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Bwrdd Iechyd Prifysgol
Abertawe Bro Morgannwg
University Health Board



Meeting Date	7th February 2019	Agenda Item	3
Report Title	<i>Mental Health Act Performance Report for the period 1 October – 31 December 2018</i>		
Report Author	Lynda Rogan, Mental Health Act Manager		
Report Sponsor	David Roberts, Service Director, Mental Health & Learning Disabilities Service Delivery Unit		
Presented by	David Roberts, Service Director, Mental Health & Learning Disabilities Service Delivery Unit		
Freedom of Information	Open		
Purpose of the Report	The purpose of the paper is to present to the Mental Health Legislation Committee the quarterly Mental Health Act performance report in relation to Hospital Managers' scheme of delegated duties under the Mental Health Act 1983 and the functions, including s23.		
Key Issues	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.		
Specific Action Required <i>(please ✓ one only)</i>	Information	Discussion	Assurance
Recommendations	Members are asked to: <ul style="list-style-type: none"> • Approve the report for submission to the Health Board. 		
			✓

Governance and Assurance							
Link to corporate objectives <i>(please ✓)</i>	Promoting and enabling healthier communities		Delivering excellent patient outcomes, experience and access	Demonstrating value and sustainability	Securing a fully engaged skilled workforce		Embedding effective governance and partnerships
			✓	✓			✓
Link to Health and Care Standards <i>(please ✓)</i>	Staying Healthy	Safe Care	Effective Care	Dignified Care	Timely Care	Individual Care	Staff and Resources
	✓	✓	✓	✓	✓	✓	✓
Quality, Safety and Patient Experience							
This report does not impact on the quality, safety and patient experience although the aim of the Committee's work is to assure the Board that Mental Health and Learning Disabilities Delivery Unit are performing in accordance with the Mental Health Act 1983 which directly impacts on patient care.							
Financial Implications							
There are no financial implications in this report.							
Legal Implications (including equality and diversity assessment)							
There are no specific legal implications (although non-compliance with the Mental Health Act could result in legal proceedings being brought against the Health Board who is the detaining authority).							
Staffing Implications							
There are no workforce issues in this report.							
Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015 - https://futuregenerations.wales/about-us/future-generations-act/)							
The report does not impact on population health.							
Report History	Considered by the Mental Health & Learning Disabilities Legislative Committee Operational Group on 21 January 19						
Appendices	<ol style="list-style-type: none"> 1. Benchmarking Report on Defective and Rectifiable Errors 2. Postponements and adjournments of the Hospital Managers Power of Discharge patient review panels 3. Procedure for the hearing of patient reviews by the Hospital Managers 4. Report on Mental Health Act Training 						

EXCEPTION REPORT

1.0 INTRODUCTION

The report provides assurance in respect of the work that has been undertaken by Mental Health and Learning Disabilities (MHLDD) DU 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.

2.0 BACKGROUND

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.

3.0 GOVERNANCE AND RISK ISSUES

3.1 Data Collection and Exception Reporting

Any exceptions highlighted in the Mental Health Act activity report are intended to raise the Committee's awareness of matters relating to the functions of hospital managers and give assurance that the care and treatment of patients detained in Abertawe Bro Morgannwg University Health Board and those subject to a community treatment order is only as the Act allows.

3.2 Detention without authority or Invalid Detentions

There were three exceptions for this period and three invalid detention identified by the Mental Health Act Department. An analysis of the reason for the invalid detention between the periods 1 October – 31 December 2018, with actions taken and by whom, is documented to provide assurance that actions are being taken to minimize or eradicate this occurring.

