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Bwrdd Iechyd Prifysgol
Bae Abertawe
Swansea Bay University
Health Board



Meeting Date	05 August 2021	Agenda Item	2.1
Report Title	Mental Health Act Activity Report: Apr - Jun 2021		
Report Author	Penny Cram		
Report Sponsor	David Roberts – Service Group Director		
Presented by	David Roberts – Service Group Director		
Freedom of Information	Open		
Purpose of the Report	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, including section 23.		
Key Issues	<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>		
Specific Action Required <i>(please choose one only)</i>	Information	Discussion	Assurance
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Recommendations	<p>Members are asked to:</p> <ul style="list-style-type: none"> • NOTE this report 		

Mental Health Act Activity Report: Apr – Jun 2021

1. INTRODUCTION

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.

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

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 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)

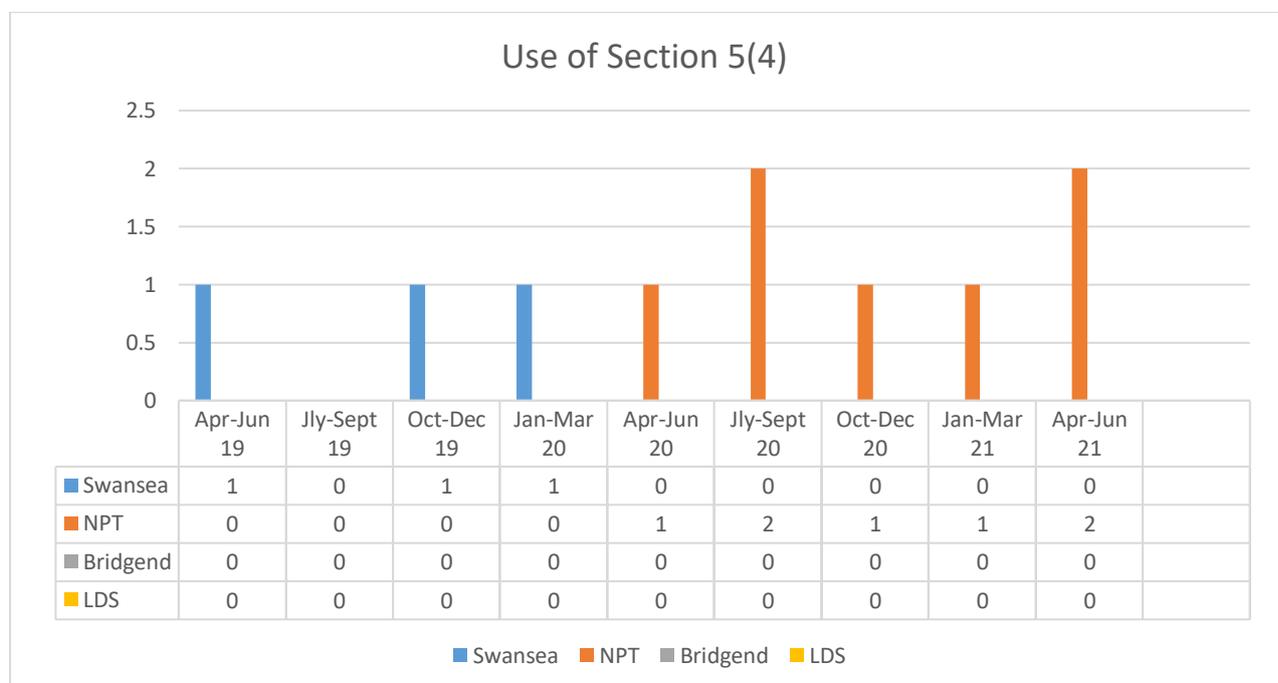
Mental Health Act 1983 - Data Collection and Exception Reporting

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 2 occasions.



The graph above shows 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.

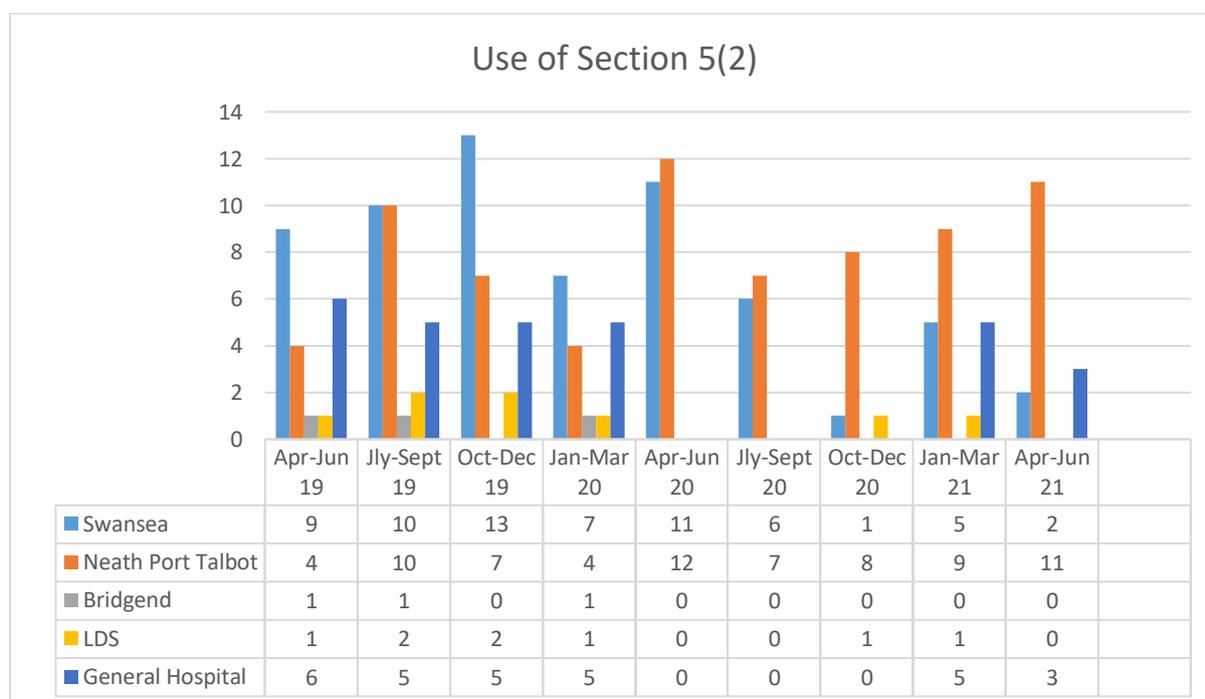
Section 5(2) was used on 16 occasions - with 1 invalid section due to Form not being signed

The number of patient's subject to section 5(2) on general wards is more in keeping with activity levels between April 2019 - March 2020, as opposed to the 3 reporting periods April 2020 – December 2020. The latter being during the height of the Coronavirus pandemic.

