

<p style="text-align: center;">ABM University Health Board</p>	
<p style="text-align: right;">Date of Meeting: 8th February 2018 Name of Meeting: MENTAL HEALTH AND CAPACITY ACT LEGISLATIVE COMMITTEE Agenda item:</p>	
Subject	<i>Mental Health Act Performance Report for the period 1 July – 31 December 2017</i>
Prepared by	Lynda Rogan, Mental Health Act Manager
Approved by	David Roberts, Service Director, Mental Health & Learning Disabilities Service Delivery Unit
Presented by	David Roberts, Service Director, Mental Health & Learning Disabilities Service Delivery Unit

1.0 Situation

The purpose of the paper is to present to the Mental Health and Capacity 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 section 23.

2.0 Background

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

3.0 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 July – 31st December 2017 (Quarters 2 & 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)

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 7 exceptions for this period and seven invalid detentions identified by the Mental Health Act Department. An analysis of the reasons for the invalid detentions between the periods 1 July – 31 December 2017, 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>Morriston Hospital (Clydach Ward)</p> <p>Section 2 was invalid as the AMHP completed their application prior to the medical recommendations being completed by the two doctors.</p> <p>Section 12(1) of the Mental Health Act 1983 requires the recommendations to be signed on or before the application.</p> <p>Detention without authority: 71 hours 15 mins</p>	<p>Ward manager informed that detention is invalid.</p> <p>Doctor 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>
2	<p>Learning Disabilities (Llwyneryr Unit)</p> <p>Section 3 application was not signed or dated by the AMHP and provided no authority to detain the patient.</p> <p>Detention without authority: 1 hour 40 mins</p>	<p>Ward manager informed that detention is invalid.</p> <p>Doctor 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>

3	<p>Neath Port Talbot Hospital (Ward F) The AMHP completed the incorrect hospital address on their application, invalidating the detention under section 6 of the Mental Health Act 1983.</p> <p>Detention without authority: 1 hour 5 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</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p>
4	<p>Neath Port Talbot Hospital (Ward F) There was a conflict of interest under section 12A of the Mental Health Act 1983 as the doctor requested to complete a section 2 medical recommendation by the AMHP supervised the doctor who had provided the medical recommendation of a converted section 4.</p> <p>Detention without authority: 32 hours 30 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</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p>
5	<p>Cefn Coed Hospital (Fendrod Ward) It was identified that the AMHP had knowingly identified the incorrect nearest relative on a section 2 application which did not authorise the detention of the patient.</p> <p>Detention without authority: 20 days</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</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p>

6	<p>Cefn Coed Hospital (Clyne Ward) It was identified that the AMHP had knowingly identified the incorrect nearest relative on a section 3 application which did not authorise the detention of the patient.</p> <p>Detention without authority: 51 days 45 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. IR1 Form completed.</p>	<p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p>
7	<p>Cefn Coed Hospital (Fendrod Ward) It was identified that the AMHP had knowingly identified the incorrect nearest relative on a section 2 application which did not authorise the detention of the patient.</p> <p>Detention without authority: 25 days 17 hrs</p>	<p>Ward manager informed that detention is invalid. 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</p> <p>MHA Administrator</p> <p>MHA Administrator</p> <p>MHA Administrator</p>

3.3 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:

- Four under 18 year olds were admitted to Ward F, Neath Port Talbot Hospital. The longest period was for 10 days.
- There was one recorded death of a patient detained under section 3 of the Act in Neath Port Talbot hospital. The death was reported to Healthcare Inspectorate Wales.
- Section 4 which should only take place in cases of urgent necessity and to avoid an unacceptable delay was used on seven occasions, five were converted to section 2 within the 72 hour period allowed and two reverted to informal status.

3.4 Hospital Managers Power of Discharge Committee

A meeting was held on 15th August 2017, there were no matters to be brought to the attention of the Committee. The minutes of the Mental Health Managers meeting held on 15th August 2017 are attached at **Appendix 1**.

A joint training event was held on the 7th November 2017; Richard Griffiths from Swansea University gave a presentation on the role and function of the Associate Hospital Manager.

3.5 Healthcare Inspectorate Wales visits to Mental Health & Learning Disabilities Units

During the reporting period there were four unannounced visits made by HIW to mental health units: Angleton Clinic, Caswell Clinic, Taith Newydd, Ysbryd Y Coed (Cefn Coed Hospital) and PICU and Ward 14, Coity Clinic. The HIW reviewer recorded that in two cases expired section 17 leave forms had not been marked cancelled in the patient's notes and that copies of the treatment form were not attached to the prescriptions cards on Ysbryd Y Coed, and that training for staff on the Mental Health Act would be beneficial.

3.6 Readmissions to Hospital (1 July – 31 December 2017)

Thirteen patients were readmitted to a mental health ward within 28 days of their discharge, who had been detained during their previous admission.

