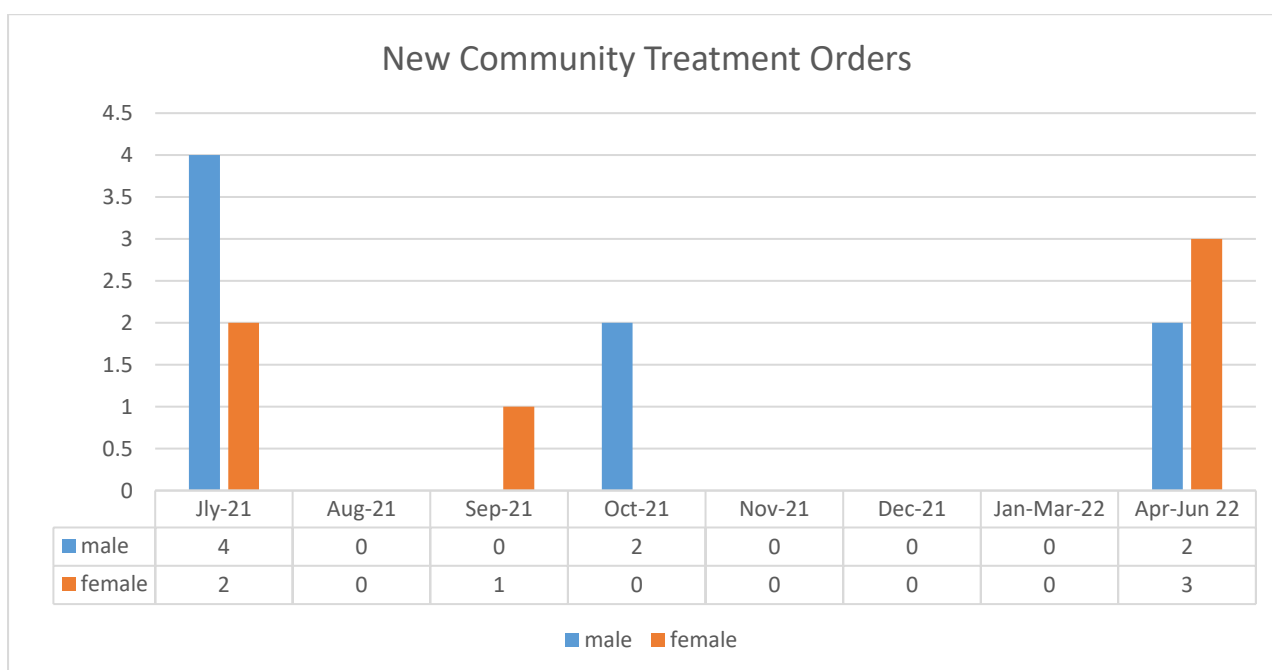


*The graph above shows comparison data over 2 years*

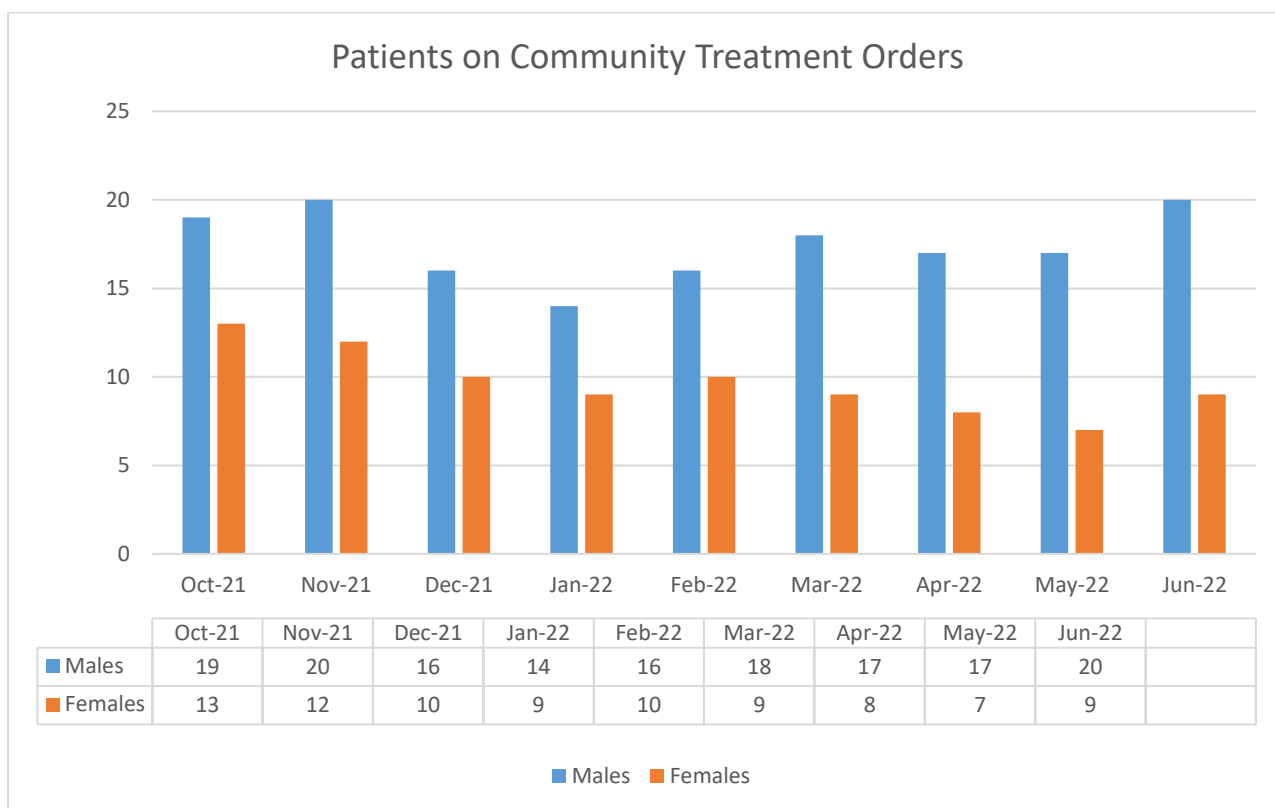
## Section 17A – Community Treatment Order