Unfortunately, this activity continues to be associated with poor processes, including:

- section being allowed to lapse,
- papers not being scanned to the MHA department for scrutiny
- forms not being filled in correctly resulting in invalid section / unlawful detention

The Mental Health Act Department is working with colleagues on the general wards to improve knowledge, understanding and compliance about the use of section 5(2). Also, the MHA Team has now established named RC contacts for general wards which will hopefully improve compliance and communication.

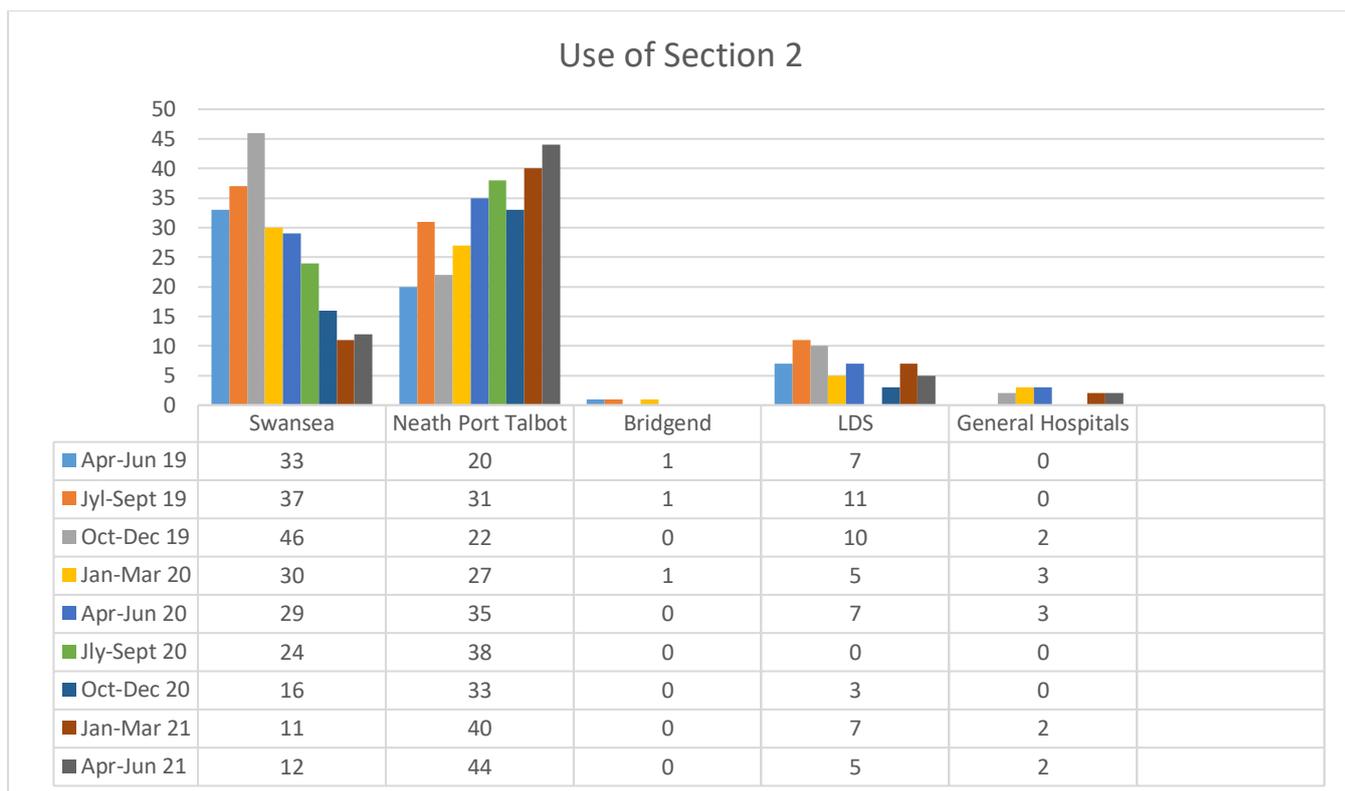


The graph above shows comparison data over 2 years

Section 2 – Admission for Assessment

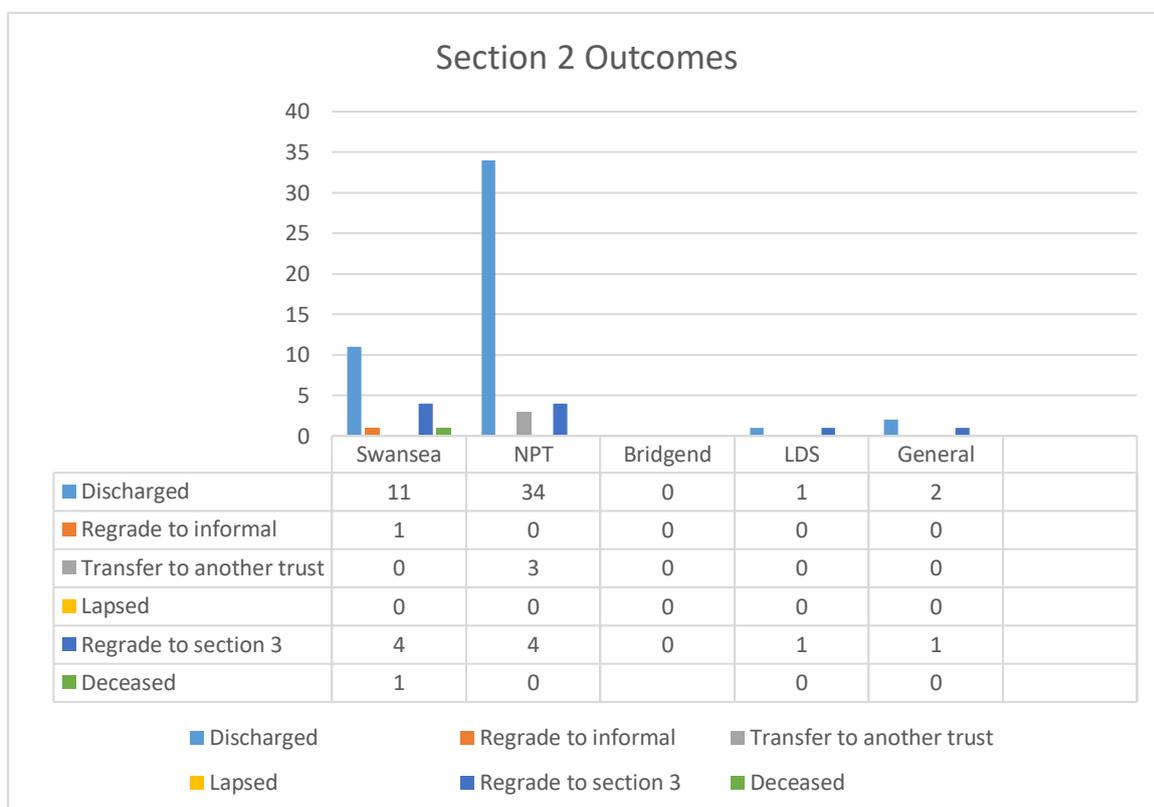
Section 2 authorises the compulsory admission of a patient to hospital for assessment (or for assessment followed by medical treatment), for mental disorder, for up to 28 days.

Section 2 was used on 63 occasions.

