Bundle Mental Health Legislation Committee 7 November 2024

1 PRELIMINARY MATTERS
1.1 MH24.29 - Welcome and Apologies - Verbal - Chair
1.2 MH24.30 - Declarations of Interest relating the the agenda - Verbal - Chair
1.3 MH24.31 - Unconfirmed Minutes of the Mental Health Legislation Committee 2 May 2024 - Attached - Chair
    24.31 - Minutes from Mental Health 24.31 - 24.31 - Legislation Committee 01.08.24 Unconfirmed (Public) - V0.2.1
1.4 MH24.32 - Matters Arising & Table of Actions - Attached - Chair
    Public Session - MHLC Committee - Action Log 31.10.24
2 FOR ASSURANCE
2.1 MH24.33 - Mental Health Act Assurance Report - Attached - Deputy Director Of Quality
    24.33 - MHLC - MHA Assurance Report - Cover Paper - November 24
    24.33a - MHLC - MHA Assurance Report - November 24
    24.33b - MHLC - MHA Assurance Report - S136 Data - November 2024
2.2 MH24.34 - Mental Capacity Assurance Report - Attached - Director of Safeguarding and Public Protection
    24.34 - MHLC Report DoLS and MCA Q2 Update 20.11.24 V1.00
2.3 MH24.35 - HIW Assurance Report - Attached - Deputy Director Of Quality
    24.35 - MHLC - HIW Assurance Report - November 24
2.4 MH24.36 - Associate Hospital Managers Update Report
    24.36 - MHLC - MHA Associate Hospital Manager Report - November 24
2.5 MH24.37 - Report from the Power of Discharge (Associate Managers) Group
    24.37 - MHLC - PoD Group Chair's Assurance Report - November 2024
3 FOR INFORMATION
3.1 MH24.38 -Cycle of Business - Attached - Head of Corporate Affairs
    MHLC CoB V0.01
4 CLOSING BUSINESS
4.1 MH24.38 - Agree Items for referral to Board / other Committees - Verbal - Chair
4.2 MH24.39 - Agree items for Chairs Assurance Report - Verbal - Chair
4.3 MH24.40 - Review of Meeting Effectiveness - Verbal - Chair
4.4 MH24.41 - Date of Next Meeting - 6 February 2025

Betsi Cadwaladr University Health Board (BCUHB)
UNCONFIRMED Minutes of the Mental Health Legislation Committee meeting held in PUBLIC
on 1 August 2024 10:00 – 11:30
in the Boardroom, Carlton Court, St Asaph and via Teams

Committee Members Present	
Name	**Title**
Gareth Williams (GW)	Health Board Vice Chair, and Chair of Mental Health Legislation Committee
Dyfed Jones (DJ)	Independent Member
Rhian Watcyn Jones (RWJ)	Independent Member
In Attendance	
Dr Prashant Bhat (PB)	Consultant Psychiatrist, Child and Adolescent Health
Jenny Gilmour (JG)	Associate Hospital Manager
Olivia Jones (OJ)	Graduate Trainee
Chris Lyons (CL)	Deputy Executive Director of Nursing and Midwifery
Tomos McFarlane (TM)	Graduate Trainee
Teresa Owen (TO)	Executive Director of AHP's and Health Science
Philippa Peake-Jones (PPJ)	Head of Corporate Affairs
Alberto Salmoiraghi (AS)	Consultant Psychiatrist/Medical Director, Mental Health and Learning Disabilities
Chris Walker (CW)	Head of Adult Mental Health
Phil Williams (PW)	Associate Hospital Manager
Matthew Joyes	Deputy Director of Quality

Agenda Item	**Action**
OPENING BUSINESS	
MH24/16 Welcome and Apologies **MH24/16.1** Apologies were received from Dyfed Edwards, Carol Shillabeer, Nick Lyons, Angela Wood (Chris Lyons was in attendance on her behalf), Pam Wenger Ffion Johnston, Michelle Green, Michelle Denwood (Chris Walker in attendance on her behalf), Wendy Lappin and Iain Wilkie	
MH24/17 Declarations of Interest **MH24/17.1** No declarations of interest were raised.	
MH24/17 Minutes from the previous meeting	

Unconfirmed

MH24/17.1 The minutes were approved as an accurate record subject to a few minor changes.	
MH24/18 Matters Arising & Table of Actions **MH24/18.1** Updates to actions were received and where appropriate transferred to the Committee Forward Work Plan.	
FOR ASSURANCE	
MH24.20 Mental Health Act Assurance Report **MH24.20.1** MJ introduced the paper noting that it was the standard report received at all Mental Health Legislation Committees, that any feedback previously received had been included in the report but further refinement would take place. There were no issues or risks to highlight. **MH24.20.2** GW queried why renewal dates had been missed and if the forthcoming electronic record system would help with this. MJ confirmed that it would and that when the system was being procured Mental Health Act compliance could be included as part of the specification. **MH24.20.3** RWJ noted that the arrows on the tables stated that they were showing a trend but actually the arrow just highlighted that there had been a change from the previous month. **MH24.20.4** GW took the Committee through the report in detail, a discussion took place around the fact that although there was a higher level of sections in the Centre, the number of 135/136 cases was lower in the Centre than in the East and West and why that was the case. The Committee were informed that the police may be able to help with this discussion, that the figures reflected inpatient capacity and that a recent study on 136 suite usage found that proximity of the incident to a section 135/6 suite was a key factor in whether police used their powers. The members reflected that the police handle many mental health issues and that a system change would be required to address the problem. **MH24.20.5** Concern was raised around the use of 136 suites for young people and the Committee were informed of a recent placement and the details surrounding it. PB advised that North Wales Adolescent Service (NWAS) were fully linked in when young people were placed in 136 suites. He noted that some of the cases recorded related to the same person being readmitted to a 136 suite for safety. Again, the use of 135/6 suites for young people highlighted systemic issues, for example the lack of local authority staff availability out of hours. It was agreed that these issues could be raised at the North Wales Together for Mental Health Partnership. **MH24.20.6** GW highlighted that in recent months there had been more transfers into than out of area which was very positive. AS advised that a stronger focus	

Unconfirmed

was required on community services to continue to reduce pressure on inpatient places and the use of out of area placements. **MH24.20.7** In relation to Appendix 3, MJ advised that some of the units presented had low numbers and that those details would be included in the next iteration of the paper. GW asked that MJ feedback to colleagues how important the explanation of rights to patients were as this was very important to the Committee. He queried why a high proportion of treatment plans in Ty Llewellyn had not been signed off. AS advised that it was likely due to patients disagreeing with the plans but that it was to be expected. At the right point in their patient journey they should and would be signed off. **MH24.20.8** DJ asked whether compliance in Cefni would improve or had improved. MJ advised that a problem had been that they were using old paperwork and that the audit was on the paper work. This had now been corrected. **MH24.20.9** PB explained that when young people were admitted for in-patient treatment as a result of a crisis, they often had not had contact with CAMHS Community Services meaning that they would not have had a Treatment Coordinator who would be the person responsible for signing off the treatment plan as there were not enough Treatment Coordinators in the Community. GW responded that given there were only two cases which had been audited of which one did not have a treatment plan the figures were not as alarming as they might seem. **MH24.20.10** PW highlighted that there was a potential weakness around the explanation of rights process, because there was no formal target for how soon after admission this should be done. The Health Board had set a 30-day limit, but that nationally there wasn't an agreed period and many people would take the view that 30 days was too long. AS commented that it was often not possible to give this information on admission when a patient might be very disturbed, but agreed that it should be done within a relatively short timescale, and every effort needed to be made to inform family or representatives of the patients' rights as soon as possible. MJ agreed, noting that electronic records would be a good way to monitor the time taken to fulfil this legal requirement. TO agreed to link in with colleagues in the rest of Wales on the agreed period as did GW who advised that he would raise this with other Vice Chairs. **MH24.20.11** TO invited colleagues to visit sites should they wish to understand what was happening at a local level. **It was resolved that** the Committee • **Discussed** and **noted** the report and appendices	
MH24.21 Mental Capacity Assurance Report **MH24.21.1** JG declared an interest on this point as Chair of the Advocacy Service.	

Unconfirmed

MH24.21.2 CW advised the Committee that the new responsible UK Minister had stated that he would be reviewing both the Mental Health Act and the Mental Capacity Act but that the former would be taken forward first: he would update the Committee once further information was available. He clarified the reference in the paper to the Internal Audit findings of Assurance and Limited Assurance noting that the Limited Assurance was on the specific areas highlighted to the Committee, notably that Bank, Locum and Interim staff were low on compliance as contracts had previously not required them to undertake mandatory training on the MCA. This would be changed as of September.

MH24.21.3 CW updated on DOLS Authorisations noting that applications have doubled over the past four years and that although every application was audited any administrative errors did not invalidate the authorisation. The Committee noted that the delay in completing applications was down to four or five weeks. While this was good in comparison to four years ago where the wait would have been 12 weeks, members were concerned that this was still lengthy, given that these cases were often elderly patients admitted for relatively short-term treatment. Members were reassured that discharge was not delayed if a required DoLS assessment had not been undertaken and it was noted that the Health Board had been commended on the work they had done in reducing the backlog. The Welsh Government had advised that the £450,000 funding that had been awarded on a non-recurrent annual basis would be made permanent although the Health Board would have to apply for this each year.

MH24.21.4 CW advised that on the whole things were positive and that there was a plan to have a MHA specialist at each of the District General Hospitals. Nevertheless, the flow of applications was close to unmanageable. The system whereby a new DoLS application was required when a patient with a care home DoLS assessment was admitted to hospital, and a further new DoLS assessment was required if the patient was subsequently transferred back to the Care Home were explained. Similarly, if a patient was transferred from a District General Hospital (DGH) to a Community Hospital, a new DoLS assessment was needed, even if one had been undertaken in the DGH.

MH24.21.4 RWJ asked for clarification on Best Interest Assessors as to who they were and how they could be present all the time given that there were only six in post. CW advised that they were a mix of nurses and social workers but that the role was open to therapists too. It was noted that they were based across the whole of North Wales and often had to work outside Wales for patients who were out of area. CW explained how an assessment worked and that they often worked on weekends. It was noted that the system seemed unwieldy and GW advised that he would raise it within the Vice Chairs Group.

It was resolved that the Committee

- **Accepted** the DoLS and MCA Report and the identified activity for the period of Q1 2024-25
- **Received** the DoLS and MCA Audit Action Plan and recorded progress.

Unconfirmed

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MH24.22 Health Inspectorate Wales (HIW) Assurance Report

MH24.22.1 MJ advised that there had been no inspections and that it was likely that there would be a reduction in HIW inspections throughout the year.

It was resolved that the Committee

- **Noted** the report

MH24.23 Associate Hospital Managers Update Report

MH24.23.1 MJ presented the report noting that it gave a summary of the hearings undertaken: hearings were generally scheduled to take place within six weeks. Some exceptions were highlighted within the report and the reasons associated noted.

MH24.23.2 PW advised that there was a recruitment process ongoing to employ some more Associate Hospital Managers. GW asked if Associate Hospital Managers generally found the staff at the inpatient units easy to deal with and PW responded that they did, that they were well prepared and that there was a good relationship. JG commented that it was nice when patients attended as Associate Hospital Managers were then able to get a better feel of the situation. A discussion took place around the process, timeframe and renewal of hearings. GW thanked the Associate Hospital Managers for attending and asked that they flag any concerns through the correct channels.

It was resolved that the Committee

- **Noted** the report

MH24.24 Report from the Power of Discharge Group

It was resolved that the Committee

- **Noted** the report

CLOSING BUSINESS

MH24.25 Agree Items for referral to Board/other Committees

There were no items for referral

MH24.26 Agree Items for Chairs Assurance Report

It was noted that GW and PPJ would produce this after the meeting.

MH24.27 Review of Meeting Effectiveness

MH24.27.1 Attendees felt that the meeting had focussed on the right areas in order to keep patients safe. It was noted that although Independent Members were still learning, the reports enabled that learning to take place and they felt

Unconfirmed

that they were able to ask questions. TO supported previous comments and also highlighted that it was really positive to have guests attending and also have a representative from Children and Young People in attendance. **MH24.27.2** There was feedback on the use of too many acronyms and the status of attendees which would be reviewed as part of the refresh of the Terms of Reference. **MH24.27.3** PB queried how significant court cases were shared with the Committee and it was agreed that thought would be given on how to bring this to the meeting. **MH24.27.4** RWJ thanked colleagues for allowing her to attend via Teams and asked that if additional papers were added would it be possible for them to be added to the end of the agenda pack. **MH24.27.5** AS raised an issue in relation to the payment of Section 12.2 doctors and it was agreed that it would be dealt with outside of the meeting with the Operational Management Team.	
MH24.28 Date of Next Meeting The next meeting will be held on 7 November 2024	

Unconfirmed

Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

Mental Health Legislation Committee - Public - Action Log

Open Actions						
Action No.	**Minute Ref.**	**Date**	**Agreed Action**	**Lead**	**Timescale**	**Status**
1	**MH24.13.1**	**2/5/24**	**IW and TO to pick up with the Local Authorities on capacity issues around Approved Mental Health Practitioners**	**IW/TO**		**Open – this will be picked up in the next round of meetings with Local Authorities**

Closed Actions						
Action No.	**Minute Ref.**	**Date**	**Agreed Action**	**Lead**	**Timescale**	**Status**
2	**MH24.9.10**	2/5/24	Look into examples patients being able to communicate in their language of choice of this happening to share with the Committee	TO		Proposed close – This has been picked up with the Head of Welsh Language, it is not an area that has been reviewed but there are no concerns but an area that could be looked into – TO to look into bringing a paper to a future meeting Separate issue – what happens with patients whose mother tongue isn't Welsh or English – refer to QSE
3	**MH24.20.10**	1/8/24	TO and GW to raise the point with their colleagues across Wales around the timescale within which patients should be informed of their rights	IW/TO		Proposed close – matter raised with Vice Chairs – TO also raised

4	**MH24.21.4**	1/8/24	GW to raise the system of DoLS assessments within the Vice Chairs Group.	GW		Proposed close – matter raised with Vice Chairs –

Teitl adroddiad: ***Report title:***	Mental Health Act (MHA) Assurance Report		
Adrodd i: ***Report to:***	Mental Health Legislation Committee		
Dyddiad y Cyfarfod: ***Date of Meeting:***	07/11/2024		
Crynodeb Gweithredol: ***Executive Summary:***	The Mental Health Act Assurance Report provides an update in relation to Mental Health Act (MHA) activity across the Health Board during July - September 2024. The Health Board has a duty to monitor and report the number of persons placed under a section of the Mental Health Act. This is completed on a monthly, quarterly and annual basis. This report includes comparison figures for the previous month and quarter to highlight the activity and use of the Mental Health Act sections. Activity is recorded in table and chart format, detailing outcomes and timeframes of the section use for adults and young persons. Forensic data is also included, as is information regarding transfers in and out for specialist services and repatriation. Lapsed sections are reported as 'exceptions' throughout the report, and invalid detentions recorded as 'fundamentally defective'. Any lapses or fundamentally defective sections are Datix reported and investigated. A monthly report is submitted to the Deputy Director of Quality and the Medical Director for the Mental Health Learning Disabilities (MHLD) to ensure that the MHA is monitored with the exceptions highlighted including any mitigation and learning that has occurred. Appendices are included to support the report.		
Argymhellion: ***Recommendations:***	The Committee is asked to note the report		
Arweinydd Gweithredol: ***Executive Lead:***	Teresa Owen, Executive Director of Allied Health Professionals and Health Science Pam Wenger, Director of Corporate Governance		
Awdur yr Adroddiad: ***Report Author:***	Matthew Joyes, Deputy Director of Legal Services		
Pwrpas yr adroddiad: ***Purpose of report:***	I'w Nodi *For Noting* ☐	I Benderfynu arno *For Decision* ☐	Am sicrwydd *For Assurance* ☒

Lefel sicrwydd: ***Assurance level:***	Arwyddocaol *Significant* ☐ Lefel uchel o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *High level of confidence/evidence in delivery of existing mechanisms/objectives*	Derbyniol *Acceptable* ☐ Lefel gyffredinol o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *General confidence / evidence in delivery of existing mechanisms / objectives*	Rhannol *Partial* ☒ Rhywfaint o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *Some confidence / evidence in delivery of existing mechanisms / objectives*	Dim Sicrwydd *No Assurance* ☐ Dim hyder/tystiolaeth o ran y ddarpariaeth *No confidence / evidence in delivery*

Cyfiawnhad dros y gyfradd sicrwydd uchod. Lle bo sicrwydd 'Rhannol' neu 'Dim Sicrwydd' wedi'i nodi uchod, nodwch gamau i gyflawni sicrwydd 'Derbyniol' uchod, a'r terfyn amser ar gyfer cyflawni hyn: ***Justification for the above assurance rating. Where 'Partial' or 'No' assurance has been indicated above, please indicate steps to achieve 'Acceptable' assurance or above, and the timeframe for achieving this:***
Because of significant capacity pressures in the MHA Team, some data in this report cannot be produced for this quarter. The quarterly audit report also cannot be provided. Subject to capacity being restored to the team, the aim would be to include this in the next report.