This section provides a framework to treat and safely manage certain eligible patients who have been detained in hospital for treatment, in the community, whilst still being subject to powers under the Act.

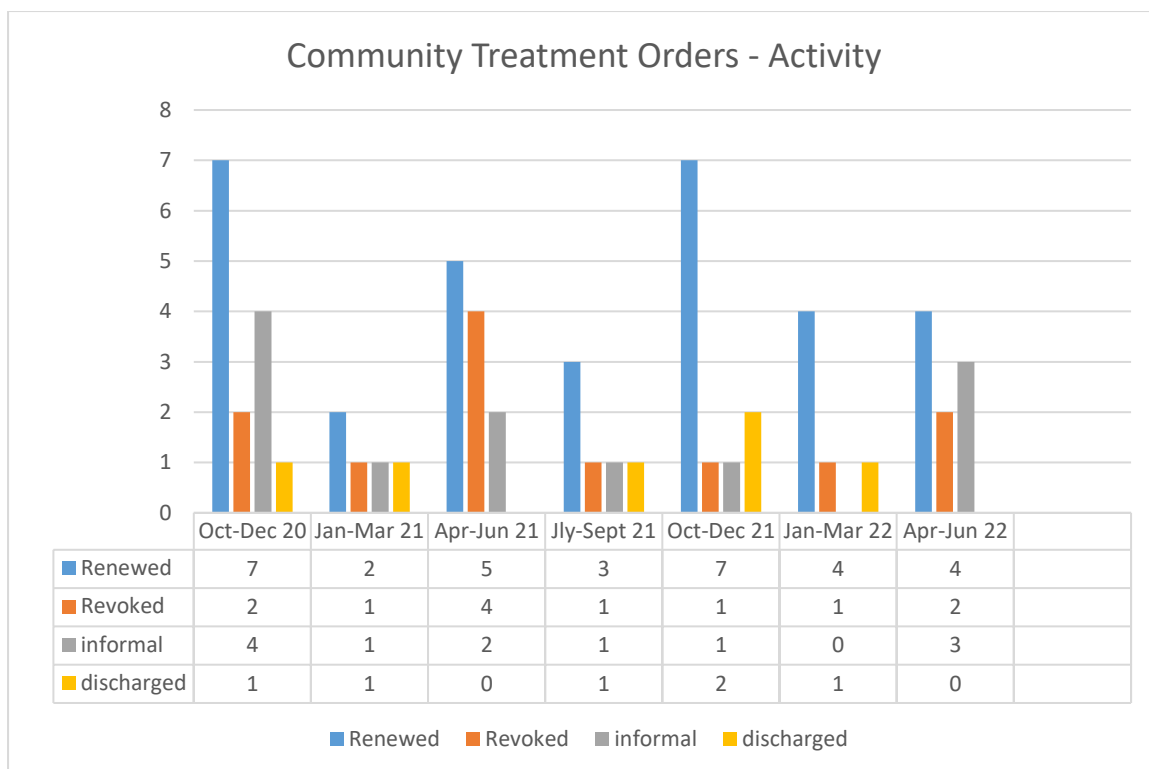
There were 5 new Community Treatment Orders during the reporting period.