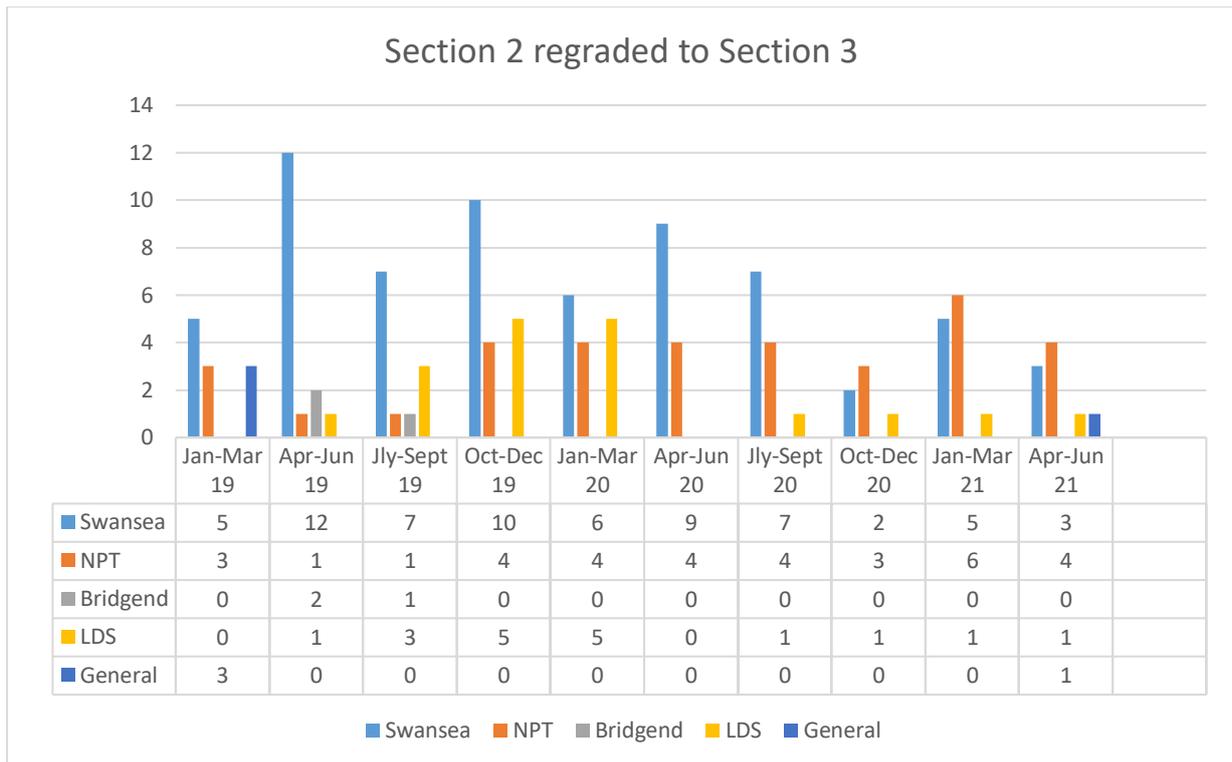


The graph above shows comparison data over 2 years

Section 2 Outcome data: Apr – Jun 2021



The graph shows section 2 outcomes for the reporting period

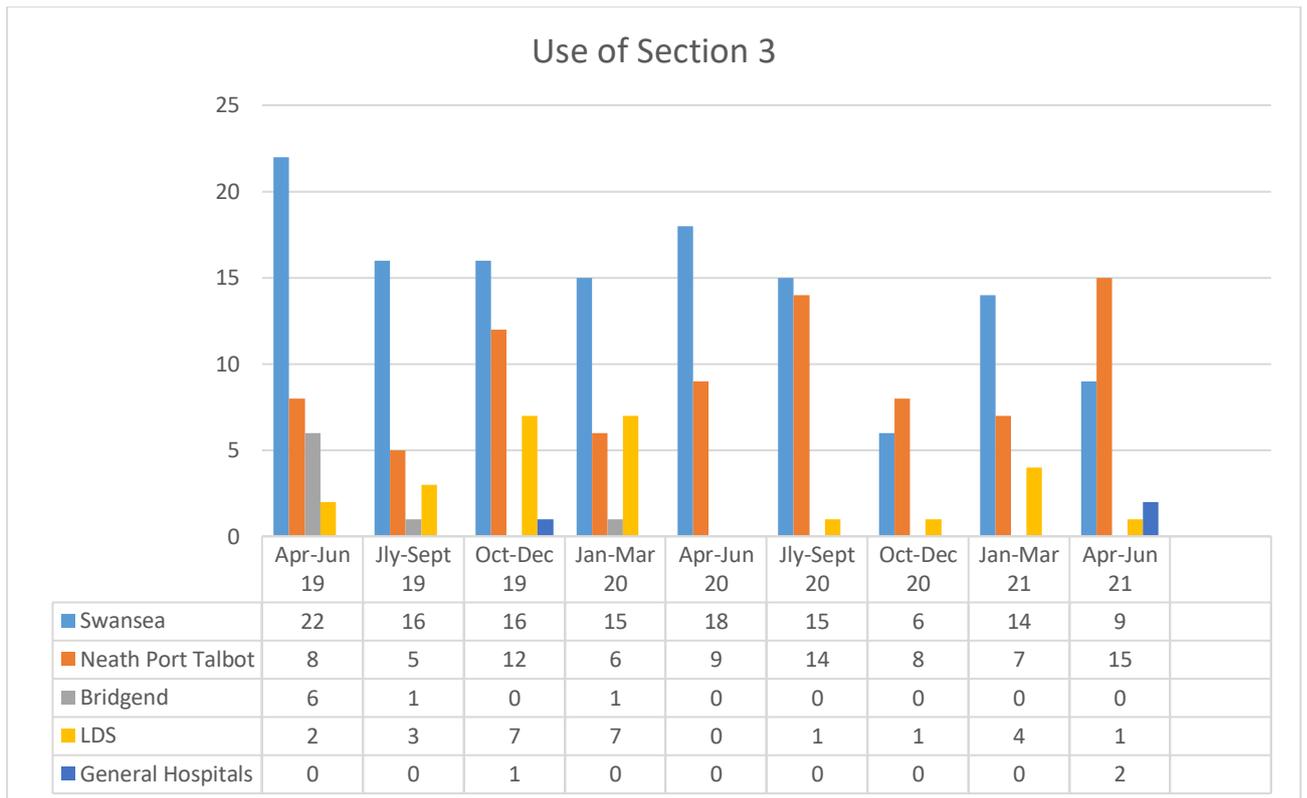


This table shows the number of section 2 detentions regraded to section 3 with comparison data from previous 2 years

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 – can then be renewed for periods of one year at a time.

Section 3 was used on 27 occasions.

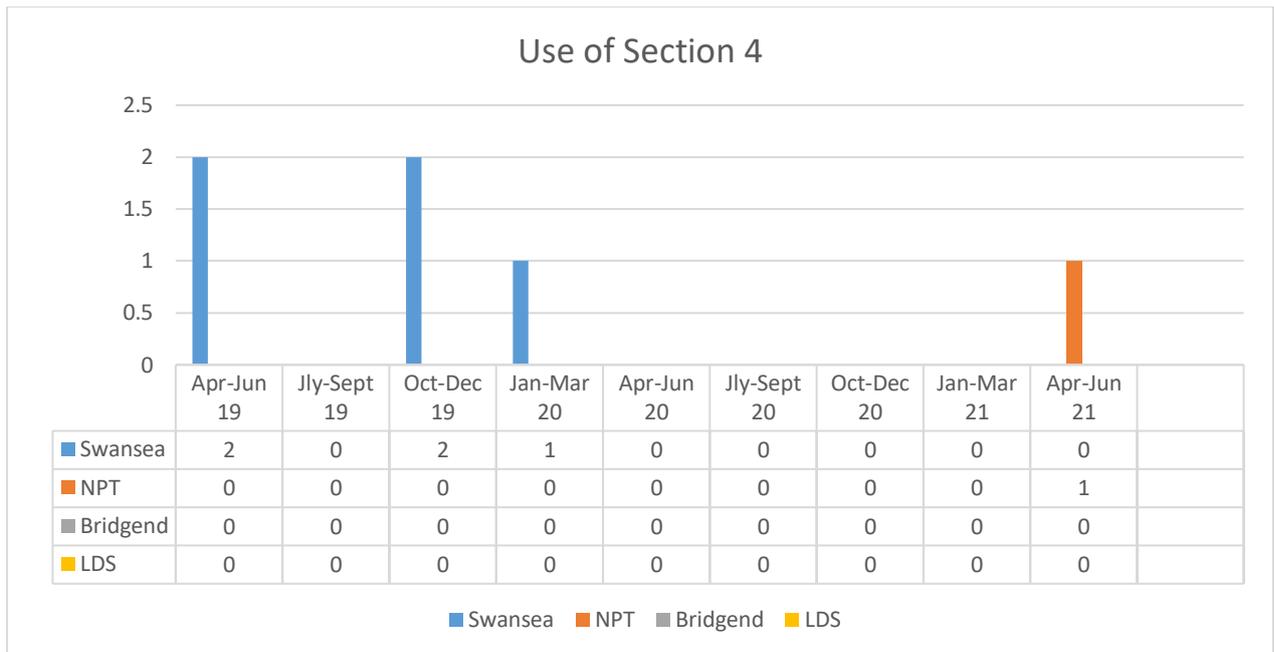


The graph above shows comparison data over 2 years

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 once during this reporting period.