Cyswllt ag Amcan/Amcanion Strategol: ***Link to Strategic Objective(s):***	Objective 4 - Improving quality, outcomes and experience Objective 5 - Establishing an effective environment for learning
Goblygiadau rheoleiddio a lleol: ***Regulatory and legal implications:***	This report is generated quarterly. The Mental Health Act sections are monitored, to ensure they are legal and the Health Board is operating in compliance with the Mental Health Act 1983 (amended 2007), and the Code of Practice for Wales 2016. The Mental Health Act detentions fall into categories of being either legal or illegal (invalid) which may result in challenges from legal representatives on behalf of their clients. All detentions are checked for validity, and any invalid detentions are reported through Datix, investigated and escalated as appropriate. These are reported as exceptions within the report.
Yn unol â WP7, a oedd EqIA yn angenrheidiol ac a gafodd ei gynnal? ***In accordance with WP7 has an EqIA been identified as necessary and undertaken?***	The use of the Mental Health Act sections apply to all persons and all policies in relation to the use of the Mental Health Act have been equality impact assessed.
Yn unol â WP68, a oedd SEIA yn angenrheidiol ac a gafodd ei gynnal? ***In accordance with WP68, has an SEIA identified as necessary been undertaken?***	N/A
Manylion am risgiau sy'n gysylltiedig â phwnc a chwmpas y papur hwn, gan gynnwys risgiau newydd (croesgyfeirio at y BAF a'r CRR)	Because of significant capacity pressures in the MHA Team, some data in this report cannot be produced for this quarter. The quarterly audit report also cannot be provided.

Details of risks associated with the subject and scope of this paper, including new risks(cross reference to the BAF and CRR)	
Goblygiadau ariannol o ganlyniad i roi'r *argymhellion ar waith* *Financial implications as a result of implementing the recommendations*	N/A
Goblygiadau gweithlu o ganlyniad i roi'r argymhellion ar waith *Workforce implications as a result of implementing the recommendations*	N/A
Adborth, ymateb a chrynodeb dilynol ar ôl ymgynghori *Feedback, response, and follow up summary following consultation*	This report has been reviewed by Matthew Joyes, Deputy Director for Legal Services. A monthly report is produced and the data submitted monthly to Alberto Salmoiraghi, Medical Director of Mental Health & Learning Disability Service and Matthew Joyes, Deputy Director of Quality. Reports are also shared with the Power of Discharge Group which is held in advance of the MHLC.
Cysylltiadau â risgiau BAF: (neu gysylltiadau â'r Gofrestr Risg Gorfforaethol) ***Links to BAF risks:*** *(or links to the Corporate Risk Register)*	N/A
Rheswm dros gyflwyno adroddiad i fwrdd cyfrinachol (lle bo'n berthnasol) ***Reason for submission of report to confidential board (where relevant)***	N/A
Camau Nesaf: **Gweithredu argymhellion** ***Next Steps:*** ***Implementation of recommendations*** N/A	
Rhestr o Atodiadau: **List of Appendices:** MHA Assurance Report Section 136 Data	

Mental Health Legislation Committee
Assurance Report

September 2024

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The Mental Health Act 1983 (MHA) is the legal framework that provides authority for hospitals to detain and treat people who have a mental illness and need protection for their own health or safety, or the safety of other people.

The MHA also provides more limited community-based powers, community treatment orders and guardianship.

The Act sets out the legal framework, and the MHA Code of Practice for Wales provides the principles and guidance on how the Act should be applied in practice.

Connections between the Mental Health Act 1983 and other legislation, in particular the Mental Health (Wales) Measure 2010, are detailed in the Code.

Executive Summary:

During the previous quarter, the Mental Health Act (MHA) Team has encountered unprecedented absences resulting in significant capacity challenges at both a managerial level and in the West Office. The MHA Team and Legal Services Department have worked above and beyond usual working to provide cross-cover and additional capacity has been explored; however, despite this a number of reports/meetings/audits remain suspended and there remains a significant risk to the proper administration of the MHA in the West Office. This issue has highlighted the lack of resilience in the team in that there is no deputy manager position to provide both management cover and cross-office cover.

The team have sought to focus on critical tasks; however, despite all interventions, the level of work continued to outstrip capacity.

Because of these pressures, some data in this report cannot be produced for this quarter. The quarterly audit report also cannot be provided. Subject to capacity being restored to the team, the aim would be to include this in the next report.

It is expected that the number of Fundamental and Rectifiable Errors and delayed Hospital Manager Hearings will see a significant increase. The data in this report does not fully reflect the West position. There have been a number of lapsed sections and Tribunal deadlines missed.

Additionally, there is a risk national data returns may not be completed on time due to both capacity pressures and delays in processing of paperwork.

The MHA Team and Legal Services Department will continue to explore all options to provide cover and a risk paper is being developed for the Executive Team.

It is important to note that these challenges have not impacted upon the care and treatment provided to patients by the clinical teams.

Section 5(4) Nurses Holding Power (up to 6 hours): Criteria: "…the patient is suffering from mental disorder to such a degree that it is necessary for their health and safety or for the protection of others for them to be immediately restrained from leaving the hospital". Secondly the nurse must believe that "…it is not practicable to secure the immediate attendance of a practitioner or clinician for the purposes of furnishing a report under subsection (2). The nurses who can use this power are those registered in either Sub-Part 1 or 2 of the register maintained under article 5 of the Nursing and Midwifery Order 2001 whose registration includes an entry indicating that the nurse's field of practice is either mental health nursing or learning disabilities nursing.

Section 5(2) Doctors Holding Power (up to 72 hours): Criteria is: that an application for compulsory detention "ought to be made". Patient must be in-patient, can be used in general hospital.

Section 4: Admission for emergency (up to 72 hours): Criteria: "it is of urgent necessity for the patient to be admitted and detained under section 2" and that compliance with the provisions relating to application under that section "would involve undesirable delay"

Section 2: Admission for assessment (up to 28 days): Criteria needs to be met:
a) is suffering from mental disorder of a nature or degree which warrants the detention of the patient in a hospital for assessment (or for assessment followed by medical treatment) for at least a limited period;
b) ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons

Section 3: Admission for treatment (up to 6 months, renewable for 6 months, 12 monthly thereafter): Criteria
a) is suffering from mental disorder of a nature or degree which makes it appropriate for him/her to receive medical treatment in hospital;
b)it is necessary for the health and safety of the patient or for the protection of other persons that he/she should receive such treatment and it cannot be provided unless he is detained under this section;
c)appropriate medical treatment is available for him/her

Section 17A: Supervised Community Treatment, also referred to as a CTO – its duration is up to 6 months, renewable for 6 months and 12 months thereafter.

Section 17E: Recall – the recall can last for up to 72 hrs. The clinical team must decide to release from Recall, Revoke or Discharge

Section 17F: Revocation. Once a patient has been revoked, essentially the Section 3 comes back into force - which can last up to 6 months, renewable for 6 months, then 12 monthly thereafter.

Section 135 Warrant to search and remove: Section 135(1) – warrant to enter and remove: Section 135(1) empowers a magistrate to authorize a police constable to remove a person lawfully from private premises to a place of safety. Section 135(2) – warrant to enter and take or retake. Section 135(2) concerns the taking into custody of patients who are unlawfully absent.

Section 136 Place of Safety (up to 24 hours): The powers of section 136 provide authority for a police officer who finds a person who appears to be suffering from mental disorder, in any place other than a private dwelling or the private garden or buildings associated with that place, to remove or keep a person at, a place of safety under section 136(1) or to take a person to a place of safety under section 136(3)

Section 35: Remand to hospital for report on accused's mental condition – for up to 28 days but can be extended to a maximum of 12 weeks.

Section 36: Remand of accused person to hospital – up to 28 days but duration will be set by the Court – maximum of 12 weeks.

Section 37: Hospital Order or Guardianship Order - up to 6 months, renewable for 6 months, 12 monthly thereafter

Section 37/41: Hospital Order with Restrictions – made with no time limit

Section 38: Interim Hospital Order – up to 12 weeks, but duration set by the Court – maximum 12 months

Section 47/49: Transfer of sentenced prisoners (including with restrictions)

Section 48/49: Transfer of other prisoners (including with restrictions) for urgent assessment

Section 62: Emergency Treatment of a detained patient regardless of section status

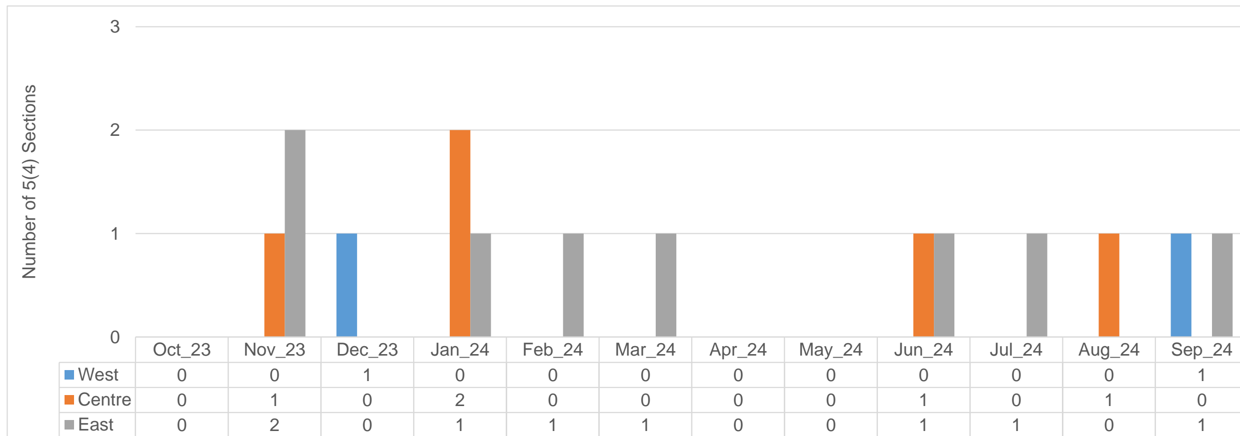
Rectifiable Errors: concerned with errors resulting from inaccurate recording, errors which can be rectified under Section 15 of the Act

Fundamentally Defective Errors: concerned with errors which cannot be rectified under section 15

Lapses of section: refers to sections that have come to the end of their time period. It is not good practice for sections to lapse and reasons are investigated.

Section 5(4) - BCUHB	September 2024	August 2024	Monthly Trend
Section 5: Application in respect of patients already in hospital	2	1	↑

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 5(4) during Quarter		Quarter 5(4) Sections
4	2	↑	4	1	East	2
				2	Centre	1
				2	West	1



	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24	Jul_24	Aug_24	Sep_24
West	0	0	1	0	0	0	0	0	0	0	0	1
Centre	0	1	0	2	0	0	0	0	1	0	1	0
East	0	2	0	1	1	1	0	0	1	1	0	1

A Section 5(4) will be used if a qualified nurse of the prescribed class (mental health or learning disability trained) feels that it is necessary to detain a patient to await the arrival of a doctor for assessment. The 5(4) will be used if there are no doctors immediately available and the nurse feels this is in the best interest of the patient.

There were no exceptions to report in the period under review.

LAPSES

No exceptions to report.

WEST

The data above does	Duration (hh:mm)	Outcome
Sep_24	05:50	Section 5(2)

CENTRE

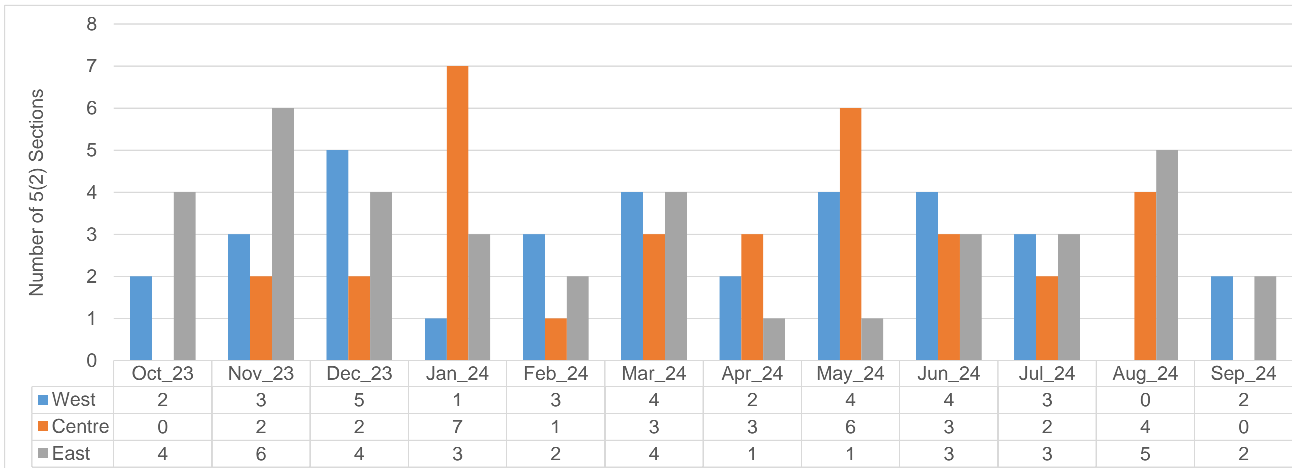
Month	Duration (hh:mm)	Outcome
Aug_24	02:18	Section 5(2)

EAST

Month	Duration (hh:mm)	Outcome
Jun-24	02:40	Informal

Section 5(2) - BCUHB	September 2024	August 2024	Monthly Trend
Section 5: Application in respect of patients already in hospital	4	9	↓

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 5(2) during Quarter		Quarter 5(4) Sections
21	27	↓	26	1	East	10
				2	Centre	6
				3	West	5



	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24	Jul_24	Aug_24	Sep_24
West	2	3	5	1	3	4	2	4	4	3	0	2
Centre	0	2	2	7	1	3	3	6	3	2	4	0
East	4	6	4	3	2	4	1	1	3	3	5	2

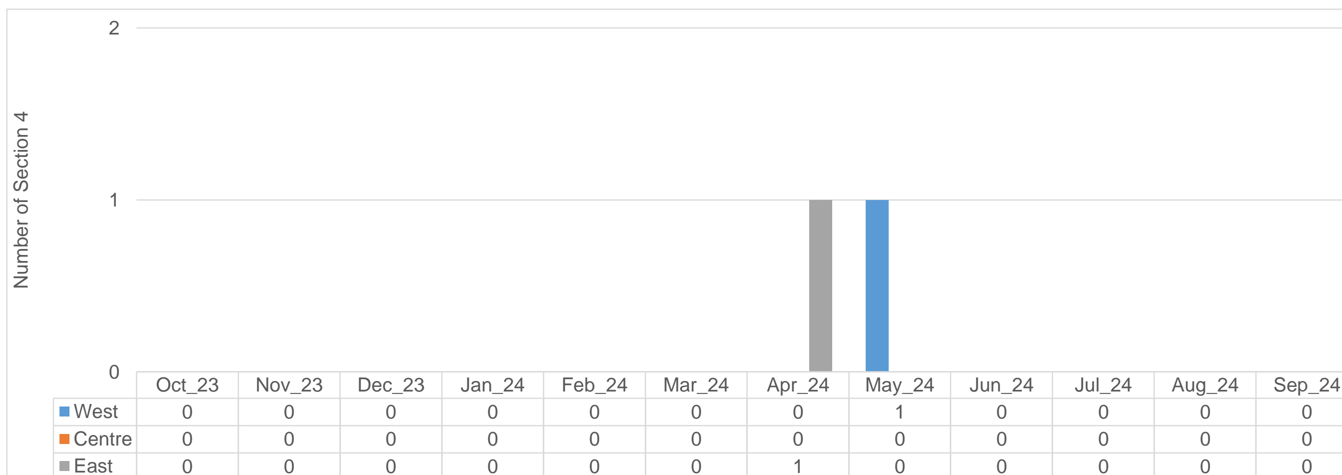
Section 5(2) Outcomes

	Jul 2024	Aug 2024	Sep 2024
Section 2:	2	2	0
Section 3:	5	3	2
Informal:	1	3	0
Lapsed:	0	0	0
Invalid:	0	0	0
Discharged:	0	1	2
Other:	0	0	0

A Section 5(2) on occasions will be enacted within the acute hospital wards, during this period there were two detentions in an acute hospital.