*This graph shows the number of new CTOs during the reporting period*



***This graph shows the number of patients on a CTO as of each month end in this reporting period***

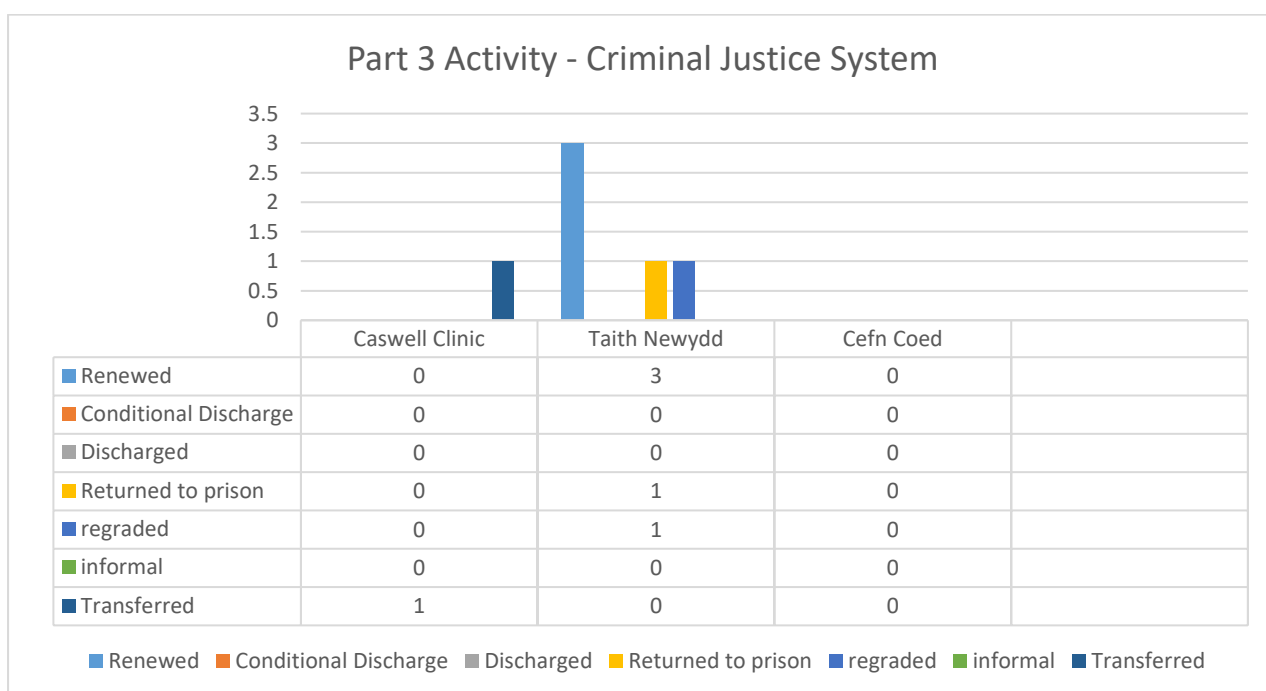


*This graph shows activity related to CTO patients over the past 1 year*

### Part 3 Criminal Justice System Data: April – June 2022

There was 1 new Part 3 patient during this reporting period:

- Patient admitted to Penarth Ward, Caswell Clinic under section 47/49 MHA - Transfer of sentenced prisoner to hospital



*This chart shows Part 3 activity during the reporting period*

### Legal status of patients within Caswell Clinic

A query was raised by digital intelligence in terms of whether all patients at Caswell Clinic were detained patients.

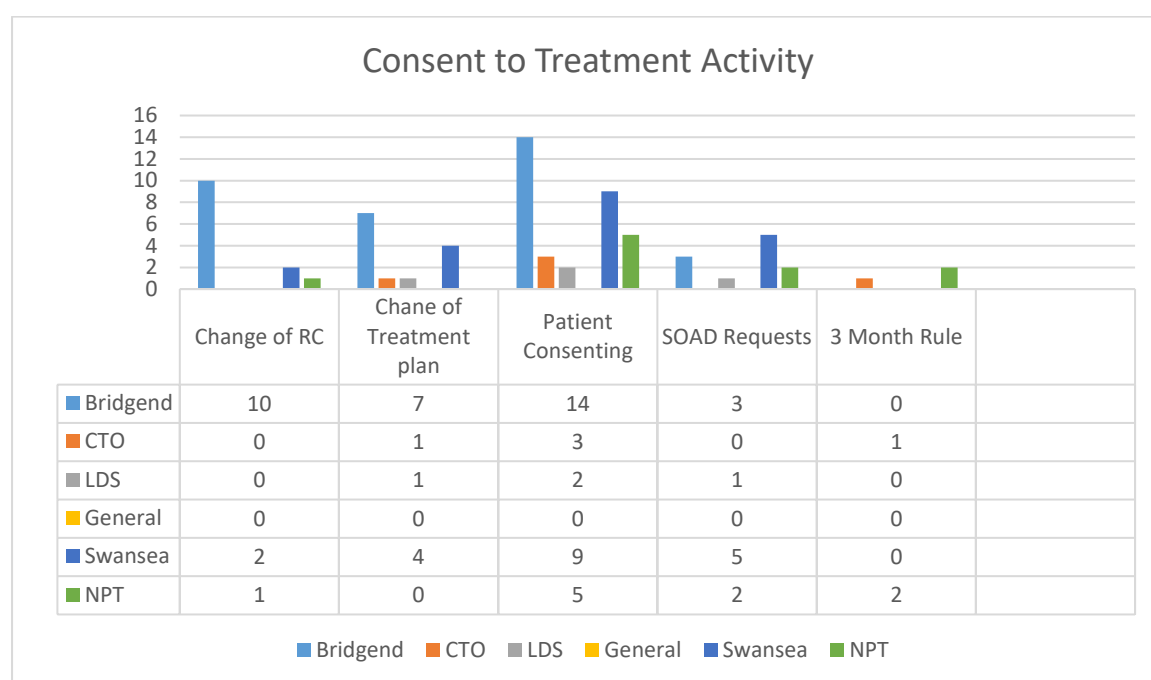
This in turn has highlighted incidents whereby patients have been admitted informally to Caswell Clinic historically not recently, and whether or not this constitutes a deprivation of liberty due to the nature and environment of a medium secure unit. This type of situation has not occurred in recent years.