The graph above shows comparison data over 2 years

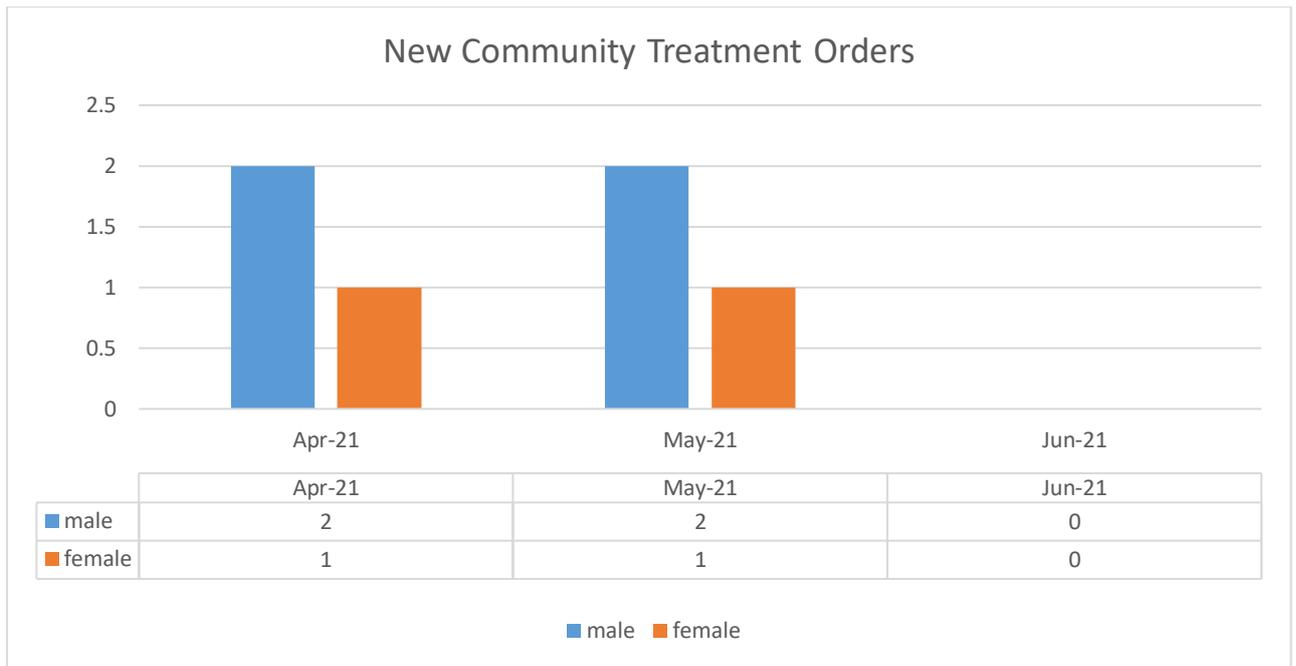
Admissions of under 18s

There were 7 admissions to the emergency CAMHS provision at Ward F, NPT, of those aged under 18 this this quarter. The length of stay varied between 1-7 days.

