

## Bundle Mental Health Act Committee 25 June 2021

### Agenda attachments

Agenda\_Mental\_Health\_Act\_Committee\_25\_June\_2021 (4).docx

- 1 OPENING BUSINESS:
  - 1.1 10:30 - MHAC21/17 Welcome and Apologies
  - 1.2 10:31 - MHAC21/18 Declarations of Interest
  - 1.3 10:32 - MHAC21/19 Minutes of last meeting to be confirmed and review of Summary Action Log
    1. To confirm as a correct record the Minutes of the last meeting held on 12.3.21
    2. To deal with any matters arising not dealt with elsewhere on the agenda
    3. To review the Summary Action log.
    - MHAC21.19.1 Draft MHAC draft mins 12.3.21 v03.docx
    - MHAC21.19.2 Summary Action Plan live version 16.6.21.doc
  - 1.4 10:35 - MHAC21/20 Minutes of the Power of Discharge Sub-Committee
    1. To receive the Minutes of the Power of Discharge Sub-Committee meeting held on 12.3.21 for information purposes.
    2. To receive an oral update from the Chair on relevant feedback from the Sub-Committee meeting
    - MHAC21.20 Draft PODSub C draft mins 12th March 2021 v0.3.docx
- 2 MHAC 21.21 FOR DISCUSSION:
  - 2.1 10:38 - MHAC21/22 Deprivation of Liberty Safeguards Annual Report (DoLS)

*Michelle Denwood, Associate Director Safeguarding, Corporate Office*  
*Recommendation: The Committee is asked to accept the Annual Report and identified activity for the period of 2020-2021 and the identified priorities for the period of 2021-2022*

    - MHAC21.22 DOLS 20 21 Mental Health Act Committee Report June 2021.docx
  - 2.2 10:46 - MHAC21/23 Hospital Manager's Update Report

*Wendy Lappin, Mental Health Act Manager, Administration*  
*Verbal summary only based on feedback from earlier POD meeting.*
  - 2.3 10:54 - COMFORT BREAK
  - 2.4 10:59 - MHAC21/24 Performance Report

*Wendy Lappin, Mental Health Act Manager, Administration*  
*Recommendation: The Committee is asked to note the report.*

    - MHAC21.24a and POD 21.14 Coversheet MHA Performance Report June 21 (002).docx
    - MHAC21.24b and POD 21.14 Appendix 1 MHAct Report.pdf
    - MHAC21.24c and POD 21.14 Appendix 2 Divisional Matron S136 Report May 2021.pdf
    - MHAC21.24d and POD 21.14 Appendix 3 CAMHS S136 Report May 21.pdf
    - MHAC21.24e and POD 21.14 Appendix 4 S136 Deep Dive.docx
  - 2.5 11:07 - MHAC21/25 Healthcare Inspectorate Wales (HIW) Monitoring Report

*Hilary Owen, Head of Governance & Compliance, Mental Health & Learning Disabilities*  
*Recommendation: The Committee is asked to note the report.*

    - MHAC21.25a HIW Monitoring Report (003).docx
    - MHAC21.25b Appendix 1 Inspections.docx
    - MHAC21.25c Appendix 2 Quality Check Summary Coed Celyn Hospital.pdf
  - 2.6 11:15 - MHAC21/26 Update on Section 12 (2) Recruitment

*Alberto Salmoiraghi, Consultant Psychiatrist/Medical Director, Mental Health & Learning Disabilities*  
*The Committee is asked:*

    1. To note the approach and progress underway.
    2. To note the current action plan.
    - MHAC21.26a Report on Section 12(2) Doctors Dr Alberto Salmoiraghi 16 June 2021 final.docx
    - MHAC21.26b Sec 12(2) Action plan APPENDIX 1.xlsx
  - 2.7 11:23 - MHAC21/27 Risk Register Review

*Iain Wilkie, Interim Director, Mental Health & Learning Disabilities - to provide a verbal update of risk and update the Committee in relation to the risk register review.*
  - 2.8 11:31 - MHAC21/28 Clinical Audit/Audit Activity

- Iain Wilkie, Interim Director, Mental Health & Learning Disabilities - to provide a verbal update.
- 2.9 11:39 - MHAC21/29 Reforming the Mental Health Act White Paper Consultation Responses from BCUHB  
 Wendy Lappin, Mental Health Act Manager, Administration and Hillary Owen, Head of Governance & Compliance, Mental Health & Learning Disabilities  
*Recommendation: The Committee is asked to note this report.*  
MHAC21.29a Reforming the Mental Health Act White Paper.docx  
MHAC21.29b Appendix 1 Reforming the Mental Health Act Summary.pdf  
MHAC21.29c Appendix 2 MHA Consultation responses.docx
- 2.10 11:47 - MHAC21/30 Criminal Justice Liaison Service update report  
 Ruth Joyce, Criminal Justice Liaison Service Manager, Mental Health & Learning Disabilities  
*Recommendation:*  
*The committee is asked to:*  
 • *Note this report.*  
 • *Support the planned focus for the next 6-12 months in regard to service establishment design and aim to assist North Wales Police to increase rates of consultation prior to use of S136 police power.*  
MHAC21.30 - Criminal Justice Ruth Joyce v1.0.docx
- 3 POLICY APPROVALS:
- 3.1 MHAC21/31 Mental Health Act Policies:  
*Recommendation: The committee is asked to approve the policies.*  
MHAC21.31 Mental Health Act Policies Coversheet (002) (002).docx  
MHAC21.31a BCU EQIA - MHL D 0034 S5(2) doctors holding powers.docx  
MHAC21.31b BCU EQIA - MHL D 0033 S5(4) Nurses Holding Powers.docx  
MHAC21.31c BCU EQIA - MHL D 0030 Information to patients policy.docx
- 3.2 11:55 - MHAC21/31.1 Policy for Section 5(2) Doctors holding power in psychiatric units. MHL D0034  
 Iain Wilkie, Interim Director, Mental Health & Learning Disabilities  
MHAC21.31.1 Appendix 1 MHL D 0034 Section 5(2) in Psychiatric Units Sept 20.doc
- 3.3 12:00 - MHAC21/31.2 Policy for the implementation of Section 5(4) Nurses Holding Power MHL D 0033  
 Iain Wilkie, Interim Director, Mental Health & Learning Disabilities  
MHAC21.31.2 Appendix 2 MHL D 0033 Section 5(4) Nurses Holding Power.doc
- 3.4 12:05 - MHAC21/31.3 Policy for Information to Patients (S132/3 Mental Health Act) MHL D0030  
 Iain Wilkie, Interim Director, Mental Health & Learning Disabilities  
MHAC21.31.3Appendix 3 MHL D 0030 Policy for Information to Patients V5.doc
- 4 FOR INFORMATION
- 4.1 12:10 - MHAC21/34 Update on the approval functions of Approved Clinicians and Section 12(2) Doctors in Wales  
 Heulwen Hughes, All Wales Approval Manager For Approved Clinicians and Section 12(2) Doctors, Office of the Medical Director  
*Recommendation: To note for assurance purposes that appropriate governance arrangements, processes and activities are in place to underpin the approval and re-approval of Approved Clinicians and Section 12(2) Doctors in Wales.*  
MHAC21.34 All Wales S12 Report June 2021 to MHA Committee.docx
- 4.2 12:18 - MHAC21/35 Mental Health Act Committee Annual Report: feedback from Audit Committee  
 Verbal - *To note that the MHAC Annual Report was approved at a recent Audit Committee Workshop, held on the 25th May 2021.*
- 5 12:23 - MHAC21/36 Issues of Significance to inform Chair's Report to Board
- 6 12:24 - MHAC21/37 Date of Next Meeting - 24/9/21

# Agenda Mental Health Act Committee

**Date** 25/06/2021  
**Time** 10:30 – 12:25  
**Location** Virtual Microsoft Teams  
**Chair** Lucy Reid

## **1 OPENING BUSINESS:**

### **1.1 MHAC21/17 Welcome and Apologies**

10:30

### **1.2 MHAC21/18 Declarations of Interest**

10:31

### **1.3 MHAC21/19 Minutes of last meeting to be confirmed and review of Summary Action Log**

10:32

1. To confirm as a correct record the Minutes of the last meeting held on 12.3.21
2. To deal with any matters arising not dealt with elsewhere on the agenda
3. To review the Summary Action log.

### **1.4 MHAC21/20 Minutes of the Power of Discharge Sub-Committee**

10:35

1. To receive the Minutes of the Power of Discharge Sub-Committee meeting held on 12.3.21 for information purposes.
2. To receive an oral update from the Chair on relevant feedback from the Sub-Committee meeting

## **2 MHAC 21.21 FOR DISCUSSION:**

### **2.1 MHAC21/22 Deprivation of Liberty Safeguards Annual Report (DoLS)**

10:38

Michelle Denwood, Associate Director Safeguarding, Corporate Office  
Recommendation: The Committee is asked to accept the Annual Report and identified activity for the period of 2020–2021 and the identified priorities for the period of 2021–2022

### **2.2 MHAC21/23 Hospital Manager's Update Report**

10:46

Wendy Lappin, Mental Health Act Manager, Administration  
Verbal summary only based on feedback from earlier POD meeting.

**2.3 COMFORT BREAK**

10:54

**2.4 MHAC21/24 Performance Report**

10:59

Wendy Lappin, Mental Health Act Manager, Administration  
Recommendation: The Committee is asked to note the report.

**2.5 MHAC21/25 Healthcare Inspectorate Wales (HIW) Monitoring Report**

11:07

Hilary Owen, Head of Governance & Compliance, Mental Health & Learning Disabilities  
Recommendation: The Committee is asked to note the report.

**2.6 MHAC21/26 Update on Section 12 (2) Recruitment**

11:15

Alberto Salmoiraghi, Consultant Psychiatrist/Medical Director, Mental Health & Learning Disabilities  
The Committee is asked:  
1. To note the approach and progress underway.  
2. To note the current action plan.

**2.7 MHAC21/27 Risk Register Review**

11:23

Iain Wilkie, Interim Director, Mental Health & Learning Disabilities – to provide a verbal update of risk and update the Committee in relation to the risk register review.

**2.8 MHAC21/28 Clinical Audit/Audit Activity**

11:31

Iain Wilkie, Interim Director, Mental Health & Learning Disabilities – to provide a verbal update.

**2.9 MHAC21/29 Reforming the Mental Health Act White Paper Consultation Responses from BCUHB**

11:39

Wendy Lappin, Mental Health Act Manager, Administration and Hillary Owen, Head of Governance & Compliance, Mental Health & Learning Disabilities  
Recommendation: The Committee is asked to note this report.

**2.10 MHAC21/30 Criminal Justice Liaison Service update report**

11:47

Ruth Joyce, Criminal Justice Liaison Service Manager, Mental Health & Learning Disabilities  
Recommendation:

The committee is asked to:

- Note this report.
- Support the planned focus for the next 6–12 months in regard to service establishment design and aim to assist North Wales Police to increase rates of consultation prior to use of S136 police power.

### **3 POLICY APPROVALS:**

#### **3.1 MHAC21/31 Mental Health Act Policies:**

Recommendation: The committee is asked to approve the policies.

#### **3.2 MHAC21/31.1 Policy for Section 5(2) Doctors holding power in psychiatric units. MHL0034**

11:55

Iain Wilkie, Interim Director, Mental Health & Learning Disabilities

#### **3.3 MHAC21/31.2 Policy for the implementation of Section 5(4) Nurses Holding Power MHL0033**

12:00

Iain Wilkie, Interim Director, Mental Health & Learning Disabilities

#### **3.4 MHAC21/31.3 Policy for Information to Patients (S132/3 Mental Health Act) MHL0030**

12:05

Iain Wilkie, Interim Director, Mental Health & Learning Disabilities

### **4 FOR INFORMATION**

#### **4.1 MHAC21/34 Update on the approval functions of Approved Clinicians and Section 12(2) Doctors in Wales**

12:10

Heulwen Hughes, All Wales Approval Manager For Approved Clinicians and Section 12(2) Doctors, Office of the Medical Director  
Recommendation: To note for assurance purposes that appropriate governance arrangements, processes and activities are in place to underpin the approval and re-approval of Approved Clinicians and Section 12(2) Doctors in Wales.

#### **4.2 MHAC21/35 Mental Health Act Committee Annual Report: feedback from Audit Committee**

12:18

Verbal – To note that the MHAC Annual Report was approved at a recent Audit Committee Workshop, held on the 25th May 2021.

### **5 MHAC21/36 Issues of Significance to inform Chair's Report to Board**

12:23

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**MHAC21 /37 Date of Next Meeting – 24/9/21**

12:24



## Mental Health Act Committee (MHAC)

### **DRAFT** Minutes of the Meeting Held on 12.3.21 via Teams

#### **Present:**

Lucy Reid	Health Board Vice Chair (Chair)
Cheryl Carlisle	Independent Member (IM)
Eifion Jones	Independent Member

#### **In Attendance:**

Frank Brown	Associate Hospital Manager (AHM)
Michelle Denwood	Associate Director of Safeguarding
Jody Evans	Secretariat
Simon Evans-Evans	Interim Director of Governance {part meeting}
Gill Harris	Deputy Chief Executive Officer/Executive Director Nursing and Midwifery {part meeting}
Heulwen Hughes	All Wales Approval Manager for Approved Clinicians & Section 12(2) Doctors
Sanjay Ingley	Consultant Psychiatrist, Mental Health & Learning Disabilities (MHLD) {part meeting}
Matthew Joyes	Acting Associate Director of Quality Assurance & Assistant Director of Patient Safety & Experience
Liz Jones	Assistant Director, Corporate Governance
Wendy Lappin	Mental Health Act Manager, MHLD
Hilary Owen	Head of Governance and Compliance, MHLD
Dr Alberto Salmoiraghi	Consultant Psychiatrist/Medical Director, MHLD
Mike Smith	Interim Director of Nursing, MHLD
Dr Ben Thomas	Consultant Nephrologist, Assistant Medical Director - Law and Ethics (representing the Office of the Medical Director)
Iain Wilkie	Interim Director, MHLD
Marilyn Wells	Head of Nursing – East Area for Child and Adolescent Mental Health Services, Neuro-developmental and Learning Disability Services {part meeting}

AGENDA ITEM DISCUSSED	ACTION BY
<p><b>MHAC21.1 Welcome, opening remarks and apologies</b></p> <p><b>MHAC21.2</b> The Chair welcomed everyone to the meeting and confirmed that apologies had been received from Jo Whitehead, Chief Executive Officer, Teresa Owen, Executive Director of Public Health, Chris Stockport, Executive Director Primary &amp; Community Care, and Rachel Turner, Ward Manager - RCN Steward, Adult Mental Health &amp; Social Care.</p>	

