

Betsi Cadwaladr University Health Board (BCUHB)
Confirmed Minutes of the Mental Health Legislation Committee
held in Public on 7 November 2024
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
In Attendance	
Teresa Owen	Executive Director of AHPs and Health Science
Alberto Salmoiraghi	Medical Director, Mental Health & Learning Disabilities (MHLD)
Mandy Jones	Deputy Director of Nursing
Michelle Denwood	Director of Safeguarding & Public Protection
Dr. Prashant Bhat	Consultant Child Psychiatrist, North Wales Adolescent Service
Chris Walker	Head of Safeguarding Adults
Matthew Joyes	Deputy Director for Legal Services
Phil Williams	Associate Hospital Manager
Jenny Gilmore	Associate Hospital Manager
Committee Support	
Philippa Peake-Jones	Head of Corporate Affairs

Agenda Item
PRELIMINARY MATTERS
MH24/29 Welcome and Apologies
Apologies were received for Dyfed Jones, Angela Wood, Louise Bell, Ffion Johnstone and Wendy Lappin.
MH24/30 Declarations of Interest
Jenny Gilmore declared an interest in the Mental Capacity Assurance Report as Chair of the Advocacy Service in North Wales.
MH24/31 Unconfirmed Minutes of the Meeting held 01.08.24
It was resolved that the Committee: <ul style="list-style-type: none"> • AGREED that the minutes of the meeting held on 01.08.24 were a true and accurate record subject to the following amendments: • Correct spelling of Jenny Gilmore • Correct job title for Chris Walker as Head of Safeguarding Adults • Amend wording on MH24.20.2 to read 'Mental Health Act compliance should be included' rather than 'could'



- Bank, Locum and Interim Staff to be referred to as Bank, Locum and Honorary Staff.

MH24/32 Matters Arising & Action Log

Mental Health Act Assurance Report

- In relation to Action MH24.20.10 it was noted that Chief Inspector Luke Hughes of the North Wales Police had been invited to join the meeting, he was unavailable on this occasion but will plan to join a future meeting. An informal meeting has taken place with the Chair to discuss S135/S136 and it was confirmed that operational colleagues within North Wales Police are not currently adhering to making contact first and this is being address. Discussion also took place in relation to Right Care, Right Place (RCRP) and a verbal update will be provided as part of the meeting. It was confirmed that the Interim Director of MHLD is also in regular contact in relation to the crisis work and this provided assurance to the Committee. The Chair refereed to the query around the deadline for informing patients held under the MH Act of their rights stating that this had been raised with other Vice Chairs and Ros Alstead, Independent Advisor with agreement that 30 days was too long. It was agreed that the policy would be reviewed taking into consideration next of kin.
- In relation to Action MH24.9.10 regarding patients being able to communicate in their language of choice, it was agreed that this would be referred to the Quality, Safety and Experience Committee (QSE). The Deputy Director of Nursing also agreed to raise this at the Patient Carer Experience Group.

Actions:

- **MH24/32.1** Deputy Director of Legal Services to review the Policy for Information to Patients (S132/33 Mental Health Act) and provide an update at the next meeting.
- **MH24/32.1** Translation services to be referred to the QSE Committee to ensure patients are being provided with the opportunity to communicate in the language of choice.

FOR ASSURANCE

MH24/33 Mental Health Act Assurance Report

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

- There are currently staffing issues within the Mental Health Act Legal Team and gaps in specific areas caused by sickness and bereavement which is also affecting local offices. This is a challenging position and the team have been reprioritised to provide support however this has caused issues with the level of auditing and reporting the team are able to complete and report.
- This has also resulted in reduced support to Clinicians in terms of prompting the review of sections, processing paperwork and supporting hearings and tribunals. The consequence of this has resulted in cases where sections have lapsed and unlawful detentions. It was noted that there have not been any clinical risks incurred as a result of this but there have been legal risks incurred.
- The specific staffing issues are being addressed with the Executive Director of AHPs and Health Science and the Director of Corporate Governance to ensure critical posts are filled on an interim basis.