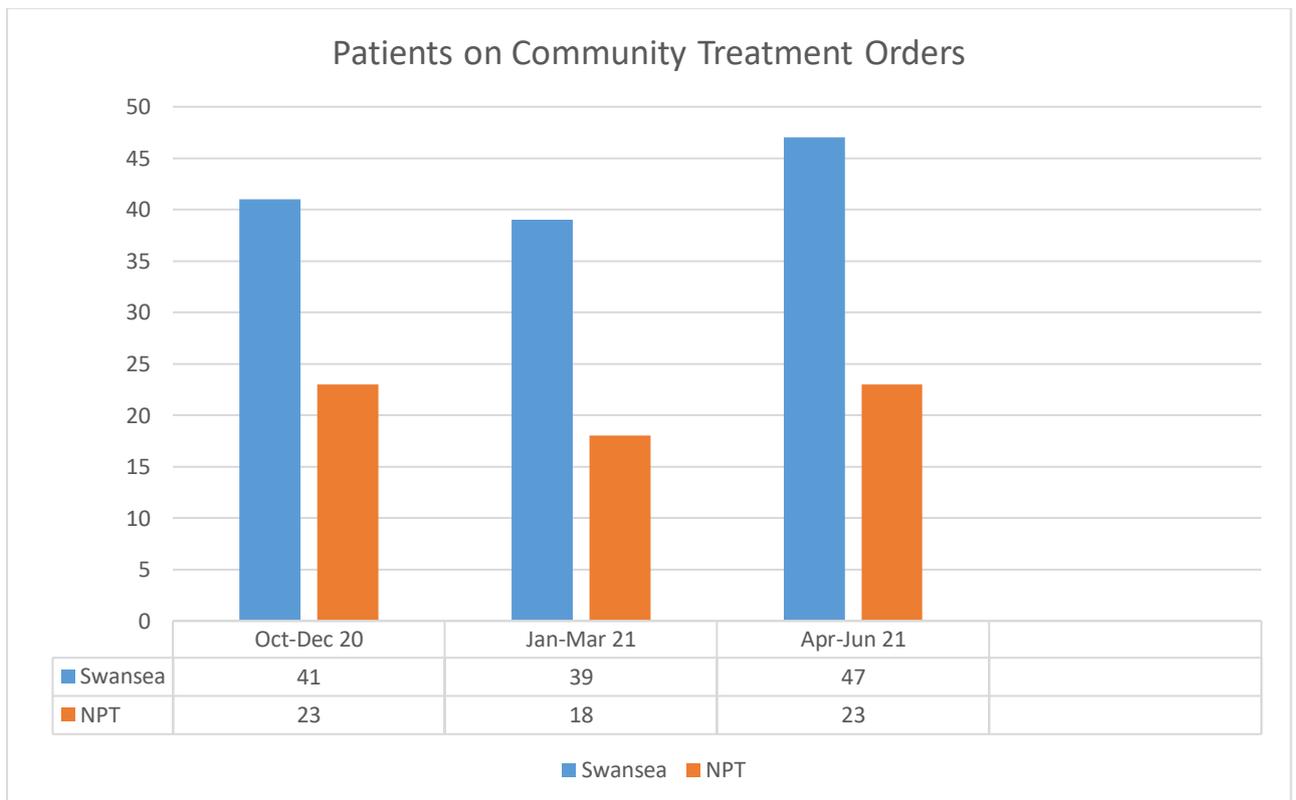
- April – 2
- May – 1
- June – 4

Section 17A – Community Treatment Order

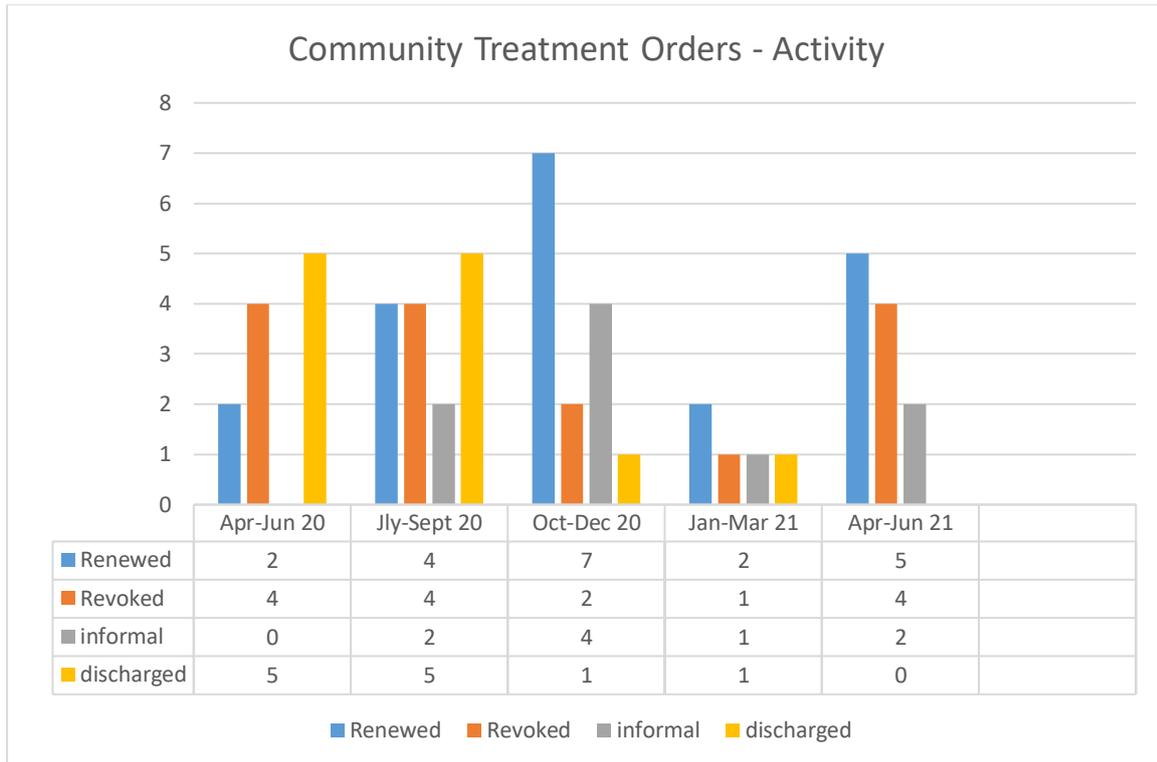
This section provides a framework to treat, and safely manage certain eligible patients who have been detained in hospital for treatment, in the community, whilst still being subject to powers under the Act.



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



This graph shows the number of patients on a CTO for last 3 reporting periods



