

Betsi Cadwaladr University Health Board (BCUHB)
CONFIRMED Minutes of the Mental Health Legislation Committee
held in Public on 6 February 2025
in the Boardroom, Carlton Court, St Asaph and via Teams

Committee Members Present	
Name	Title
Gareth Williams	Health Board Vice Chair (Chair of Mental Health Legislation Committee)
Rhian Watcyn Jones	Independent Member (IM)
Dyfed Jones	Independent Member
In Attendance	
Angela Wood	Executive Director Of Nursing and Midwifery
Alberto Salmoiraghi	Medical Director, Mental Health & Learning Disabilities (MHLD)
Chris Walker	Head of Safeguarding Adults
David Evans	Associate Hospital Manager (AHM)
Dr. Prashant Bhat	Consultant Child Psychiatrist, North Wales Adolescent Service
Matthew Joyes	Deputy Director for Legal Services
Phil Williams	AHM
Committee Support	
Philippa Peake-Jones	Head of Corporate Affairs
Jody Evans	Regional Risk Manager

Agenda Item
PRELIMINARY MATTERS
MH25.01 - Welcome and Apologies
Apologies were received for Teresa Owen, Michelle Denwood and Ian Willkie.
MH25.02 Declarations of Interest
Associate Hospital Manager Phil Williams declared an interest as a Trustee of Conwy and Denbighshire Mental Health Advocacy Service (CADMHAS).
MH25.03 Unconfirmed Minutes of the Meeting held 07.11.24
It was resolved that the Committee: <ul style="list-style-type: none"> • AGREED that the minutes of the meeting held on 7 November 2024 were a true and accurate record.
MH25.04 Matters Arising & Action Log
The Committee reviewed the action log and noted the following actions should be added:



- MH 24/38 To invite the Luke Hughes, Chief Inspector of the North Wales Police to attend a future meeting to discuss the relationship and collaboration with the police.
- MH 24/34 Ensure that risks associated with Deprivation of Liberty Safeguards (DoLS) and the Mental Capacity Act are comprehensively covered in the appropriate risk registers.
- Change the wording from “monthly trend” to “monthly change” in the Mental Health Act Assurance Report

MH24/32.1 Policy for Information to Patients (S132/33 Mental Health Act)

The Policy for Information to Patients (S132/33 Mental Health Act) is now live. A summary of the compliance aspects was provided. The Chair acknowledged the progress made and emphasised the importance of ensuring that patients are aware of their rights. It was agreed to close this action.

MH24/32.2 Translation Services

The action had been referred to the Quality Safety and Experience (QSE) Committee to ensure that patients are provided with the opportunity to communicate in their preferred language.. It was agreed to close this action.

MH24/33.1 Mental Health Act Assurance Report

The Deputy Director of Legal Services provided an update on the ongoing support for staff. An updated report will be provided. It was agreed to close this action.

MH24/34.1 Mental Capacity Act Assurance Report: It was noted that information on Best Interest Assessors had been provided and that a report later in the agenda provided information on advocacy. It was agreed to close this action.

It was RESOLVED that the Committee:

- Agreed the updates provided

FOR ASSURANCE

MH25.05 - Mental Health Act Assurance Report

Members received the report, and the Deputy Director of Legal Services highlighted:

- Since spring 2024, the Mental Health Act (MHA) Team had faced significant staffing capacity challenges due to unprecedented absences, particularly at the managerial level and within the West Office. A phased return for the absent staff is anticipated in March or April, and best wishes from the Health Board have been conveyed to those staff members. Despite efforts to provide cross-cover, the specialist nature of the work has prevented successful mitigation via Bank Staff and Secondment attempts, resulting in delays in section renewals, management panels, tribunal logistics, reporting, and auditing. It is anticipated that by April, the Team will return to a more normal operational capacity.
- Section 5 (4): There was one instance of Section 5(4) in November, which lasted for a short period and was fully scrutinised.

- There have been no exemptions or escalations regarding Section 5(2)'s, with numbers remaining small in relation to Doctors holding powers. All instances were reviewed and scrutinised for appropriateness, with no issues identified.
- Section 4 has not been extensively utilised. It was noted that the use of this Section over the long-term is very low, which suggests common assumptions about the difficulty of locating Section 2 Doctors are not accurate.
- Section 2 usage increased slightly over the year. Although no legal issues were identified, potential clinical concerns were raised. Plans are in place to move the data to Power BI for better tracking through live dashboards. The need for further support and exploration of data, especially regarding repeated Section 2 usage and patient presentations was raised. It was suggested that triangulating this data with other information, such as out-of-area patient data, suggested the scale of the pressure on community services. Streamlining the data into Power BI should help answer related questions more effectively.
- Section 3 usage dropped off in December, with no delays in reporting which could be linked to previous discussions on Section 2 usage.
- Section 17 showed no significant highlights, with numbers remaining low.
- Data on rectifiable errors (all of which were reported on Datix) were noted and it was agreed to circulate additional information which had been provided to the Chair on fundamental errors. Imbalances in numbers between Health Board regions were thought to be linked to possible issues with file transfers and incorrect coding. A review of a few cases was suggested to confirm these imbalances.
- Section 135/136 - No significant issues or legal concerns identified. Two sections under 18 were reported.