- In terms of the fundamental and rectifiable errors included in the report, it was noted that there had been seven lapsed sections and two invalid sections during the quarter. This may be a result of the current staffing issues resulting in the information not being picked up in a timely manner. The reasons for the invalid sections have been highlighted and these are being addressed.
- It was noted that some information is missing from the report which is due to both technical and staffing issues.
- There has been an issue with transfers from England where they use electronic signatures, a memo is being sent out to staff to confirm we are unable to accept electronic signatures as we require a manual signature in Wales.

In discussing the report, the Committee:

- Noted the impact that the staffing issue is having on the team and also the Associate Hospital Managers.
- Highlighted that issues have been raised by Clinicians and it was noted that feedback around the current challenges has been provided and mitigating factors have been suggested such as Clinicians actively monitoring Section expiry dates during ward rounds.
- Suggested contact with local offices would be helpful to allow teams to raise specific queries and gain advice and technical specialist views to provide support. It was noted that there is a current agreement with a law firm for the team to access advice and it was agreed that this would be picked up outside of the meeting.
- Acknowledged the importance of the work completed by the Mental Health Act team and suggested the need to address succession planning to ensure the safety of patients and the Health Board.
- Queried whether systems and processes are in place at ward level to support future delays. It was noted that there are issues with staff cover across sites due to patient records being paper based however the team are working to ensure cover is provided to inpatient facilities seven days a week to address urgent issues.
- Referred to section 5 of the report and suggested the information should be based on movement rather than trends, it was agreed that this would be reviewed and the IT team are currently working on a revised system to extract the data which will be included in a future report.
- Highlighted the Section 135-136s for under 18s and confirmed that this information is being scrutinised by the Safeguarding Forum to provide additional assurance for the Committee.
- Noted the need to be aware of what the data is telling us and how this translates into what is happening at ward level. It was suggested that a form of benchmarking with other Health Boards would be valuable.
- Queried the number of out of area placements as this has previously been highlighted as a concern. It was noted that the current figure is 26, these placements are being addressed and actioned as part of the acute care pathway discussions and the issue has also been escalated to the Chief Executive in terms of performance. Going forward there is a need to look at issues with flow, the number of placements available locally, housing and discussions with partners. Work is also taking place to try and identify a step-down facility which may help to reduce the number of out of area placements required.



- Highlighted an issue in relation to 136 assessments being completed in ED and the impact this has on capacity in ED and also the psychiatric liaison team and the need to be aware of patients being managed by the correct service.

Action:

- **MH24/33.1** Deputy Director of Legal Services to address providing support for staff from local offices and external suppliers to gain advice on specific issues.

It was resolved that the Committee

- **NOTED** the report and appendices.

MH24/34 Mental Capacity Assurance Report

Members received the report and the Director of Safeguarding & Public Protection highlighted:

- The report refers to BCU wide information and is based on frontline staff in terms of capacity and restrictions.
- The liberty protection safeguards have not been implemented on a national basis and Welsh Government recognise the clear challenges with the current position in relation to deprivation of liberty and the Mental Capacity Act.
- To move forward, work is taking place on a national basis to assist all Health Boards and organisations who hold accountability for the implementation of the legislation.
- The key areas that will be reviewed include updating the Deprivation of Liberty Safeguards (DoLS) paperwork, developing training requirements and streamlining DoLS processes.
- The key areas being addressed have also been highlighted in the internal audit and the team are embedded in moving forward with this piece of work. There will be a need to interrogate the data to identify areas for improvement.
- In relation to table 1 it was highlighted that this is a nationally recognised tool used to identify our position and this is also benchmarked on a national basis.
- Reference was made to the DoLS backlog confirming a figure of 56, it was noted that this figure can fluctuate depending on the number of applications. Some of the cases are complex and require discussion and engagement with families, advocates and patients.
- The addition of Welsh Government monies has allowed the team to reduce the figure down from 115 applications to the current figure and this is being monitored closely on a monthly basis.
- Reference was made to the Independent Mental Capacity Advocate (IMCA) service and the commission of Conwy and Denbighshire Mental Health Advocacy Service (CADHMAS) for the provision of IMCA Services across North Wales which is a contractual arrangement.
- It was suggested that CADHMAS are invited to attend a future meeting of the Committee.
- All DoLS applications that are submitted are quality assured by the team with a target of 100% accuracy.
- In terms of training, moving forward nationally this will be mandated and will provide bespoke training in required areas such as documentation.