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

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 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 is no need to obtain a warrant under section 135 (2).

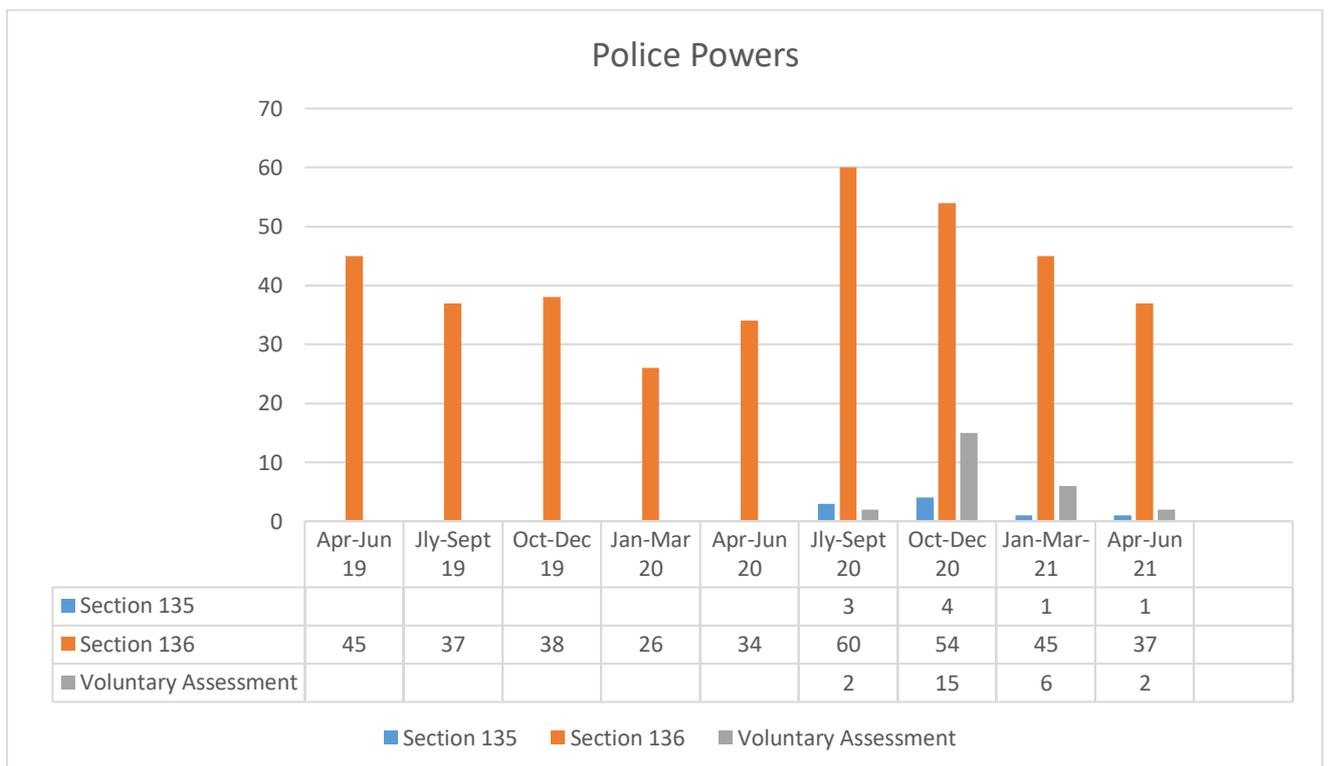
Section 136 empowers a constable to remove a person from a public place to a place of safety if it is considered the person is suffering from mental disorder and is in immediate need of care or control. There were 37 detentions under section 136 during this reporting period.