<p><b>MHAC21.3</b> – The Chair expressed her sincere condolences on the sad passing of Mr Christopher Pearson, Deprivation of Liberty Safeguards Manager/Safeguarding Specialist Practitioner. The Associate Director of Safeguarding also expressed her condolences and paid tribute to Mr Pearson. It was confirmed that the Health Board had been fully engaged with the family.</p>	
<p><b>MHAC21/2 Declarations of Interest</b></p> <p><b>MHAC21/2.1</b> None noted.</p>	
<p><b>MHAC21/3 Previous minutes of the meeting held on 8.12.20</b></p> <p><b>MHAC21/3.1</b> The minutes were confirmed as an accurate record of the previous meeting.</p>	
<p><b>MHAC21.4 Matters arising and Review of Summary Action Log</b></p> <p><b>MHAC21/4.1</b> The summary action log was reviewed and updated accordingly.</p> <p><b>MHAC21/4.2</b> The Chair had invited the Interim Director of Governance to provide a verbal update on the BCUHB Committee Governance Review. The update had been requested in response to various items on the summary action log.</p> <p><b>MHAC21/4.3</b> The Interim Director of Governance provided the verbal update and informed the Committee of the rationale behind the review and of the proposed reconfiguration of the Power of Discharge Sub-Committee (PoD) and MHAC. It was envisaged that the PoD Sub Committee would be renamed the PoD Group, and that the MHAC would be renamed the Mental Health Act Compliance Committee (MHACC). It was confirmed that the MHACC would continue as a standalone Committee, focusing on mental health compliance with legislation, mainstreamed to quality. A discussion ensued in relation to the dedicated focus of both meetings which included compliance, scrutiny and of the formal status' linked to streamlining of the data, which had been presented on both meeting agendas.</p> <p><b>MHAC21/4.4</b> Committee Members and Attendees confirmed their agreeance with the proposals. The Chair thanked the Interim Director of Governance for the update.</p> <p><i>The Interim Director of Governance left the meeting at 10:44am.</i></p>	
<p><b>MHAC21/5 Draft minutes of the Power of Discharge Sub-Committee meeting held on 8.12.20 and verbal update from the earlier meeting</b></p> <p><b>MHAC21/5.1</b> The Mental Health Act Manager presented a verbal account of relevant feedback from the Sub-Committee meeting, held earlier that day.</p>	
<p><b>MHAC21/6 Items circulated since the previous meeting</b></p>	

<ul style="list-style-type: none"> <li>Detail (<i>via email</i>) circulated to members only on the 1/3/21 with regards to: - Devon Partnership NHS Trust v Secretary of State for Health and Social Care [2021] EWHC 101 (Admin).</li> </ul> <p><i>Sanjay Ingley, Consultant Psychiatrist, MHL D and Marilyn Wells, Head of Nursing – East Area for Child and Adolescent Mental Health Services, Neuro-developmental and Learning Disability Services joined the meeting at approx.11:00am.</i></p>	
<p><b>FOR DISCUSSION</b></p>	
<p><b>MHAC21/7 Patient Story</b></p> <p><b>MHAC21/7.1</b> The Director of Nursing, MHL D (Interim) presented the patient story relating to a patient who had attended the Emergency Department (ED) in crisis. The patient's experience of the support provided on assessment and admission and the post discharge support was acknowledged.</p> <p><b>MHAC21/7.2</b> A member sought assurance on how well the staff coped with the situation and confirmed his support for the proposed actions listed in the report. The Chair acknowledged there were a number of positive aspects to the patient's experience but that the report clearly highlighted gaps in the system. The patient had waited a long time in ED before the psychiatric liaison officer had attended which could have resulted in the patient leaving before receiving help. The Chair emphasised the need for a Crisis Pathway. A discussion ensued regarding reliance upon the 3<sup>rd</sup> sector in respect of patients unknown to MHL D services. It was noted that MHL D colleagues were aware of the models of care available and that they envisaged that they be incorporated as part of the redevelopment of the Ablett Unit. It was confirmed that the team had met with the Delivery Unit and discussions had taken place in relation to the Crisis Pathway. An independent member also informed the Committee about the Vulnerable Persons Service within the Borough of Conwy. The MHL D Medical Director stated that the team had been developing a single model in relation to crisis response in the Wrexham area and that links were being made to the MHL D strategy.</p> <p><b>MHAC21/7.3</b> It was agreed that follow-up actions in relation to all patient stories received by the Committee would be reported back at the year end to provide assurance that lessons learnt had been implemented and embedded. (Secretariat to add to the Cycle of Business.)</p> <p><b>MHAC21/7.4</b> The Director of Nursing, MHL D (Interim) agreed to produce an action log to track patient stories and he would provide feedback directly to members regarding progress against the actions.</p> <p><b>MHAC21/7.5</b> The Committee noted the patient story and the lessons learnt.</p>	<p>JE</p> <p>MS</p>

<p><b>MHAC21/8 Update on the approval functions of Approved Clinicians and Section 12(2) Doctors in Wales</b></p> <p><b>MHAC21/8.1</b> The All Wales Approval Manager for Approved Clinicians and Section 12(2) Doctors presented the report and the Committee was asked to note the governance arrangements, processes and activities in place that underpin the approval and re-approval of Approved Clinicians and Section 12(2) Doctors in Wales.</p> <p><b>MHAC21/8.2</b> The Chair commented upon the increase in uptake of approvals training and further queried how the Health Board advertise this. The All Wales Manager gave an overview of the process to date and clarified that information had been sent to the Lead Director of MHL D confirming how the training was advertised and how often training takes place.</p> <p><b>MHAC21/8.3</b> A further discussion took place regarding awareness of recruitment opportunities relating to the role of an approved clinician. It was noted that some staff groups were not aware of the opportunities available to them. Following discussion, it was confirmed that the process of raising awareness would be further explored within the Task and Finish Group, in order to incorporate all relevant staff groups.</p> <p><b>MHAC21/8.4</b> The Committee noted the report for information.</p>	<p>Task &amp; Finish Group Agenda item (AS)</p>
<p><b>MHAC 21/9 Update on Section 12 (2) Recruitment – update with regards to the current situation.</b></p> <p><b>MHAC 21/9.1</b> The Medical Director of MHL D presented the update. It was reported that Leads within the MHL D Division had met and that due to the interdependencies with other divisions and corporate functions, it was agreed to form a Task and Finish (T&amp;F) Group (led by the Executive Director of Public Health), to write a detailed proposal. It was further noted that the proposal would be submitted to an Executive Team meeting in due course.</p> <p><b>MHAC 21/9.2</b> An Independent Member confirmed his support and noted the importance of the matters raised. The Medical Director stated that the report would be ready for submission to the next Committee meeting in June and stated that he would inform the Chair of any delays along the way. It was also confirmed that the Executive Director of Primary and Community Care would participate in the Task and Finish group.</p> <p><b>MHAC 21/9.3</b> The Committee noted the report and progress to date.</p>	<p>Task &amp; Finish Group (AS)</p> <p>June agenda item</p>
<p><b>MHAC21/10 Mental Health Act Performance Report</b></p> <p><b>MHAC21/10.1</b> The Mental Health Act (MHA) Manager presented the report. The MHA Manager explained that the data included compliance with the Mental Health Act requirements within the division for the period from November to January 2021.</p>	

**MHAC21/10.2** The MHA Manager stated that on page 3 of the foreword section contained an additional caveat (as previously requested), in order to highlight that during the Covid-19 pandemic, the service followed the different pathway with Ablett being the admissions unit prior to transfer. It was confirmed that exceptions were documented as requested.

**MHAC21/10.3** The MHA Manager informed the Committee of the highlights on page 6 in relation to section 5.4s reported and confirmed that the highlighted areas all related to the same patient. The Committee noted that in instances where sections related to the same patient, they had been fully monitored throughout. Reference was made to section 4 delays relating to availability of second doctors. It was noted that the delays had been on a Friday evening. It was confirmed that there had been one exception reported within the period and that the lapse had been reported via Datix. The MHA Manager confirmed that she would provide an update on the outcome and share with members. Legal aspects of transfers were also raised and bed availability in relation to the Central and East was noted. It was confirmed that the issues had been reported to the Clinical Site Manager. It was also noted that there had not been any exceptions relating to Section 3's and that there were four under 18s made subject to a section 3; two had been in the general hospital prior to transfer to an age-appropriate bed.

WL

**MHAC21/10.4** The number of patients subject to Community Treatment Orders (CTO) was also confirmed within the report and it was noted that there had been an increase in the number of patients subject to a CTO for each area. It was confirmed that there were no exceptions to report. It was noted that information was shared with Approved Mental Health Practitioner colleagues and local authorities regarding CTOs out of hours, in order to improve the good governance and working links.

**MHAC21/10.5** Rectifiable errors had been noted within the report, which demonstrated that 13% of the total detentions involved errors compared to 28% last quarter. It was confirmed that the improvement had continued quarter upon quarter. It was reported that any section lapse detailed within the report had been reported and investigated via Datix. It was confirmed that within the period there had been 3 lapsed sections: - 1 x section 2 and 2 x section 136s. It was stated that, on a positive note, the Criminal Justice Liaison Service had been actively involved in assisting the police and signposting people in crisis, rather than the police using the S136 powers.

**MHAC21/10.6** Data in relation to Child and Adolescent Mental Health Services (CAMHS) had also been reviewed, and it was confirmed that all data was now captured by age, doctor, and by the level of monitoring.

**MHAC21/10.7** Forensic transfers were also commented upon in relation to the high number of internal transfers, due to the admissions process pathway. It was confirmed that detainees within independent hospitals had reduced. It was confirmed that there were 79 individuals in independent hospitals, with 40 being outside Wales. The Medical Director of MHLD commented in relation to secure care and benchmarking of data; it was noted that the trend in England had slightly increased and that within BCUHB there had been a slight decrease. It was also

<p>stated that Welsh Government and the national collaboration teams had completed the second report with regard to forensics and they had been working through to address issues relating to forensic care in a systematic manner, along with the crisis concordat which would be dealt via the forensic route.</p> <p><b>MHAC21/10.8</b> The Associate Director of Safeguarding confirmed that she was interested in the identification of key themes and trends. It was confirmed that a listing would be shared at a later date, in order to triangulate ways of working which could be linked together as regards to administration errors. A further discussion took place regarding key omissions out of hours. It was confirmed that the differences between rectifiable errors and validations/non validations are mostly always picked up and that the bigger concerns were any non-rectifiable errors which led to re-assessment. The robust processes in place were acknowledged along with the need to marry the current reporting data against DoLS data collectively.</p> <p><b>MHAC21/10.9</b> The Chair observed that on page 9, some detail appeared to have been cut off mid-sentence. It was stated that the most up to date report had been submitted to the committee. The Chair requested that the issue be reviewed and that the most up to date and correct version be circulated immediately following the meeting. The Chair also asked that the Office of the Board Secretary to investigate why the incorrect report had been published.</p> <p><b>MHAC21/10.10</b> The Committee noted the report.</p>	<p>WL</p> <p>WL LJ</p>
<p><b>MHAC20/11 Healthcare Inspectorate Wales (HIW) Monitoring Report</b></p> <p><b>MHAC20/11.1</b> The MHA Manager provided an update regarding the inspections conducted by Healthcare Inspectorate Wales (HIW) which covered a 12 month period. It was confirmed that new and updated inspections had been included against the action plans covered within the HIW report and it was clarified that the findings were detailed within the appendices.</p> <p><b>MHAC20/11.2</b> The new inspection overview relating to the Ablett Unit was provided along with the Quality Inspection Summary listed as Appendix 2. The Interim Divisional Director for MHL D confirmed that there had been no required improvements identified in relation to the Mental Health Act.</p> <p><b>MHAC20/11.3</b> A general discussion on the inspections ensued with reference to occasions where patients had been admitted to a 136 suite due to lack of beds. It was confirmed that the admissions had been valid and that the planned discharges took place the following day. It was confirmed that any such occurrences had been Datixed accordingly and reviewed.</p> <p><b>MHAC20/11.4</b> Discussion also ensued with regard to the MHL D Bed Escalation Policy and concerns were raised regarding the expired review date and the meeting cancellation relating to the ratification of the policy. It was stressed that policies continue to be reviewed and updated as and when scheduled, and that the governance arrangements are clear. It was confirmed that there was a meeting scheduled for the 29<sup>th</sup> April, in order to ensure that any policies for ratification are</p>	

<p>taken through the due process. A further discussion took place regarding ratification of policies. The Acting Associate Director of Quality Assurance &amp; Assistant Director of Patient Safety &amp; Experience confirmed that he would investigate and feed back to the team in relation to the processes. It was further noted that there was currently no document management system in place at present, and a system with automated workflows was in the pipeline. The Chair highlighted the importance of policies being formally ratified and that using policies still in draft was not legally defensible.</p> <p><b>MHAC20/11.5</b> The Chair noted that the Quality Inspection Summary Report for the Ablett Unit made reference to up to date Infection Prevention Control and Covid-19 specific policies and that this would be referred to the QSE Committee as it was not within the terms of reference of the MHAC.</p> <p><b>MHAC20/11.6</b> The Committee noted the report.</p>	<p>MJ</p> <p>QSE / Chair</p>
<p><b>MHAC21/12 Hospital Manager's Update Report</b></p> <p><b>MHAC21/12.1</b> The MHA Manager provided a verbal summary update, based on feedback from the earlier PoD Sub-Committee meeting regarding the activities of the Associate Hospital Managers during the quarter November to January 2021. The verbal update included details in relation to hearings, scrutiny, training, recruitment, forums and key performance indicators.</p> <p><b>MHAC20/12.2</b> The Committee noted the verbal update.</p>	
<p><b>MHAC21/13 Draft Committee Annual Report 2020/21, which also incorporated the Draft Cycle of Business 2021/22 and current Terms of Reference</b></p> <p><b>MHAC21/13.1</b> The Acting Associate Director of Quality Assurance &amp; Assistant Director of Patient Safety &amp; Experience Committee presented the draft report for 2020/21.</p> <p><b>MHAC21/13.2</b> It was confirmed that the draft report had been reviewed by the Chair, Lead Executive Director and the Lead Director of MHL D. The Committee acknowledged the status and content. It was agreed for clinical audits to be presented to future Committee meetings. It was agreed for the Medical Director MHL D and the Acting Associate Director of Quality Assurance &amp; Assistant Director of Patient Safety &amp; Experience to discuss outside the Committee, in order to pick up and create the relevant links alongside the Governance Review. It was agreed that Chair's Action be used to approve the final Committee Annual Report for submission to the Audit Committee meeting on 25th May.</p> <p><b>MHAC21/13.3</b> The Committee agreed to approve the draft report to provide the Chair's action as required.</p>	<p>MHACC to receive Clinical Audits</p> <p>AS/MJ</p> <p>Chairs Action</p>

<b>CLOSING BUSINESS</b>	
<b>MHAC21/14 Any other business</b>  <b>MHAC21/14.1</b> The Head of Governance and Compliance informed the Committee of the White Paper titled “Reforming the Mental Health Act” which had been published by the UK Government for consultation, following the independent review undertaken in 2018. It was reported to the Committee that the consultation feedback would be included on the June MHACC Agenda. The Secretariat agreed to add the item to the cycle of business.	HO JE
<b>MHAC20/15 Issues of significance to inform the Chair's assurance report</b>  <b>MHAC20/15.1</b> To be agreed by the Chair.	
<b>MHAC20/16 Date of next meeting:</b> 25 <sup>th</sup> June 2021.	

