



**GIG**  
CYMRU  
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WALES

Bwrdd Iechyd Prifysgol  
Abertawe Bro Morgannwg  
University Health Board



|   |  |                   |                    |                 |
|---|--|-------------------|--------------------|-----------------|
| <b>Meeting Date</b>   | <b>24<sup>th</sup> August 2018</b>   |                   | <b>Agenda Item</b> | <b>2a</b>       |
| <b>Report Title</b>   | Mental Health Act Performance Report for the period<br>1 April – 30 June 2018  |                   |                    |                 |
| <b>Report Author</b>  | Lynda Rogan, Mental Health Act Manager   |                   |                    |                 |
| <b>Report Sponsor</b>                                       | David Roberts, Service Director, Mental Health & Learning<br>Disabilities Service Delivery Unit  |                   |                    |                 |
| <b>Presented by</b>   | David Roberts, Service Director, Mental Health & Learning<br>Disabilities Service Delivery Unit  |                   |                    |                 |
| <b>Freedom of Information</b>                               | Open   |                   |                    |                 |
| <b>Purpose of the Report</b>                                | The purpose of the paper is to present to the Mental Health<br>Legislation Committee the quarterly Mental Health Act<br>performance report in relation to Hospital Managers' scheme of<br>delegated duties under the Mental Health Act 1983 and the<br>functions, including s23.   |                   |                    |                 |
| <b>Key Issues</b>   | The hospital managers must ensure that patients are detained<br>only as the Act allows, that their care and treatment fully comply<br>with it, and that patients are fully informed of, and supported in<br>exercising their statutory rights. Hospital managers must also<br>ensure that a patient's case is dealt with in line with other<br>legislation which may have an impact, including the Human<br>Rights Act 1998, Mental Capacity Act 2005 and Mental Health<br>(Wales) Measure 2010. |                   |                    |                 |
| <b>Specific Action<br/>Required<br/>(please ✓ one only)</b> | <b>Information</b>   | <b>Discussion</b> | <b>Assurance</b>   | <b>Approval</b> |
|   |  |                   |                    | ✓               |
| <b>Recommendations</b>                                      | Members are asked to: <ul style="list-style-type: none"> <li>• <b>Note</b> the report.</li> </ul>  |                   |                    |                 |

| <b>Governance and Assurance</b>   |   |           |  |  |  |                 |   |
|---|---|-----------|--|--|--|-----------------|---|
| <b>Link to corporate objectives</b><br><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 |
|   |   |           | ✓  |  |  |                 | ✓   |
| <b>Link to Health and Care Standards</b><br><i>(please ✓)</i>   | Staying Healthy   | Safe Care | Effective Care   | Dignified Care                         | Timely Care                                | Individual Care | Staff and Resources                             |
|   | ✓   | ✓         | ✓  | ✓                                      | ✓  | ✓               | ✓   |
| <b>Quality, Safety and Patient Experience</b>   |   |           |  |  |  |                 |   |
| 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. |   |           |  |  |  |                 |   |
| <b>Financial Implications</b>   |   |           |  |  |  |                 |   |
| There are no financial implications in this report.   |   |           |  |  |  |                 |   |
| <b>Legal Implications (including equality and diversity assessment)</b>   |   |           |  |  |  |                 |   |
| 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).  |   |           |  |  |  |                 |   |
| <b>Staffing Implications</b>  |   |           |  |  |  |                 |   |
| There are no workforce issues in this report.   |   |           |  |  |  |                 |   |
| <b>Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015 - <a href="https://futuregenerations.wales/about-us/future-generations-act/">https://futuregenerations.wales/about-us/future-generations-act/</a>)</b>   |   |           |  |  |  |                 |   |
| The report does not impact on population health.  |   |           |  |  |  |                 |   |
| <b>Report History</b>   | Considered by the Mental Health & Learning Disabilities Legislative Committee Operational Group on 10 July 2018.  |           |  |  |  |                 |   |
| <b>Appendices</b>   | <ol style="list-style-type: none"> <li>1. Admissions to Mental Health/Learning Disabilities DU – 1 April 2015 to 31 March 2018</li> <li>2. Receipt &amp; Scrutiny of Mental Health Act Documentation Training Sessions</li> </ol> |           |  |  |  |                 |   |