Police Powers

The MHLO has been working to improve and increase communication between police officers and the MH Triage team, in order to ensure that detentions under section 136 are appropriate.

The 37 Section 136 detentions throughout the reporting period are broken down as follows:

- April - 12
- May - 19
- June – 6



Deaths of detained patients

There were 2 patient deaths during this reporting period. The cause of death in each case appears to be due to physical health conditions, and not directly related to their mental illness.

April – male, section 3 on Fendrod, Cefn Coed

June – male, section 2 on Celyn (OPMHS), Cefn Coed

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

Two Tier 1 quality checks have taken place this quarter:

- Llwyneryr
- Bryn Afon

No review of MHA documentation was carried out

Inspections were focussed on the Covid response only

The Mental Health Act Department will shortly be making arrangements to carry out MHA paperwork audits on the acute wards (Cefn Coed and Ward F, NPT). The recommended HIW audit tools will be utilised for this purpose, and the appropriate preparation in terms of safe attendance on the wards will be made.

Mental Health Act – Legislative update

The Queen's Speech on 11 May 2021 laid out a programme of some 30 pieces of legislation. This included a Health and Care Bill with proposals to tackle obesity and improve mental health support. However, despite the references to a new Mental Health Act in the 2020 Queen's Speech, there was no sign of this in 2021.

Reform of the Mental Health Act came as a bit of a surprise when it was announced by the then Prime Minister Theresa May in October 2017. It was followed up by the review of the current Act by Sir Simon Wessely which reported in December 2018.

The public consultation to the Wessely report ended on 21st April 2021 with recommendations expected later in 2021. Otherwise, there seems to be no commitment this year.

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 6th November 2020 and extended to end of September 2021.

Substantive appointments have been made to the 2 outstanding vacancies in the department. Team members continue to work in a blended fashion of home & office based working in light of current Covid-19 workplace measures.

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.

Detention without authority or Invalid Detentions

There were 25 exceptions for this period, and 1 invalid Section 5(2) detention identified by the Mental Health Act Department. The Section 5(2) Form HO 12 was not dated by the doctor which invalidates the section.

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

The number of errors remains low due to the educational work being undertaken by the Mental Health Act Team. MHA training has been delivered to medical students, acute ward staff, and staff from the new Mother & Baby Unit during this reporting period.