Further work is required to explore this issue in more detail not just for our medium secure setting but also our low secure and locked rehab services, which also have levels of restrictions in place within those care settings.

This type of scenario would not normally be accepted as being appropriate for informal admissions into those settings, but each individual case would need to be assessed in detail and all other alternative care setting eliminated prior to any decision to admit informally into those type of settings.

Will update further once a review of the extend of this is completed.

#### Part 4: Consent to Treatment Activity April - June 2022



*This chart shows consent to treatment activity during the reporting period*

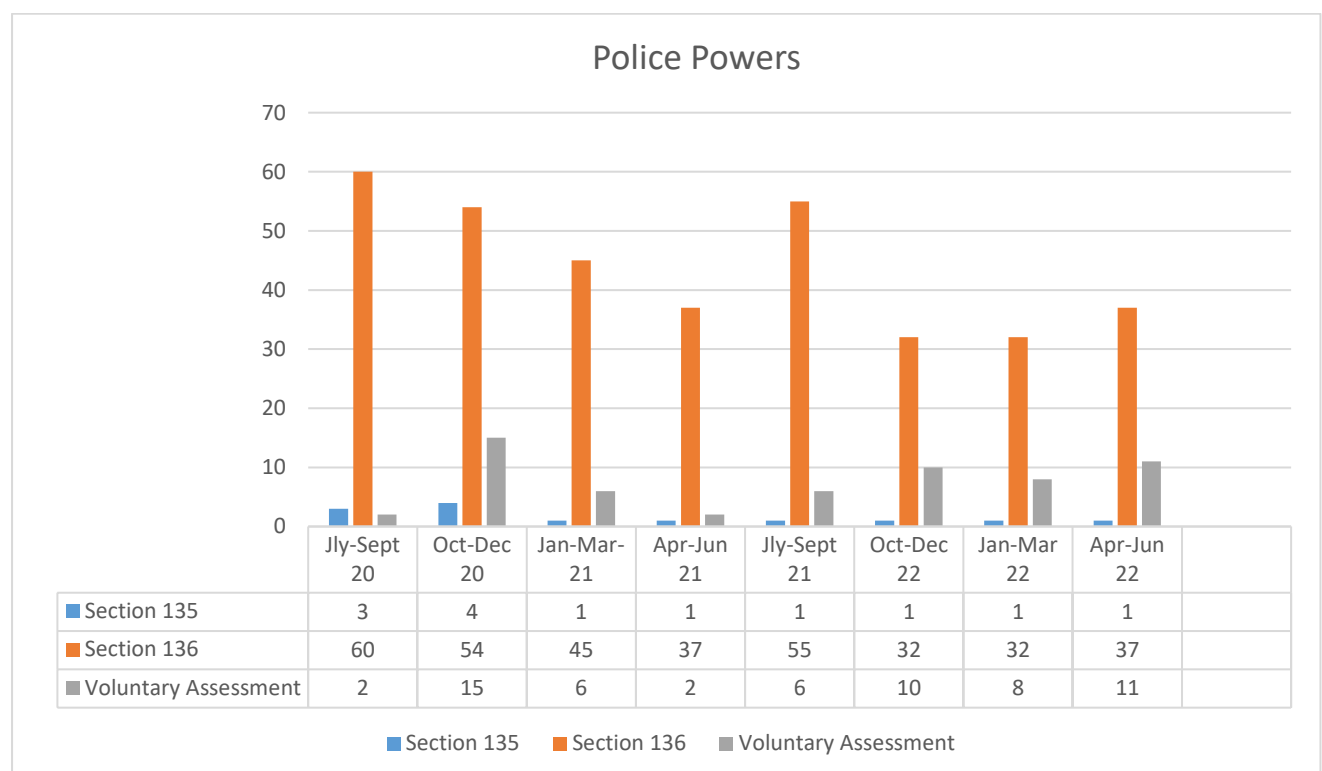
#### Part 10: Police powers to remove a person to a place of safety under Section 135 & 136

**Section 135 (1)** empowers a police officer to forcibly enter a property to look for and remove a person to a place of safety for assessment for a period of up to 72 hours. There was 1 section 135 (1) warrant executed in this reporting period.