**MENTAL HEALTH ACT PERFORMANCE REPORT FOR THE PERIOD  
1 APRIL – 30 JUNE 2018**

**1.0 INTRODUCTION**

The report provides assurance in respect of the work that has been undertaken by Mental Health and Learning Disabilities (MHL) 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 was one exception for this period and one invalid detention identified by the Mental Health Act Department. An analysis of the reason for the invalid detention between the periods 1 April – 30 June 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><b>Princess of Wales Hospital (Ward 14)</b></p> <p>It was found that the AMHP had identified the incorrect nearest relative on a section 2 application which did not authorise the detention of the patient.</p> <p>Detention without authority: <b>25 days</b></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</p> | <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA</p> |

|  |  |            |               |
|--|--|------------|---------------|
|  |  | completed. | Administrator |
|--|--|------------|---------------|

## 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.

1<sup>st</sup> April – 30<sup>th</sup> June 2018 (Quarter 1)

#### **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:

- One under 18 year old was admitted to Ward F, Neath Port Talbot Hospital and subsequently transferred to Ty Llidiard under section 2 of the Act.
- Section 4 which should only take place in cases of urgent necessity and to avoid an unacceptable delay was used on five occasions, all five were converted to section 2 within the 72 hour period allowed.
- The nurses holding power under section 5(4) of the Act was used on four 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).
- There was one death of a patient who was detained under section 2 of the Act, this was reported to Healthcare Inspectorate Wales.

## **6. Admissions of CAMHS patients**

The number of CAMHS patients who were admitted to wards in ABMU Health Board Mental Health and Learning Disabilities Delivery Unit over a three year period is attached at **Appendix 1**.

## **7. Hospital Managers Power of Discharge Committee**

There were no meetings held by the above committee. A joint training event was held on the 8<sup>th</sup> May 2018; Nigel Butcher from the Mental Health Review Tribunal for Wales gave a presentation on the role and function of the Tribunal Office.

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

During the reporting period there was one unannounced visit by HIW to Clyne and Fendrod wards in Cefn Coed Hospital. There were no issues raised on the administration of the Mental Health Act 1983.