BCUHB MENTAL HEALTH ACT COMMITTEE Summary Action Plan – Live Document – last updated 18/06/2021 16:52				
Officer	Minute Reference and Action Agreed	Original Timescale	Latest Update Position	Revised Timescale
<b>27<sup>th</sup> September 2019</b>				
JE  SEE / IW  SEE	<b>MHAC19.51 – Membership and Terms of Reference</b> <b>MHAC19.51.1</b> – JE agreed to re-issue expressions of interest communication via email to replace the Associate Hospital Manager upon the Committee.	December 2020	<b>Update 27.5.2021:</b> Conclusion of Governance Review to be reported to the July 2021 Board Meeting. Revised Terms of Reference will be issued as part of that reporting process.	Action to be closed.
<b>20<sup>th</sup> December 2019</b>				
SEE/MJ  SEE	<b>MHAC19/63.5</b> Corporate Governance Officer to liaise with the Acting Board Secretary to establish opportunities to streamline the agendas of the Committees.	March 2020	<b>Update 27.5.2021:</b> Addressed as part of the Governance Review which will be reported to the July 2021 Board Meeting.	Action to be closed.
AS	<b>MHAC19.66.2</b> Briefing note on recruitment and medical staffing vacancies would be provided by the Medical Director to the next PoD Sub Committee.	March	<b>Update 27.5.2021:</b> Listed on the Agenda for June 2021 Meeting.	Action to be closed.
<b>19<sup>th</sup> October 2020</b>				
RJ/SR	<b>MHAC20/6.3 Patient Story</b> - It was agreed for the Clinical Justice Liaison Nurse to liaise with the Consultant Nurse for CAMHS to link in at locality meetings.	December 2020	<b>Update as at 8.12.2020</b> – Update at the meeting not received. AC agreed to contact RJ and SR for updates.  <b>Update as at 8.12.2020 following the MHAC</b> - RJ confirmed that an invite would be received to attend the appropriate Clinical Advisory Group to update in	

<p>RJ/SR MS</p> <p>IW/GH/ CAMHS lead to be confirmed please)</p>			<p>regard to the service provision within CJLS. The possibility of bespoke training has been discussed with regards to the CJLS practitioners to assist police in interactions with children and young people in mental distress.</p> <p><b>Update also received as at 9.12.2020</b> - SR confirmed that there is now a plan to take forwards the relationship between the CJLS within the police headquarters and CAMHS.</p> <p><b>Update as at 12.3.2021</b> – It was agreed to keep the item open.</p> <ul style="list-style-type: none"> <li>• It was agreed that further clarification is required in relation to the joint working.</li> <li>• MS confirmed that the Health Board do have a transition policy. MS agreed to forward the policy to Independent Member CC).</li> <li>• It was agreed for a briefing paper to be produced to demonstrate the progress on transitions and how sections are supported. (IW, GH and CAMHS Leads to produce the joint paper).</li> </ul> <p><b>Update as at 27.5.2021</b> – Agenda item on CJLS listed for June 2021 Meeting.</p>	<p><b>Action to be closed.</b></p>
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March 2021 - The following actions are taken from the Draft Minutes				
MS – to report back to MHACC  JE – add to COB	<b>MHAC21/7.3</b> Follow-up actions in relation to all patient stories received by the Committee would be reported back at the year end to provide assurance that lessons learnt had been implemented and embedded. (Secretariat to add to the Cycle of Business.)	March – 2022	Update as at 27.5.2021 – Added to Cycle of Business.	Action to be closed.
MS	<b>MHAC21/7.4</b> The Director of Nursing, MHL D (Interim) agreed to produce an action log to track patient stories and he would provide feedback directly to members regarding progress against the actions.	Ongoing	<p>The MHAC has instructed that Patient stories if presented, will have had prior scrutiny and organisational learning when they then present to the MHAC. Patient stories are presented to the Patient Carer Experience subgroup of the divisional QSE, now following the BCUHB approach. In the response to the internal audit report on governance, the governance team reviewed support to all tier 1 and tier 2 meetings in the division. A named lead from the BCUHB corporate governance team has been allocated to support the Patient and Carer Experience meeting (a Tier 2 subcommittee of the divisional QSE committee) from May 2020 who will support the governance of the group. The MHL D Director of Nursing proposes to the MHAC that:-</p> <ul style="list-style-type: none"> <li>-Actions arising from stories presented and discussed (if any) are to be logged in the PCE sub group and presented with the story if it is subsequently presented to the MHAC (or any other governance groups of the board).</li> <li>-The MHAC may properly scrutinize the actions after considering the story and add to them any further learning and the log will facilitate this.</li> <li>-The MHL D Director of Nursing will report progress of completion of any actions in the log to the PCE subgroup, where the actions will be tracked. This log may be submitted where appropriate to the subsequent</li> </ul>	

			committees and the MHL D Divisional Director of Nursing may directly provide feedback to MHAC members if required in a timely manner upon progress. This will allow more robust governance and reflect the BCUHB corporate approach around the presentation of patient stories to the MHAC committee and to assure completion and record of any actions that may be generated from the organisational learning from these stories.	
Task & Finish Group Agenda item (AS)	<p><b>Update on the approval functions of Approved Clinicians and Section 12(2) Doctors in Wales</b></p> <p><b>MHAC21/8.3</b> Discussions took place regarding awareness of recruitment opportunities relating to the role of an approved clinician. It was noted that some staff groups were not aware of the opportunities available to them. Following discussion, it was confirmed that the process of raising awareness would be further explored within the Task and Finish Group, in order to incorporate all relevant staff groups.</p>	April 2021	Paper on June 2021 agenda	

Task & Finish Group (AS)  June agenda item	<b>Update on Section 12 (2) Recruitment – update with regards to the current situation.</b>  <b>MHAC 21/9.2</b> The Medical Director stated that the report would be ready for submission to the next Committee meeting in June and stated that he would inform the Chair of any delays along the way.	June 2021	Listed on the June 2021 Agenda.	Action to be closed.
WL	<b>MHAC21/10.3</b> It was confirmed that there had been one exception reported within the period and that the lapse had been reported via Datix. The MHA Manager confirmed that she would provide an update on the outcome and share with members.	April 2021	Update as at 14.6.21 – The update had been shared with the members.	Action to be closed.
WL	<b>MHAC21/10.8</b> The Associate Director of Safeguarding confirmed that she was interested in the identification of key themes and trends. It was confirmed that a listing would be shared at a later date, in order to triangulate ways of working which could be linked together as regards to administration errors.	June 2021	Update as at 14.6.21 – WL will do a review of all papers in July to pull together the information and will then link in with Safeguarding.	

WL LJ	<b>Mental Health Act Performance Report</b>  <b>MHAC21/10.9</b> The Chair observed that on page 9, some detail appeared to have been cut off mid-sentence. It was stated that the most up to date report had been submitted to the committee. The Chair requested that the issue be reviewed and that the most up to date and correct version be circulated immediately following the meeting. The Chair also asked that the Office of the Board Secretary to investigate why the incorrect report had been published.	12 <sup>th</sup> March 2021	Update 12.3.21 – Incorrect version submitted to the Office of the Board Secretary. WL provided updated version which was circulated on 12.3.21.	Action to be closed.
MJ	<b>MHAC20/11.4</b> Discussions took place regarding ratification of policies. The Acting Associate Director of Quality Assurance & Assistant Director of Patient Safety & Experience confirmed that he would investigate and feed back to the team in relation to the processes. It was further noted that there was currently no document management system in place at present, and a system with automated workflows was in the pipeline.	April 2021	Update 25.05.21 – The Clinical Policy Group is now in place and scrutinizing all policies and procedures prior to submission to executive or committee level. A policy management system is being explored. It has been agreed that policies related to MHA compliance should be approved at the MHA Committee (subject to wider findings on policy process as part of the governance review). The Head of Governance for MHLD is a member of the policy group to ensure alignment.	Action to be closed.

Chair of QSE	<b>MHAC20/11.5</b> The Chair noted that the Quality Inspection Summary Report for the Ablett Unit made reference to up to date Infection Prevention Control and Covid-19 specific policies and that this would be referred to the QSE Committee as it was not within the terms of reference of the MHAC.	March 2021 item referral	Update 26.4.21 - Item communicated to QSE Committee Secretariat.	Action to be closed.
MHACC to receive Clinical Audits  AS/MJ	<b>Draft Committee Annual Report 2020/21</b> <b>MHAC21/13.2</b> The Committee acknowledged the status and content. It was agreed for clinical audits to be presented to future Committee meetings. It was agreed for the Medical Director MHL D and the Acting Associate Director of Quality Assurance & Assistant Director of Patient Safety & Experience to discuss outside the Committee, in order to pick up and create the relevant links alongside the Governance Review.	April 2021	Update 25.5.21 – Suggested area for audit have been shared with the Medical Director for MHL D.	Action to be closed.
Chairs Action	It was agreed that Chair's Action be used to approve the final Committee Annual Report for submission to the Audit Committee meeting on 25th May.	May 2021	Update 25.5.21 - Item Submitted to the Audit Workshop.	Action to be closed.

HO	<b>MHAC21/14.1</b> The Head of Governance and Compliance informed the Committee of the White Paper titled “Reforming the Mental Health Act” which had been published by the UK Government for consultation, following the independent review undertaken in 2018. It was reported to the Committee that the consultation feedback would be included on the June MHACC Agenda.	June 2021	Agenda Item – June 2021.	Action to be closed.
JE	The Secretariat agreed to add the item to the cycle of business.			



## Power of Discharge (PoD) Sub-Committee

### **DRAFT** Minutes of the Meeting Held on 12.03.2021 via Teams

#### **Present:**

Lucy Reid	Vice Chair (Chair)
Cheryl Carlisle	Independent Member (IM)
Eifion Jones	Independent Member

Diane Arbabi	Associate Hospital Manager (AHM)
Shirley Davies	Associate Hospital Manager
Jackie Parry	Associate Hospital Manager
Satya Schofield	Associate Hospital Manager
Helena Thomas	Associate Hospital Manager
John Williams	Associate Hospital Manager

#### **In Attendance:**

Jody Evans	Secretariat, Corporate Governance Officer
Simon Evans-Evans	Interim Director of Governance
Liz Jones	Assistant Director, Corporate Office
Matthew Joyes	Acting Associate Director of Quality Assurance & Assistant Director of Patient Safety And Experience
Wendy Lappin	Mental Health Act Manager, Mental Health & Learning Disabilities (MHLD)
Hilary Owen	Head of Governance & Compliance, MHLD
Mike Smith	Interim Director of Nursing, MHLD
Iain Wilkie	Interim Director, MHLD

AGENDA ITEM DISCUSSED	ACTION BY
<p><b>POD21/1 Welcome and apologies</b></p> <p><b>POD21/1.1</b> The Chair welcomed everyone to the meeting and explained the virtual meeting etiquette standards to those present.</p> <p><b>POD21/1.2</b> The Chair confirmed apologies had been received from Jo Whitehead, Chief Executive Officer, Teresa Owen, Executive Director of Public Health, Frank Brown, AHM and Hugh Jones, AHM.</p>	
<p><b>POD21/2 Declaration of Interests</b></p> <p>None received.</p>	
<p><b>POD21/3 Previous minutes of the meeting held on 8<sup>th</sup> December 2021 and matters arising</b></p>	

<p><b>POD21/3.1</b> The minutes were approved as an accurate record.</p>	
<p><b>POD21/4 PoD Sub-Committee Matters arising and Review of Summary Action Log</b></p> <p><b>POD21/4.1</b> The action log was reviewed and updates were provided.</p> <p><b>POD21/4.2</b> The Chair had invited the Interim Director of Governance to provide a verbal update regarding the recent BCUHB Committee Governance Review. The update had been requested in response to various items on the summary action log.</p> <p><b>POD21/4.2.1</b> The Interim Director provided an overview of the Committee restructuring plan and of the proposed transformation across the Health Board. The Interim Director then outlined the proposed reconfiguration of the POD Sub-Committee and of the Mental Health Act Committee (MHAC). It was proposed following the Governance Review that the PoD Sub-Committee be renamed the “PoD <b>Group</b>”, and the MHAC be renamed the “Mental Health Act &amp; <b>Compliance</b> Committee” (MHACC). The Sub-Committee was also informed of the proposed focus of both meetings, which included compliance, scrutiny and the streamlining of the respective agendas. It was also proposed that AHM representatives would continue to be included within the MHACC membership. The Chair thanked the Interim Director for the update and discussion ensued regarding the MHL D Divisional Quality Safety Experience meeting agendas and the clear requirement for an overall compliance committee within the Health Board.</p> <p><b>POD21/4.2.2</b> The Sub-Committee supported the proposed changes and it was agreed that the newly formed POD Group should meet in private and then provide minutes of the meetings and significant issues to the MHACC.</p>	
<p><b>FOR DISCUSSION</b></p>	
<p><b>POD21/5 Associate Hospital Managers Update Report</b></p> <p><b>POD21/5.1</b> The Mental Health Act (MHA) Manager provided an update on the activities of the AHMs during the quarter November 2020 to January 2021. The update report included details in relation to hearings, scrutiny, training, recruitment, forums and key performance indicators (KPIs) - as referred to within Appendix 1.</p> <p><b>POD20/5.2</b> The MHA Manager explained that all hearings continued and had been held remotely via Microsoft Teams.</p> <p><b>POD20/5.3</b> The breakdown of activity was presented to the Sub-Committee. It was confirmed that since the previous reporting period, seventeen hearings were held during the months of November 2020 – January 2021. It was confirmed that there were no discharges and that all hearings had been section renewals.</p> <p><b>POD20/5.4</b> The Sub-Committee acknowledged the update regarding the positive feedback questionnaires, (in particular with regards to hearings). It was noted that the MHA Manager would in-future incorporate the question of opinion regarding face to face and virtual consultations, once the face to face hearings were reinstated.</p>	

<p><b>POD20/5.5</b> It was confirmed that on-site scrutiny visits continued to be suspended and that the sessions would be reinstated once it was safe for the AHMs to physically attend Health Board units. It was confirmed that all other scrutiny had continued, as per policy for all detentions.</p> <p><b>POD20/5.6</b> It was noted that there were three AHMs not participating, (one had returned to assist the local authority as an AMHP and two preferred not to undertake remote hearings, it was reiterated that the managers would return once face to face hearings resume). It was confirmed that the third All Wales AHM day had been postponed until further notice. It was also reported by the MHA Manager that due to AHMs not attending on site, fire training wasn't being undertaken at present, but was to recommence once the face to face sessions resumed.</p> <p><b>POD20/5.7</b> It was noted that there had been one new AHM member appointed during the period, along with one resignation of a very experienced AHM. The MHA Manager paid tribute to the service of the staff member and confirmed that she will be missed by her colleagues. It was stated that an AHM Forum meeting had successfully taken place in February, virtually via Microsoft Teams.</p> <p><b>POD20/5.8</b> A discussion ensued with regards to future scrutiny sessions being reinstated (once safe to do so), and the Chair flagged the requirement of there being an up to date risk assessment in place, which was noted. It was agreed that views from unit managers would be obtained by the MHA Manager regarding timescales for AHMs returning to conduct scrutiny.</p> <p><b>POD20/5.9</b> Following the report overview the Chair then invited questions from Independent Members and none were received.</p> <p><b>POD20/5.10</b> The Chair expressed her sincere thanks to the MHA Manager and the team for their ongoing commitment, whilst recognising the flexibility and adaptability of the virtual systems in place. The Sub-Committee members also thanked the MHA Manager for the positive report, along with the adaptations and challenges faced.</p> <p><b>POD20/5.11</b> The Sub-Committee noted the report and update.</p>	
<p><b>FOR INFORMATION</b></p> <p><b>POD21/6 Mental Health Act Committee Performance Report</b></p> <p><b>POD21/6.1</b> The MHA Manager presented the performance report and appendices for information, assurance and discussion. It was explained that it also included an update regarding compliance with the Mental Health Act requirements within the Division during the four month period from November 2020 – January 2021.</p> <p><b>POD20/6.2</b> It was confirmed that during the reporting period there had been one section which was deemed 'fundamentally defective' along with three sections which had lapsed. It was noted that they had been reported as exceptions within the report and had been reported within Datix and investigated. It was confirmed that overall, there had been a decrease in the use of all sections.</p>	