**Section 135 (2)** empowers a police officer to forcibly enter a property to look for and remove a detained patient who is absent without leave (AWOL) from hospital. If it is anticipated that the person will allow entry to the property voluntarily, there was no need to obtain a warrant under section 135 (2) during this reporting period.

**Section 136** empowers a constable to remove a person from a public place to a place of safety if it is considered the person is suffering from mental disorder and is in immediate need of care or control. There were 37 detentions under section 136 during this reporting period.

**Voluntary attendance and assessment at place of safety** occurred on 11 occasions



### Deaths of detained patients

There were no in-patient deaths reported in this period

### Application for Discharge to Hospital Managers and Mental Health Review Tribunal

*See graphs at Appendix 2 for data*

## **Healthcare Inspectorate Wales (HIW) Visits to Mental Health & Learning Disabilities Units**

There were no HIW inspections in the reporting period

### **3. GOVERNANCE AND RISK ISSUES**

#### **Mental Health Act Team**

An interim appointment has been made to the Post of Mental Health Act Team Manager with effect 6<sup>th</sup> November 2020 and extended to end of August 2022.

Following the resignation of a member of the MHA Team, a member of staff on redeployment began a 4-week trial period in the department in April which was successful and the member of staff has become permanent member of the team. Recruitment for the substantive Mental Health Act Manager is to commence in the coming weeks.

The MHA Department has recently moved from HQ to Cefn Coed Hospital following and identified need to strengthen links between the department and clinical services. Team members continue to work in a blended fashion of home & office based working in light of current Covid-19 workplace measures. These arrangements have recently been reviewed in light of the renewed guidelines.

#### **Quality Assurance**

During Jan/Feb 2022, the MHLD Service Group ratified their Quality Assurance Framework, setting out the infrastructure for monitoring, assurance and governance.

Part of this framework are the Nurse Directors Unannounced Reviews. These reviews are co-ordinated by the nurse director's office of a review team of clinicians, senior leaders and relevant specialists who carry out an unannounced review on a clinical area or team.

3 reviews have been conducted since April and reported via the Quality and Safety Committee.

The Mental Health Act Team have been involved in these reviews and have focused on the filing of patients statutory MHA documentation and compliance with the Act and the Code in

terms of providing the MHA Department with sufficient information to enable the discharge of legal duties.

During this reporting period MHA training was also delivered to the following groups:

- Cefn Coed Medical Practitioners
- Learning Disabilities Consultants and medical practitioners
- Undergraduate & Postgraduate programmes
- Student Nurses
- Pharmacists

### **Scrutiny of Documents**

Section 15 of the Act provides for certain admission documents, which are found to be incorrect or defective, to be rectified within fourteen days of the patient's admission. Rectification or correction is mainly concerned with inaccurate recording, and it cannot be used to enable a fundamentally defective application to be retrospectively validated.

### **Data Collection and Exception Reporting**

Any exceptions highlighted in the Mental Health Act Activity Report are intended to raise awareness of matters relating to the functions of hospital managers and give assurance that the care and treatment of patients detained in Swansea Bay University Health Board, and those subject to a community treatment order is only as the Act allows.

There were 7 exceptions for this period

***Please see the graphs at Appendix 1 and table below for exception data and description***

There were no breaches to the Mental Health Act for in-patients admitted to Swansea Bay UHB who are under the age of 18.

### **Detention without authority or Invalid Detentions**

There were 2 invalid detentions which represents 1% of all detentions during this reporting period:

#### **4. RECOMMENDATION**

The Board is asked to note the report.