In discussing the report, the Committee:

- Raised concerns regarding MHA staffing issues and their potential impact on patient care. They emphasised the need for succession planning to be further embedded, as staff have managed the situation but more flexible staffing options should be explored. The People and Culture Committee was identified as key to addressing this. The need to review staff capacity for cross-cover roles was also highlighted, along with challenges related to a lack of MHA knowledge among bank staff. Secondments remain difficult, as services are often reluctant to release staff.
- Agreed to discuss further the apparent increase over the longer-term of the use of Section 2 data.
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Action:

- Address MHA staffing challenges, emphasise succession planning, explore flexible staffing options, and review staff capacity for cross-cover roles.
- Further explore data on Section 2 and the repeated use of these Sections for the same individuals.
- Circulate to the Committee the information on fundamental errors.
- Investigate issues with file transfers and incorrect coding, considering factors like medical instability, sickness, and workforce changes.



It was resolved that the Committee

- **NOTED** the report and appendices.

MH25.06 - Mental Capacity Assurance Report

Members received the report and the Head of Safeguarding, Adults highlighted:

- That there had been difficulties in respect of the procurement of Independent Mental Capacity Advocate (IMCA) Services, related to the procurement of services on a national basis. This has resulted in payment to CADHMAS for IMCA provision had been severely delayed. Fortunately, the Health Board has an excellent relationship with the service.
- The Best Interest Assessors (BIA) summary was provided, detailing that five staff have completed their training and are expected to be added to the list by quarter 4.
- The backlog of Deprivation of Liberty Safeguards (DoLS) Assessments increased in December, but was still much lower than in previous years, despite the substantial increase in Health Board DoLS applications over recent years. There had been a significant reduction in errors, indicating that the emphasis on ensuring compliance with training requirements was proving effective.
- Succession planning is also a priority for the Safeguarding Team, who are collaborating with the National Safeguarding Network to address the issue.
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- It was clarified that Welsh Government approval of the new forms, developed on behalf by the BCUHB team as part of a national work programme was still awaited, meaning the piloting of the forms may now be postponed to quarter 1 of the next financial year.

In discussing the report, the Committee:

- Requested further information on comparison data on DoLS applications and transfers between hospitals and care homes over the last five years to the next Committee.
- Noted the significant challenges faced by IMCA services across North Wales, including issues with procurement and funding, and acknowledged the strong relationship and support between the Health Board and CADHMAS.
- Welcomed the progress made in increasing the number of Best Interest Assessors (BIA), the reduction in the DoLS backlog and improvements in wait times and training compliance, noting the positive impact on reducing errors.
- Acknowledged the ongoing work on succession planning within safeguarding and the challenges regarding secondments, with recognition of the risk of a single point of failure.
- Noted the update on work to mitigate the problems associated with the DoLS process but agreed that the system was fundamentally flawed. This view was shared by other Health Boards and local authorities.
- Agreed that it was important to ensure information with regard to the Standard Operating Procedure for matters relating to the Court of Protection was shared across the organisation.

Action:



- Provide comparison data on DoLS applications and transfers between hospitals and care homes over the last five years to the next Committee.

It was resolved that the Committee

- **NOTED** the report

MH25.07 - HIW Assurance Report

Members received the report and the Chair of the Committee noted that, while broader issues identified were of course of interest, the Committee's Terms of Reference (TOR) meant its focus should be on the issue of compliance with MHA requirements. Other elements of the findings will be reviewed by the QSE Committee.

Members received the report and the Committee discussed and highlighted:

- The concerns raised relating to medical records, consent, and Section 17 leave forms, with the long-term solution of transitioning to electronic records. Assurances were provided for interim contingencies.
- Challenges regarding the training of agency staff regarding restraint.
- The need for assurance that other findings from HIW related to patient experience would be followed up. The Executive Director of Nursing and Midwifery outlined how progress in implementing HIW recommendations is tracked via a structured reporting system, with updates provided to the Executive Delivery Group, QSE Committee, and monthly briefings to Integrated Quality Planning Delivery meetings.
- Concerns regarding the low completion rates regarding the feedback questionnaires.
- Skill mix, gender balance, and staffing concerns for Section 17 leave.
- The importance of patient information being accessible, recommending the use of visual aids and appropriately pitched reading materials.

Action:

- Feedback to the Division the request to review and ensure patient information is accessible, with the use of visual aids and appropriately pitched reading materials.

It was resolved that the Committee

- **NOTED** the report

MH25.08 - Associate Hospital Managers Update Report

Members received the report and the Associated Hospital Manager highlighted to the Committee:

- Between October and December 2024, 26 hearings were held and that there were No discharges were recorded during this period.

In discussing the report, the Committee:

- Recognised the crucial role of Associate Hospital Managers (AHM) in reviewing sections and assessing the appropriateness of appeals.
- Noted the possible link between patients submitting appeals and Responsible Clinicians (RCs) deciding to remove Sections, with patients downgraded to voluntary admissions and suggested this needs further investigation..