<p><b>POD20/6.3</b> It was recognised that rectifiable errors had reduced and 13% of all detentions had required rectifying. Improvements were noted and acknowledged. It was also recognised that there had been a reduction in the number of people detained in independent hospitals in Wales. The total stood at 79 and out of those, 40 had been outside Wales.</p> <p><b>POD20/6.4</b> An AHM queried the information relating to exceptions, which seemed to have lapsed rather than been classed as a discharge. The AHM requested further detail. It was agreed for the MHA Manager to clarify and provide further detail in relation to the investigation. It was further agreed for the information to be shared in-between meetings and logged accordingly. Another AHM queried the data with regards to the fundamentally flawed admission on page 3, regarding the annex and expectations. The MHA Manager provided the overview and stated that due to the pressures of transfer, and the fact that the transfer had taken place over a weekend, it had been raised as an incident on Datix and brought to the attention of the site manager accordingly.</p> <p><b>POD20/6.5</b> The Sub-Committee thanked the MHA Manager for the report which was noted for information. The Chair expressed her thanks for the report and level of scrutiny provided by the AHMs, in order to receive assurance and of actions being taken in relation to sharing of outputs through to the MHAC.</p>	WL
<b>CLOSING BUSINESS</b>	
<b>POD21/7 Issues of Significance to inform the Chair's Report to the Mental Health Act Committee</b> - Nothing to report at present.	
<p><b>POD21/8 Any other business</b></p> <p>Nothing to report.</p>	
<p><b>POD21/9 Date of next meeting</b></p> <p><b>POD10/9.1</b> 25<sup>th</sup> June 2021.</p>	



<b>Cyfarfod a dyddiad:</b> <b>Meeting and date:</b>	<b>Mental Health Act Committee</b> <b>25<sup>th</sup> June 2021</b>						
<b>Cyhoeddus neu Breifat:</b> <b>Public or Private:</b>	Public						
<b>Teitl yr Adroddiad</b> <b>Report Title:</b>	Deprivation of Liberty Safeguards Annual Report (DoLS) 2020-2021						
<b>Cyfarwyddwr Cyfrifol:</b> <b>Responsible Director:</b>	Michelle Denwood, Associate Director of Safeguarding Gill Harris, Executive Director of Nursing and Midwifery						
<b>Awdur yr Adroddiad</b> <b>Report Author:</b>	Chris Walker, Head of Adult Safeguarding (MHLD) supported by Michelle Denwood, Associate Director of Safeguarding						
<b>Craffu blaenorol:</b> <b>Prior Scrutiny:</b>	<p>Due to the alignment of the cycles of business, there has not been the opportunity to take this report through the usual scrutiny process following the Safeguarding Governance and Reporting Framework.</p> <p>Deprivation of Liberty Safeguards is within the portfolio remit of the Executive Director of Nursing and Midwifery and has been reviewed by; Michelle Denwood, Associate Director of Safeguarding and Gill Harris, Executive Director of Nursing and Midwifery</p>						
<b>Atodiadau</b> <b>Appendices:</b>	N/A						
<b>Argymhelliad / Recommendation:</b>							
The MHA Committee is asked to accept the Annual Report and identified activity for the period of 2020-2021 and the identified priorities for the period of 2021-2022							
<b>Ticiwch fel bo'n briodol / Please tick as appropriate</b>							
<b>Ar gyfer penderfyniad /cymeradwyaeth For Decision/ Approval</b>		<b>Ar gyfer Trafodaeth For Discussion</b>		<b>Ar gyfer sicrwydd For Assurance</b>		<b>Er gwybodaeth For Information</b>	x
<b>Y/N i ddangos a yw dyletswydd Cydraddoldeb/ SED yn berthnasol</b> <b>Y/N to indicate whether the Equality/SED duty is applicable</b>						No	
<b>Sefyllfa / Situation:</b>							
<p><b>Governance</b> This Deprivation of Liberty Safeguards (DoLS) Annual Report provides an overview of the DoLS activity undertaken by BCUHB during the period of 2020-2021.</p> <p>The activity recorded provides oversight and organisational assurance in relation to BCUHB's statutory duty under DoLS and the Mental Capacity Act (MCA) 2005. The activity includes key actions and activities taken in response to the COVID-19 pandemic to ensure that DoLS/MCA, as part of the wider Corporate Safeguarding agenda, remains paramount to service delivery across BCUHB.</p>							

From March 2020, there has been a change in service delivery as a response to the global COVID-19 pandemic. The DoLS/MCA Team has continued to offer full engagement and support to all services across BCUHB during the pandemic.

The increased demand of DoLS applications and the availability to meet that demand within the existing DoLS services provision remains a challenge. The figures alone do not reflect the level of complexity and demand upon the DoLS service. What is evident is that the trend for DoLS applications is an upward trajectory. An increase in the number of Best Interest Assessor's (BIA's), which is now 6, has had little impact upon the applications waiting list, a business case has been developed to strengthen the DoLS/MCA service and provide assurance that all authorisations are completed within the legal timeframe.

Within a mental health unit, a DoLS application would only apply when a patient lacks capacity to consent to their care and treatment where their primary needs are physical as opposed to mental health. The Mental Health Act 1983 Code of Practice for Wales (Revised 2016) states, if a patient lacks capacity to consent to their treatment for their mental disorder and objects to it, the Mental Health Act 1983 is the only option available.

The new Code of Practice for the MCA and Liberty Protection Safeguards (LPS) due to the delayed publication has a revised disseminated date, which is June 2021. Work has commenced to prepare the organisation and key stakeholders of the intended challenges faced as an outcome of the new legislation. It is proposed BCUHB will have in excess of 3000 applications under LPS, this is an additional 1800 applications based upon the current DoLS data. A priority action identified for 2021-22 is to create a Task and Finish Group to support the implementation of the LPS framework across the health board.

Corporate Safeguarding, on behalf of BCUHB, currently attend National working groups in relation to LPS to ensure that BCUHB remain informed of any developments. We have received draft LPS assessment forms from Welsh Government, as well as a summary of the proposed regulations specific to the roles and responsibilities of individuals and organisations under the LPS framework. A review of these documents is underway and further work is to take place during summer 2021.

## **Cefndir / Background:**


### **Performance and Activity**

In 2020-21, the DoLS team received 1162 applications illustrated in Table 1 below. The table evidences the continued increase in DoLS activity.

#### **Completion of Documentation**

Out of the 1162 DoLS applications that have been submitted in 2020-2021, 467 (40%) contained some issues or concerns that resulted in them having to be returned to the Managing Authority (Ward). Failure to complete the forms accurately and appropriately causes an unnecessary delay in the authorisation process and can lead to further challenges by the Court of Protection. This in turn can result in financial damages placed upon BCUHB as well as the possibility of reputational damage and importantly the unlawful detention of patients

Table 1

Year	West	Central	East	England	Other	Applications	
2018-19	89	257	343	55	0	743	
2019-20	177	282	483	72	0	1014	
2020-21	208	322	550	82	0	1162	

## Legal Timescale

The legal timescale for the completion of an Urgent Authorisation is 7 days, or 14 days when an extension by the Managing Authority (Ward) is requested. A Standard Authorisation requires completion within the legal timescale of 21 days. The number of Standard Authorisation requests are minimal, for 2020-2021, this stands at just 22 applications (less than 2%). The rationale for this data is to be included within the audit activity of 2021-2022 as this can lead to the possible unlawful detention of patients.

## Assurance and Mitigation of Risk

The Supervisory Body conducted a number of documentation audits, this activity included the scrutiny of the DoLS documentation completed by the Managing Authority. The results highlighted themes and trends within the applications as show in Table 2.

Table 2

2020-21	Issue Identified	% of Issues
Incomplete patient details (cannot accept)	4	1%
Missing details regarding communication and medical information	138	30%
Incomplete MA details	7	1%
Section details missing (MHA only)	15	3%
Urgent Authorisation not completed	47	10%
Urgent Authorisation also completed (MHA only)	3	1%
No Care and Treatment Plan (CTP) (MHA only)	33	7%
No Consultant name (MHA only)	25	5%
No Capacity Form	254	54%
Capacity Form - issue: poor or wrong decision	140	30%
Q10 or Q12 not completed correctly	97	21%

The main themes are recorded as;

- No inclusion of the Mental Capacity assessment form.
- Mental Capacity assessments completed incorrectly or relates to the wrong decision.
- Missing details regarding communication (language, format) and medical information.
- The DoLS application documentation was not completed correctly, not signed, not dated, not dated correctly, completed by a Doctor and not the Managing Authority

To mitigate risk and obtain assurance, additional and bespoke training programmes are available to facilitate learning for clinical staff at band 5 and above or if additional learning is required.

DoLS applications are prioritised according to the risks and urgency identified within the application and the accompanying documentation (Capacity Assessment, Care Plan or Specialist Nursing Assessment) which will be determined at the scrutiny stage when first received by the DoLS Team recognising;

- Whether the patient objects to the restrictions in place.
- What level of restrictions are in place including 1:1 nursing, sedating medication, physical restraint or other.
- Whether the patient is in an acute or Mental Health Unit and the level of supervision needs to be greater.

- Whether the patient is already subject to an existing DoLS authorisation, which is going to expire.
- Whether there is a Court of Protection appeal or an existing Court Order in place.

## Training

Safeguarding training compliance is a key target for Corporate Safeguarding. A reduction in compliance was reported during 2020-21, see Table 3 below. A revised virtual training program to encourage ongoing training during the Covid period was in place.

Table 3

Safeguarding Module	May 2020	October 2020	Trajectory
MCA – Level 1	85.3%	76.7%	↓
MCA – Level 2	86.0%	79.2%	↓

In 2020-21, a YouTube ‘voice-over’ presentation was developed to support the delivery of accessible training and staff can access this from the safeguarding web page. This includes learning-set assessments, accessed by managers of staff using the e learning module to ensure compliance with the learning objectives. Although the learning-set assessments achieved the mandatory requirements for training, it was not possible to collate this data directly through the BCUHB ESR however, this is to be in place during 2021-2022 and it will support and improve the recorded compliance data.

The DoLS Team have developed MCA/DoLS booklets to support staff who are unable to access IT equipment or attend online training. The booklets ensure all staff complete essential mandatory training to improve awareness and processes compliance. Although already in circulation, a further drive is in place to promote the booklets during 2021-2022.

## DoLS Internal Audit

The DoLS Internal Audit provided positive feedback regarding the improvements and the strategic direction of the service since 2018. However, the outcome was reported as, Limited Assurance, which was directed to areas of improvement required by the Managing Authority (Wards). All of the recommendations have been actioned, however additional resource is required to provide ongoing assurance and to ensure BCUHB is able to implement the Liberty Protection Safeguards (LPS).

A Safeguarding Business Case is developed, this considers the audit findings, training needs analysis, the HASCAS/DO report recommendations and the current and future service demands, and the Boards BCUHB Executive Team will consider it.

## Deprivation of Liberty (DoL) 16/17 year old

In 2019, case law *Trust A v X and A Local Authority [2015] (Re D (A child; deprivation of liberty))* EWHC 922 (FAM) was introduced to support 16 and 17 year olds who are deemed to lack capacity to consent to their hospital accommodation and care and treatment. This new legislation has had an impact upon the number of cases reported to the Court of Protection (CoP), resulting in increased legal costs and the potential for the unlawful detention of a young person.

Under Liberty Protection Safeguards (LPS) 16 and 17 year olds will be subject to the same legal framework as adults. This is included in the work programme of the national working

group. On publication of the LPS Code of Practice, we will be able to agree national pathways, training packages, and identify key areas of development to ensure all staff across BCUHB are prepared for the implementation of LPS for 16 and 17 year olds.

## **Assurance**

To ensure staff have full understanding of this case law, a training package is available and sessions delivered within the Children's Division. A workshop event delivered training to 68 staff, with a focus on discussing complex cases. This enabled staff to embed the new case law into clinical practice by discussing real life cases. Deprivation of Liberty 16/17 year old training is currently available online.

## **Strategy Implications**

### **Liberty Protection Safeguards (LPS)**

The Law relating to the Mental Capacity Act 2005 changed in May 2019 and is the Mental Capacity (Amendment) Act 2019. This new Act will change the Mental Capacity Act Code of Practice and DoLS to create new statutory regulations known as Liberty Protection Safeguards (LPS). A new Code of Practice and regulations to accompany the Act were due to be in place by October 2020 this revised legislation has an expected implementation date of April 2022. The Code of Practice is to be available for consultation in June 2021.

The legislative changes will have significant implications in terms of demand, capacity, training, financial resources and challenges for the Health Board.

Unlike the current DoLS arrangements, where practitioners known as Best Interest Assessors and Mental Health Assessor (S12 (2) Doctors) undertake the assessments, under LPS these assessments will be carried out by those already involved in the person's care. Pre authorisation assessment, it will be completed by the hospital ward staff, therapists, doctors and possibly GPs. This will require substantial education and training to ensure the workforce are competent to complete the required assessments.

The Health Board will be responsible for authorising LPS within additional care settings for which it is commissioning, such as Continuing Healthcare (CHC) funded placements, Domiciliary Care Packages and 16 or 17 year olds in any setting across England and Wales.

BCUHB will also continue to be responsible for authorising LPS for any BCUHB patients in any registered NHS Hospital, Independent Hospital and Hospice across England and Wales. Any patient objecting to an authorised LPS will have the right to be assessed by an Approved Mental Capacity Practitioner (AMCP). This is a new role replacing the current BIA role, which requires a referral to the Court of Protection.

## **Assurance**

Early recommendations taken from the LPS working groups suggest the following all Wales approach to the implementation:

- Mental Capacity Act Training will be considered mandatory for all NHS staff in Wales and contracted services. Training requirements are to be developed on a national footprint and Welsh Government are to be asked to consider what currently exists with the focus on an agreed governance framework to maximise effectiveness and support a competent workforce.
- All Health Boards to have a Mental Capacity Act Lead.

- Additional resources will be required for the transition period and the continuation of implementing LPS. Initial reports from Welsh Government state the 5% of agreed UK Government funding for the implementation of LPS is to be signposted to Wales. The figure is currently unknown.

In addition the NHS Wales Safeguarding Network MCA, DoLS & LPS Task and Finish group will:

- Provide a collaborative response to the LPS Code of Practice consultation (due in June 2021).
- Work with the Welsh Government LPS Implementation Group.
- Provide expert advice to the Once for Wales Concerns Management System in respect of MCA, DoLS & LPS.

BCUHB will have a LPS Implementation Group, which will include strategic and operational membership to ensure the full implementation of the new Mental Capacity (Amendment) Act (2019) and Code of Practice relating to the Liberty Protection Safeguards.

## **Asesu a Dadansoddi / Assessment & Analysis**

### **Learning from Clinical Case Discussions**

#### **DoLS Case Study - Learning from Practice - Patient B**

Patient B, was a 19-year-old service user who was diagnosed with a moderate to severe learning disability and challenging behaviour. Patient B was an inpatient on a general ward and to meet their clinical care requirements they were transferred to a Mental Health Hospital for a further period of clinical assessment. Due to the immediate assessment of the person's mental capacity, his care and treatment was to be provided following the legal framework of a DoLS.

The ward (Managing Authority) applied for an Urgent DoLS on the day of admission. The Urgent application covered an initial period of seven days, with an extended authorised by the Supervisory Body to fourteen days. This provided Patient B with the necessary safeguards and legal framework for the admission and provided Patient B with a route of appeal to the Court of Protection in accordance with *AJ v A Local Authority* [2015] EWCOP.

A Best Interest Assessor (BIA) and Section 12(2) Doctor was appointed, and completed the necessary assessments to confirm the Standard DoLS authorisation within the required fourteen days.

#### **The impact on Patient B and BCUHB:**

Patient B, was lawfully deprived of his liberty, which provided Patient B with a legal framework for the deprivation and a route of appeal to the Court of Protection if required. A capacity assessment, specific to DoLS, was completed and recorded in the patient notes. As part of the DoLS assessment, the BIA reviewed the level of deprivation on the ward to ensure any restrictions and/or restraints were the least restrictive.

By ensuring the DoLS application was completed timely and accurately, it reflected positively upon BCUHB as the Supervisory Body. More importantly, the patient's needs were met they were unharmed by the actions taken, there was no legal challenge, or further directions by the Court of Protection, reducing legal costs and distress experienced by the patient and family.