- 2 readmitted on a Section 2
- 11 readmitted informally

Locality	Ward	Original Date Of Discharge	Readmission Date	Status on previous admission	Status on Readmission	Time to Readmission
BGD	Ward 14	27/08/2017	29/08/2017	Section 2	Informal	2 days
BGD	Ward 14	04/08/2017	31/08/2017	Section 5(2)	Informal	27 days
BGD	Ward 14	14/08/2017	21/08/2017	Section 2	Informal	7 days
SWANSEA	Fendrod	27/07/2017	01/08/2017	Section 3	Informal	5 days
NPT	Ward G	25/07/2017	26/08/2017	Section 2	Informal	26 days
SWANSEA	SMDU	22/08/2017	30/08/2017	Section 2	Informal	8 days
SWANSEA	Clyne	26/09/2017	28/09/2017	Section 2	Informal	2 days
SWANSEA	Fendrod	28/08/2017	28/09/2017	Section 5(2)	Informal	21 days
SWANSEA	Fendrod	03/10/2017	21/10/2017	Section 2	Section 2	18 days
BGD	Ward 14	17/11/2017	18/11/2017	Section 2	Section 2	1 days
CCH	Clyne	06/12/2017	08/12/2017	Informal	Informal	2 days
NPT	Ward F	30/11/2017	06/12/2017	Section 2	Informal	6 days
CCH	Clyne	28/11/2017	13/12/2017	Section 2	Informal	15 days

Readmissions were as a direct result of the deterioration in the mental health of the patient, for example, self-harming, use of illicit drugs, suicidal ideation.

4.0 Recommendations

Training sessions to be arranged for qualified staff on the receipt and scrutiny of Mental Health Act documentation across mental health and general 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 has arrange training sessions for qualified staff on the receipt and scrutiny of Mental Health Act documentation across all mental health hospital sites, general hospitals and learning disability units which will run from October until December 2017, see **Appendix.2**. 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.

By Whom

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

HOSPITAL MANAGERS POWER OF DISCHARGE COMMITTEE

MINUTES

**for the meeting held at 2 pm on Tuesday 15th August 2017
in the Board Room, Glanrhyd Hospital**

All Committee members should be advised that public, patient or general staff access may be given to this meetings' minutes and associated documents under the Freedom of Information Act.

ACTION

Present:	Mrs C Patel, Non Officer Member (Chair)	(CP)
	Mrs M Berry, Non Officer Member	(MB)
	Mr D Adams, Associate Manager	(DA)
	Mrs S Abbott, Associate Manager	(SA)
	Mr D Cooper, Associate Manager	(DC)
	Dr J Copley, Associate Manager	(JC)
	Mrs K Crabbe, Associate Manager	(KC)
	Mr K Faulkner, Associate Manager	(KF)
	Mr K Morgan, Associate Manager	(KM)
	Mrs M Pritchard, Associate Manager	(MP)
	Mr A Thomas, Associate Manager	(AT)
	Mrs I David, Associate Manager	(ID)
	Mrs R Morgan, Associate Manager	(RM)
	Mr C Toutt, Associate Manager	(CT)
	Mr W Griffiths, Associate Manager	(WG)

In Attendance

Mrs J Williams, Head of Operations (MH&LD)	(JW)
Mrs L Rogan, Mental Health Act Manager	(LR)
Ms H Richards, Deputy Mental Health Act Manager	(HR)

HM/17/17 Welcomes and Introductions

The Chair opened the meeting and extended a warm welcome to Mr Toutt the new associate member.

Apologies for Absence

HM/17/18	Apologies for absence were received from Dr D Barton, Prof. C Phillips, Mrs C Hyde and Mrs C Castle.
-----------------	--

HM/17/19 Minutes of the Previous Meeting

The minutes of the meeting held in the Board Room 1, Cefn Coed Hospital, on 2nd March 2017 was amended at HM/17/16 to show the year as 2017.

HM/17/20 Matters Arising

1. Indemnity Letters

Steve Combe has confirmed that since 2009 associate members have been established under the committee structure, therefore they do not require separate

indemnity letters.

2. Policy for the Procedure for Hearing Patients' Appeals

The group received a brief update on the development of the guidance for hospital managers on the hearing of patient appeals. **LR** informed the group that the joint policy group would be meeting in October to discuss this and other Mental Health Act policies. The Chair asked for this item to be placed on the agenda at the next meeting.

LR

HM/17/21 Re-appointment of Hospital Managers

The Chair was informed that the Health Board had approved the re-appointment of the following hospital managers for a further period of 12 months:

- Mr David Adams
- Mrs Iona David
- Mr David Cooper
- Mrs Margaret Pritchard MBE DL
- Mrs Carole Hyde MBE
- Mr Ken Morgan
- Mr Win Griffiths OBE
- Dr John Copley
- Mrs Christine Castle
- Mrs Rosemary Morgan
- Mrs Kathryn Crabbe

Re-appointment letters have been sent out to individual members by the Chairman of the Health Board.

HM/17/22 Receive a report of the use of the MHA83 Jan – Jun 2017

The group considered the report on activity for the period.

There had been a marked increase in the number of detentions under section 136 compared to the previous reporting period. Two incidents were recorded where the police station was used as the place of safety and an assessment undertaken there.