There were no exceptions to report in the period under review.

Section 4 - BCUHB	September 2024	August 2024	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 4 during Quarter		Quarter Section 4
Section 4: Admission for assessment: Cases of emergency	0	0	➔	0	2	↓	1	1	Centre	0
								1	East	0
								1	West	0



The use of section 4 is a relatively rare event and figures remain low.

Section 4 will be used in emergency situations where it is not possible to secure two doctors for a section 2 immediately and it is felt necessary for a persons protection to detain under a section of the Mental Health Act.

There are no exceptions to report.

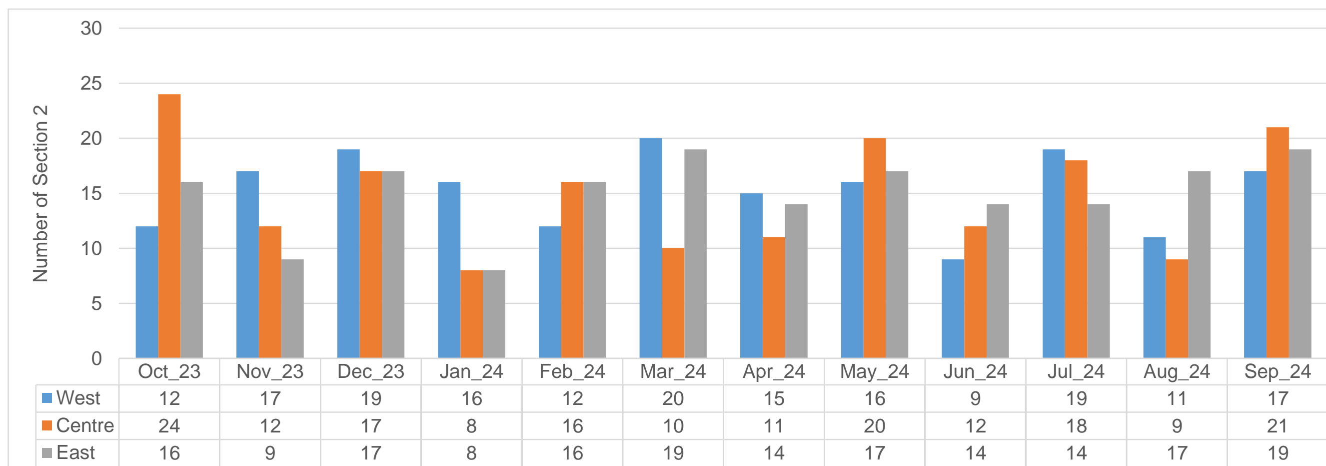
WEST		
Month	Duration (hh:mm)	Outcome

CENTRE		
Month	Duration (hh:mm)	Outcome

EAST		
Month	Duration (hh:mm)	Outcome

Section 2 - BCUHB	September 2024	August 2024	Monthly Trend
Section 2: Admission for assessment	57	37	↑

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 2 during Quarter		Quarter Section 2
145	128	↑	135	1	East	50
				2	Centre	48
				3	West	47



	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24	Jul_24	Aug_24	Sep_24
West	12	17	19	16	12	20	15	16	9	19	11	17
Centre	24	12	17	8	16	10	11	20	12	18	9	21
East	16	9	17	8	16	19	14	17	14	14	17	19

* data is an as at position and is subject to change

Section 2 Outcomes

	Jul 2024	Aug 2024	Sep 2024
Section 3:	12	7	11
Informal:	17	12	18
Lapsed:	0	2	2
Pending:	0	0	0
Discharged:	6	4	7
Transferred:	17	6	16
Invalid and Other:	0	1	0

A section 2 will be enacted following holding powers 5(4) or 5(2) or via a regrade from a section 4 or an informal admission.

Section 2 is also used as a direct admission detention.

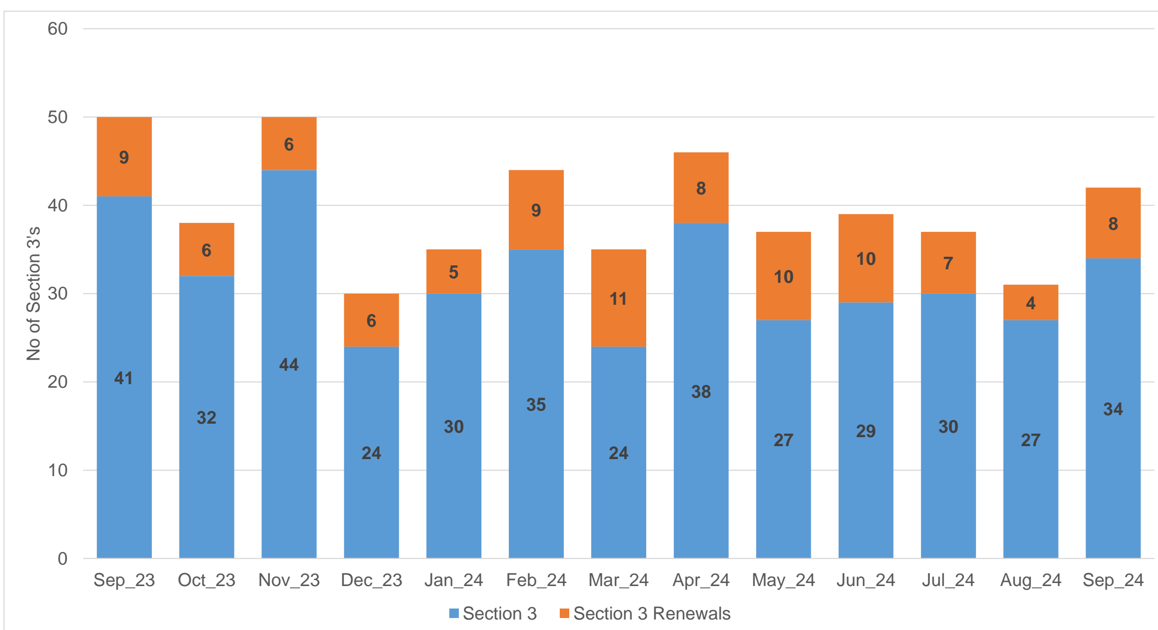
EXCEPTIONS:

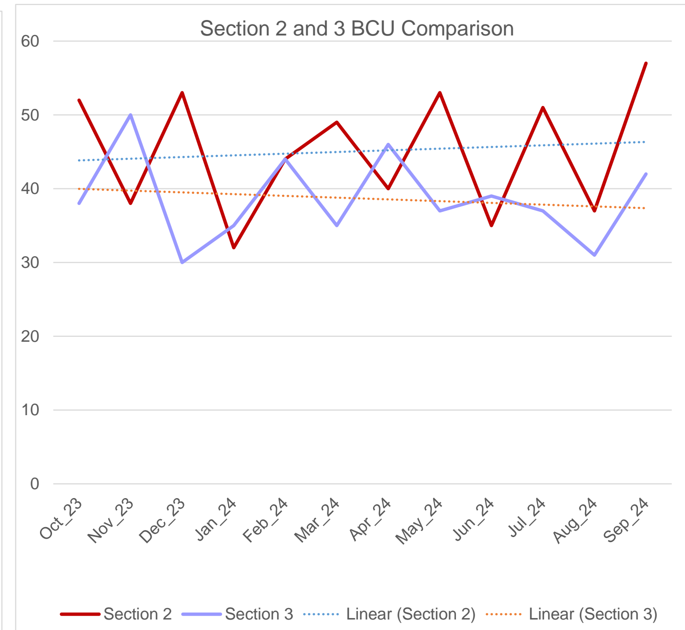
There are no exceptions noted this period.

A

Section 3 - BCUHB	September 2024	August 2024	Monthly Trend
Section 3 (Including Renewals): Admission for treatment	42	31	↑

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 3 during Quarter		Quarter Section 3
110	122	↓	116	1	Centre	38
				2	East	37
				3	West	35





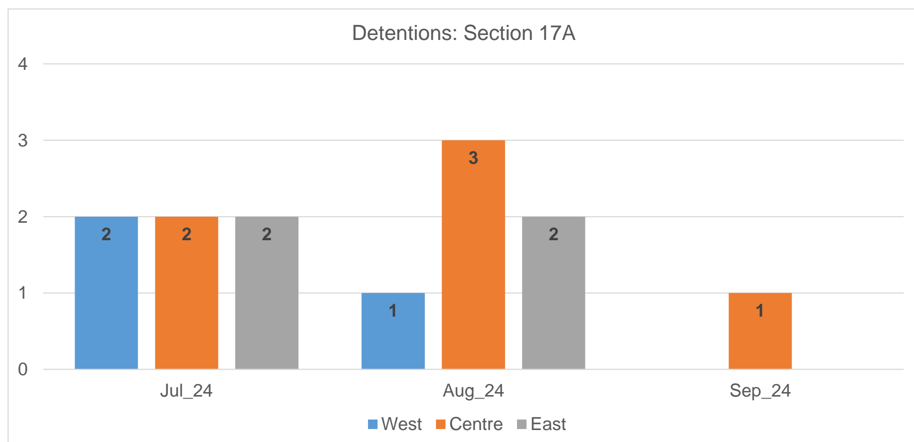
* data is an as at position and is subject to change

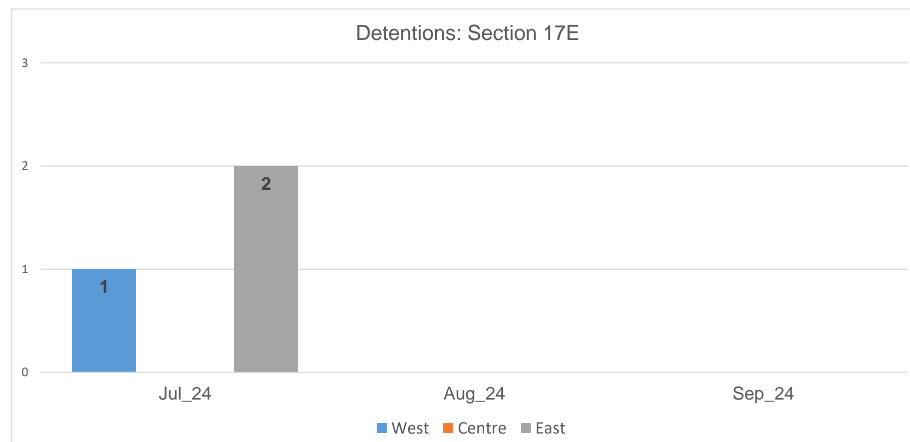
These numbers also include any renewal sections undertaken within the month. As with the data for section 2 it is hard to interpret these figures in isolation and previous months figures are prone to change due to admissions into the Health Board.

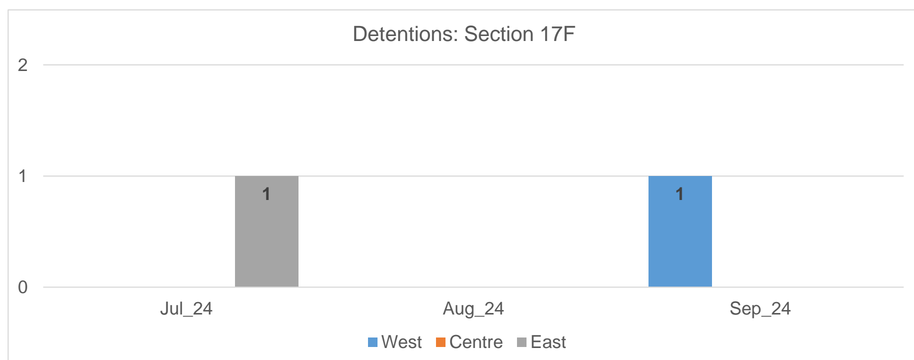
There are no exceptions to report this period.

Section 17 A-F - BCUHB	September 2024	August 2024	Monthly Trend
Section 17A (Including Renewals)-17F: Community Treatment Orders	2	6	↓

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 17 during Quarter		Quarter Section 17
18	16	↑	19	1	East	7
				2	Centre	6
				3	West	5







This quarterly data 17A shows the numbers of patients who are being placed on a CTO for the first time, as well as any renewals within the month. 17E data shows those who have been recalled to hospital from their CTO and 17F data shows those who have had their CTO revoked and become subject to a Section 3.

Fundamental and Rectifiable Errors	September 2024	August 2024	Monthly Trend
Fundamental and Rectifiable Errors in line with Health Boards in Wales	28	11	↑

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Errors during Quarter		Quarter Errors
76	80	↓	107	1	Centre	35
				2	East	19
				3	West	7

	Apr_24	May_24	Jun_24	Jul_24	Aug_24	Sep_24
East	7	11	10	8	4	7
Centre	12	21	12	9	4	21
West	3	20	3	5	2	0

Rectifiable Errors

Rectifiable errors were previously reported on a quarterly basis and benchmarked with the other health boards throughout Wales. Due to capacity to produce this report Cardiff and Vale have discontinued the report. The last report received covered April - June 2023. Discussions are underway with a proposal that the NHS Wales Executive may facilitate this report going forward.

Errors will be calculated due to missing data within documents such as middle names missing parts of an address or an obvious slip of the pen such as dating 2023 rather than 2024.

It is important to note that rectifiable errors can be amended under Section 15 of the Mental Health Act and do not render the detention invalid.

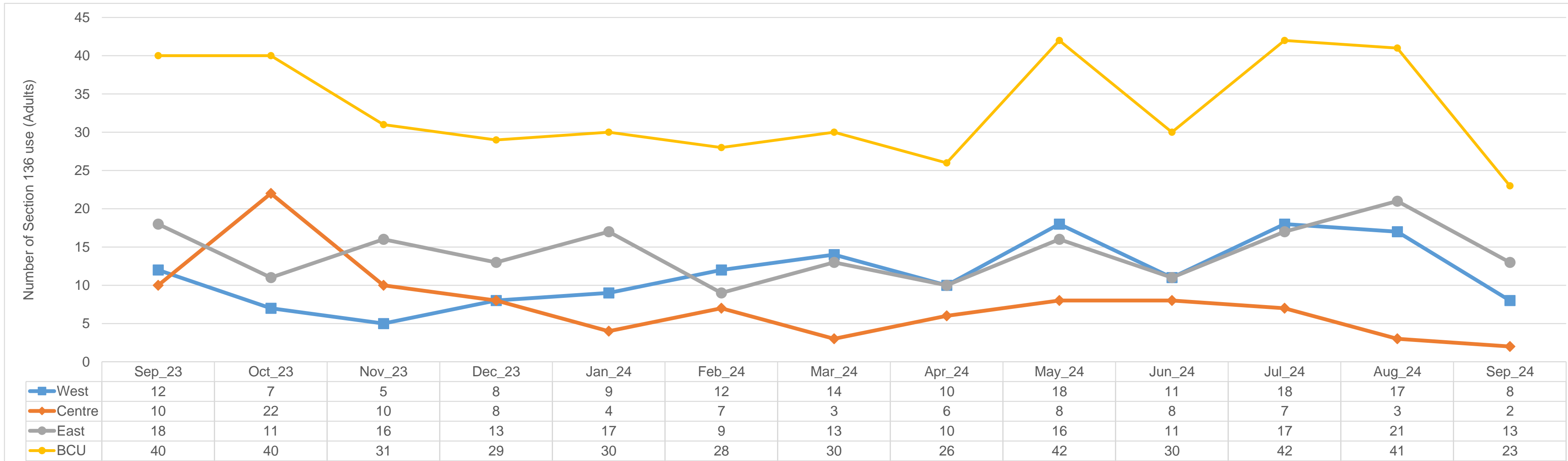
It is expected that the number of Fundamental and Rectifiable Errors will see a significant increase due to the acute staffing challenges in the MHA Team (see Executive Sumamry).

The data in this report does not fully reflect the West position due to these pressures affecting data input.

During the quarter, there were 7 lapsed sections and 2 invalid sections.

Section 135 - 136	September 2024	August 2024	Monthly Trend
Section 135 and 136: Patient transfers to a place of safety (Adults)	23	41	↓

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of S.136 during Quarter		Quarter S.136 detentions
106	98	↑	98	1	East	51
				2	West	43
				3	Centre	12



	Sep_23	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24	Jul_24	Aug_24	Sep_24
West	12	7	5	8	9	12	14	10	18	11	18	17	8
Centre	10	22	10	8	4	7	3	6	8	8	7	3	2
East	18	11	16	13	17	9	13	10	16	11	17	21	13
BCU	40	40	31	29	30	28	30	26	42	30	42	41	23

The data above does not include S135 or under 18's.