- Noted the significant improvements in the hearing process, including the transition to a paperless system and enhanced scheduling of hearing dates.
- Recognised noted that although the AHM hearings had not resulted in any discharges, this does not mean that the process is not working, noting a case described by one of the AHMs which had identified some fundamental concerns and resulted in improvements in compliance with statutory requirements.
- Discussed how information regarding the right to appeal is conveyed to young people in CAMHS, stressing the need for age-appropriate materials and ensuring that this information is aligned with best practices across other Welsh services.

Action:

- Review available research on the impact of the submission of appeals to AHMs in terms of decisions by Responsible Clinicians (RCs) to discharge patients from Sections before hearings and subsequently explore further whether this could disadvantage patients who do not appeal.
- Review information regarding the right to appeal to young people in CAMHS.

It was resolved that the Committee

- **NOTED** the report

MH25.09 - Report from the Power of Discharge

Members received the report key areas were highlighted therein the report:

- The Power of Discharge Group meeting was held on 28 January 2025. Key discussions included -
 - A review of the MHA Assurance Report.
 - A review of the AHM Update Report, with an action to examine trends related to discharges by the Responsible Clinician before hearings.
 - A review of the HIW Assurance Report, with a suggestion to explore whether MHA status should be included in medication charts for scrutiny.
 - Discussion of proposed changes to the MHA in the new Mental Health Bill, with both positive feedback and concerns raised.
 - Noting ongoing staffing pressures within the MHA Team.

It was resolved that the Committee:

- **NOTED** the report.

MH25.10 - MH Bill 2025

Members received the report, and the Deputy Director of Legal Services highlighted:

- The Mental Health Bill (2025), which will introduce major changes to the Mental Health Act and was presented in Parliament on 6 November 2024. The Bill passed its second reading in the House of Lords and was currently in Committee stage. It is also expected to receive Royal Assent within the current year.
- Key changes were noted by the Committee therein the update and report provided.

In discussing the report, the Committee:

- Highlighted the importance of preparing for the changes, particularly in relationship to alternative pathways of support for neurodivergent people.
- Recognised the long-term timeline for the implementation.
- Noted that the changes will be accompanied by a code of practice and an impact assessment.
- Recognised the financial implications and the increased advocacy requirements arising from the Bill.
- Discussed how the changes would apply to Section 2 and section 3 detentions and the need for repeated requests for young people.
- Raised concerns about the practicalities of shorter detention periods and the need to balance patient rights with the increased advocacy required.
- Acknowledged that further detail into the Bill is available via the Deputy Director of Legal Services

It was resolved that the Committee:

- **NOTED** the report.

MH25.11 - Advocacy Services across North Wales

Members received the report, and the Consultant/Director of MHLD highlighted:

- Excellent compliance with KPIs and referrals to the MHA for both statutory and non-statutory services.
- The contract for the advocacy service is being renewed, though not all individuals are using the IMCA service.
- Community activity is high, with good communication between the service and patients, providing an additional layer of safeguarding.
- Advocacy services are available for individuals aged 16 and above, whereas MHA safeguards are available to all ages.

In discussing the report, the Committee:

- Welcomed the evidence of strong performance by CADMHAS.
- Gained clarification regarding recommissioning, with a separate paper on funding and procurement going to the Executive Board.
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- Noted that the appendix was embedded [circulated to Committee during the meeting].

It was resolved that the Committee:

- **NOTED** the report.

FOR INFORMATION

MH25.12 - Cycle of Business

The Cycle of Business was previously reviewed, it was noted that there were no changes to the current version.



The Committee referred and discussed:

- A case law update from late October was provided, and it was confirmed that the service has not yet had the opportunity to review it. It was suggested to simplify the case law for health professionals and discuss it at the next meeting.

MH25.13 - Forward Workplan

The forward work plan was set and was previously reviewed, no further changes noted to the current version.

CLOSING BUSINESS

MH25.14 - Agree Items for referral to Board / other Committees

It was agreed that the following would be referred:

- Concerns regarding non-clinical specialisms and lack of expertise, particularly in MHA administration; collaboration with People and Culture suggested.
- Use of agency staff and RPI raises concerns about quality and safety; QSE to remain aware.

MH25.15 - Agree items for Chairs Assurance Report

The following would be referred to in the Chairs Assurance Report:

- Ongoing staffing issues and data challenges, with opportunities to improve data interrogation capabilities.
- Long-term increase in Section 2 usage, potentially indicating struggles within community services, with a focus on raising awareness.
- Clinicians adjusting decisions, including taking individuals off sections, with awareness raised.
- Positive discussion noted regarding the MHA Bill.
- Advocacy efforts recognised for their impressive performance.

MH25.16 - Review of Meeting Effectiveness

In discussing the item, the Committee agreed there had been good discussion around the agenda items.

MH25.17 - Date of Next Meeting

The next meeting will be held on 8 May 2025.