- Three cases were highlighted as going through the Court of Protection and there is engagement with the relevant teams to ensure there are no delays to implementation or learning.
- The red action in the action log related to mandatory training for Bank, Locum, and Honorary Staff to include MCA Level 1 and Level 2 (where applicable). It was suggested that this is include on the Committee action log to monitor progress.

In discussing the report, the Committee:

- Requested further information in relation to the best interest assessors as well as the mental capacity advocates and relevant person representative services. It was agreed that this information would be included in a future paper.
- It was confirmed that there are currently six best interest assessor employed full time, five have recently been seconded to attend the best interest assessor course at Manchester University who are not yet qualified and an additional five within the organisation who are not qualified but are supporting the backlog.
- Queried whether the comprehensive review of risks associated with DoLS and the Mental Capacity Act has commenced. It was confirmed that this is being reported into the Executive Group.

Actions:

- **MH24/34.1** Monitor progress against action 3.0 relating mandatory training for Bank, Locum, and Honorary Staff as part of the actin log.
- **MH24/34.2** Provide an update on the Court of Protection cases at a future meeting.
- **MH24/34.3** Agreed for a member of CADHMAS to attend a future meeting.
- **MH24/34.4** Include additional information relating to best interest assessors, mental capacity advocates and relevant person representative services in a future paper.

It was resolved that the Committee:

- **ACCEPTED** the Deprivation of Liberty Safeguards (DoLS) and Mental Capacity Act (MCA) Report and the identified activity for the period of Q2 2024-25.
- **RECEIVED** the DoLS and MCA Audit Action Plan and recorded progress.

MH24/35 Health Inspectorate Wales (HIW) Assurance Report

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

- There are currently no open actions related to the Mental Health Act or MCA from previous inspections.
- There was an unannounced inspection of the Heddfan Unit in October and no immediate issues were raised around Mental Health legislation.

It was resolved that the Committee:

- **NOTED** the report.

MH24/36 Associate Hospital Managers Update Report

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

- The report includes a summary of activity of hospital manager panels and the agreed outcomes.



- In terms of the hearing standard, the current figures is just under 90% and exception reports have been included for those that have not been completed in a timely manner.

In discussing the report, the Committee:

- Queried the term 'regrading to informal', it was noted this term is used for patients who are being treated as voluntary patients rather than under section.
- Noted that two panels have been cancelled due to a delay in receiving reports from Clinicians. It was confirmed that this is being discussed as to whether hearings are cancelled if the information is not received within a timely manner.
- Acknowledged the current recruitment campaign and the need for this to be communicated out more widely to encourage applicants.

It was resolved that the Committee:

- **NOTED** the report.

MH24/37 Report from the Power of Discharge Group

It was resolved that the Committee:

- **NOTED** the report.

FOR INFORMATION

MH24/38 Cycle of Business

It was resolved that the Committee:

- **NOTED** the document.

It was agreed that the following items would come back to future Committee meetings:

- Invite the Chief Inspector of the North Wales Police to attend a future meeting.
- An update on the implementation of the Right Care, Right Place (RCRP) and the Medical Director for MHLD provided a verbal update on the progress to date to the Committee.
- Invite Conwy and Denbighshire Mental Health Advocacy Service (CADHMAS) to attend a future meeting.
- A report on the Court of Protection cases.
- A report on the introduction of the new Mental Health Act Bill announced by the UK Government.

CLOSING BUSINESS

MH24/38 Agree Items for referral to Board / other Committees

It was resolved that the following would be referred:

- Translation services to the QSE Committee to ensure patients are being provided with the opportunity to communicate in the language of choice.

MH24.39 Agree Items for Chairs Assurance Report

It was resolved that the following would be referred to in the Chairs Assurance Report:

- Issues with staff capacity
- The ongoing issues with DoLS at a national level
- The valuable work completed by the Associate Hospital Managers

MH24/40 Review of Meeting Effectiveness

In discussing the item, the Committee:

- Agreed there had been good discussion around the agenda items.

MH24/41 Date of Next Meeting

The next meeting will be held on 6th February 2025.