The new Policing and Crime Act 2017 which will come into force in September 2017 will reduce the time that a person can remain on section 136 from 72 hours to 24 hours, although this could be extended for a further period of 12 hours with the permission of the responsible clinician.

It was noted that during the reporting period that there had been a significant increase in the number of section 5(2) and section 2 detentions on general hospital wards. **LR** informed the group that Mental Health Act training sessions had been held for Bed Managers and nursing staff in Morriston Hospital on the receipt, scrutiny and rectification of statutory documentation.

Activity of the appeals committee has increased slightly, with the majority of hearings being held to review the continued detention of the patient. The hospital managers heard 78 reviews during the period. Although four applications were received by the nearest relative for the discharge of the patient, three of these were not barred by the responsible clinician and one was withdrawn by the nearest relative. No patients were discharged by the hospital managers during the reporting period.

HM/17/23 Audit of Discharges by the Mental Health Review Tribunal

The group discussed the eight patients discharged by the Tribunal, in particular the four section 3 patients. It was queried whether the outcome to discharge these patients would have been identical if they had been reviewed by the hospital managers.

HM/17/24 Standard of Medical Reports for Mental Health Review Tribunals

JW informed the group that she had been in contact with Dr Richard Maggs who has agreed to look at the format of the medical reports. This issue had been raised at the previous meeting and by some members at their appraisal review. **JW** to provide an update at the next meeting.

JW

HM/17/25

Schedule of Meetings/Training Events for 2018

The list of dates was circulated to members. Additional adhoc training events would be available throughout the year due to joint training with other Health Boards.

TRAINING

HM/17/26

Training Requirement for Hospital Managers

The group discussed the presentations by Glynis Evans on the role and function of the Approved Mental Health Professional (AMHP). A copy of this presentation had been included in the papers for members. All those who attended felt that the subjects were very interesting.

LR provided details of the training event to be held on 7th November 2017 in Seminar Room F, Education Centre, Cefn Coed Hospital. A presentation by Richard Griffiths, Swansea University on the role of the hospital managers and an update of case law.

JC had attended the MCA training event organised by the Health Board and had found the workshop to be excellent.

HM/17/27

Issues relating to specific Hospital Managers Hearings

There were no issues raised by the group.

HM/17/28

FOR INFORMATION

Bevan Brittan - The Policing and Crime Act 2017 – Implications for Mental Health

The group considered the briefing note on the new Policing and Crime Act 2017 looking at the changes to section 135 and 136 of the Act and the impact this will have on people experiencing mental health problems and what changes will need to be made to support them. This legislation will come into effect in September 2017.

HM/17/29

Bevan Brittan – Restricted Patients, CTOs and Deprivation of Liberty

The group considered the decision in *SOSJ v MM & Welsh Ministers v PJ* [2017] EWCA Civ 194 in which the issue of whether a conditionally discharged patient could be deprived of their liberty in the community.

Any Other Business

HM/17/30

Consultation on the allocation of responsibilities on Health Boards

JC asked if there was any update on the proposed boundary changes that will effect services in the Bridgend area. **JW** provided an outline to the group on the process that needs to be followed. Legislation will be sent to Welsh Government if the proposal is supported. The Health Board will be asking people to contribute to the consultation. An update will be provided at the next meeting.

HM/17/31

Contested/Uncontested Hospital Managers Reviews

RM asked whether the hearing should have a full investigation if there was an implied opposition to the renewal of detention or extension of CTO. **DC** stated that if in doubt the hearing should be held as contested and considered carefully. **CT** stated that all hearings should be afforded the same status regardless of whether the patient was contesting or uncontesting their review. This was agreed by members.

HM/17/32

Non Attendance of AMHP

KF stated that the AMHP should attend all hospital managers' reviews unless there were extenuating circumstances that they could not attend. **WG** felt that if the hearing was uncontested that the AMHP did not have to attend. However, it was agreed by the group that if the report was not adequate, the hearing should not go ahead without the AMHP, and should be adjourned by the Chair of the panel.

HM/17/33

Date and Time of Next Meeting

Tuesday, 7th November 2017 at 10.00 am – 12.00 pm (Joint Training Event) in the Seminar Room F, Education Centre, Cefn Coed Hospital.

Receipt & Scrutiny of Mental Health Act Documentation

Training Sessions

October – December 2017

Date	Venue	Time	Number Attending	Comments
19.10.17	Learning Disabilities	1.30 – 3.30 pm	4	2 attended
26.10.17	Morrison Hospital	2.00 – 4.00 pm	9	9 attended
27.10.17	Ward F, NPT	1.30 – 3.30 pm	8	7 attended
09.11.17	Ward F, NPT	1.30 – 3.30 pm	8	6 attended
10.11.17	Morrison Hospital	2.00 – 4.00 pm	9	6 attended
12.12.17	Learning Disabilities	1.30 – 3.30 pm	8	6 attended
20.12.17	Ysbryd Y Coed, CCH	1.30 – 3.30 pm	8	8 attended