Please see the graphs at Appendix 1 for exception data

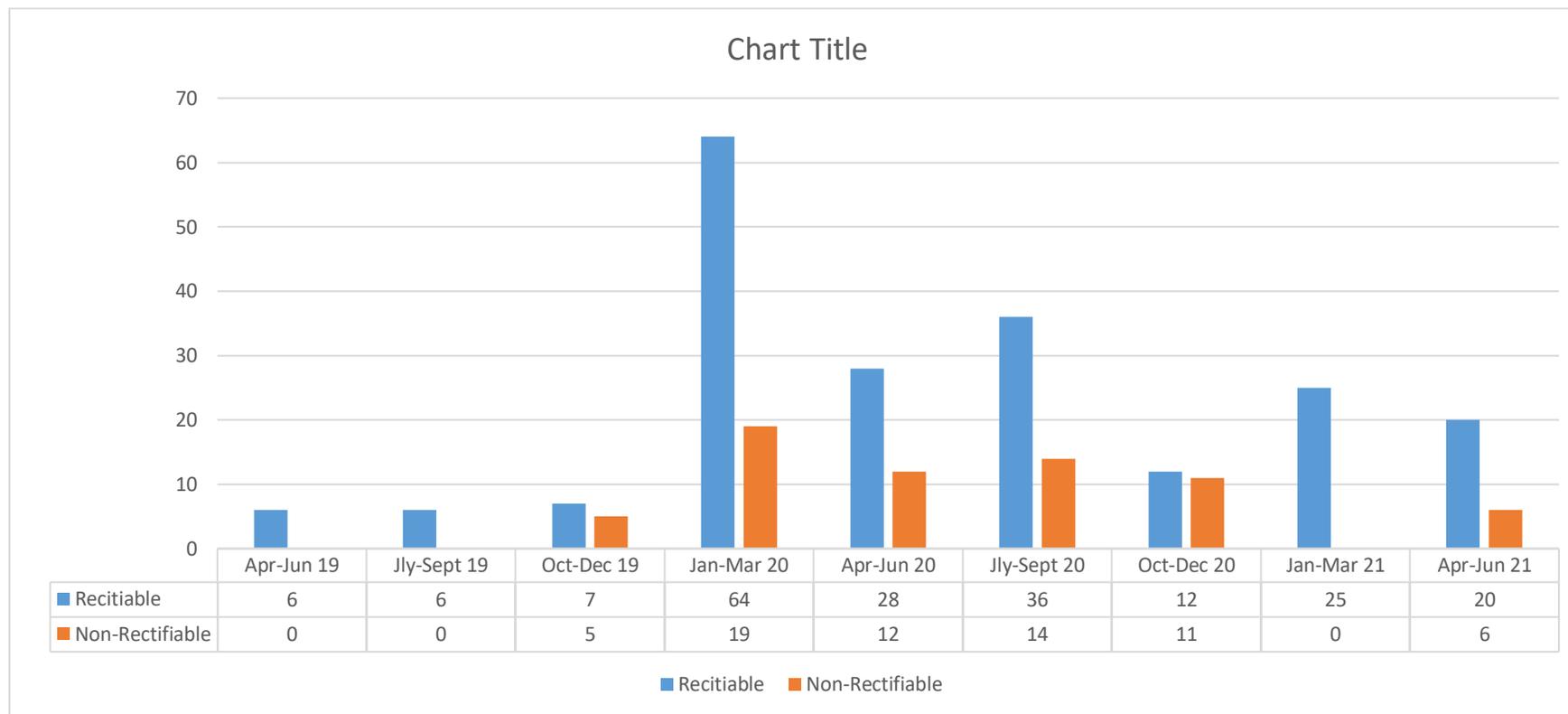
4. RECOMMENDATION

The Board is asked to note the report.

Governance and Assurance		
Link to Enabling Objectives <i>(please choose)</i>	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		
<i>(please choose)</i>	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 6th November 2020, and extended to 30th July 2021.</p> <p>Substantive appointments have been made to the 2 outstanding vacancies in the department. Team members continue to work in a blended fashion of home & office based working in light of current lockdown measures. This is working well</p>		
Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)		
Report History	<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>	

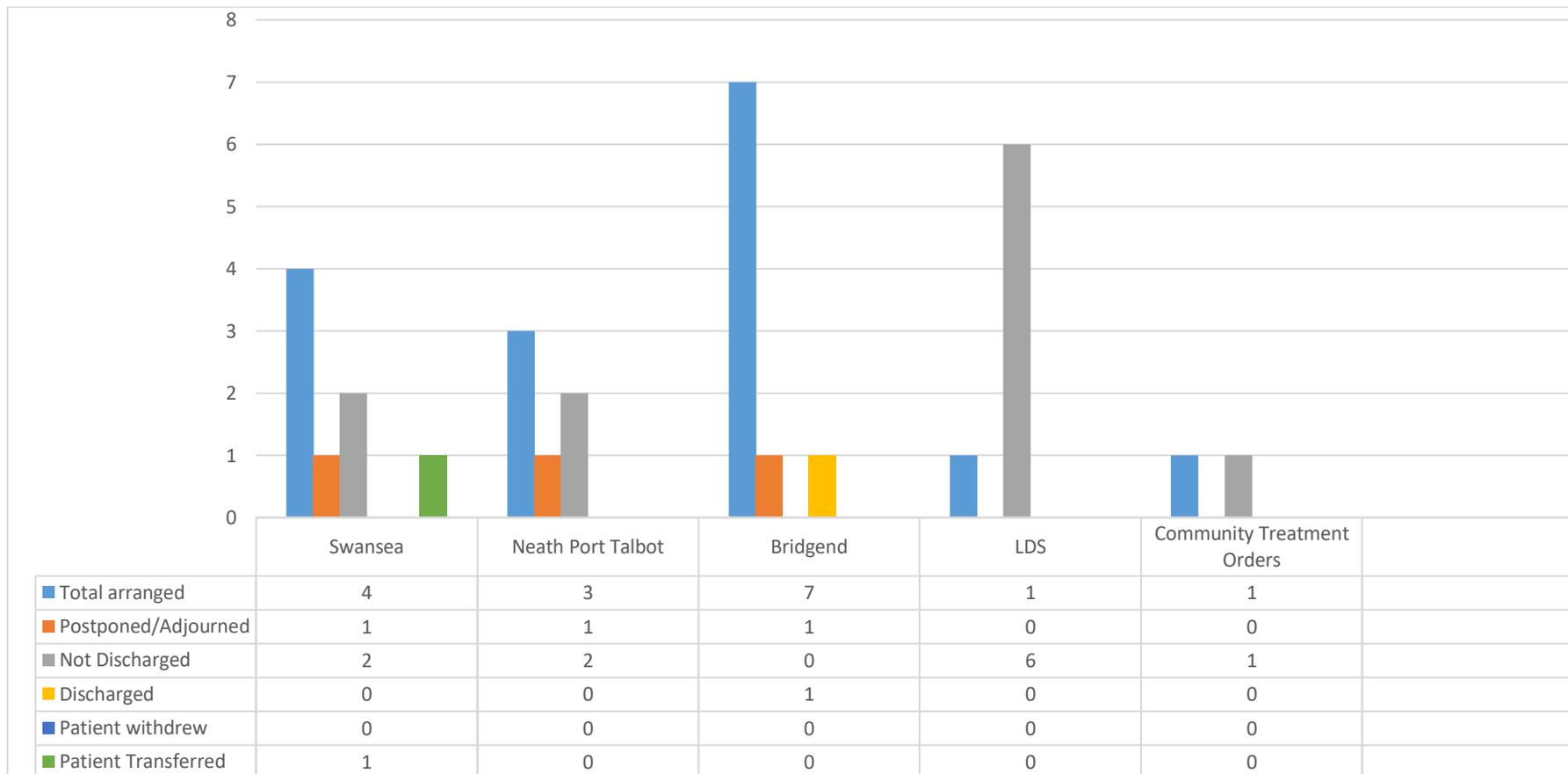
	<p>The most recent Power of Discharge Committee was held on 7th July 2021</p> <p>Next meeting planned for 12th October 2021</p>
Appendices	<p>Appendix 1: Graphs showing rectifiable and non-rectifiable errors under Section 15 of the Act.</p> <p>Appendix 2: Graphs showing activity relating the Mental Health Review Tribunals and Hospital Managers Hearings</p>

Exceptions and non-rectifiable errors on Mental Health Act statutory documents for the period 1 April – 30 June 2021



This graph shows exceptions that can be rectified , and those that cannot, under Section 115 of the Mental Health Act, on Mental Health Statutory Documents over 2 years

Hospital Managers Appeals - Postponements and Adjournments 1 April – 30 June 2021



Mental Health Review Tribunal – Hearing Outcomes 1 April – 30 June 2021