Learning from this case has been included within MCA/DoLS training packages to inform staff and to emphasise the importance of completing legal documentation correctly and on time.

### **DoLS Case Study - Learning from Practice - Patient D**

Patient D was a 48 year old service user suffering with cognitive impairment. When a capacity assessment was completed, Patient D did not have the capacity to consent to her accommodation, care and treatment whilst in hospital. On receipt of the DoLS, application submitted by the ward (Managing Authority) the DoLS team identified that Patient D had been an inpatient for 8 months. Assessing capacity is both time and decision specific, Patient D's medical notes and the records documented a lack of capacity on admission. The ward stated that they had completed a DoLS application however there was no supporting evidence.

#### **The impact on Patient D and BCUHB:**

It is possible Patient D had been unlawfully deprived of their liberty; their presenting behaviour reinforced active objection to being in hospital. Patient D was not subject to a DoLS and therefore had no route of appeal. Patient D had no representation to support an appeal. Possible and unlawful restrictions may have been in place relating to Patient D's care, treatment and accommodation whilst in hospital, which may have caused unnecessary distress.

### **DoLS Case Study Assessment and Analysis**

Corporate Safeguarding worked in partnership with the clinical teams to ensure that immediate support and learning from practice, specific to the cases of Patient D and Patient B was implemented and included:

- Implementation of the governance process to ensure the recorded receipt of a DoLS Application is recorded within clinical notes and is embedded into practice. This provides assurance for both the Managing Authority and Supervisory Body that the Application has been completed and received.
- MCA/DoLS training has been reviewed it reinforces the role and responsibilities of the Managing Authority (ward) as well as individual professionals involved with any patient who could be subject of the DoLS framework. Increasing the knowledge base of staff supports the process and offers assurance with regard to current practice.
- The Managing Authority are now instructed to ensure a named professional(s) takes the lead, similar to a single point of contact, to provide assurance that the patient who requires a DoLS Application is assessed on admission with the assessment recorded within the patients notes.
- The capacity assessment and DoLS application are to take place on the day of admission with the assessment as an ongoing clinical care activity.
- The Supervisory Body allocates a Best Interest Assessor and Section 12(2) Doctor in a timely manner to ensure the BIA assessments take place, resulting in the DoLS authorisation within the allocated timeframe.

### **Court of Protection**

Additional responsibilities of the Corporate Safeguarding DoLS Team include responding to cases that are referred to the Court of Protection (CoP). These cases are referred through Welsh Legal and Risk Services for the following reasons:

- **Section 21A MCA (2005) Appeal** Patients have a right in law to appeal against that detention 5(4) ECHR).
- **Section 16 MCA (2005):** If there is a need to have a welfare decision relating to the patient who lacks capacity to agree to their care in hospital or discharge elsewhere.

The number of cases referred by the DoLS Team through Welsh Legal and Risk Services has increased significantly from one (1) case in 2018-19 to sixteen (16) cases in 2019-20. Cases may take months for the Court to conclude due to the amount of evidence and complexity with each case resulting in a number of hearings.

During 2020-2021 there were a further eight new (8) cases subject to court hearings. This year we have seen a significant escalation of complexity, which has required intensive Court of Protection activity, which has required multiple attendances on behalf of each case

#### **Opsiynau a ystyriwyd / Options considered**

N/A

#### **Goblygiadau Ariannol / Financial Implications**

All Section 21A applications referred to the Court of Protection incur legal costs. This has resulted in additional cost pressures amounting to £33,862.70 during Q1 and Q2 (awaiting final costs for Q3 and Q4). This does not include the costs incurred by other divisions and teams.

There are recognised financial resource implications due to the need for additional resource due to the demand, complexity and the pending implementation of the revised LPS legislation in 2022. The financial implications and options are within the Corporate Safeguarding Business Case 2021-2022.

#### **Dadansoddiad Risk / Risk Analysis**

##### **Mitigating activities by the Corporate Safeguarding DoLS Team (Supervisory Body)**

The Corporate Safeguarding DoLS Team have developed and implemented a Standard Operating Procedure to provide additional guidance and direction to support the actions required for a DoLS application to be authorised to prevent unlawful deprivation.

There are 55 DoLS Authorisers within BCUHB. This has provided assurance with regard to timescales in the authorisation of a DoLS application once it has progressed through the scrutiny process.

Corporate Safeguarding DoLS Team have delivered bespoke MCA/DoLS training to focus upon the key omissions in the DoLS process by the wards. Specific MCA/DoLS Level 3 mandatory training was implemented during Q1 via e learning and peer led voice-over recordings accessible through the Corporate Safeguarding webpage.

Corporate Safeguarding DoLS Team cross-reference incidents with Datix to target trends, provide individual supervision, and ensure reporting compliance. Work is triangulated with the wider Corporate Safeguarding activity when specific Adult at Risk concerns are raised in relation to individuals who are subject to DoLS. This enables a joint working approach to addressing safeguarding concerns.

The development and implementation of a DoLS COVID 19 flowchart to ensure practice continued during the pandemic was implemented in early 2020-21. This is coordinated within a quality framework and is reviewed and updated regularly; this activity is compliant with guidance published by the Department of Health & Social Care for Hospitals, Care Homes and Supervisory Bodies in England and Wales (2020), Social Care Institute for Excellence (SCIE) website and the Judiciary of England and Wales and from Welsh Legal and Risk Service.

Audit activity to scrutinise completed documentation by the wards (Managing Authority) within all services has been undertaken. The outcome evidences omissions with the documentation as highlighted earlier in this report with actions taken to mitigate future risks and support staff during the application process.

The scrutiny of applications is conducted by the DoLS Team and includes both the DoLS Form 1 and supporting documentation, to ensure evidence is lawful and the individual lacks the capacity to consent to be 'accommodated' in hospital, which is a vital aspect of the patient care pathway.

A 'Sample' Mental Capacity Assessment Form is available and provides enhanced guidance. This best practice guidance is included in all MCA/DoLS training.

The aim of the interventions and scrutiny of applications is to improve compliance across BCUHB and enables direct guidance and support to clinical staff at the time of completion.

DoLS data is analysed and shared within the monthly Locality and Divisional Safeguarding Forums for discussion and further scrutiny.

DoLS is included on the Safeguarding Risk Register and is monitored following the organisations governance arrangements. The Corporate Safeguarding Risk Register records and monitors activity and mitigation to reduce the organisational risks relating to the unlawful detention of service users.

### **Cyfreithiol a Chydymffurfiaeth / Legal and Compliance**

DoLS came into force as an amendment of the Mental Capacity Act (MCA) 2005 and provided a statutory framework for acting and making decisions on behalf of individuals who lack the mental capacity to do so for themselves. 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* looked at the 'threshold' concerning the criteria known as the 'Acid Test' for judging whether the living arrangements made for a mentally incapacitated person amount to a deprivation of liberty.

### **Asesiad Effaith / Impact Assessment**

The full impact of Liberty Protection Safeguards (LPS) on the organisation is currently unknown as we await the Codes of Practice. However, early indication suggests an increase in demand and activity that requires further action and engagement.

The National LPS working groups are supported by the NHS Wales Safeguarding Network, membership includes BCUHB representatives from the Corporate Safeguarding Team.

The National LPS working groups are:

- LPS Workforce and Training Group.

- LPS in relation to 16 and 17 year olds Group.
- LPS Monitoring and Reporting Group.
- LPS Transition Group.
- Welsh Government LPS Strategic Implementation Steering Group.

key priorities identified by the working groups are as follows:

- Funding for the implementation of LPS.
- Funding for an increase in Independent Mental Capacity Advocates, (IMCA)'s.
- Continuing NHS Healthcare planning for LPS.
- DoLS backlogs.
- Once for Wales materials to support the new LPS forms.
- Promoting the MCA ahead of the implementation of LPS and embedding the principles of the MCA across organisations.

Over the next six (6) months further work will be actioned as part of an LPS implementation programme. Co-production and engagement with BCUHB services and divisions will support a smooth transition to LPS and offer assurance that the Health Board are compliant with legislation and process prior to April 1<sup>st</sup> 2022.

### **Priority Activities for 2021-2022**

1. To create a BCUHB LPS Implementation Group, which will include strategic and operational membership to ensure the full implementation of the new Mental Capacity (Amendment) Act (2019) and Code of Practice relating to the Liberty Protection Safeguards.
2. Implementation of the Safeguarding Business Case to support service delivery and provide a 7 day service.
3. Refreshed dissemination to promote the Training MCA/DoLS booklets during 2021-2022.
4. Confirm and engage with the BCUHB Mental Capacity Act Lead.
5. LPS update reports are to be included on the agenda of the MHA Committee as required.



<b>Cyfarfod a dyddiad: Meeting and date:</b>	<b>Mental Health Act Committee 25.06.2021</b>						
<b>Cyhoeddus neu Breifat: Public or Private:</b>	Public						
<b>Teitl yr Adroddiad Report Title:</b>	Mental Health Act Committee Performance Report						
<b>Cyfarwyddwr Cyfrifol: Responsible Director:</b>	Mr Iain Wilkie, Divisional Director of Mental Health and Learning Disabilities (Interim)						
<b>Awdur yr Adroddiad Report Author:</b>	Hilary Owen, Head of Governance Wendy Lappin, Mental Health Act Manager						
<b>Craffu blaenorol: Prior Scrutiny:</b>	Mental Health and Learning Disabilities, Senior Leadership Team Quality Safety and Experience Group 15/06/2021						
<b>Atodiadau Appendices:</b>	Appendix 1 MHA Committee Performance Report February – April 2021 Appendix 2 S136 Divisional Report – May Appendix 3 S136 CAMHS Report – May Appendix 4 S136 Deep Dive						
<b>Argymhelliad / Recommendation:</b>							
The Committee is asked to note the report.							
<b>Ticiwch fel bo'n briodol / Please tick as appropriate</b>							
<b>Ar gyfer penderfyniad /cymeradwyaeth For Decision/ Approval</b>		<b>Ar gyfer Trafodaeth For Discussion</b>	√	<b>Ar gyfer sicrwydd For Assurance</b>	√	<b>Er gwybodaeth For Information</b>	√
<b>Y/N i ddangos a yw dyletswydd Cydraddoldeb/ SED yn berthnasol Y/N to indicate whether the Equality/SED duty is applicable</b>						<b>N</b>	
The report and appendices details the obligations the Health Board has under the Mental Health Act Legislation and reports on the data for each period as a retrospective report. Strategic implications may occur if the legislation was changed.							
<b>Sefyllfa / Situation:</b>							
The Mental Health Act Committee Performance Report provides an update in relation to the Mental Health Act Activity within the division for the detailed period. Additional appendices are included (as determined by the Mental Health Act Committee) when assurance is required for specific use of certain sections under the Mental Health Act.							
It is recognised that during the Covid 19 pandemic the service followed a different pathway for admissions. The Ablett Unit became the admissions unit regardless of the demographics of the patient origin. This has affected admission and transfer statistics from March 2020 to January 2021.							
<b>Cefndir / Background:</b>							
The Health Board has a duty to monitor and report the number of persons placed under a section of the Mental Health Act, and this reporting is undertaken monthly, quarterly and annually. This report is therefore presented as an advisory report to the Mental Health Act Committee. The report							

includes comparison figures for the previous month and quarter to highlight the activity and use of the Mental Health Act sections.

Within the report, the section activity is recorded in table and charts, 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' are recorded as 'Fundamentally Defective'.

Up to date S136 reports are submitted to the Committee.

### **Asesu a Dadansoddi / Assessment & Analysis**

#### **Goblygiadau Strategol / Strategy Implications**

Within the report the section activity is recorded in tables and charts, detailing outcomes and timeframes of the section use for adults and young persons. Forensic data is also included. Additionally 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.

Up to date S136 reports are submitted to the Committee.

#### **Opsiynau a ystyriwyd / Options considered**

Not applicable for this paper.

#### **Goblygiadau Ariannol / Financial Implications**

The rise of Mental Health Act detentions, and also legal advice requirements in general have financial implications.

#### **Dadansoddiad Risk / Risk Analysis**

The Mental Health Act detentions fall into a category of being 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.

Within this reporting period there were no fundamentally defective sections, there have been four sections which lapsed, these are reported as exceptions within the report, all have been datixed.

#### **Cyfreithiol a Chydymffurfiaeth / Legal and Compliance**

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.

#### **Asesiad Effaith / Impact Assessment**

The use of the Mental Health Act Sections apply to all persons. All policies in relation to the use of the Mental Health Act have been equality impact assessed.



GIG  
CYMRU  
NHS  
WALES

Bwrdd Iechyd Prifysgol  
Betsi Cadwaladr  
University Health Board



Mental Health Act Committee  
Performance Report

April 2021

## CONTENTS:

<b>Contents</b>	<b>2</b>	<b>Errors</b>	<b>12</b>
<b>Foreword</b>	<b>3</b>	<b>Section 136 (Adult)</b>	<b>13 - 14</b>
<b>Advisory Reports Definitions</b>	<b>4 - 5</b>	<b>Section 136 (Under 18s)</b>	<b>15 - 16</b>
<b>Section 5(4)</b>	<b>6</b>	<b>Forensic</b>	<b>17</b>
<b>Section 5(2)</b>	<b>7</b>	<b>Transfers</b>	<b>18</b>
<b>Section 4</b>	<b>8</b>	<b>Section 62</b>	<b>19</b>
<b>Section 2</b>	<b>9</b>		
<b>Section 3</b>	<b>10</b>		
<b>Section 17</b>	<b>11</b>		

## Report to Mental Health Act Committee Additional Appendices will be included as requested.

This report provides assurance to the Mental Health Act Committee of our compliance against key sections of the legislative requirements of the Mental Health Act 1983 as amended 2007.

## Seven Domains

We present performance to the committee using the 7 domain framework against which NHS Wales is measured. This report is consistent with the 7 domain performance reporting for our Finance and Performance Committee and Quality, Safety and Experience Committee. The Mental Health Act Committee are responsible for scrutinising the performance for Mental Health indicators under Timely Care and Individual Care.

It is recognised that during the Covid 19 pandemic the service followed a different pathway with Ablett being the admissions unit prior to transfer regardless of the demographics a person hails from this affects admission and transfer statistics from March 2020 to January 2021.

## Advisory Reports & Exception reports

Each report for the Mental Health Act will be presented as an advisory report.

Exceptions are noted throughout the report within this period four sections lapsed: 1 x S5(4) - no clear documentation as to when the section was discharged following a decision to follow a previous management plan, 1 x S2 (INC258446) - the RC was off sick there was a failure to escalate over the weekend, 1 x CTO (INC261752) - RC failed to complete paperwork to renew in time and 1 x S136 (INC260134) due to an admission to the Intensive Care Unit and not being unfit for assessment.

There are no fundamentally defective sections to report.