## **9. 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.

## **10. 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.

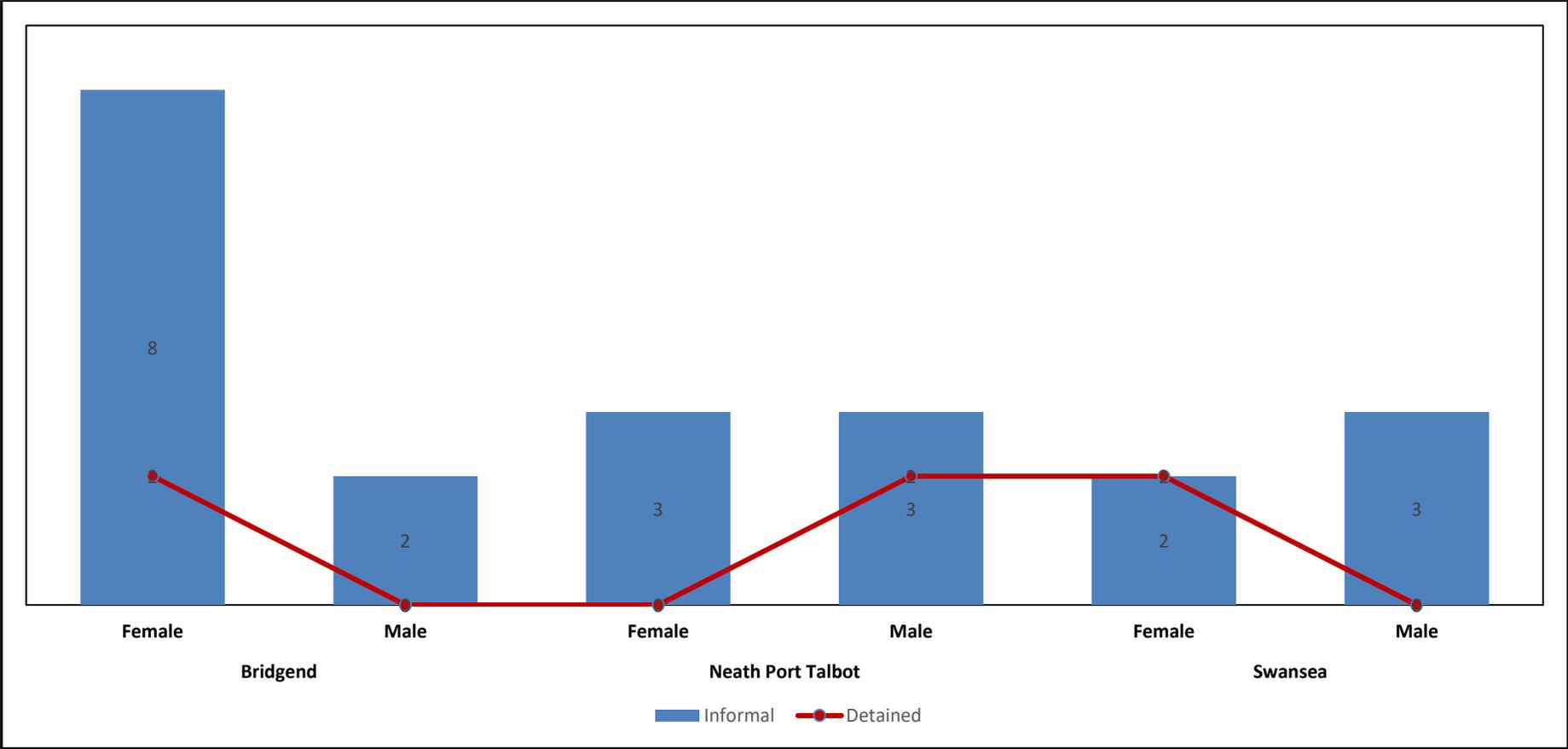
### **Actions**

- 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 held for the period May – August 2018 is attached at **Appendix 2**.

### **By Whom**

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

Admissions to Mental Health/Learning Disabilities DU – 1 April 2015 to 31 March 2018  
(by Locality, Gender and MHA Status)



## Receipt & Scrutiny of Mental Health Act Documentation Training Sessions

**May - August 2018**

| <b>Date</b> | <b>Venue</b>                             | <b>Time</b>    | <b>Number Attending</b> | <b>Comments</b> |
|-------------|--|----------------|-------------------------|-----------------|
| 24.05.2018  | Morrison Hospital                        | 1.30 – 3.30 pm | 8                       | Postponed       |
| 30.05.2018  | Ty Garth Newydd<br>Learning Disabilities | 1.30 – 3.30 pm | 4                       | 3 attended      |
| 12.06.2018  | Ty Garth Newydd<br>Learning Disabilities | 1.30 – 3.30 pm | 4                       | 3 attended      |
| 21.06.2018  | Princess of Wales<br>Hospital            | 1.30 – 3.30 pm | 8                       | 5 attended      |
| 05.07.2018  | Meadow Court<br>Learning Disabilities    | 1.00 – 3.30 pm | 6                       | 10 attended     |
| 06.07.2018  | Princess of Wales<br>Hospital            | 1.30 – 3.30 pm | 8                       | 6 attended      |
| 12.07.2018  | Morrison Hospital                        | 1.30 – 3.30 pm | 8                       | Cancelled       |
| 10.08.2018  | Meadow Court<br>Learning Disabilities    | 1.00 – 3.30 pm | 8                       | 4 attended      |