Section 136	September 2024	August 2024	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of S.136 during Quarter		Quarter S.136 detentions
Section 136: Patient transfers to a place of safety (Adults)	23	41	↓	106	98	↑	98	1	East	51
								2	West	43
								3	Centre	12

Section 136 Outcomes

Unable to provide data

Section 136 - Known to Service

Unable to provide data

Of those discharged, how many were discharged as having no mental health disorder

Unable to provide data

Section 136: Detentions over 4 hours

Unable to provide data

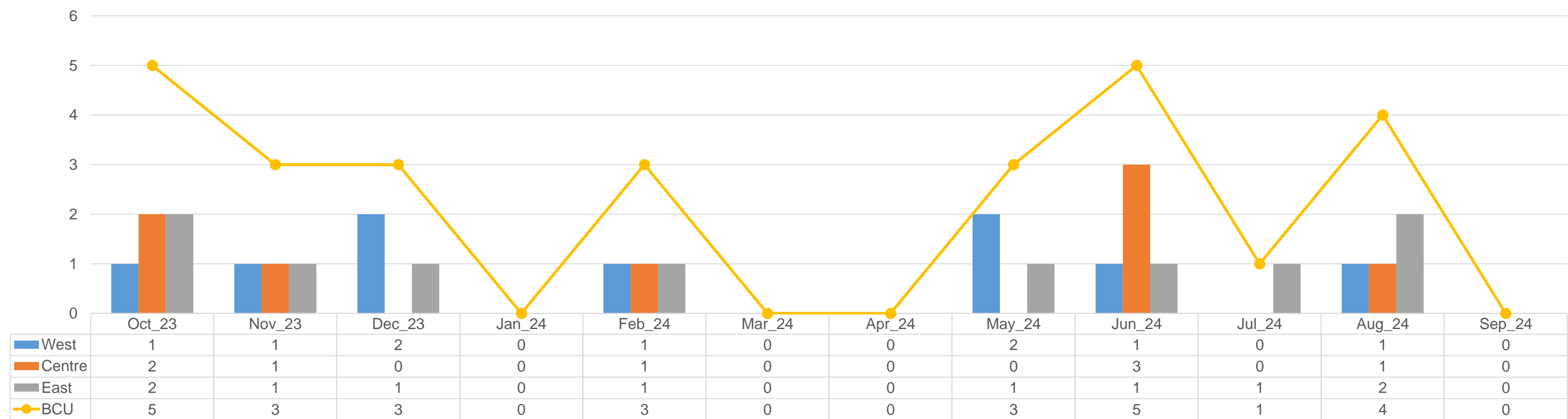
Whilst the Health Board notes detentions that may last over four hours in some instances this may be unavoidable due to the requirement for medical needs to be met prior to an assessment, or in some circumstances risks may be greater if discharge occurs out of hours.

The data shows figures from outcomes recorded and whether a patient is known to service. A large proportion of 136's are discharged those with no mental disorder has historically been around 20%.

The Criminal Justice Liaison Service actively assists the police by providing advice and information to signpost people in crisis to other avenues rather than the police using the S136 power if this is an appropriate option.

Section 135 - 136 (Under 18)	September 2024	August 2024	Monthly Trend
Section 135 and 136: Patient transfers to a place of safety (<18)	0	4	↓

Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of S.136 (<18) during Quarter		Quarter <18 S.136 use
5	8	↓	7	1	East	3
				2	Centre	1
				2	West	1



	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24	Jul_24	Aug_24	Sep_24
West	1	1	2	0	1	0	0	2	1	0	1	0
Centre	2	1	0	0	1	0	0	0	3	0	1	0
East	2	1	1	0	1	0	0	1	1	1	2	0
BCU	5	3	3	0	3	0	0	3	5	1	4	0

The tables below shows the ages of young persons assessed and the outcomes for the year period April 24 - March 25.

Under 18 Assessments	
AGE	Number of Assessments
11 and 12	
13	
14	
15	2
16	2
17	4

Outcome of Assessments	
Outcome	Number
Returned Home	4
Returned to Care Facility	3
Admission to childrens ward	
Admission to Adult ward / S136 suite	1
Admission NWAS / CAMHS	
Admission OOA	
Other (Friends, Hotel, B&B)	

Unable to provide data

Unable to provide data

Total Transfers for the Quarter

	Jul 2024	Aug 2024	Sep 2024
Internal Transfers	18	6	12
External Transfers (Total)	16	11	19
External Transfers (In)	8	9	8
External Transfers (Out)	8	2	11

Internal Transfers
This data only includes detained patient transfers between BCU facilities, including the transfer of rehab patients which will be part of their patient pathway. A transfer due to step down/up needs will include transfer to PICU or rehab wards, adult to older persons, MSU to rehab.

External Transfers
This data only includes detained patient transfers both in and out of BCU facilities. The majority will be facilities in England may include complex cases requiring specialist service or may require an out of area bed if the Health Board cannot facilitate admission at the time. Those repatriated are returning to their home area or transferring in for specialised care.

Patients detained in Independent Hospitals (in Wales and outside of Wales)
There are a number of persons who will be detained in independent hospitals that are offering services required. These people are monitored by the Continuing Healthcare Service and Team to ensure that they are in the correct placement for their needs.

Unable to provide data

Unable to provide data

Unable to provide data

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Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

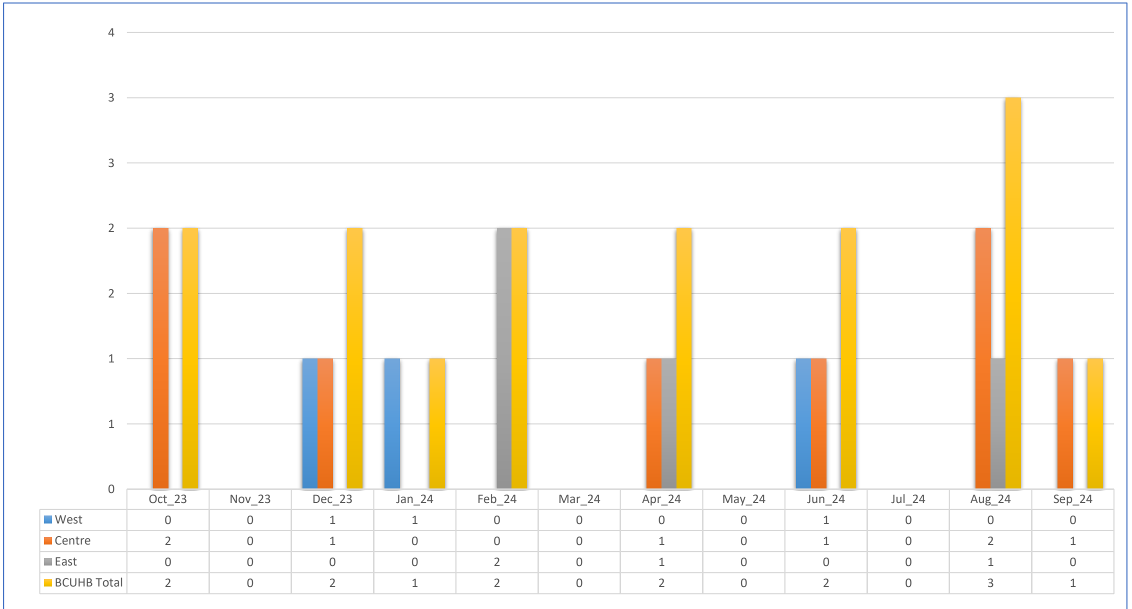
Cyfarwyddiaeth Perfformiad
Performance Directorate
Tim Rheolaeth Perfformiad
Performance Management Team

S.136/135 use in North Wales	
KPI Report for:	**September 2024**

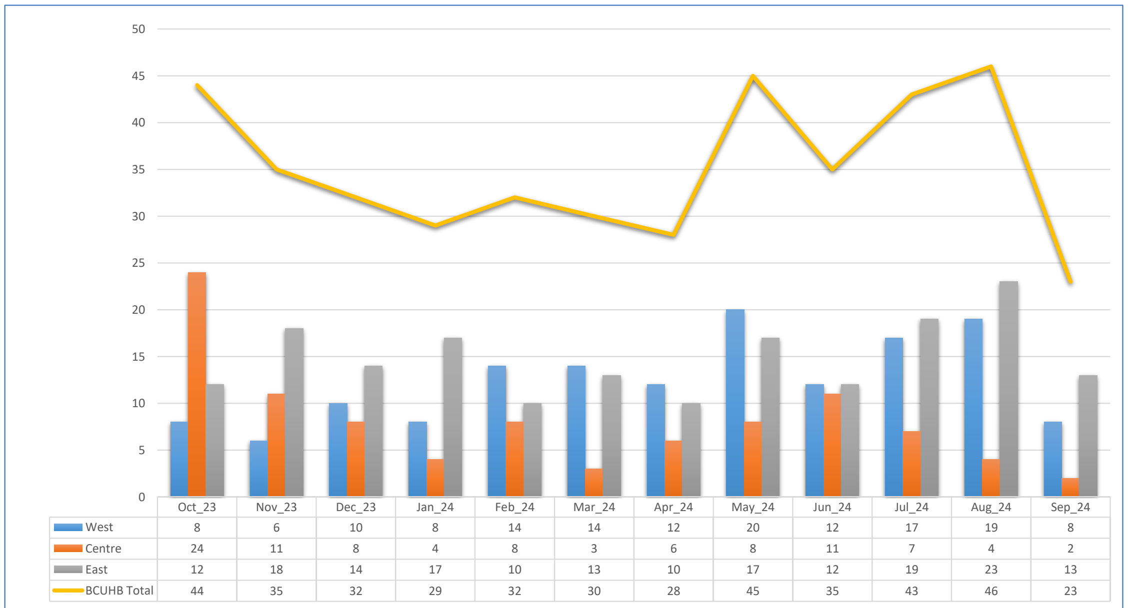
Data Source:	BCUHB MHA Database
Report Created on:	14/10/2024
Report Created by:	Performance Directorate

Section A: 12 Month Data and Trends

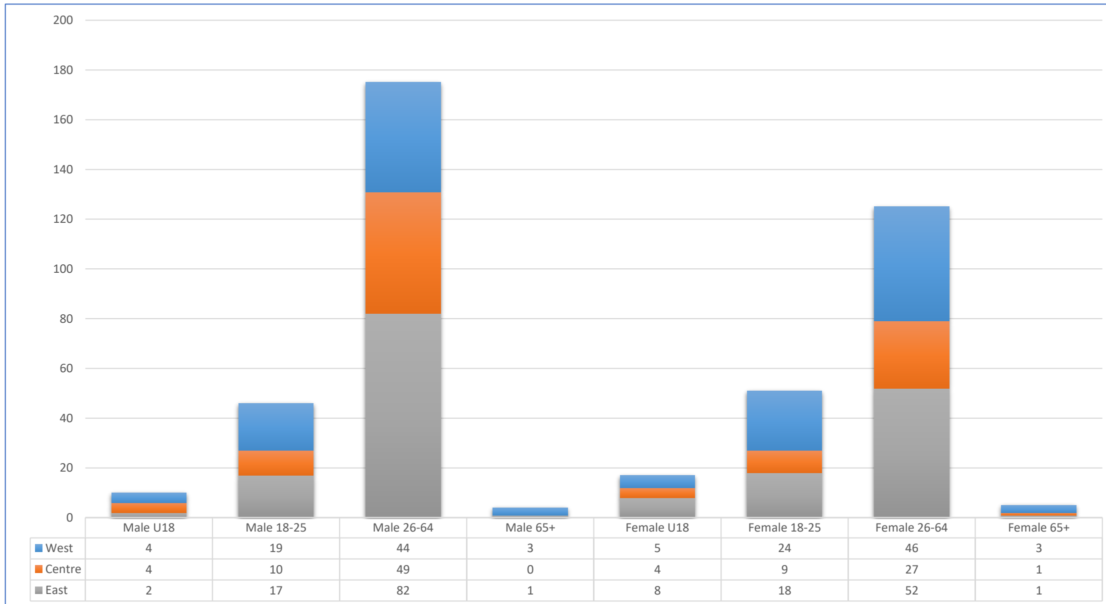
1.1: Section 135 twelve month trend up to and including Sep_24



2.1: Section 136 twelve month trend up to and including Sep_24



3.1: 12 month combined S.135 and S.136 split by Area, Gender and Age bands



4: 1st Place of Safety 12 month trend up to and including Sep_24

4.1: 1st Place of Safety by BCUHB and split by category

1st Place of Safety	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24	Jul_24	Aug_24	Sep_24
A&E	21	12	13	15	18	13	14	19	15	12	25	15
Ward	0	0	0	0	0	0	0	0	0	0	0	0
PICU	0	0	0	0	0	0	0	0	0	0	0	0
136 Suite	21	21	19	15	13	15	15	31	20	21	19	13
Hospital	1	0	0	0	0	1	0	0	0	1	0	0
Independent Hospital	0	0	0	0	0	0	0	0	0	0	0	0
Care Home for mentally disordered persons	0	0	0	0	0	0	0	0	0	0	0	0
Police Station (Custod)	2	1	0	0	0	0	0	2	0	0	1	0
Residential accommodation provided by Social Services Authority	0	0	0	0	0	0	0	0	0	0	0	0
Any other place	0	0	0	0	0	0	0	0	0	0	0	0

4.2: A&E as 1st Place of Safety split by Area

1st Place of Safety: A&E Split	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24	Jul_24	Aug_24	Sep_24
West	3	2	4	4	5	5	3	6	7	5	9	7
Centre	12	5	4	3	6	3	3	3	4	3	4	0
East	6	5	5	8	7	5	4	5	4	7	12	5

5: County in which person was actually detained under s.136

5.1: 12 month table up to and including Sep_24

County Detained	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24	Jul_24	Aug_24	Sep_24
Ynys Mon	3	5	2	3	3	1	4	5	3	4	5	3
Gwynedd	2	3	5	4	5	8	7	12	7	12	8	2
Flintshire	4	3	2	3	5	3	3	4	5	5	6	4
Wrexham	15	9	12	12	6	7	4	4	8	12	14	5
Conwy	9	8	3	4	3	4	2	10	6	5	6	4
Denbighshire	11	6	5	3	7	6	6	8	4	3	4	1
Powys	0	0	0	0	0	0	0	0	1	0	0	0
OOA	1	0	1	0	0	0	0	0	0	0	0	0
Total	45	34	30	29	29	29	26	43	34	41	43	19
Incident Rate per 10,000 population	0.64	0.49	0.43	0.41	0.41	0.41	0.37	0.61	0.49	0.59	0.61	0.27

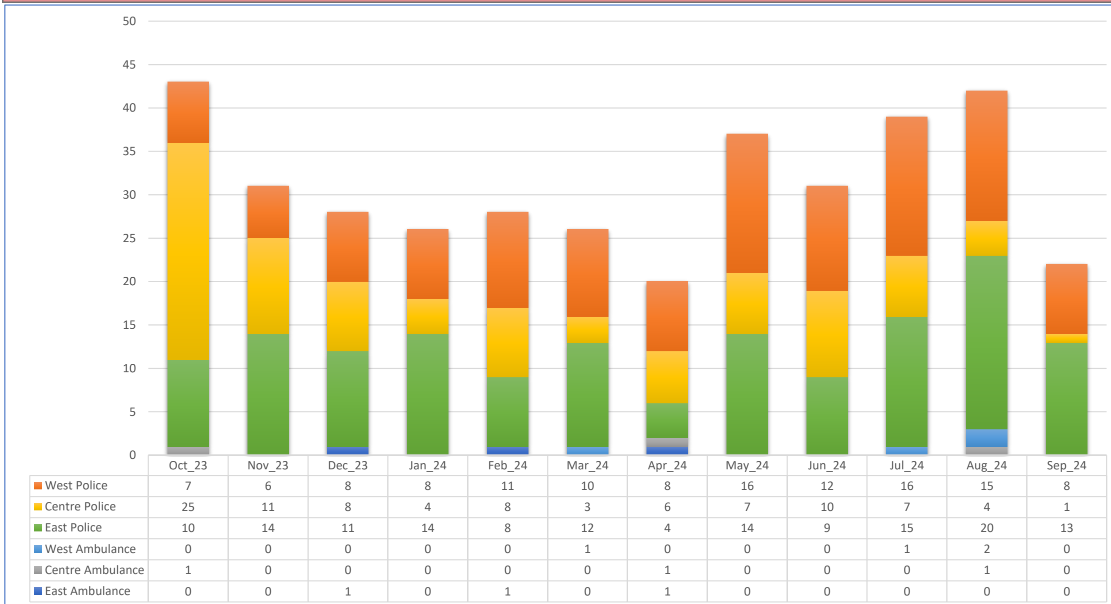
5.2: 136 detention rates per 10,000 population (12 month cummulative up to and including Sep_24)