**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 his health and safety or for the protection of others for him 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)

**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 of 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

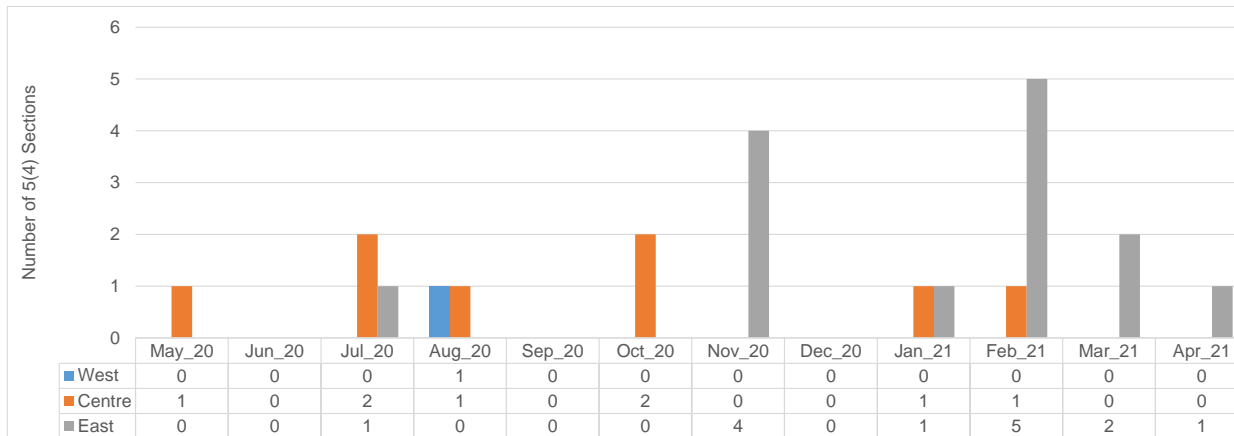
**Section 62:** Emergency Treatment of a detained patient regardless of section status

**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	Latest Month	Previous Month	Monthly Trend	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
Section 5: Application in respect of patients already in hospital	1	2	↓	9	6	↑	6	1 East	8
								2 Centre	1
								3 West	0



A Section 5(4) will be used if a staff nurse 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 staff nurse feels this is in the best interest of the patient.

All sections this period met the criteria. The highlighted episodes denote when there is multiple detentions for a patient. The instances relate to two people, one had two 5(4)s enacted on separated days by different staff (Mar 21) and one was within the same day (Feb 21). This person subsequently was detained under Section 2.

## LAPSES

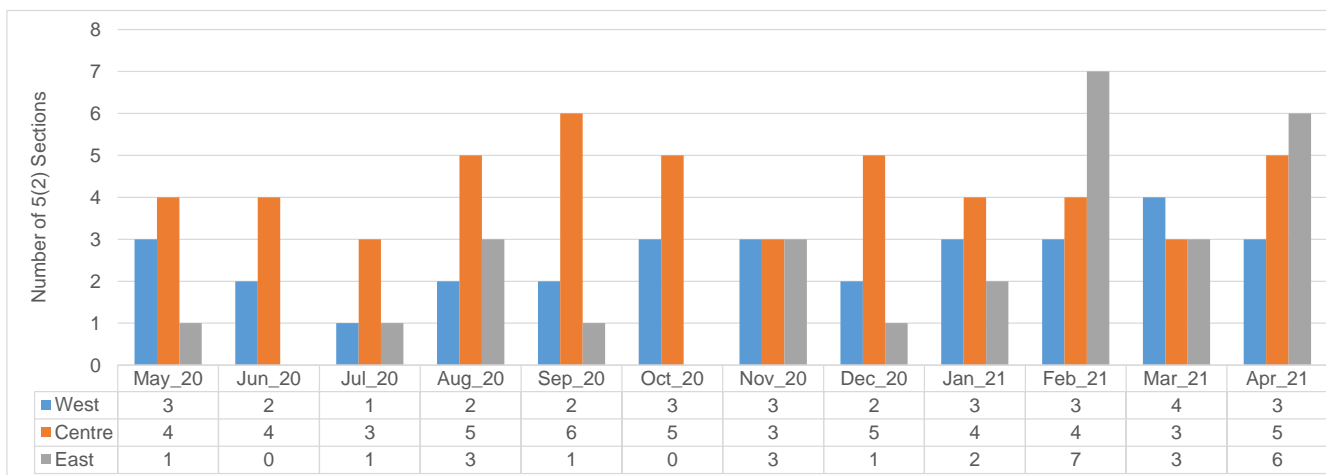
The lapsed section had previously involved a 5(2) to which there was a management plan in place, following the 5(4) it was not clearly noted what time it was agreed to continue with this plan and what time the detention ended.

WEST	
Duration (hh:mm)	Outcome

CENTRE		
Month	Duration (hh:mm)	Outcome
Feb_21	04:55	Section 5(2)

EAST		
Month	Duration (hh:mm)	Outcome
Feb_21	06:00	Section 5(2)
Feb_21	02:30	Section 5(2)
Feb_21	06:00	Lapsed
Feb_21	03:35	Section 5(2)
Feb_21	01:40	Informal
Mar_21	00:45	Informal
Mar_21	03:13	Informal
Apr_21	00:11	Section 5(2)

Section 5(2) - BCUHB	Latest Month	Previous Month	Monthly Trend	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
<b>Section 5:</b> Application in respect of patients already in hospital	14	10	↑	38	26	↑	28	1 East	16
								2 Centre	12
								3 West	10



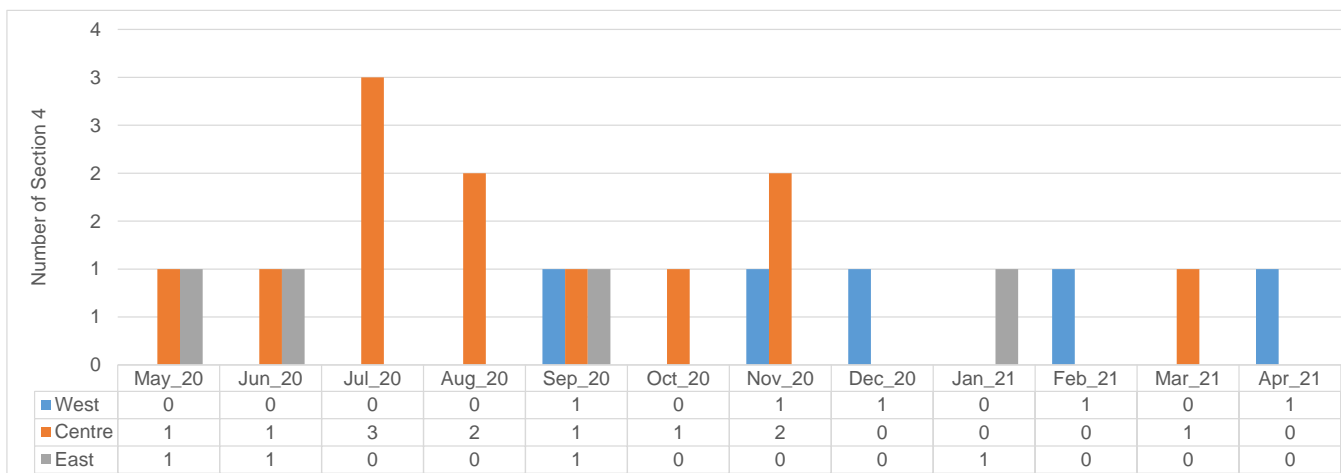
Section 5(2) Outcomes			
	Feb 2021	Mar 2021	Apr 2021
Section 2:	1	4	6
Section 3:	7	4	0
Informal:	4	3	7
Lapsed:	0	0	0
Invalid:	0	0	0
Discharged:	2	0	1
Other:	0	0	0

### The data above does not include

A Section 5(2) on occasions will be enacted within the acute hospital wards, during February - April there were two instances, one of which progressed to a Section 2.

There are no exceptions to report for this period

Section 4 - BCUHB	Latest Month	Previous Month	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	1	1	➔	3	5	⬇️	5	1 West	2
								2 Centre	1
								3 East	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.

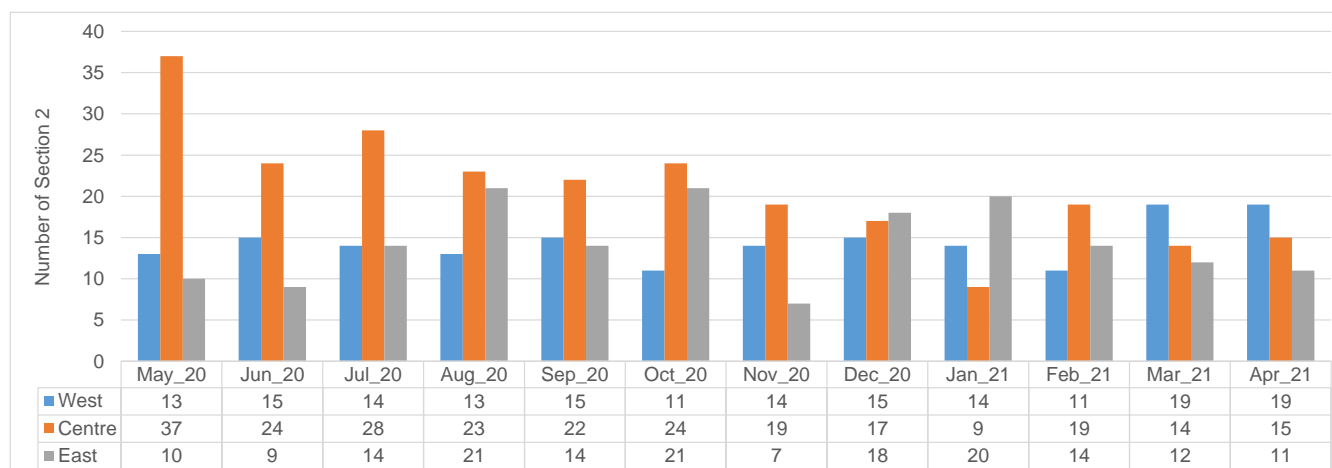
The documents have been considered to reveal if the S4 was used for emergency purposes or due to a lack of doctor availability.

WEST		
Month	Duration (hh:mm)	Outcome
Feb_21	21:25	Section 2
Apr_21	17:00	Informal

CENTRE		
Month	Duration (hh:mm)	Outcome
Mar_21	19:00	Section 2

EAST		
Month	Duration (hh:mm)	Outcome

Section 2 - BCUHB	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 2 during Quarter	Quarter Section 2
<b>Section 5: Admission for assessment</b>	45	45	➡	134	133	⬆	149	1 West 2 Centre 3 East	49 48 37



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

It is hard to interpret these figures in isolation. It must be noted from April 2020 to January 2021 the Ablett Unit was used as the admissions unit for adults and Heddfan for older persons.

There were three under 18s placed on a Section 2 this period.

Two young persons were in the general hospital prior to transfer to an age appropriate bed.

One young person was admitted to the adult unit age appropriate bed.

None of the detentions were following a S136.

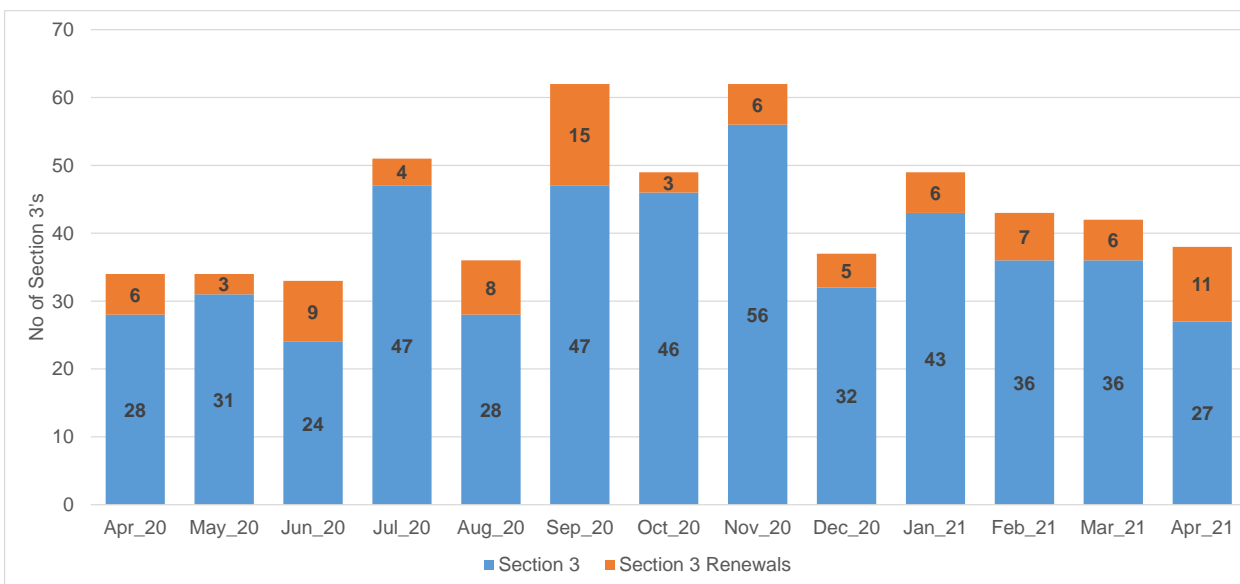
### EXCEPTIONS:

There is one exception to report this period.

**EAST:** (April) A Section 2 expired as the RC was off sick and the covering RC and On Call were not notified. INC258446. Plan to mitigate in future - A new process has been introduced to alert Senior Management and Ward Managers in weekly meetings of MHA actions required for the upcoming week across the Health Board.

Section 2 Outcomes			
	Feb 2021	Mar 2021	Apr 2021
Section 3:	7	13	13
Informal:	15	8	18
Lapsed:	0	0	1
Pending:	0	0	0
Discharged:	8	10	2
Transferred:	6	13	8
Invalid and Other:	0	0	0

Section 3 - BCUHB	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 3 during Quarter	Quarter Section 3
<b>Section 3 (Including Renewals):</b> Admission for treatment	38	42	↓	123	148	↓	134	1 East 2 West 3 Centre	49 39 35