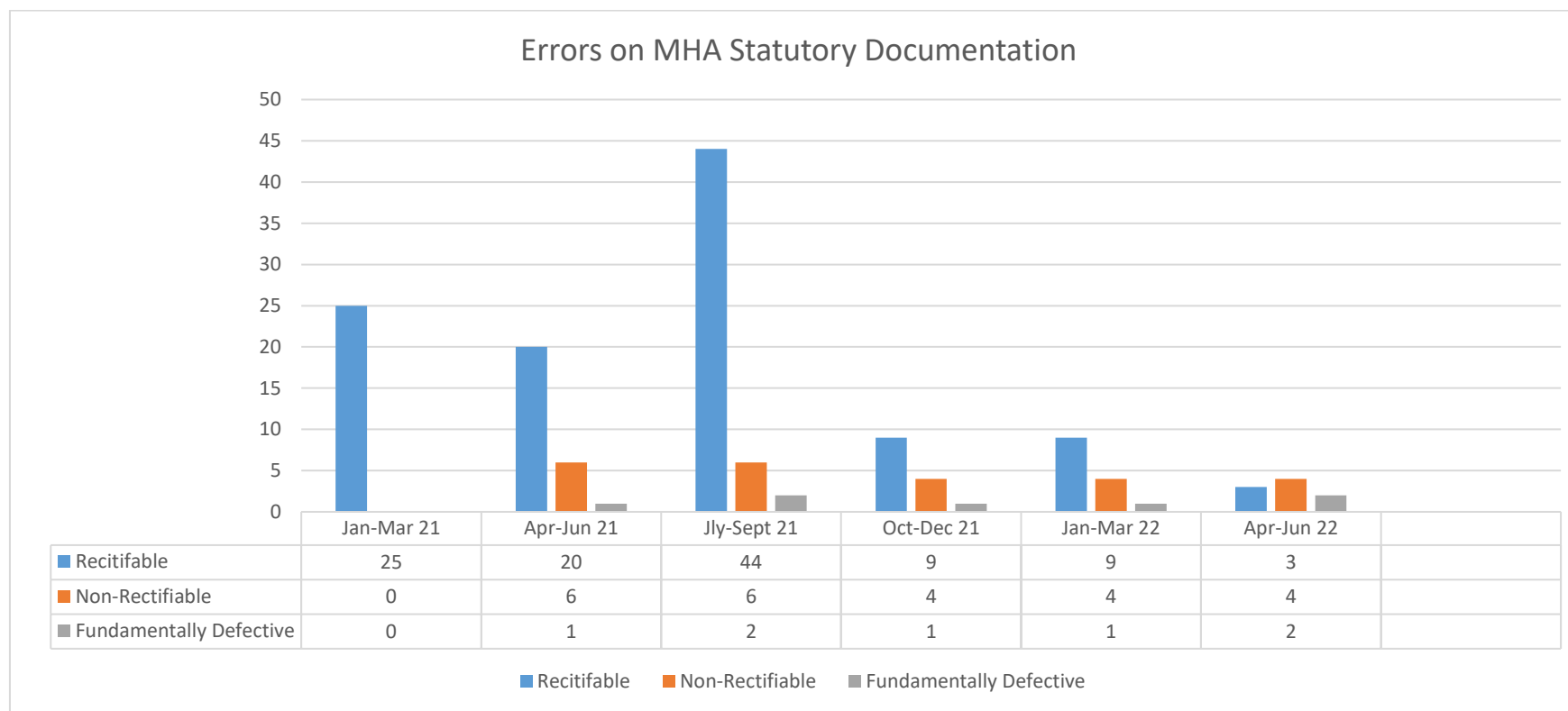


Governance and Assurance		
Link to Enabling Objectives (please choose)	Supporting better health and wellbeing by actively promoting and empowering people to live well in resilient communities	
	Partnerships for Improving Health and Wellbeing	<input checked="" type="checkbox"/>
	Co-Production and Health Literacy	<input type="checkbox"/>
	Digitally Enabled Health and Wellbeing	<input type="checkbox"/>
	Deliver better care through excellent health and care services achieving the outcomes that matter most to people	
	Best Value Outcomes and High Quality Care	<input checked="" type="checkbox"/>
	Partnerships for Care	<input type="checkbox"/>
	Excellent Staff	<input type="checkbox"/>
	Digitally Enabled Care	<input type="checkbox"/>
	Outstanding Research, Innovation, Education and Learning	<input type="checkbox"/>
Health and Care Standards		
(please choose)	Staying Healthy	<input type="checkbox"/>
	Safe Care	<input checked="" type="checkbox"/>
	Effective Care	<input type="checkbox"/>
	Dignified Care	<input checked="" type="checkbox"/>
	Timely Care	<input checked="" type="checkbox"/>
	Individual Care	<input checked="" type="checkbox"/>
	Staff and Resources	<input checked="" type="checkbox"/>
Quality, Safety and Patient Experience		
<p>The report provides assurance in respect of the work that has been undertaken by Mental Health and Learning Disabilities (MHL) Services during the quarter, that those functions of the Mental Health Act 1983 (the Act), which have been delegated to officers and staff under the policy for Hospital Managers' Scheme of Delegation, are being carried out correctly, and that the wider operation of the Act across the Health Board area is operating properly.</p>		
Financial Implications		
Legal Implications (including equality and diversity assessment)		
Mental Health Act 1983		
Staffing Implications		
<p>An interim appointment has been made to the Post of Mental Health Act Team Manager with effect 6<sup>th</sup> November 2020, and extended to end August 2022.</p> <p>The MHA Department has recently moved from HQ to the MH &amp; LD Management Centre in Cefn Coed Hospital</p> <p>Team members continue to work in a blended fashion of home &amp; office based working in light of current lockdown measures. This is working well and has recently been reviewed in light of new guidance.</p> <p>A band 4 vacancy has now been filled</p>		

Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)	
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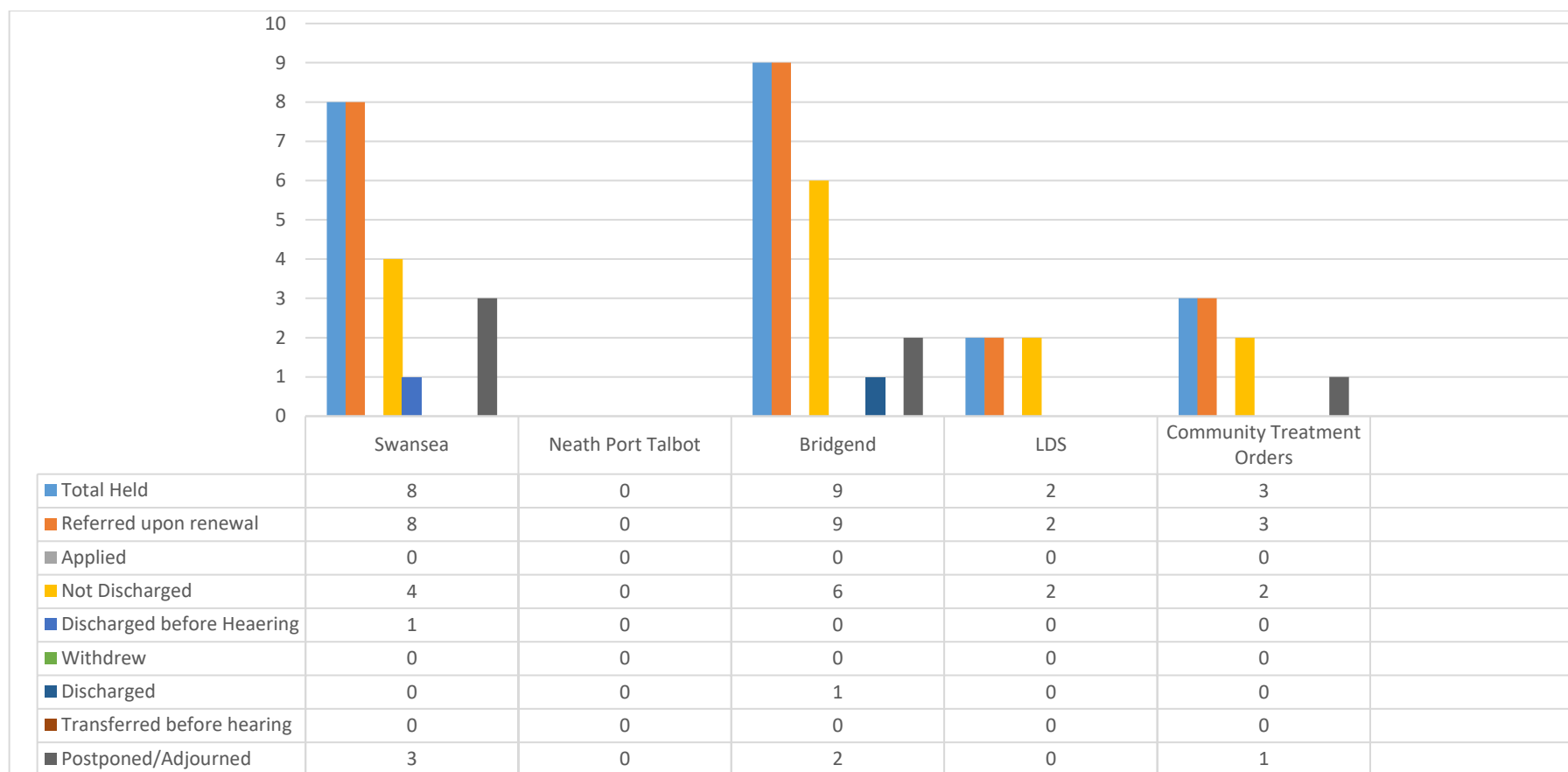
<b>Report History</b>	<p>The Mental Health Act Activity report is produced on a quarterly basis to inform both the MH Legislative Committee, and the Hospital Managers Power of Discharge Committee.</p> <p>The most recent Power of Discharge Committee was held on 12<sup>th</sup> January 2022</p> <p>The next Power of Discharge Meeting will be held on 19<sup>th</sup> July 2022</p> <p>An All Wales Hospital Managers Conference took place on 11<sup>th</sup> May 2022 in Bulth Wells</p>
<b>Appendices</b>	<p>Appendix 1: Graph showing rectifiable and non-rectifiable errors under Section 15 of the Act.</p> <p>Appendix 2: Graphs showing activity relating the Mental Health Review Tribunals and Hospital Managers Hearings</p>