County Detained	Incident Rate per 10,000 population
Ynys Mon	5.84
Gwynedd	6.07
Flintshire	3.03
Wrexham	7.76
Conwy	5.48
Denbighshire	6.70

Area	Incident Rate per 10,000 population
West	7.64
Centre	4.52
East	6.05
BCUHB	5.98

***Please note:** due to County Detained was only captured from November 2017, residents per detention by county detained will only be accurate from November 2018 onwards. Area data is accurate from April 2016

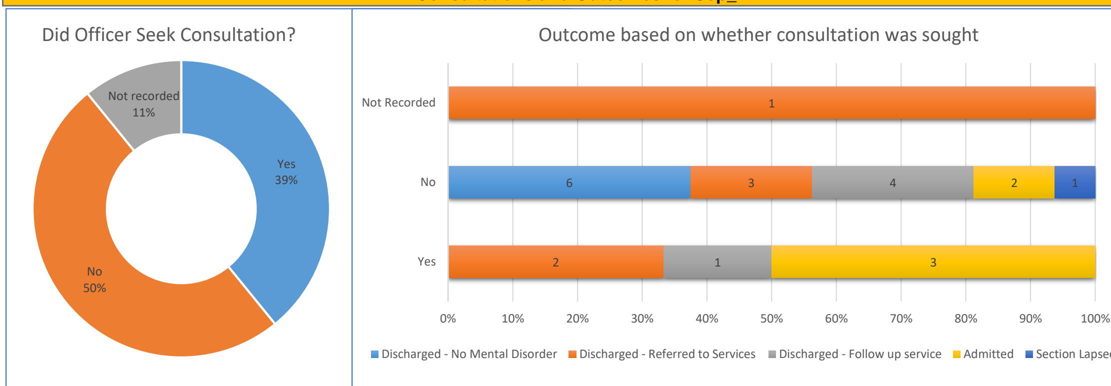
6.1: Police and Ambulance conveyancing by Area 12 month trend up to and including Sep_24



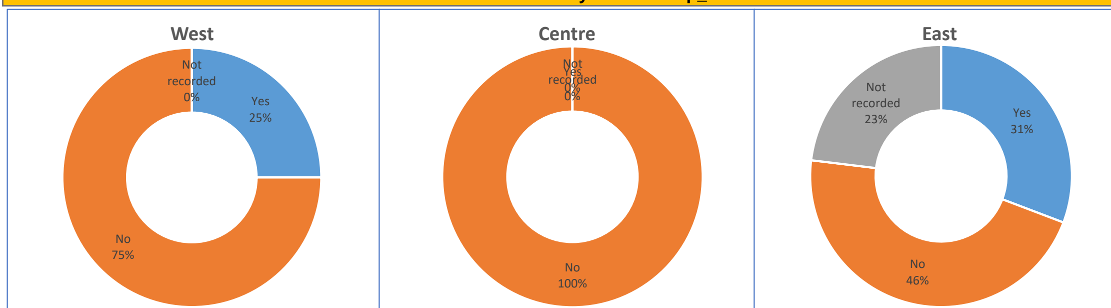
	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24	Jul_24	Aug_24	Sep_24
West Police	7	6	8	8	11	10	8	16	12	16	15	8
Centre Police	25	11	8	4	8	3	6	7	10	7	4	1
East Police	10	14	11	14	8	12	4	14	9	15	20	13
West Ambulance	0	0	0	0	0	1	0	0	0	1	2	0
Centre Ambulance	1	0	0	0	0	0	1	0	0	0	1	0
East Ambulance	0	0	1	0	1	0	1	0	0	0	0	0

Section B: 12 Month Data for Sep_24

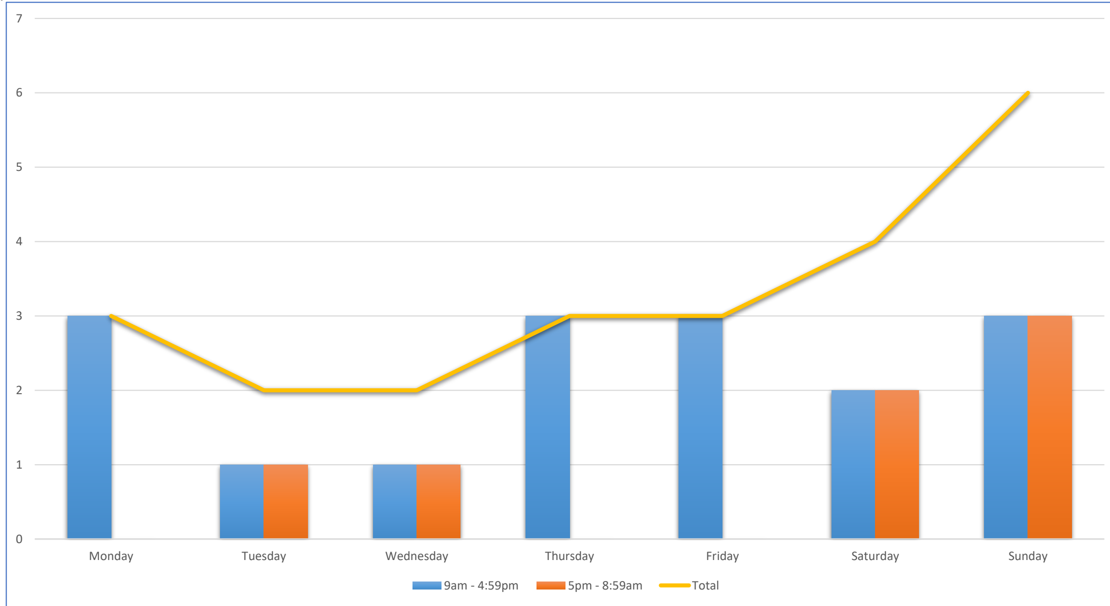
7.1: Consultations and Outcomes for Sep_24



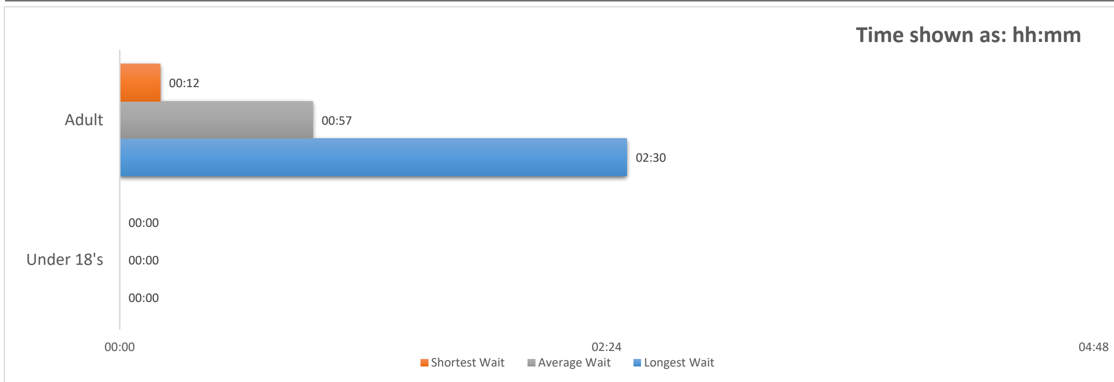
7.2: Consultations by Area for Sep_24



8.1: S.136 use by Day and Time for Sep_24



9.1: Transfer to S136 Suite for Sep_24



<u>MONITORING OF REPEAT S136 DETENTIONS</u>
<u>July 24 - Sept 24</u>

four people were subject to a S136 twice.
One person was subject to a S136 three times and one person was subject to a S136 seven times.
.

<u>Criminal Justice Liaison Service</u>
The Mental Health Act Manager has been informed that the Criminal Justice Liaison Service staff diverted five people in Septemeber to other services rather than officers using a S136. five consultations with the team subsequently required a S136 detention.

These resulted in the outcomes as below:

S2 admission x 1
S3 admission x 2
Informal admissions x 0
Discharged no mental disorder x 6
Discharged referred to services x 5
Discharged with follow up x 4

Outcome of detentions consulted on
2 West:
1x S2 admission Gwynedd (1)

1x S2 admission. Gwynedd (1)
1x Discharged referred to services. Ynys Mon (1)

0 x Central:

4 East: Detained in
0- Detained S3.
2x S2 admission. Wxm (2) Flint (1)
1x Discharged referred to services.
1x Discharged follow up. FLint(1)

Additional Information

Consultation idecreased overall this month.
September consultation = Central- dramatic decrease from August 25% to Zero % in September , West - decrease, August 37%, September 25% and East a decrease from 43% in August to 25% . There were no requests for an extension in September (one lapse but no extention request as assessment was taking place during the 35 minuite lapse..
There was one S135 warrants issued for August. No custody detentions noted this month.
10 people were taken to ED as their first place of safety, four due to suite availability, two from medical assessment, and four described as intoxicated.

The table below shows the detention figures over the last three years

BCU S136 Detentions	July 23	Aug 23	Sept 23	Oct 23	Nov 23	Dec 23	Jan 24	Feb 24	Mar 24	Apr 24	May 24	June 24
July_23 - June_24	45	59	41	44	35	32	29	32	30	28	45	35
July_22 - June_23	50	56	56	44	41	53	45	40	50	51	39	51
July_21 - June_22	55	50	57	47	47	38	43	36	54	50	69	45

The All Wales Benchmarking data produced by Cardiff and Vale on a quarterly basis has now been discontinued due to staffing capacity. Conversations are being held in regards to BCUHB delivery unit producing this information going forward.

There were no CAMHS S136 detentions in the month of September.

2.1: Section 136 twelve month trend up to and including Jun_24

	Jul_23	Aug_23	Sep_23	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24
West	1	0	0	1	1	2	0	1	0	0	2	1
Centre	0	0	0	2	1	0	0	1	0	0	0	3
East	0	0	1	2	1	1	0	1	0	0	1	1
BCUHB Total	1	0	1	5	3	3	0	3	0	0	3	5

2.2: Section 136 Outcomes twelve month trend up to and including Jun_24

Outcome of 136 detention	Jul_23	Aug_23	Sep_23	Oct_23	Nov_23	Dec_23	Jan_24	Feb_24	Mar_24	Apr_24	May_24	Jun_24
Discharged - No Mental Disorder	0	0	0	0	0	0	0	0	0	0	0	0
Discharged - Referred to Services	0	0	0	0	1	1	0	0	0	0	0	1
Discharged - Follow up service	1	0	1	3	1	2	0	0	0	0	3	3
Admitted	0	0	0	2	1	0	0	3	0	0	0	1
Section Lapsed	0	0	0	0	0	0	0	0	0	0	0	0

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Teitl adroddiad: ***Report title:***	Deprivation of Liberty Safeguards (DoLS) and Mental Capacity Act (MCA) Q2 2024-25 Update
Adrodd i: ***Report to:***	Mental Health Legislation Committee
Dyddiad y Cyfarfod: ***Date of Meeting:***	Wednesday, 20 November 2024
Crynodeb Gweithredol: ***Executive Summary:***	This report provides the Quarter 2 update on the provsion of DoLS and MCA activity within the Health Board.
Argymhellion: ***Recommendations:***	The Board is asked to: Accept the DoLS and MCA Report and the identified activity for the period of Q2 2024-25 Receive the DoLS and MCA Audit Action Plan and recorded progress.
Arweinydd Gweithredol: ***Executive Lead:***	Angela Wood, Executive Director of Nursing and Midwifery
Awdur yr Adroddiad: ***Report Author:***	Michelle Denwood, Director of Safeguarding and Public Protection Hayley Lloyd, DoLS and MCA Regional Team Manager Mat Phillips, Safeguarding Adults/Adults with Dementia Lead Chris Walker, Head of Safeguarding Adults, DoLS and MCA

Pwrpas yr adroddiad: ***Purpose of report:***	I'w Nodi *For Noting* ☐	I Benderfynu arno *For Decision* ☐	Am sicrwydd *For Assurance* ☒

Lefel sicrwydd: ***Assurance level:***	Arwyddocaol *Significant* ☒ Lefel uchel o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *High level of confidence/evidence in delivery of existing mechanisms/objectives*	Derbyniol *Acceptable* ☐ Lefel gyffredinol o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *General confidence / evidence in delivery of existing mechanisms / objectives*	Rhannol *Partial* ☐ Rhywfaint o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *Some confidence / evidence in delivery of existing mechanisms / objectives*	Dim Sicrwydd *No Assurance* ☐ Dim hyder/tystiolaeth o ran y ddarpariaeth *No confidence / evidence in delivery*

Cyfiawnhad dros y gyfradd sicrwydd uchod. Lle bo sicrwydd 'Rhannol' neu 'Dim Sicrwydd' wedi'i nodi uchod, nodwch gamau i gyflawni sicrwydd 'Derbyniol' uchod, a'r terfyn amser ar gyfer cyflawni hyn: ***Justification for the above assurance rating. Where 'Partial' or 'No' assurance has been indicated above, please indicate steps to achieve 'Acceptable' assurance or above, and the timeframe for achieving this:***

Cyswllt ag Amcan/Amcanion Strategol: ***Link to Strategic Objective(s):***	N/A
Goblygiadau rheoleiddio a lleol: ***Regulatory and legal implications:***	Mental Capacity Act (MCA 2005)

Yn unol â WP7, a oedd EqIA yn angenrheidiol ac a gafodd ei gynnal? ***In accordance with WP7 has an EqIA been identified as necessary and undertaken?***	N/A
Yn unol â WP68, a oedd SEIA yn angenrheidiol ac a gafodd ei gynnal? ***In accordance with WP68, has an SEIA identified as necessary been undertaken?***	N/A
Manylion am risgiau sy'n gysylltiedig â phwnc a chwmpas y papur hwn, gan gynnwys risgiau newydd (croesgyfeirio at y BAF a'r CRR) ***Details of risks associated with the subject and scope of this paper, including new risks(cross reference to the BAF and CRR)***	The risk is identified below
Goblygiadau ariannol o ganlyniad i roi'r *argymhellion ar waith* ***Financial implications as a result of implementing the recommendations***	No financial implications
Goblygiadau gweithlu o ganlyniad i roi'r argymhellion ar waith ***Workforce implications as a result of implementing the recommendations***	No workforce implications
Adborth, ymateb a chrynodeb dilynol ar ôl ymgynghori ***Feedback, response, and follow up summary following consultation***	This quarterly report is submitted directly to the Committee. Deprivation of Liberty Safeguards is held within the portfolio of the Executive Director of Nursing and Midwifery and this update has been reviewed by Angela Wood, Executive Director of Nursing and Midwifery.
Cysylltiadau â risgiau BAF: (neu gysylltiadau â’r Gofrestr Risg Gorfforaethol) ***Links to BAF risks:*** *(or links to the Corporate Risk Register)*	N/A (see Risk below)
Rheswm dros gyflwyno adroddiad i fwrdd cyfrinachol (lle bo'n berthnasol) ***Reason for submission of report to confidential board (where relevant)***	N/A
Camau Nesaf: **Gweithredu argymhellion** ***Next Steps:*** ***Implementation of recommendations***	
Rhestr o Atodiadau: ***List of Appendices:*** Appendix 1: DoLS and MCA Audit Action Plan	

Mental Health Legislation Committee Meeting
20th November 2024
Deprivation of Liberty Safeguards (DoLS) and Mental Capacity Act (MCA) Q2 2024-25 Update

Cyflwyniad / Cefndir
Introduction / Background

The activity recorded within the report provides oversight and organisational assurance in relation to the Health Board's statutory duty under The Deprivation of Liberty Safeguards (DoLS) and the Mental Capacity Act (MCA 2005) for the period of Q2 2024-25. The activity includes key actions to ensure that DoLS and the MCA as part of the wider Safeguarding and Public Protection agenda remains paramount to service delivery across the Health Board.

DoLS reports throughout the Organisation in accordance with the Safeguarding Reporting Framework. This Framework reinforces Organisational engagement, reporting and escalation by the Safeguarding Governance and Performance Group, and key Forums and Committees. The functions of the Safeguarding and DoLS Team include the legal responsibility of Supervisory Body, which must provide scrutiny and independence.

Corff yr adroddiad
Body of report

Legislation Update
The implementation of the Mental Capacity (Amendment) Act 2019 and the Liberty Protection Safeguards (LPS) was placed on hold by UK Government prior to the General Election in July 2024. There remains no further update since the Kings Speech (July 2024).