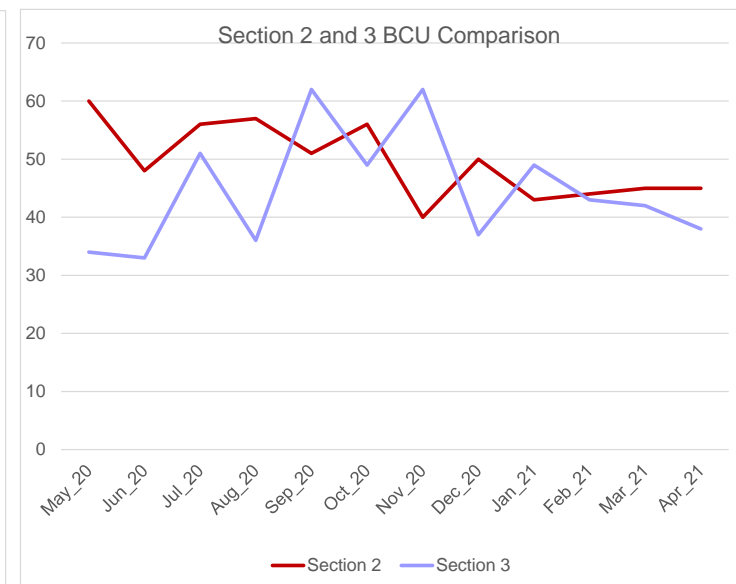


\* data is as at position and is subject to change

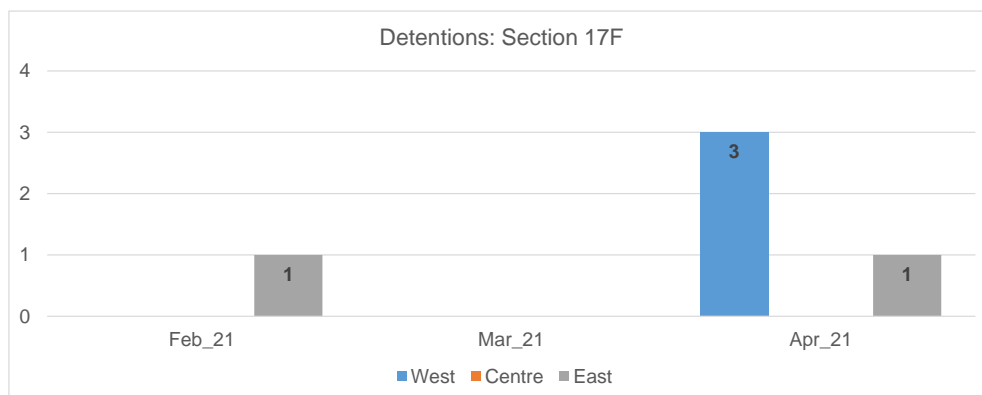
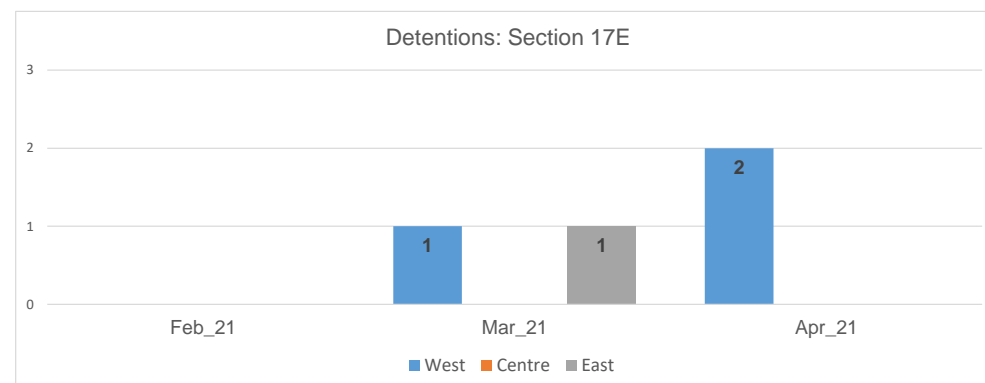
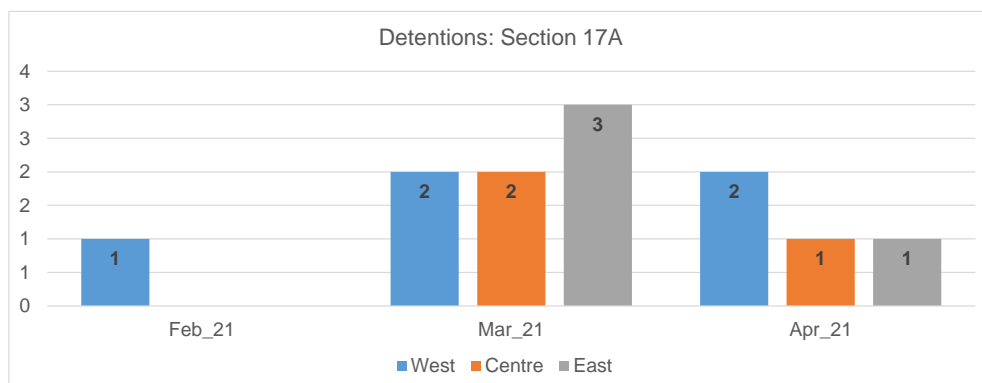
These numbers also include any renewal sections undertaken within the month. As with the data for section 2 it is hard to interpret these figures in isolation and previous months figures are prone to change due to admissions into the Health Board.

This period there were four under 18s made subject to a section 3, two admissions to adolescent services, one renewal of a Section 3 and one was within the general hospital prior to transfer to an age appropriate bed. The trend for use of S2 and S3 over the 12 months at the end of April shows S2 as being downward and S3 as upward.

There are no exceptions to report.



Section 17 A-F - BCUHB	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Section 17 during Quarter	Quarter Section 17
Section 17A (Including Renewals)-17F: Community Treatment Orders	10	9	↑	21	20	↑	20	1 West	11
								2 East	7
								3 Centre	3



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.

The number of patients subject to a CTO at the end of April West:8, Central: 10 and East: 7.

There has been a decrease in the number of patients subject to a CTO for each area this quarter.

**Exceptions:** (EAST) The RC failed to complete the paperwork in time.

Fundamental and Rectifiable Errors	Latest Month	Previous Month	Monthly Trend	Latest Quarter	Previous Quarter	Quarter Trend	Quarter Average (last 4 quarters)	Area Rank by numbers of Errors during Quarter	Quarter Errors
Fundamental and Rectifiable Errors in line with Health Boards in Wales	18	11	↑	76	80	↓	107	1 Centre	13
								1 East	13
								3 West	10



## Rectifiable Errors

Rectifiable errors are reported on a quarterly basis and benchmarked with the other health boards throughout Wales. Due to coronavirus we have not received any benchmarking reports for the year 2020 onwards so are not aware of our current position in relation to the other healthboards. Data from BCUHB has been submitted at the required times. Cardiff and Vale have confirmed they will begin republishing from June 2021.

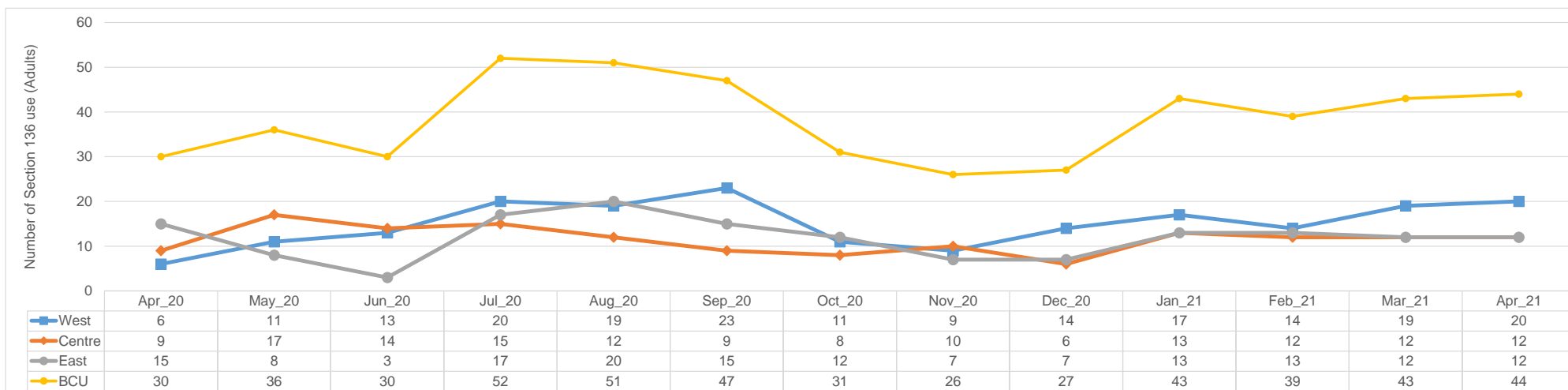
The reporting period that is benchmarked (January - March) shows 16% of the total detentions contained errors compared to 13% last quarter. The majority of rectifiable errors occur on Section 2 paperwork and are in relation to consistency across all paperwork for addresses and full names of the patients. It is important to note that these are rectifiable errors which can be amended under Section 15 of the Mental Health Act and do not render the detention invalid.

**Exceptions are reported as lapses and fundamentally defective (invalid sections) throughout the report.**

This period there have been no fundamentally defective sections.

This period there have been 4 lapsed Sections:- 1 x Section 5(4), 1 x Section 2, 1 x CTO and 1 x Section 136.

Section 135 - 136	Latest Month	Previous Month	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 135 and 136: Patient transfers to a place of safety (Adults)	44	43	↑	126	96	↑	117	1 West	53
								2 East	37
								3 Centre	36



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

There have been two S135 detentions this period both resulting in detention under S2 and S3.

One Section 136 lapsed this quarter, INC260134 the person was within ICU and it was confirmed they would not be fit for assessment for at least 48 hours an extension was therefore of no use.

One person was noted to be in custody as the first place of safety within this period in February.

One S136 12 hour extension was granted due to the person not being fit for assessment, on assessment they were discharged to be followed up by services.

Section 136	Latest Month	Previous Month	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
<b>Section 136:</b> Patient transfers to a place of safety (Adults)	44	43	↑	126	96	↑	117	1 West	53
								2 East	37
								3 Centre	36

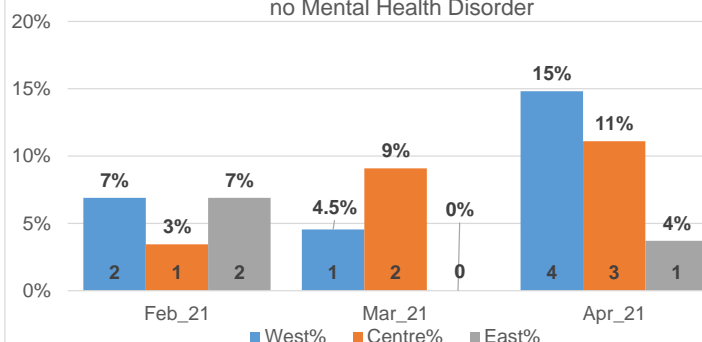
## Section 136 Outcomes

	Feb 2021	Mar 2021	Apr 2021
Discharged:	29 74.36%	22 51.16%	27 57.45%
Informal Admission:	3 7.69%	9 20.93%	11 23.40%
Section 2:	6 15.38%	10 23.26%	8 17.02%
Section 3:	1 2.56%	2 4.65%	1 2.13%
Other:	0 0.00%	0 0.00%	0 0.00%

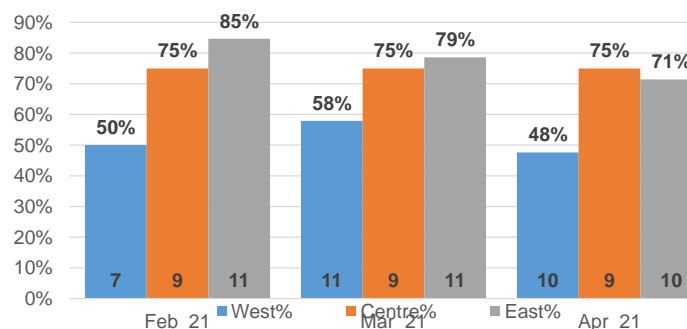
## Section 136 - Known to Service

	Feb 2021	Mar 2021	Apr 2021
Yes	25	32	30
Yes (percentage)	65.79%	71.11%	65.22%

Of those discharged, how many were discharged as having no Mental Health Disorder



## Section 136: Detentions over 4 hours



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

Total percentages of all detentions for those discharged with no mental disorder are:

February 13%  
March 7%  
April 17%

Data below shows the percentage of the remaining discharges that are followed up by services or new referrals into services:

February 35% discharged with follow up and 48% referred to services.

March 50% discharged with follow up and 36.5% referred to services.

April 33% discharged with follow up and 37% referred to services.

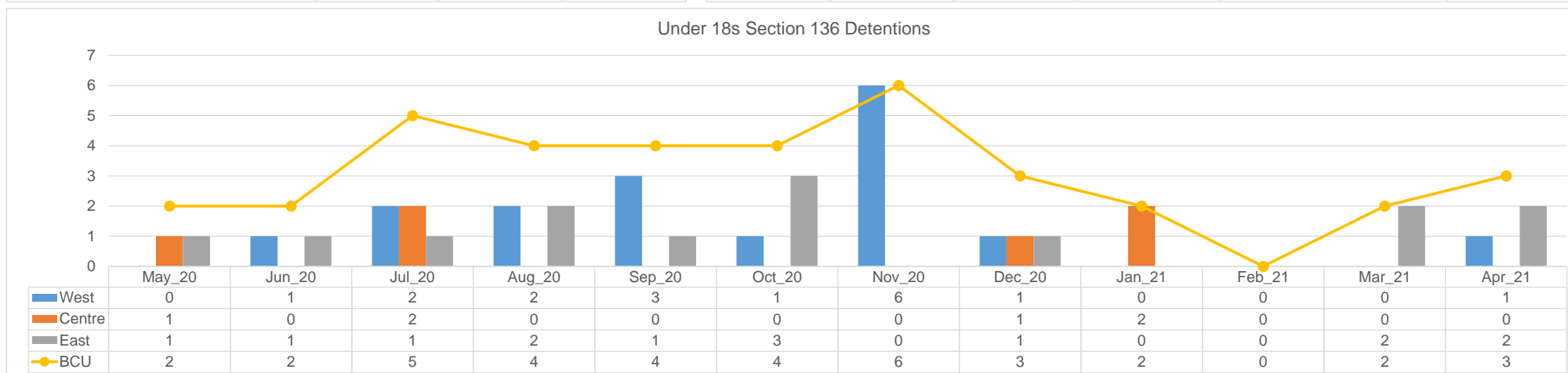
The Criminal Justice Liaison Service has been working out of North Wales Police Headquarters and in the community since January 2020. The service has been actively involved in assisting the police and signposting people in crisis to other avenues rather than the police using the S136 power. Since January this has been recorded and 138 people have not become detained on a S136 due to CJLS intervention. This period accounts for 27 of those figures.

Data is now being recorded in relation to those that do progress to being detained on a S136 following consultation, since September 2020 there have been 39 instances.

## Advisory Report - Section 136: Under 18 detentions

15

Section 135 - 136 (Under 18)	Latest Month	Previous Month	Monthly Trend	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
<b>Section 135 and 136:</b> Patient transfers to a place of safety (<18)	3	2	↑	5	11	↓	9	1 East	4
								2 West	1
								3 Centre	0



A total of five under 18's were assessed this period between the ages of 14 and 17 years. Three assessments resulted in admissions to adolescent services, two under section 3 and one under section 2. Two assessments resulted in discharge with follow up to services and a referral to services.

The tables below shows the ages of young persons assessed and the outcomes for the year period April 20 - March 21 (April 21 additional figures are within brackets).

### Under 18 Assessments

AGE	No of Assessments
12	0
13	0
14	4 (1)
15	1
16	11
17	18 (2)

### Outcome of Assessments

Outcome	Number
Returned Home	16 (1)
Returned to Care Facility	3 (1)
Admission to childrens ward	5
Admission to Adult ward / S136 suite	2
Admission NWAS/CAMHS	3 (1)
Admission OOA	3
Other (Friends, Hotel, B&B)	2

Month of Admission	Place of Assessment	Outcome	Assessing Clinician	Total Hours	Age
March	Heddfan	Admission OOA	CAMHS	9:05:00	14
March	Heddfan	Admission OOA	CAMHS	9:05:00	17
April	Heddfan	Admission	CAMHS	20:30	17
April	Heddfan	Discharged	CAMHS	12:55:00	14
April	Hergest	Discharged	CAMHS	13:10	17

Out of the 5 young persons assessed 4 originated from their own home and 1 from a care facility.

3 of the detentions were initiated out of hours.

The Assistant Area Directors of the CAMHS service are notified straight away if a young persons, 15 and under who is detained under a S136. Within hours the MHA office notify, out of hours the responsibility lies with the duty staff.

Average PoS hours: 12:57 hrs this is a decrease on the previous quarter figures of (14:07 hrs).

### Under 18's admitted to Adult Psychiatric Wards

There were no admissions to an Adult Psychiatric Ward this quarter from a S136.