No.	Reason for detention without authority	Actions taken	By Whom
1	<p>Princess of Wales Hospital (Ward 18)</p> <p>The AMHP application for detention under section 2 of the Act was not signed or dated by the applicant. This error is a fundamental defect which could not be rectified under section 15 of the Act and rendered the section invalid.</p> <p>Detention without authority: 23 hours 10 mins</p>	<p>Ward manager informed that detention is invalid. Doctor and AMHP informed that detention is invalid and discussed whether further section needs to be applied. Staff informed to make an entry in the patients' health record to document incident and outcome. Correspondence sent to patient to inform them of the incident. Incident Report Form completed.</p>	<p>MHA Administrator MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p>

<p>2</p>	<p>Princess of Wales Hospital (Ward 2)</p> <p>The AMHP did not complete any details of the patient or nearest relative on their section 2 application. As the correct procedure was not followed it invalidated the detention.</p> <p>Detention without authority: 72 hours 15 mins</p>	<p>Ward manager informed that holding power is invalid.</p> <p>Doctor informed that holding power is invalid and discussed whether further section needs to be applied.</p> <p>Staff informed to make an entry in the patients' health record to document incident and outcome.</p> <p>Correspondence sent to patient to inform them of the incident.</p> <p>Incident Report Form completed.</p>	<p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p>
<p>3</p>	<p>Princess of Wales Hospital (Ward 2)</p> <p>A section 5(2) was completed for the patient, however, the doctor did not complete the start date on the Form HO12. As this omission could not be rectified under section 15 of the Act it rendered the holding power invalid.</p> <p>Detention without authority: 72 hours</p>	<p>Ward manager informed that detention is invalid.</p> <p>Doctor and AMHP informed that detention is invalid and discussed whether further section needs to be applied.</p> <p>Staff informed to make an entry in the patients' health record to document incident and outcome.</p> <p>Correspondence sent to patient to inform them of the incident.</p> <p>Incident Report Form completed.</p>	<p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p>

A benchmarking report showing the number of fundamentally defective applications and rectifiable errors by Health Board is attached at **Appendix 1**.

4. Assessment

Mental Health Act 1983

A summary report along with definitions of relevant section of the Act is included below which summarises key points of the use of the Act within ABMU Health Board. Rates of detention under different sections of the Act typically fluctuate between each quarter; therefore only significant points are highlighted.

1st October – 31st December 2018 (Quarter 3)

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 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)

5. 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 quarter:

- Two under 18 year olds were admitted informally to Ward F, Neath Port Talbot Hospital for a period of one day.
- Section 4 which should only take place in cases of urgent necessity and to avoid an unacceptable delay was used on four occasions, all patients had their section 4 converted to section 2 within the 72 hour period allowed.
- The nurses holding power under section 5(4) of the Act was used on three occasions, this was necessitated as it was not practicable to secure the immediate attendance of a doctor to furnish a report under section 5(2).

6. Hospital Managers Power of Discharge Committee

There were no meetings held by the above committee. An all Wales Hospital Manager conference was held on the 28th November 2018, which was hosted by Edge Training and Consultancy Ltd.

A list of postponed and adjourned hearings is attached at **Appendix 2** with the procedure of the hospital managers review system attached at **Appendix 3**.

7. Healthcare Inspectorate Wales (HIW) Visits to Mental Health & Learning Disabilities Units

During the reporting period there were no visits by HIW to hospital wards or units in the Mental Health & Learning Disability Delivery Unit.

8. Conclusions

Unlawful and de facto detentions are likely to re-occur where qualified ward staff have insufficient training in the receipt and scrutiny procedures under section 15 of the Mental Health Act 1983.

9. Recommendations

- Training sessions to be arranged for qualified staff on the receipt and scrutiny of Mental Health Act documentation across all mental health hospital sites and learning disability units.
- Clinicians to be reminded of their responsibilities under the Act when completing statutory documentation. Persistent non-compliance should be an issue raised formerly.