### Exceptions and non-rectifiable errors on Mental Health Act statutory documents for the period April - June 2022



*This graph shows exceptions that can be rectified under section 15 and those that cannot, on Mental Health Statutory Documents*

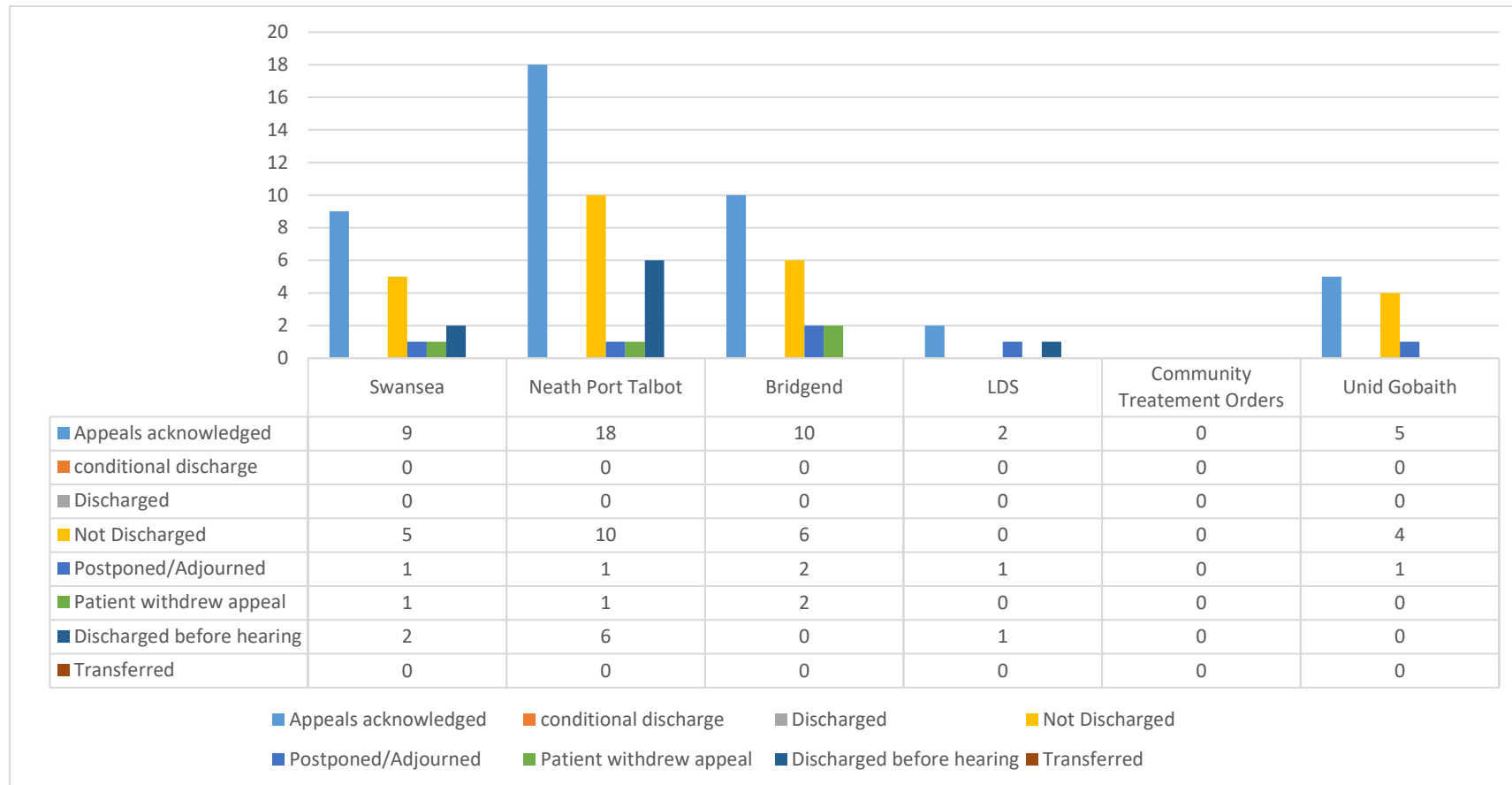
### Hospital Managers Appeals & Referrals April - June 2022



*This table shows Hospital Managers Hearings activity for the reporting period*

There were no occasions where a patient was discharged by the MHRTW following a recent 'not discharged' decision by Hospital Managers

## Mental Health Review Tribunal for Wales Hearings April - June 2022



### **Timeliness of Section 3 Tribunal Hearings**

Of the 22 MHRT Hearings for Section 3 patients – 57% were heard within the recommended 56 days and 43% were heard within 60 days.

Delayed hearing were mainly due to the granting of extensions for reports to be completed