Welsh Government (WG) additional recurring funding is available to continue to strengthen the current DoLS system and implement elements of the LPS. Following WG directives we focus on promoting MCA awareness and delivering MCA training whilst addressing the DoLS backlog (legal term for applications awaiting authorisation).

The MCA/DoLS National Workforce Group continues to meet enabling stakeholders to jointly consider issues of local concern that may have a wider or national relevance and provide a forum for joint working on national projects. The task of the group is to implement aspects of the LPS in order to improve the current DoLS system making a more streamline approach.

Current Health Board Position (Q2)
In partnership with other Health Boards, the National Workforce Group continues to meet every quarter. The action plan continues to address the following:

1. DoLS paperwork – Develop National DoLS Forms to update and simplify the forms incorporating the necessary information only to ensure continued working within the Law.

2. MCA Training – Explore and develop National Training Standards and training packages.

3. DoLS Process – Explore areas for improvement and the implementation of a potential new DoLS work stream.

Update on each action.

- Action 1 will support an improvement in the current compliance of the completion of the DoLS and MCA documentation. The Health Board Chair this sub-group on behalf of the National Workforce Group. A reduction in the amount of statutory paperwork and repetitiveness of the documentation would support an improvement in compliance.

- Action 2 is a key activity for the Health Board with progress on MCA training compliance having been achieved during 2023-24. National training programmes will offer a standardised approached to MCA awareness and understanding, providing staff with the necessary skills to confidently support patients in their care and uphold their rights under the legislation.

- Action 3 relates to the DoLS Backlog. As of the 17/10/2024 the DoLS Backlog for the Health Board stands at 56 (see table 1 below). It is important to note, applications received can differ significantly from month to month and the backlog will fluctuate.

Table 1

Urgent Applications (1-7 Days)	32
Extended Applications (8 - 14 days)	33
Backlog	**56**
Applications Allocated to BIA	25
Applications Allocated to Section 12(2) Doctors	17
Under Scrutiny	4
Applications Pending Authorisation	4

Utilising the additional WG funding we have been able to continue to offer Secondment opportunities in order to strengthen the current DoLS/MCA system. Activities are monitored by Welsh Government to monitor performance and improvements to support the implementation of this legislation and improve patient care.

Performance and Activity

The annual trend for DoLS applications continues to be an upward trajectory within the Health Board. This is in line with the National picture. During Q2 2024-25 a total of 548 DoLS applications were submitted, this is a 10.5% increase in comparison to last year's figure. Although the increase places pressure on the service it also continues to demonstrate learning and compliance with the statutory legislation.

We are currently reporting an average of a five-week delay between receipt of a DoLS application and the subsequent standard authorisation (known as the Backlog). This position is not unique and other Health Boards and Local Authorities (LA) are in a similar position. A recent paper submitted by a North Wales LA highlighted a waiting period of between one and three years for DoLS Applications submitted by Managing Authorities in their respective areas. WG recognises the demand on the Health Board and the continued financial support offered has enabled additional work to be undertaken by the Best Interest Assessors (BIA's) and Section 12(2) Doctors during evenings and weekends resulting in a reduction in authorisation times.

The internal Audit of the MCA/DoLS Team was completed in April 2024-25. A review of the processes in place for the management of DoLS activity within the Health Board was held, including procedures, staff training, and the monitoring and escalation of cases.

The overall outcome reported a position of Assurance and Limited Assurance with actions having progress within the following main areas.

- Action 1 is in relation to the Mandatory MCA training Level 1 and 2 compliance figures for Bank, Locum and Honorary staff due to low compliance and is a key target for the Health Board. Work has commenced and a review of the training data has been completed. As of September 2024, all mandatory training for Bank, Locum, and Honorary staff will include MCA Level 1 and Level 2 (where applicable). The training compliance is now being monitored through Safeguarding Forums and if there is no action to improve compliance this will be escalated through appropriate governance channels, following the Safeguarding Reporting Framework and BCUHBS Governance Cycle of Business.

- Action 2 refers to Standard Authorisations not being granted within the legal timeframe. As per the DoLS/MCA legislation, timescales for the completion of a DoLS assessment are clearly recorded. Once allocated for assessment the statutory framework is followed. The wider concern remains the volume of applications. This is a national issue recorded by the Welsh and UK Government. There has already been a significant improvement in reducing the DoLS Backlog due to the additional work by the MCA/DoLS Team. However, the Supervisory Body (MCA/DoLS Team) will continue addressing quality issues with relevant areas and continue to review the workload of BIAs and Mental Health Assessors (S12(2) Approved Doctors) to improve timescales. Utilising the WG money, a total of 5 additional internal staff have successfully enrolled onto the BIA qualification course. This will commence in Q3 2024-25 and will improve the Health Board's capacity to undertake additional assessments. The current backlog is higher than Q1 but significantly lower prior to the intervention and financial support from the Welsh Government.

- Action 3 relates directly to the DoLS documentation and the inaccuracies to the applications by front line practitioners. Again, this is a key target for the Health Board, and we already have additional support in place to improve the quality of the information and reduce inaccuracies. Support and Q&A sessions have been rolled out throughout all DGH's and received positive feedback. However, it should be noted that the errors do not result in the delay of an Authorised DoLS. Errors in paperwork are predominantly minor but to ensure good governance and compliance with legislation and potential challenges within the Court of Protection improvement is needed. Every application is quality assured and audited on receipt by the MCA/DoLS Team, with feedback on the quality of paperwork provided within 24 hours.

Welsh Government (WG) Monies
WG confirmed that all additional funding will be made permanent in line with a bidding process and until an agreement is reached with regard to how the funding is shared with Health Boards and LA's. To meet the expectations of the funding we will continue to offer developmental opportunities for trained staff within the team to support the strategic and operational management of DoLS and the MCA.

Following further conversations between WG and the Health Board a decision on the amount of funding for Independent Mental Capacity Advocate (IMCA) services is pending an agreement with regard to the commissioning of IMCA and the additional funding of RPR services. There will be no financial implications for the Health Board.

Independent Mental Capacity Advocate (IMCA)
The Health Board hold geographical responsibility for the provision of an IMCA service across North Wales. IMCA services enable the Health Board and Local Authorities (LA) to meet the statutory requirement of the offer of advocacy services to service users across North Wales.

In Line with Welsh Government (WG) guidance additional funds, as referenced earlier in the paper, have been made available for the provision and strengthening of IMCA and Relevant Person Representative (RPR) services in North Wales. This is permanent funding secured by the Health Board via a WG bidding process.

The Health Board currently commission Conwy and Denbighshire Mental Health Advocacy Service (CADHMAS) for the provision of IMCA Services across North Wales.

The funding awarded by WG is done so with strict spending guidelines. This proposal meets those guidelines and will support IMCA provision for Health Boards and the LA's. WG have agreed that funding designated by them for the use of strengthening IMCA service in North Wales will be equally distributed amongst the Health Board and the LA's using a calculation tool to determine the amount each respective organisation receives.

The provision of IMCA and RPR services is a statutory obligation introduced under the Mental Capacity Act 2005 (MCA) to ensure individuals are provided with a legal independent safeguard. The provision is also a directive made by WG in preparation for the proposed new UK Government legislation known as the Liberty Protection Safeguards (LPS).

WG are due to agree future arrangements for IMCA funding. IMCA funding and RPR funding may be split to allow each respective agency the opportunity to fund their own RPR services. However, IMCA commissioning will remain the responsibility of the Health Board.

Strategic Implications Assessment and Analysis

MCA and DoLS activities and objectives are aligned to the agreed strategic objectives identified within the Safeguarding and Public Protection Governance and Reporting activity to support performance and obtain assurance against compliance with legislation and statutory guidance.

DoLS Documentation Audit

The internal audit undertaken in Q2 2024-25 included 548 DoLS applications. The high quality of DoLS paperwork continues to demonstrate minor errors. However, these errors are identified by the Supervisory Body (DoLS Team) on the immediate receipt of the application and are returned to the Managing Authority to be amended.

The paperwork is then returned by the Managing Authority within the legislative framework timescale and does not result in a delay in the authorisation of the DoLS. This also supports immediate operational reflection and learning to improve quality. A planned service review of the quality of applications will take place in Q3 and Q4.

Analysis

Of the 314 applications that recorded issues during Q2, 30% of them were rectified within 24 hours, others were completed and returned within the legislatively approved timeframe. The majority of the issues from the applications continue to be minor with minimal amendments required. The submitted applications continue to identify four (4) main themes:

- No inclusion of the Mental Capacity Assessment Form. The findings from the audit reported that the Managing Authority (Hospital Ward) had completed the Form but had not included it as part of the initial set of paperwork.
- Mental Capacity Assessments were completed incorrectly. Similar to the omission of Mental Capacity Assessments the forms suffered from minor inaccuracies such as a lack of address or date of birth. These are resolved immediately by the Managing Authority.
- The DoLS application documentation was not completed correctly. It was reported that it was not signed or was not dated correctly. Issues were resolved quickly and we plan to include enhanced monitoring of timescales.

- Missing details regarding communication and medical information. When the application is submitted the Managing Authority should provide current medical information.

Table 2 below shows the trend between the quality of the DoLS applications and MCA Level 1 and Level 2 training compliance.

Table 2: Q2 2024-25

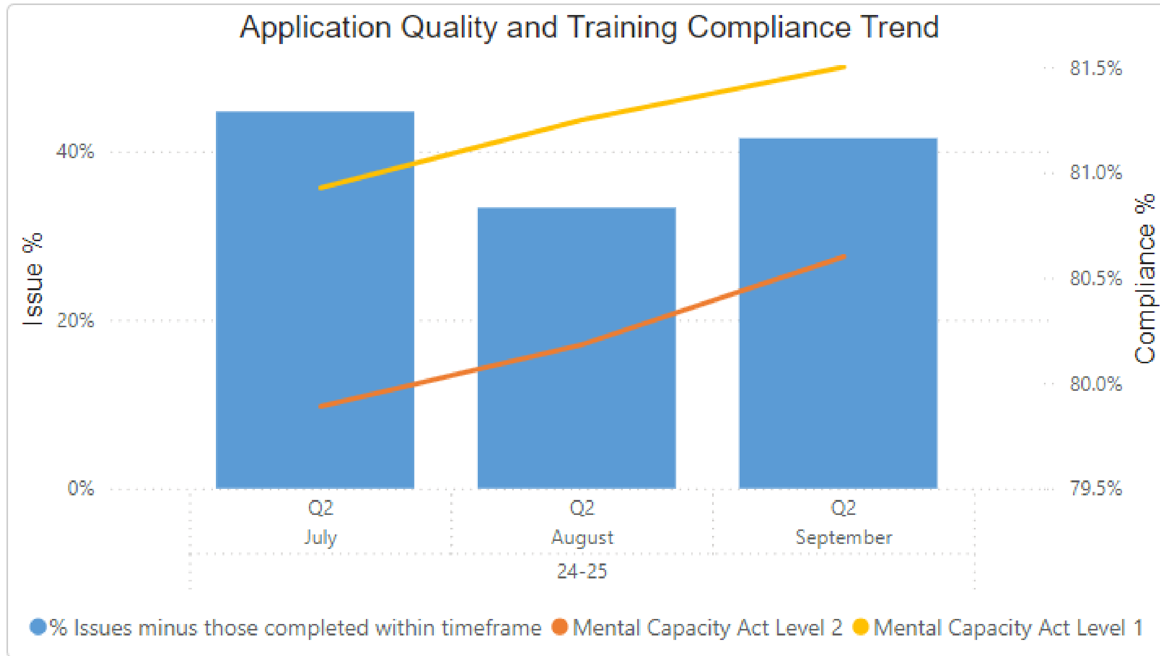
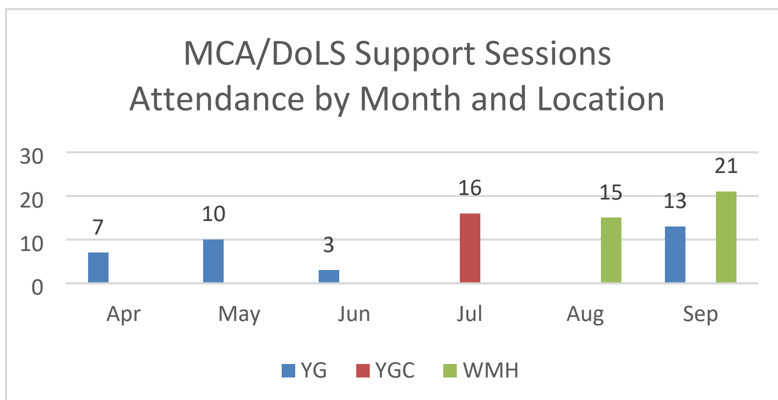


Table 3 below demonstrates the additional number of support sessions that were delivered in relation to the quality of the paperwork. Sessions are targeted towards areas with high referral rates.

Table 3:



Having reviewed the training compliance data and the number of issues recorded on DoLS paperwork it is clear that there is no correlation between the improved MCA compliance and the quality of DoLS application paperwork. All applications meet the legislative requirements within the framework, however completed applications are temporarily returned to the Managing Authority (Ward) to address the errors and return the quality assured paperwork to the Supervisory Body.

It should be reported that no DoLS applications received by the Supervisory Body were rejected on the basis of incomplete or inaccurate paperwork.

A targeted approach to supporting improved quality within the DoLS application paperwork is ongoing. The Health Board Supervisory Body (Safeguarding DoLS/MCA Team) offer immediate guidance and support to the Managing Authority with the aim of reducing these minor errors in the DoLS paperwork. This will continue during 2024-25 and improvements or challenges are reported into the Mental Health Legislative Committee.

To evidence if training compliance alone directly results in improvements in performance, the Health Board would need to follow a structured approach. The key steps are:

- **Define Clear Objectives**: Establish what specific improvements in documentation we expect from the training. This could include accuracy, completeness, timeliness, or adherence to specific standards.
- **Baseline Measurement**: Before implementing the training, measure the current performance levels. This will serve as a baseline to compare post-training results.
- **Training Implementation**: Conduct the training sessions, ensuring they are comprehensive and tailored to address the identified gaps in documentation practices.
- **Post-Training Measurement**: After the training, measure the performance again using the same metrics as the baseline. This will identify any changes or improvements.
- **Data Analysis**: Compare the pre/post training data to assess the impact. Statistical methods like paired t-tests, can help determine if the changes are significant.
- **Control for Variables**: Ensure that other factors that could influence performance are controlled/accounted. This includes changes in workload, staff levels, system updates.
- **Feedback and Continuous Improvement**: Collect feedback from participants about the training and its applicability. Use this feedback to refine future training sessions.
- **Documentation and Reporting**: Document the entire process and report the findings to stakeholders. This helps in validating the effectiveness of the training program and making informed decisions for future initiatives.

Training
The Health Board have recorded an improvement in MCA training compliance (see Table 3 below) in 2024-25.

Table 3:

Compliance by Health Economy September 2024

Grouped Org L4	Staff	MCA Level 1	MCA Level 2	Average	Modules below 85%
Corporate Services	13175	73.0%	70.0%	71.5%	2
Health Community Centre (HCCX)	5449	85.4%	86.8%	86.1%	
Health Community East (HCEX)	5586	87.8%	87.7%	87.8%	
Health Community West (HCWX)	4402	87.4%	87.5%	87.5%	
Integrated Clinical Delivery - Primary Care (ICDP)	662	85.3%	87.0%	86.2%	
Integrated Clinical Delivery - Regional Care (ICDR)	1624	82.9%	83.8%	83.4%	2
Mental Health & LDS (MX00)	2168	90.9%	91.0%	90.9%	
Midwifery and Womens Services (WXXX)	828	88.5%	88.6%	88.6%	
Total	**33894**	**81.5%**	**80.5%**	**81.0%**	**2**

The MCA Training Lead provides additional MCA training tailored specifically to the needs of the ward. A Level 3 MCA and DoLS face to face training package is also available monthly and is delivered face to face and includes a bespoke package to wards with high referral rates. All qualified staff members Band 5 and above are encouraged to undertake the Level 3 training. An MCA level 1 booklet is used for non-clinical staff to aid compliance and we are currently in the process of developing a work booklet for MCA Level 2 to aid staff to meet the mandatory training compliance.

Competency	Q1 2024-25	Q2 2024-25	Trend
Mental Capacity Act Level 1	80.7%	81.5%	↑
Mental Capacity Act Level 2	79.8%	80.5%	↑

Q2 2024-25 has already seen an overall improvement in MCA training compliance. An identified priority for 2024-25 is to review and action training provision and compliance to students, bank, agency and non-substantive staff. There are a number of individual Divisions and Services that have a compliance rate above the organisational target of 85%. Training compliance is shared monthly with respective services to ensure compliance is reviewed and actions taken as appropriate with monitoring taking place in the Safeguarding Forums.