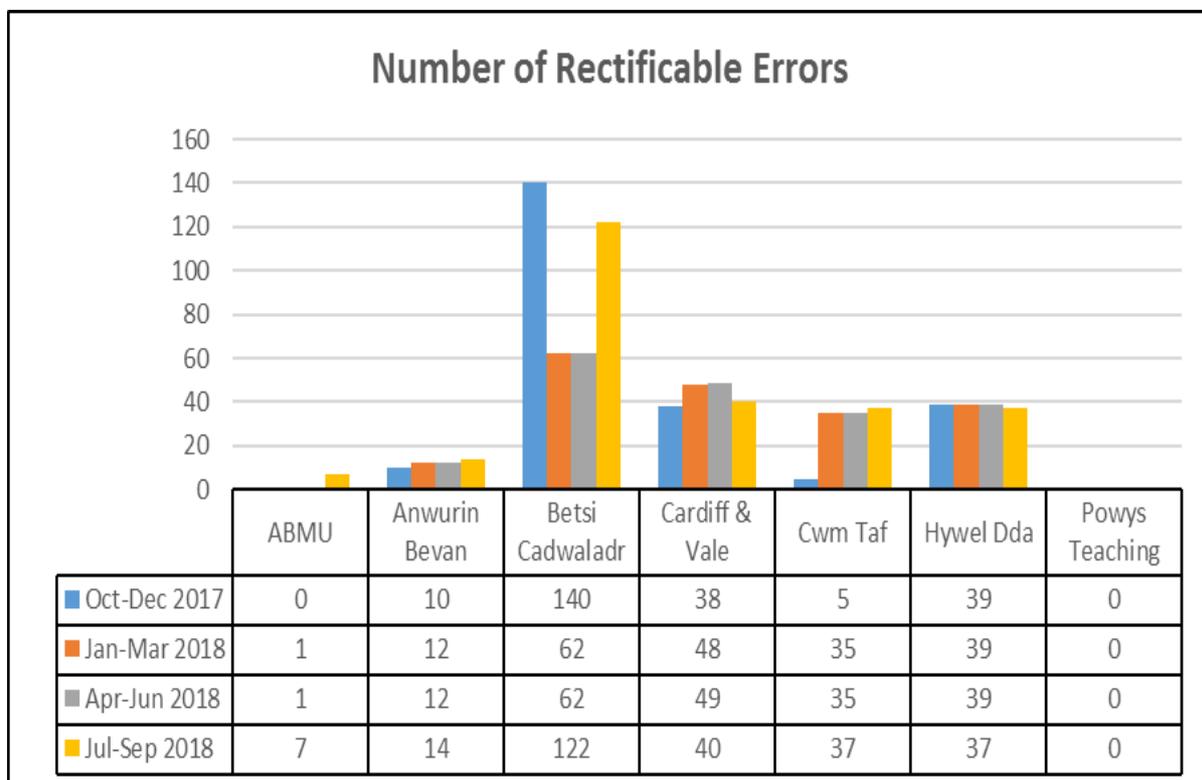
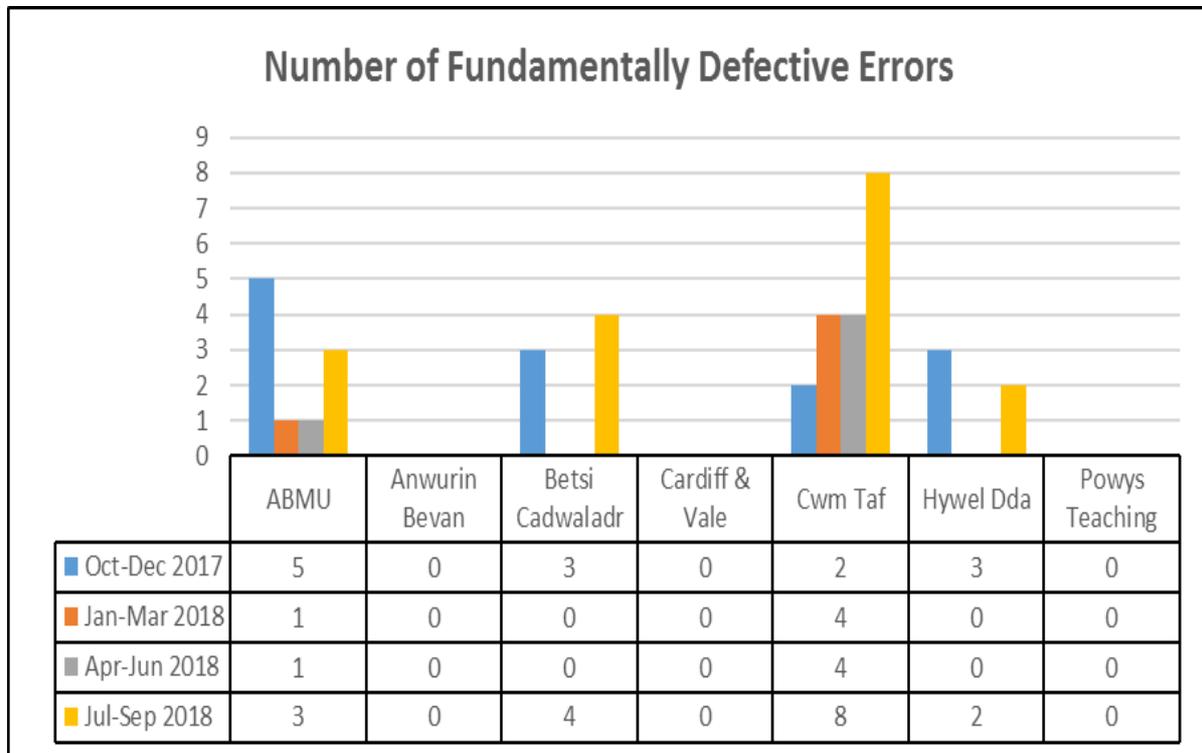
Actions

