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Bwrdd Iechyd Prifysgol
Bae Abertawe
Swansea Bay University
Health Board



Meeting Date	08 August 2019		Agenda Item	1.4
Report Title	Mental Capacity Act 2005 Update Monitoring Report, Court of Protection cases			
Report Author	Nicola Edwards, Head of Nursing - Safeguarding			
Report Sponsor	Cathy Dowling, Assistant Director of Nursing and Patient Experience			
Presented by	Cathy Dowling, Assistant Director of Nursing and Patient Experience			
Freedom of Information	Closed			
Purpose of the Report	This paper will provide the Committee of the Health Board position in relation to the Mental Capacity Act 2005			
Key Issues	<p>This report provides a high level summary on the Court of Protection cases in Swansea Bay University Health Board.</p> <p>There are currently twenty ongoing cases which Legal & Risk Legal Services Solicitors are supporting the Health Board with.</p> <p>A review of these cases is currently being undertaken and will be reported to the Committee's next meeting.</p>			
Specific Action Required <i>(please choose one only)</i>	Information	Discussion	Assurance	Approval
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recommendations	<p>Members are asked to:</p> <ul style="list-style-type: none"> NOTE THE CONTENTS OF THE REPORT 			

Mental Capacity Act 2005 Update Monitoring Report

1. INTRODUCTION

This paper provides the Mental Health and Capacity Act Legislative Committee with a high level overview of Swansea Bay University Health Board's current Court of Protection cases.

2. BACKGROUND

Section 45 of the Mental Capacity Act 2005 set up a specialist court, the Court of protection, to deal with decision-making for adults (and children in a few cases) who may lack capacity to make specific decisions for themselves. As well as property and affairs, this court also deals with serious decisions affecting healthcare and personal welfare matters which were previously dealt with by the High Court under its inherent jurisdiction. When reaching any decision, the Court must apply all the statutory principles set out in section 1 of the Act. In particular, it must make a decision in the best interests of the person who lacks capacity to make the specific decision.

The Court of Protection is a key decision making component of the Mental Capacity Act and has jurisdiction over property, financial affairs and the welfare of people who lack capacity. It has the same powers, rights, privileges and authority as the High Court. There are currently twenty ongoing cases which Legal & Risk Services solicitors are engaged involving the Health Board. A review of these cases is being undertaken in terms of themes/trends and opportunities to share the learning in the Health Board which will be presented to the next Committee meeting.

3. GOVERNANCE AND RISK ISSUES

The Corporate Safeguarding Team aims to work with the Legal Team and Service Delivery Units to ensure a clear process whereby all Court of Protection cases involving Swansea Bay University Health Board engaged as a party, are brought to the attention of the team; also that subsequent actions required to have clear lines of co-ordination and that any learning from judgements are identified and disseminated via the Safeguarding Committee.

4. FINANCIAL IMPLICATIONS

Safeguarding is a core duty of care for the Health Board. Financial implications to meet the statutory safeguarding requirements are within existing budgets.

5. RECOMMENDATION

The Committee is asked to note the contents of this report and that a report will be submitted to the next meeting providing details of the cases in terms of themes/trends and any shared learning for the Health Board.

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 checked="" type="checkbox"/>
	Excellent Staff	<input checked="" 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 checked="" type="checkbox"/>
	Dignified Care	<input checked="" type="checkbox"/>
	Timely Care	<input type="checkbox"/>
	Individual Care	<input checked="" type="checkbox"/>
	Staff and Resources	<input checked="" type="checkbox"/>
Quality, Safety and Patient Experience		
N/A		
Financial Implications		
Safeguarding is a core duty of care for the Health Board. Financial implications to meet the statutory safeguarding requirements are within existing budgets.		
Legal Implications (including equality and diversity assessment)		
The Health Board has a statutory responsibility to make arrangements to protect and safeguard the welfare of children, young people and adults at risk. Safeguarding policies uphold that patient and service users have the right to independence, dignity, respect, equality, privacy and choice.		
Staffing Implications		
N/A		

Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)	
Improve population health through prevention and early intervention	
Report History	N/A
Appendices	N/A