Analysis

Training compliance and an understanding of DoLS and the MCA is a key target, so the approach taken is to ensure all areas or departments with a reduced compliance are afforded extra training and support. The MCA training lead is visible across the Managing Authorities offering support, advice and also attends relevant meetings to encourage employees to complete their training. A revised virtual training programme is also available and remains in place to encourage training. MCA training is also included within the mandatory Adult Level 2 Safeguarding Module to utilise all available opportunities.

Work remains ongoing to secure offices for BIA's at the three District General Hospitals (DGH's). This will provide each Integrated Health Community (IHC) with on-site support to address any immediate MCA and DoLS concerns or issues.

Court of Protection (CoP)

The Team respond to and support front line colleagues when cases have been referred to the Court of Protection (CoP) for the following reasons:

- **Section 21A Challenge:** Patients have a right in law to challenge the detention if the patient feels it is unlawful. (Article 5(4) ECHR).
- **Section 16 MCA (2005):** Relating to welfare decisions.

The number and complexity of cases engaged in the Court of Protection arena can fluctuate. Legal challenge has resulted in intensive Court of Protection activity and as a result external legal services are commissioned in some cases to support the Court process.

A recent Legal and Risk Seminar provided necessary acknowledgment and emphasis on the importance of submitting appropriately completed paperwork with the understanding that any/all legislative documents can be requested by the Court at any time. Once available the Team will share the seminar recording and the Frequently Asked Questions documents that are being produced to support practitioners.

Court of Protection – Deprivation of Liberty (CoP DoL)

The Standard Operating Procedure (SOP) for 16-17 year olds within the CoP DoL process to reflect the legislative policy and to ensure good practice is now approved and available on BetsiNet. This includes the application of the MCA for 16-17 year olds. Implementation and application will be monitored.

Goblygiadau Cyllidebol / Ariannol
Budgetary / Financial Implications

There are no financial implications for this report.

Rheoli Risg **Risk Management**
Risk CRR 24-03. There is a risk that the increased level of Deprivation of Liberty Safeguards activity may result in the unlawful detention of patients. Following review at the Health Board Risk Management Group and the Formal Executive Group in Q1 the current risk score is recorded as 12 however, the Chief Executive Officer has requested that the risk associated to DoLS and the MCA are reported into the Executive Group. Following the new Risk Management Training the Safeguarding, DoLS and MCA Team were commended for their management of the risk. A comprehensive review of the risks associated with DoLS and the MCA is to take place in Q3. **Legal and Compliance** • The Deprivation of Liberty Safeguards Code of Practice supplements the main Mental Capacity Act 2005 Code of Practice. • The Supreme Court Judgment, P v Cheshire West Council [2014] and P & Q v Surrey County Council [2014] UKSC 19.
Goblygiadau Cydraddoldeb ac Amrywiaeth ***Equality and Diversity Implications***
N/A

GIG CYMRU NHS WALES | Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

Betsi Cadwaladr University Local Health Board (BCUHB)
Mental Capacity Act and DoLS MHLC Action Plan 2024-2025

Corporate Safeguarding MCA/DoLS Team (previously completed actions have been removed)
RAG Rating- Red Out of Time Frame. Amber Within Timeframe. Green Completed.

	Recommendations	Action Required	Lead	Evidence of completion	Target Date	RAG
1.0	Welsh Government funding, actions and objectives.	• Fund additional Best Interest Assessments to reduce the DoLS Backlog. • Embed MCA training across BCUHB. • Prepare for the implementation of LPS. • Improve MCA training compliance for Locum and temporary staff.	CW HL	Update Q2 2024-25: This action will be ongoing until March 2025 following confirmation from WG that funding is available for 2024-25. The MCA training continues to provide targeted sessions for our temporary staffing establishment within the Health Board. In conjunction with this the health boards temporary staffing team have been requested to assure competency of agency staff being utilised in this area parable with substantive staff.	**31.03.2025 On Track**	**Amber**

2.0	Development of a Standard Operating Protocol (SOP) for assessing existing patients and for assessing future funded patients.	• Further engagement with commissioning services. • Development of a Standard Operating Procedure (SOP) for assessing existing patients and for assessing future funded patients. • Support the development of a protocol to help manage the complex interface between the Mental Health Act and the Mental Capacity Act and review service users accessing Mental Health services.	CW HL	Q2 2024-25 update: The SOP has now been approved and available on BetsiNet to support employees when working within the Mental Capacity Act. Further work and engagement with legal and risk and commissioning services will continue with a focus on the legal and legislative position with Commissioning Services to support the SOP. A secondment opportunity has been advertised utilising WG monies to support this work. A new action has been identified to support the implementation of the SoP	**30.09.2024**	**Green**
3.0	DoLS Internal Audit Actions and Objectives	• Improve MCA Level 1 and 2 compliance for Bank Locum and Honorary staff: Review training data to identify those staff that have not undertaken training. Once identified, confirm with staff the requirement to complete the training. Where this is not undertaken, escalate as appropriate.	CW HL	Q2 2024-25 Update: Following the All Wales Recruitment Framework from September 2024 all mandatory training for Bank, Locum, and Honorary Staff will include MCA Level 1 and Level 2 (where applicable). Once active, training compliance will be monitored through Safeguarding Forums. This action is now delayed as we are advised that the system to record training for Bank, Locum, and Honorary Staff requires a 'system	**30/09/2024**	**Red**

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				cleanse'. An MCA level 1 booklet has been developed for non-clinical staff to aid compliance and we are currently in the process of developing a work booklet for MCA Level 2 to aid staff to meet the mandatory training compliance.		
4.0	DoLS Internal Audit Actions and Objectives	• DoLS Authorisations: Address quality issues with relevant areas and review capacity of BIAs and Mental Health Assessor (a s12(2) Approved Doctor) to improve the authorisation process ensuring Standard Authorisations are completed within the 2 week timeframe	CW HL	Q2 2024-25 Work is underway with Data Analysis support to develop a modelling process that will identify high referral areas that will be monitored monthly. A total of 6 Health Board employees have successfully obtained a place on the Best Interests Assessor qualification course. This will commence in November 2024, increasing the capacity of the DoLS Team to be able to undertake additional assessments in Q4 2024-25. Additional administration (seconded post) has delivered a number of support and Q&A sessions in relation to the paperwork in all areas, Central, West and East. The focus being on the importance of completion of the DoLS applications to a satisfactory level and in a timely manner.	**31/03/2025** **On Track**	**Amber**

Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

				The MCA lead (seconded position) continues to make contact within high-risk areas and reviews the MCA level 1 and 2 training compliance providing targeted intervention to areas of low compliance. Data for Q2 2024-25 shows an overall improvement in MCA training compliance.		
5.0	DoLS Internal Audit Actions and Objectives	• DoLS Documentation: Managing Authorities to ensure that the applications are completed appropriately and returned in a timely manner. Where issues are identified with quality or timeliness, the Supervisory Body will communicate issues with relevant staff, provide support and ensure staff have undertaken appropriate training. Where issues remain this will be escalated as appropriate.	CW HL	Q2 2024-25 Update: A review of the process continues. The administration Team has been strengthened (seconded position) to provide support to the DGH and community hospitals regarding the applications. Support Q&A sessions have been held throughout all areas out and received positive uptake and feedback. Progress is reported via the Safeguarding Governance and Reporting Framework. BIA's continue to be present on the wards throughout all DGH and Community hospitals and provide advice and support. Escalation process under review. Current safety mechanisms include immediate reporting of non-compliance to senior staff within respective services.	**31/03/2025**	**Amber**

Bwrdd Iechyd Prifysgol
Betsi Cadwaladr
University Health Board

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Teitl adroddiad: ***Report title:***	Healthcare Inspectorate Wales (HIW) Assurance Report
Adrodd i: ***Report to:***	Mental Health Legislation Committee
Dyddiad y Cyfarfod: ***Date of Meeting:***	07/11/2024
Crynodeb Gweithredol: ***Executive Summary:***	HIW is the independent inspectorate and regulator of all health care in Wales. HIW conduct announced and unannounced visits to services offered by Betsi Cadwaladr University Health Board, considering how the services are meeting the Quality Health and Care Standards 2023 and the Mental Health Act. This report provides assurance that following inspections, recommendations/actions in relation to the Mental Health Act.
Argymhellion: ***Recommendations:***	The Committee is asked to note the report
Arweinydd Gweithredol: ***Executive Lead:***	Angela Wood, Executive Director of Nursing and Midwifery
Awdur yr Adroddiad: ***Report Author:***	Erika Dennis, Quality Lead Manager Clare Jones, Quality Assurance Manager

Pwrpas yr adroddiad: ***Purpose of report:***	I'w Nodi *For Noting* ☐	I Benderfynu arno *For Decision* ☐	Am sicrwydd *For Assurance* ☒

Lefel sicrwydd: ***Assurance level:***	Arwyddocaol *Significant* ☒ Lefel uchel o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *High level of confidence/evidence in delivery of existing mechanisms/objectives*	Derbyniol *Acceptable* ☐ Lefel gyffredinol o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *General confidence / evidence in delivery of existing mechanisms / objectives*	Rhannol *Partial* ☐ Rhywfaint o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *Some confidence / evidence in delivery of existing mechanisms / objectives*	Dim Sicrwydd *No Assurance* ☐ Dim hyder/tystiolaeth o ran y ddarpariaeth *No confidence / evidence in delivery*

Cyfiawnhad dros y gyfradd sicrwydd uchod. Lle bo sicrwydd 'Rhannol' neu 'Dim Sicrwydd' wedi'i nodi uchod, nodwch gamau i gyflawni sicrwydd 'Derbyniol' uchod, a'r terfyn amser ar gyfer cyflawni hyn:

Justification for the above assurance rating. Where 'Partial' or 'No' assurance has been indicated above, please indicate steps to achieve 'Acceptable' assurance or above, and the timeframe for achieving this:

Cyswllt ag Amcan/Amcanion Strategol: ***Link to Strategic Objective(s):***	Objective 4 - Improving quality, outcomes and experience Objective 5 - Establishing an effective environment for learning

Goblygiadau rheoleiddio a lleol: ***Regulatory and legal implications:***	The Health Board's Wellbeing objectives, sustainable development principles and the Strategy are all considered when inspections are conducted by HIW. The focus is around the quality of patient experience, the delivery of safe and, the effective care and, the quality of management and leadership. The Health Board has a legal obligation under the Mental Health Act to keep people safe and ensure that they are being detained and cared for with least restrictive options being at the forefront of professional's practices. There are obligations under the Mental Health Measure to ensure that all persons have a care and treatment plan that is appropriate.
Yn unol â WP7, a oedd EqIA yn angenrheidiol ac a gafodd ei gynnal? ***In accordance with WP7 has an EqIA been identified as necessary and undertaken?***	This is a retrospective report, and therefore no EQIA required. All policies which link in with HIW actions will be Equality Impact Assessed.
Yn unol â WP68, a oedd SEIA yn angenrheidiol ac a gafodd ei gynnal? ***In accordance with WP68, has an SEIA identified as necessary been undertaken?***	Naddo *N*
Manylion am risgiau sy'n gysylltiedig â phwnc a chwmpas y papur hwn, gan gynnwys risgiau newydd (croesgyfeirio at y BAF a'r CRR) ***Details of risks associated with the subject and scope of this paper, including new risks(cross reference to the BAF and CRR)***	N/A
Goblygiadau ariannol o ganlyniad i roi'r *argymhellion ar waith* ***Financial implications as a result of implementing the recommendations***	Issues highlighted by HIW may have financial implications. However the aspects covered by this document (namely the Mental Health Act) require no financial consideration at present.
Goblygiadau gweithlu o ganlyniad i roi'r argymhellion ar waith ***Workforce implications as a result of implementing the recommendations***	N/A
Adborth, ymateb a chrynodeb dilynol ar ôl ymgynghori ***Feedback, response, and follow up summary following consultation***	This report has been reviewed by Matthew Joyes, Deputy Director for Legal Services
Cysylltiadau â risgiau BAF: (neu gysylltiadau â'r Gofrestr Risg Gorfforaethol) ***Links to BAF risks:*** *(or links to the Corporate Risk Register)*	N/A
Rheswm dros gyflwyno adroddiad i fwrdd cyfrinachol (lle bo'n berthnasol) ***Reason for submission of report to confidential board (where relevant)***	N/A

Camau Nesaf: **Gweithredu argymhellion** ***Next Steps:*** ***Implementation of recommendations*** N/A
Rhestr o Atodiadau: **List of Appendices:** HIW inspection findings related to the Mental Health Act and action plan progress

New inspections, publications and updates relating to the Mental Health Act

An announced inspection took place on the Hydref and Gwanwyn wards within the Heddfan Unit from Monday 21*st* to Wednesday 23*rd* October. The improvement plan will be provided to the Health Board within approximately ten weeks. Should the improvement plan include any recommendations relating to the Mental Health Act, this will be reported in the next Mental Health Legislation Committee.

GIG CYMRU NHS WALES | Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

Teitl adroddiad: ***Report title:***	Mental Health Act (MHA) Associate Hospital Manager Report
Adrodd i: ***Report to:***	Mental Health Legislation Committee
Dyddiad y Cyfarfod: ***Date of Meeting:***	07/11/2024
Crynodeb Gweithredol: ***Executive Summary:***	People who are subject to detention or Community Treatment Orders under the Mental Health Act can ask for their case to be reviewed by the Hospital Managers for possible discharge. Some renewals of a detention also trigger a review. The term Hospital Managers is used in the Mental Health Act to describe the organisation (i.e. the Health Board). This review and discharge power cannot be exercised by any employee of the organisation and so the Health Board has a number of people it can call upon to act on its behalf; these people are called Associate Hospital Managers (AHMs). Associate Hospital Managers are volunteers who are formally appointed by the Health Board and act independently on its behalf. They are not paid but receive allowances for the sessions they attend. They are not an employee of the organisation and are not allowed to have any financial interest in it. AHMs sit as part of a three-member panel appointed specially to look at whether people should be discharged from detention under the Mental Health Act. In this important role, AHMs ensure that patients' rights are fully explored and upheld. This requires the consideration of reports from the clinicians involved in a patient's care, and the views of the patient if given, before determining whether the criteria for detention are met.
Argymhellion: ***Recommendations:***	The Committee is asked to note the report
Arweinydd Gweithredol: ***Executive Lead:***	Teresa Owen, Executive Director of Allied Health Professionals and Health Science Pam Wenger, Director of Corporate Governance
Awdur yr Adroddiad: ***Report Author:***	Matthew Joyes, Deputy Director for Legal Services

Pwrpas yr adroddiad: ***Purpose of report:***	I'w Nodi *For Noting* ☐	I Benderfynu arno *For Decision* ☐	Am sicrwydd *For Assurance* ☒

Lefel sicrwydd: ***Assurance level:***	Arwyddocaol *Significant* ☐ Lefel uchel o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *High level of confidence/evidence in delivery of existing mechanisms/objectives*	Derbyniol *Acceptable* ☐ Lefel gyffredinol o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *General confidence / evidence in delivery of existing mechanisms / objectives*	Rhannol *Partial* ☒ Rhywfaint o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *Some confidence / evidence in delivery of existing mechanisms / objectives*	Dim Sicrwydd *No Assurance* ☐ Dim hyder/tystiolaeth o ran y ddarpariaeth *No confidence / evidence in delivery*