- The Mental Health Act Department is arranging training sessions for qualified staff on the receipt and scrutiny of Mental Health Act documentation across all mental health hospital sites and learning disability units. This will instruct staff on how to recognise minor errors and fundamentally defective applications likely to invalidate sections under the Mental Health Act; and should reduce the rate of de facto detentions. The training sessions for the period 1 October – December 2018 is attached at **Appendix 4**.

By Whom

- Training will be delivered by the Mental Health Act Senior Managers.

Benchmarking Report – 1 October 2017 – 30 September 2018



Hospital Managers Postponed/Adjourned during 1 October – 31 December 2018

Postponed/Adjourned	Type of hearing	Date/time	Reason for postponement/adjournment	Outcome
Postponed	Renewal of detention	05/11/2018 10:30 am	The chair of the panel phoned the department an hour before the start of the hearing to cancel due to sickness.	Rescheduled hearing on 19/11/2018
Postponed*	Renewal of detention	16/11/2018 10:00 am	No social circumstance report received or attendance at the meeting of the appointed person.	Rescheduled hearing on 23/11/2018
Postponed	Extension of CTO	19/11/2018 10:30 am	The chair of the panel phoned the department two hour before the start of the hearing to cancel due to sickness.	Rescheduled hearing on 27/11/2018
Adjourned*	Renewal of detention	23/11/2018 10:00 am	Chair adjourned as the CTP was not up-to-date and the Care Coordinator stated they had not seen the patient for 5 months and was therefore unable to answer any questions concerning the patient.	Rescheduled hearing on 07/12/2018
Postponed	Renewal of detention	26/11/2018 11:00 am	Email received from one of the panel members who cancelled on the day of the hearing due to a family bereavement.	Rescheduled hearing on 07/01/2019
Postponed	Renewal of detention	07/12/2018	Patient transferred ward on 08/11/2018, a new date was arranged with the new Responsible Clinician.	Rescheduled hearing on 06/12/2018

*Relates to the same patient.

Receipt & Scrutiny of Mental Health Act Documentation

Training Sessions

October – December 2018

Date	Venue	Time	Number Attending	Comments
06.12.2018	Morrison Hospital	2.00 – 4.00 pm	8	6 attended