Cyfiawnhad dros y gyfradd sicrwydd uchod. Lle bo sicrwydd 'Rhannol' neu 'Dim Sicrwydd' wedi'i nodi uchod, nodwch gamau i gyflawni sicrwydd 'Derbyniol' uchod, a'r terfyn amser ar gyfer cyflawni hyn: ***Justification for the above assurance rating. Where 'Partial' or 'No' assurance has been indicated above, please indicate steps to achieve 'Acceptable' assurance or above, and the timeframe for achieving this:***	
Because of significant capacity pressures staffing the MHA Team, some data cannot be produced this quarter. Subject to capacity being restored to the team, the aim is to include detail in the next report.	
Cyswllt ag Amcan/Amcanion Strategol: ***Link to Strategic Objective(s):***	Objective 4 - Improving quality, outcomes and experience Objective 5 - Establishing an effective environment for learning
Goblygiadau rheoleiddio a lleol: ***Regulatory and legal implications:***	This report is generated quarterly. The Mental Health Act requires that the Health Board must ensure that there are Associate Hospital Managers available to conduct panels for the patients on their request or at the time of a renewal. These Managers cannot be employees of the Health Board to ensure that an independent view is taken when reviewing the detention. Conflicts of interest require consideration and can include any work undertaken for associated agencies which may have contact with patients or influence on the Health Board.
Yn unol â WP7, a oedd EqIA yn angenrheidiol ac a gafodd ei gynnal? ***In accordance with WP7 has an EqIA been identified as necessary and undertaken?***	The use of the Mental Health Act sections apply to all persons and all policies in relation to the use of the Mental Health Act have been equality impact assessed.
Yn unol â WP68, a oedd SEIA yn angenrheidiol ac a gafodd ei gynnal? ***In accordance with WP68, has an SEIA identified as necessary been undertaken?***	N/A
Manylion am risgiau sy'n gysylltiedig â phwnc a chwmpas y papur hwn, gan gynnwys risgiau newydd (croesgyfeirio at y BAF a'r CRR) ***Details of risks associated with the subject and scope of this paper, including new risks(cross reference to the BAF and CRR)***	The number of Associate Hospital Managers must be kept at a reasonable levels to ensure the availability of persons for this activity. The Health Board has addressed this by having an open direct hire advert to ensure that the cohort is kept at an adequate level. An advert has recently been shared on social media platforms, within the local university and with Welsh Language colleagues to promote the role. Hearings for patients should be conducted as close to the renewal date as possible. If a patient requests a hearing this should be given priority. Risks associated with not conducting a hearing as close as possible to the relevant date, would be:

	• Transfers impacting on hearings with the potential for a hearing to be missed or rearranged. • The Associate Hospital Managers Discharge Panel may not agree with the professionals and feel that patient should be discharged any delay in the hearing may result in the patient being detained for longer than necessary.
Goblygiadau ariannol o ganlyniad i roi'r *argymhellion ar waith* *Financial implications as a result of implementing the recommendations*	N/A
Goblygiadau gweithlu o ganlyniad i roi'r argymhellion ar waith *Workforce implications as a result of implementing the recommendations*	N/A
Adborth, ymateb a chrynodeb dilynol ar ôl ymgynghori *Feedback, response, and follow up summary following consultation*	This report has been reviewed by Matthew Joyes, Deputy Director for Legal Services. Reports are also shared with the Power of Discharge Group which is held in advance of the Mental Health Legislation (MHLC).
Cysylltiadau â risgiau BAF: (neu gysylltiadau â'r Gofrestr Risg Gorfforaethol) ***Links to BAF risks:*** *(or links to the Corporate Risk Register)*	N/A
Rheswm dros gyflwyno adroddiad i fwrdd cyfrinachol (lle bo'n berthnasol) ***Reason for submission of report to confidential board (where relevant)***	N/A

Camau Nesaf:
Gweithredu argymhellion
Next Steps:
Implementation of recommendations

N/A

Rhestr o Atodiadau:
List of Appendices:

AHM Report

1 Hearings

Hearings are held both remotely via Microsoft Teams and face to face.

28 hearings were held during the months July - September 2024.

12 held face to face and 16 via Teams. The hearings consisted of 15 section 3 renewals, seven Community Treatment Order (CTO) renewals, two section 47 renewals, one section 3 Barring, and three section 3 appeals.

There have been no discharges to date for this period.

A breakdown of the hearing activity is below:

July

- ***16 hearings arranged (12 held); six held face to face and six via Microsoft Teams.*** Ten hearings were in relation to renewals, one was a patient appeal, and one was a barring hearing.

  One hearing was postponed – A Tribunal hearing was required to take place at the same date and location. The AHM hearing proceeded 2 days later and the patient remained detained.
  One hearing was adjourned – Due to technological and communication issues regarding the Microsoft Teams link.
  Two hearings were postponed – The RC reports were not produced on time.

  Outcomes of hearings held
  - All detentions were upheld.

August

- ***15 hearings arranged (11 held); three held face to face and eight via Microsoft Teams.***
  Nine hearings were in relation to renewals and two were patient appeals.

  One hearing was cancelled – The patient was regraded to informal by the Responsible Clinician (RC).
  One hearing was postponed – The reports were not produced on time by the RC the hearing proceeded the following month and the patient remained detained.
  One hearing was postponed – The patient had been admitted to hospital and wanted to be present at the hearing. This was rescheduled.
  One appeal hearing was adjourned on the day – The patient had appealed to both the AHMs and the Mental Health Review Tribunal (MHRT). Due to the short period of time since the Tribunal hearing, the Managers made the decision to adjourn. The patient was subsequently regraded to informal by the RC.

  Outcomes of hearings held
  - All detentions were upheld

September

- ***Six hearings arranged (Five held); Three held face to face and two via Microsoft Teams.***

  All hearing were in relation to renewals.

  One hearing was postponed – The solicitor requested that the hearing not go ahead at that time due to a bereavement in the patient's family. A new date is being arranged for the hearing.

  Outcomes of hearings held
  - All detentions were upheld

Patient's choice of venue (Teams or Face to Face)

Patients with capacity are asked regarding the venue of their hearing, this is now a routine procedure.

Hearing Quality Standard

Following a renewal, there is no timeframe specified within the Mental Health Act of when a hearing is to be held, only the confirmation that one 'must' be held. Good practice suggests this should be undertaken as close to a renewal date as possible. The quality standard is set at 6 weeks following the renewal date. An analysis of the hearings held this quarter is detailed below.

The RC can renew a detention two months prior to the section expiry date. In some instances when the paperwork has been returned in advance the hearing will be held prior to the renewal date.

In instances where the patient appeals their detention, the hearing should be held as close as possible to the appeal date. For those that appeal against their section 2 the quality standard is set at a week the same as a Mental Health Review Tribunal.

Currently 89% of hearings were held within the set quality standard.

Renewal Date	Hearing Date	Quality Standard (6 weeks = 42 days)
15/06/2024	04/07/2024	19
15/06/2024	05/07/2024	20
22/05/2024	10/07/2024	49 *1
09/06/2024	17/07/2024	38
22/06/2024	18/07/2024	26
07/06/2024	18/07/2024	41
30/06/2024	26/07/2024	27
10/07/2024	29/07/2024	20
09/07/2024	30/07/2024	21
06/07/2024	01/08/2024	26
11/07/2024	06/08/2024	26
30/07/2024	12/08/2024	13

01/09/2024	15/08/2024	17
15/08/2024	15/08/2024	0
17/08/2024	15/08/2024	/
28/07/2024	20/08/2024	24
21/07/2024	20/08/2024	31
14/08/2024	27/08/2024	14
19/09/2024	16/09/2024	/
11/09/2024	23/09/2024	13
27/08/2024	25/09/2024	29
22/09/2024	27/09/2024	5
01/09/2024	24/09/2024	23
Discretionary review following renewal hearing		
31/05/2024	15/07/2024	45 *2
Barring Hearing		
24/07/2024	30/07/2024	7
Appeal by Patient Date	**Hearing Date and section**	**Quality Standard (7 days for a section 2)**
05/04/2024	01/07/2024 s3	87 *3
25/05/2024	14/08/2024 s3	81 *4
10/07/2024	20/08/2024 s3	42

*1 The date of hearing required moving, which led to being slightly outside of set quality standard
*2 The Associate Hospital Managers had used their powers to request a discretionary review following holding a renewal hearing. They had requested to review the patient in 2 months' time; therefore, this hearing was held in line with the request.
*3 Due to the patient's physical health on the day of the hearing, the original hearing was adjourned, and held at this later date. However, two prior AHMs panels had been cancelled as there was a delay in reports being received from clinicians.
*4 Delays in the East.

<table>
<tr><td>Teitl adroddiad:
Report title:</td><td colspan="3">Power of Discharge Group Chair's Assurance Report</td></tr>
<tr><td>Adrodd i:
Report to:</td><td colspan="3">Mental Health Legislation Committee</td></tr>
<tr><td>Dyddiad y Cyfarfod:
Date of Meeting:</td><td colspan="3">November 2024</td></tr>
<tr><td>Crynodeb Gweithredol:
Executive Summary:</td><td colspan="3">Section 23 of the Mental Health Act (the Act) gives certain powers and responsibilities to 'Hospital Managers'.

In Wales, NHS hospitals are managed by Local Health Boards. The Local Health Board is therefore for the purposes of the Act defined as the 'Hospital Managers'.

Hospital Managers have the authority to detain patients under the Act. They have responsibility for ensuring the requirements of the Act are followed. In particular, they must ensure patients are detained and treated only as the Act allows and that patients are fully informed of, and are supported in, exercising their statutory rights. Hospital Managers have equivalent responsibilities towards Community Treatment Order (CTO) patients. (CoPW 37.4)

In practice, most of the decisions the Hospital Managers take, are undertaken by individuals (or groups of individuals) on their behalf by means of the formal delegation of specified powers and duties. (CoPW 37.5)

In particular, decision about discharge from detention and CTOs are taken by Hospital Manager Discharge Panels, made up of Associate Hospital Managers who are not employees. They are directly accountable to the Board in the execution of their delegated functions via the Mental Health Legislation Committee. (CoPW 37.6)

The Power of Discharge Group is held on a quarterly basis to provide a forum for Associate Hospital Managers to discuss matters related to their role, chaired by the Deputy Director for Legal Services; reports are produced and presented by the Mental Health Act Manager to the group.

The Power of Discharge Group meeting was held on 22 October 2024.A summary of the busiess is as follows:

• The group reviewed the MHA Assurance Report;
• The group reviewed the Associate Hospital Managers Update Report – the group noted the improvement in the overall hearing timescale against the internal key performance indicator;
• The group wished to escalate concerns over possible delays to AHM Panels due to absences in the MHA Team.</td></tr>
<tr><td>Argymhellion:
Recommendations:</td><td colspan="3">The Committee is asked to note this report.</td></tr>
<tr><td>Arweinydd Gweithredol:
Executive Lead:</td><td colspan="3">Teresa Owen, Executive Director of Allied Health Professionals and Health Science
Pam Wenger, Director of Corporate Governance</td></tr>
<tr><td>Awdur yr Adroddiad:
Report Author:</td><td colspan="3">Matthew Joyes, Deputy Director for Legal Services
(Chair of the PoD Group)</td></tr>
<tr><td>Pwrpas yr adroddiad:
Purpose of report:</td><td>I'w Nodi
For Noting
☐</td><td>I Benderfynu arno
For Decision
☐</td><td>Am sicrwydd
For Assurance
☒</td></tr>
</table>

Lefel sicrwydd: ***Assurance level:***	Arwyddocaol *Significant* ☒ Lefel uchel o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *High level of confidence/evidence in delivery of existing mechanisms/objectives*	Derbyniol *Acceptable* ☐ Lefel gyffredinol o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *General confidence / evidence in delivery of existing mechanisms / objectives*	Rhannol *Partial* ☐ Rhywfaint o hyder/tystiolaeth o ran darparu'r mecanweithiau / amcanion presennol *Some confidence / evidence in delivery of existing mechanisms / objectives*	Dim Sicrwydd *No Assurance* ☐ Dim hyder/ tystiolaeth o ran y ddarpariaeth *No confidence / evidence in delivery*

Cyfiawnhad dros y gyfradd sicrwydd uchod. Lle bo sicrwydd 'Rhannol' neu 'Dim Sicrwydd' wedi'i nodi uchod, nodwch gamau i gyflawni sicrwydd 'Derbyniol' uchod, a'r terfyn amser ar gyfer cyflawni hyn: ***Justification for the above assurance rating. Where 'Partial' or 'No' assurance has been indicated above, please indicate steps to achieve 'Acceptable' assurance or above, and the timeframe for achieving this:***
N/A

Cyswllt ag Amcan/Amcanion Strategol: ***Link to Strategic Objective(s):***	Objective 4 - Improving quality, outcomes and experience Objective 5 - Establishing an effective environment for learning
Goblygiadau rheoleiddio a lleol: ***Regulatory and legal implications:***	This report is generated quarterly. The Mental Health Act requires that the Health Board must ensure that there are Associate Hospital Managers available to conduct panels for the patients on their request or at the time of a renewal. These Managers cannot be employees of the Health Board to ensure that an independent view is taken when reviewing the detention. Conflicts of interest require consideration and can include any work undertaken for associated agencies which may have contact with patients or influence on the Health Board.
Yn unol â WP7, a oedd EqIA yn angenrheidiol ac a gafodd ei gynnal? ***In accordance with WP7 has an EqIA been identified as necessary and undertaken?***	N/A
Yn unol â WP68, a oedd SEIA yn angenrheidiol ac a gafodd ei gynnal? ***In accordance with WP68, has an SEIA identified as necessary been undertaken?***	This report does not inform strategic decisions, it relates to the Power of Discharge Group which meets quarterly to discuss the day to day operations of the Associate Hospital Managers who have delegated functions under the Mental Health Act.
Manylion am risgiau sy'n gysylltiedig â phwnc a chwmpas y papur hwn, gan gynnwys risgiau newydd (croesgyfeirio at y BAF a'r CRR) ***Details of risks associated with the subject and scope of this paper, including new risks(cross reference to the BAF and CRR)***	N/A
Goblygiadau ariannol o ganlyniad i roi'r *argymhellion ar waith*	N/A

Financial implications as a result of implementing the recommendations	
Goblygiadau gweithlu o ganlyniad i roi'r argymhellion ar waith ***Workforce implications as a result of implementing the recommendations***	N/A
Adborth, ymateb a chrynodeb dilynol ar ôl ymgynghori ***Feedback, response, and follow up summary following consultation***	This report has been reviewed by Matthew Joyes, Deputy Director for Legal Services. Reports are also shared with the Power of Discharge Group which is held in advance of the MHLC.
Cysylltiadau â risgiau BAF: (neu gysylltiadau â'r Gofrestr Risg Gorfforaethol) ***Links to BAF risks:*** *(or links to the Corporate Risk Register)*	N/A
Rheswm dros gyflwyno adroddiad i fwrdd cyfrinachol (lle bo'n berthnasol) ***Reason for submission of report to confidential board (where relevant)***	N/A
Camau Nesaf: Gweithredu argymhellion ***Next Steps: Implementation of recommendations*** N/A	
Rhestr o Atodiadau: ***List of Appendices:*** N/A	

GIG CYMRU NHS WALES | Bwrdd Iechyd Prifysgol Betsi Cadwaladr University Health Board

Quality Safety and Experience – Annual Cycle of Committee Business

(1st April 2024 to the 31st March 2025)

The Annual Cycle of Committee Business has been developed to help plan the management of Committee matters and facilitate the management of agendas and committee business. The Annual Cycle of Committee Business will be complemented by a "Non-Routine Committee Business (Forward Work Plan)" for 'one-off' Ad-hoc items raised during the course of meetings.

The role of the Committee is set out in the Health Board's standing orders and the Terms of Reference, both of which are available here:

The **Quality Safety and Experience Committee** meets bi-monthly

Committee Chair:	**Members**	**In Attendance**	**Preliminary matters to be included on agenda:**
• Gareth Williams **Committee Vice Chair**	Dyfed Jones Rhian Watcyn Jones	• Teresa Owen (Executive Director of Allied Health Professionals and Health Science) – Exec Lead • Angela Wood (Executive Director of Nursing and Midwifery) • Nick Lyons (Executive Medical Director) • Imran Devji (Chief Operating Officer) • Alberto Salmoiraghi (Medical Director for Mental Health and Learning Disabilities) • Iain Wilkie (Medical Director for Mental Health and Learning Disabilities) • Matt Joyes (Deputy Director of Quality Governance) • Wendy Lapin (Senior Manager for Mental Health Act) • Chris Walker (Senior Manager for Mental Capacity Act) • At least one Director of Operations from the Integrated Health Communities • Michelle Denwood (Head of Safeguarding) • Jenny Gilmour (Hospital Manager) • (Hospital Manager)	Welcome & Apologies Declarations of Interest Unconfirmed minutes of meeting held on xxxx Matters Arising & Action Log

AGENDA ITEM	**MAY (Q1)**	**AUGUST (Q1)**	**NOVEMBER (Q3)**	**FEBRUARY (Q4)**
PRELIMINARY MATTERS				
ROUTINE REPORTING FOR ASSURANCE				
Mental Health Act Assurance Report				
Mental Capacity Assurance Report				
HIW Assurance Report				
Associate Hospital Managers Update Report				
Report from the Power of Discharge Group (Associate Managers)				
ANNUAL REPORTING				
Committee Annual Report to Board				
FOR INFORMATION				
Review Committee Workplan				
Review Committee Cycle of Business				
CLOSING BUSINESS				
Agree Items for Referral to Board / Other Committees				
Meeting Effectiveness				
Date of the Next Meeting				
Resolution to Exclude the Press and Public				

WORKING DRAFT