The table below shows the county that the young persons originated from and where they were assessed for the period April 20 - March 21 (April 21 in brackets)

### County Originated from and where assessed.

County	East	Central	West
Wrexham	5(1)		1
Flintshire	6(1)	3	
Denbighshire	1	2	2
Conwy		1	4
Gwynedd			3(1)
Ynys Mon			5
Out of Area			

A

Section	May 2020	Jun 2020	Jul 2020	Aug 2020	Sep 2020	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Feb 2021	Mar 2021	Apr 2021
Section 35:	0	0	0	0	0	0	0	0	0	0	0	0
Section 37:	0	0	0	0	0	0	0	0	0	0	0	0
Section 37/41:	9	9	8	8	9	8	9	9	9	9	9	9
Section 38:	1	1	1	1	0	0	0	0	1	1	1	0
Section 47:	2	2	2	3	3	3	3	3	3	2	2	2
Section 47/49:	2	3	3	2	2	2	3	3	4	4	4	4
Section 48:	0	0	0	0	0	0	0	0	0	0	0	0
Section 48/49:	0	0	0	0	0	0	0	1	0	0	0	1
Section 3:	2	2	3	3	3	3	3	3	3	3	3	3
Section 45A	1	1	1	1	1	1	1	1	1	1	1	0
<b>Total:</b>	<b>17</b>	<b>18</b>	<b>18</b>	<b>18</b>	<b>18</b>	<b>17</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>20</b>	<b>20</b>	<b>19</b>

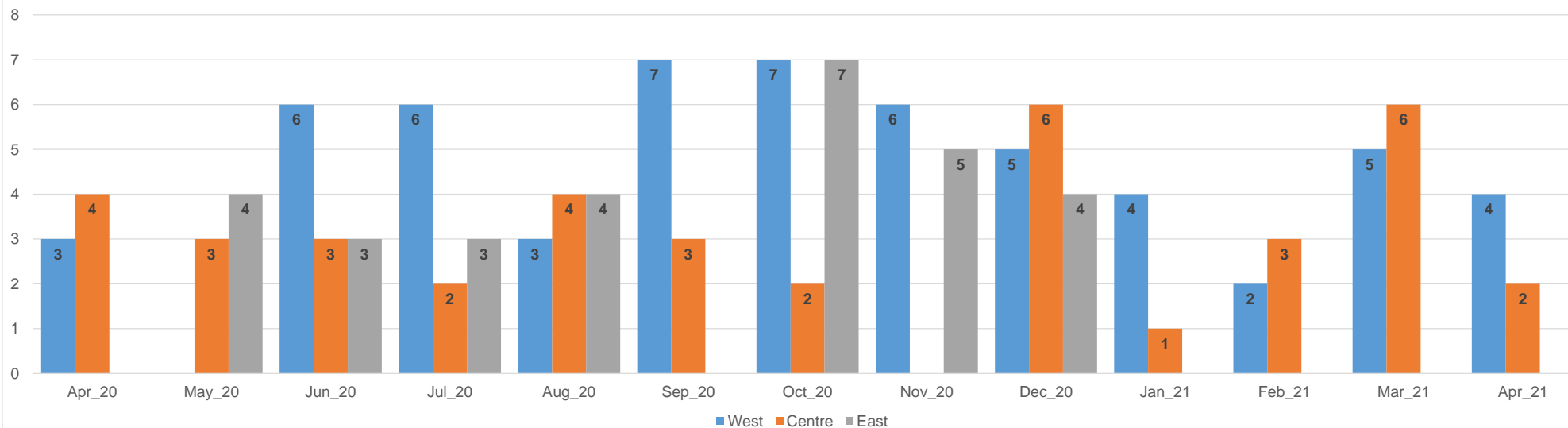
Ty Llywelyn Medium Secure Unit is a 25 bedded all male facility.

The nature of the forensic sections does not always generate rapid activity.

There are times when section 3 patients will be detained within the unit.



Use of Section 62 by Area



Monitoring of section 62 is a requirement of the Code of Practice (25.38)

Reason for S62 use:

Medication changes

Patient no longer able to give consent to treatment or refusing consent

ECT

Awaiting a Second Opinion Appointed Doctor (SOAD) to arrive and three month consent to treatment has expired.

**S.136/135 use in BCUHB**

**KPI Report for: May 2021**

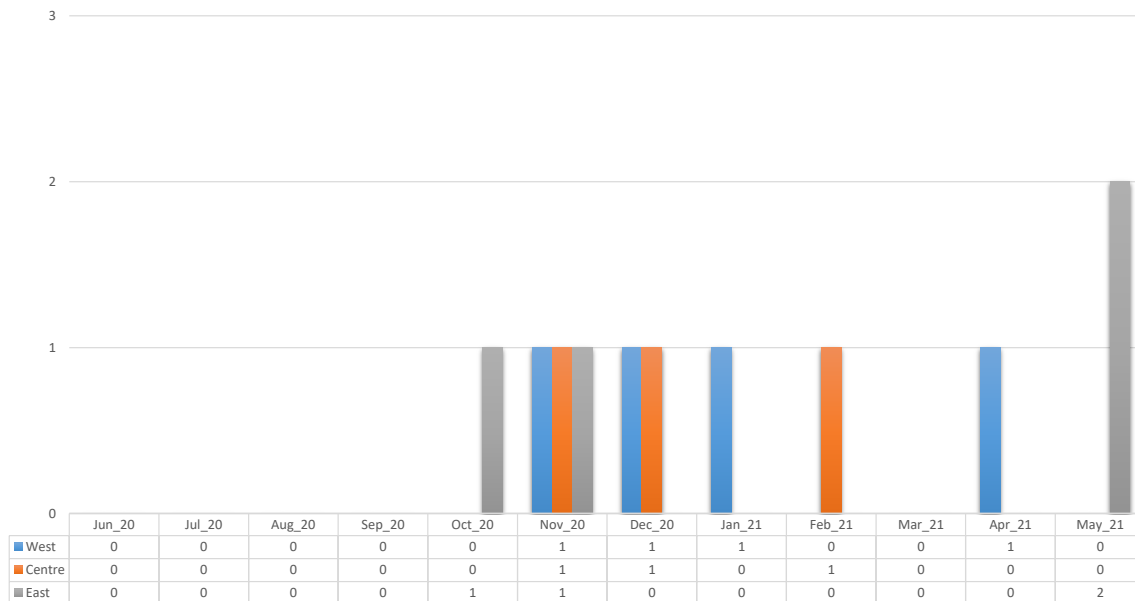
**Data Source:** BCUHB MHA Database

**Report Created on:** 07/06/2021

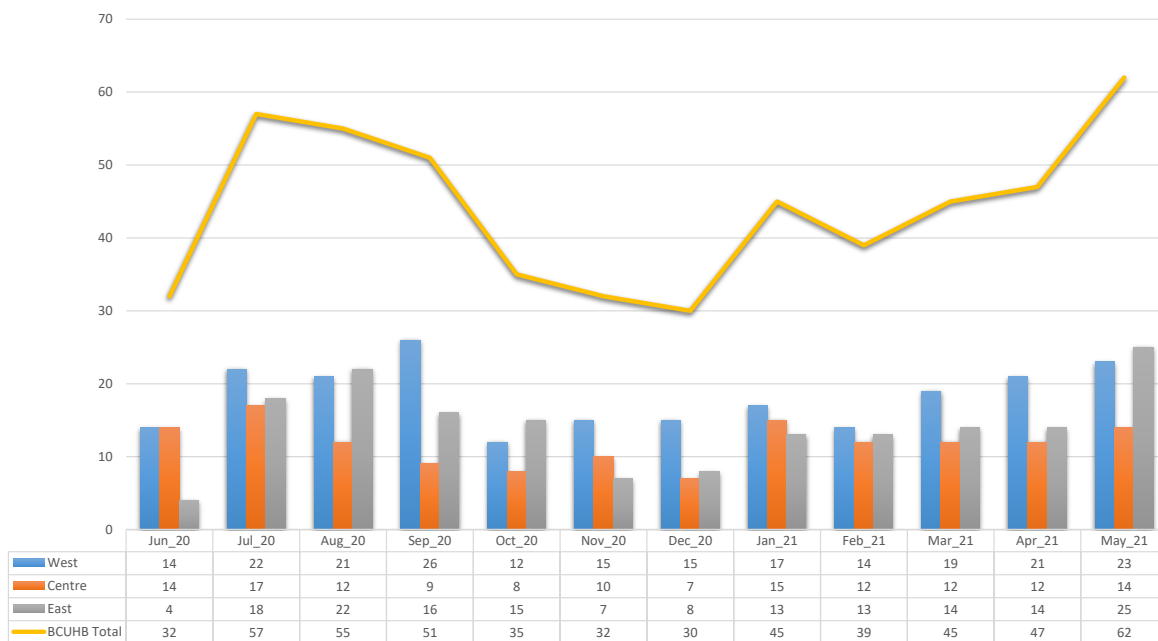
**Report Created by:** Performance Directorate

**Section A: 12 Month Data and Trends**

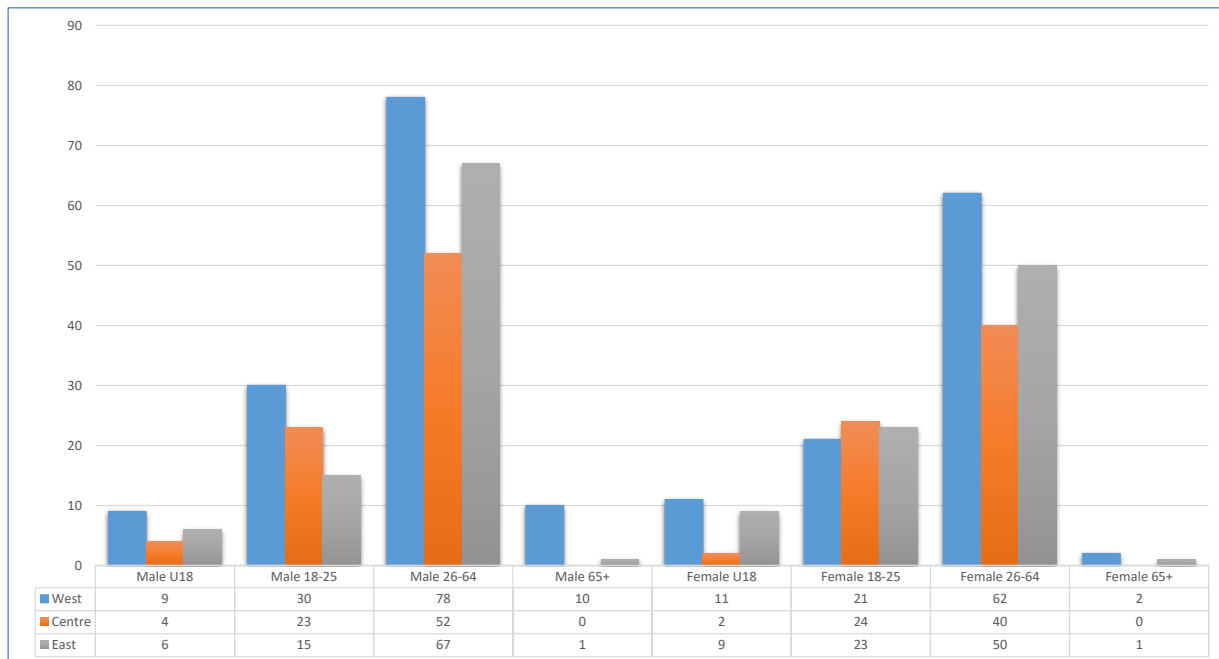
**1.1: Section 135 twelve month trend up to and including May\_21**



**2.1: Section 136 twelve month trend up to and including May\_21**



### 3.1: 12 month combined S.135 and S.136 split by Gender and Age bands for all areas



### 4: 1st Place of Safety 12 month trend up to and including May\_21

#### Area Split - 1st Place of Safety by category

1st Place of Safety	May_21			12 Month Total		
	West	Centre	East	West	Centre	East
A&E	9	3	6	41	28	29
Ward	0	0	0	0	0	0
PICU	0	0	0	0	0	0
136 Suite	13	10	18	169	110	133
Hospital	1	0	0	4	2	3
Independent Hospital	0	0	0	0	0	0
Care Home for mentally disordered persons	0	0	0	0	0	0
Police Station (Custody)	0	0	0	4	0	2
Residential accommodation provided by Social Services Authority	0	0	0	0	0	0
Any other place	0	0	0	0	1	0

### 4.2: 12 month trend A&E and 136 Suite as 1st Place of Safety split by Area

1st Place of Safety: A&E Split	Jun_20	Jul_20	Aug_20	Sep_20	Oct_20	Nov_20	Dec_20	Jan_21	Feb_21	Mar_21	Apr_21	May_21
West	2	2	4	2	2	2	3	4	1	5	5	9
Centre	5	5	1	2	2	0	0	3	3	3	1	3
East	0	3	1	1	3	1	2	5	3	1	3	6

1st Place of Safety: 136 Suite Split	Jun_20	Jul_20	Aug_20	Sep_20	Oct_20	Nov_20	Dec_20	Jan_21	Feb_21	Mar_21	Apr_21	May_21
West	12	18	16	23	10	11	11	13	12	14	16	13
Centre	9	12	11	5	5	10	7	12	9	9	11	10
East	4	15	20	12	12	5	6	7	10	13	11	18

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

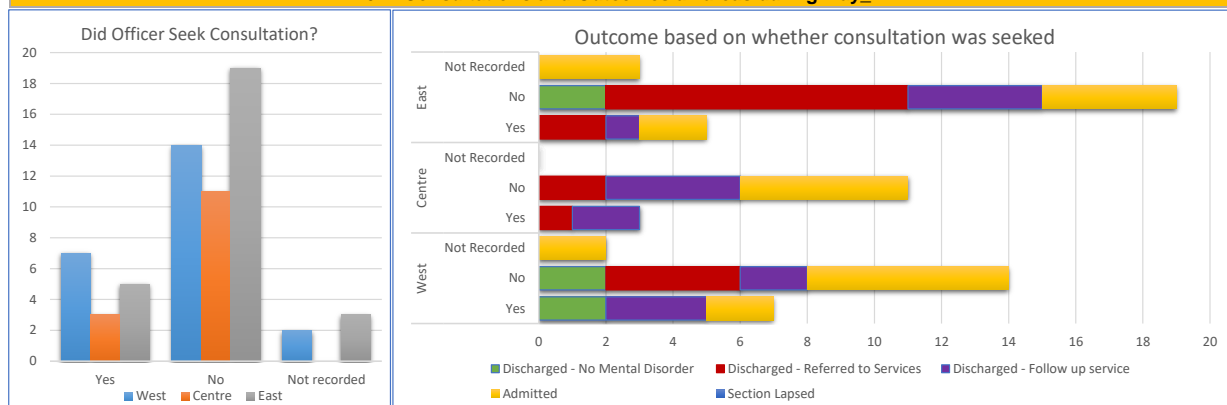
#### 5.1: Area split 3 month table up to and including May\_21 and latest 12 month total

West	Mar_21	Apr_21	May_21	12 Month Total	Centre	Mar_21	Apr_21	May_21	12 Month Total	East	Mar_21	Apr_21	May_21	12 Month Total	Incident rate by county (12 mth total)
Ynys Mon	4	3	4	38	Ynys Mon	0	0	0	4	Ynys Mon	0	0	1	2	Ynys Mon 6.27
Gwynedd	9	12	9	86	Gwynedd	0	0	2	9	Gwynedd	0	1	2	4	Gwynedd 8.01
Flintshire	0	0	0	15	Flintshire	3	1	1	18	Flintshire	6	5	8	62	Flintshire 6.13
Wrexham	0	0	0	10	Wrexham	0	3	1	22	Wrexham	7	6	10	80	Wrexham 8.05
Conwy	5	4	9	48	Conwy	3	1	0	25	Conwy	0	0	1	6	Conwy 6.76
Denbighshire	1	2	1	17	Denbighshire	6	7	9	58	Denbighshire	0	1	3	12	Denbighshire 9.11
Powys	0	0	0	0	Powys	0	0	0	0	Powys	0	0	0	0	Powys #N/A
OOA	0	0	0	1	OOA	0	0	1	1	OOA	1	1	0	3	OOA #N/A
Incident Rate per 10,000 population	0.98	1.08	1.19	11.09	Incident Rate per 10,000 population	0.56	0.56	0.66	6.45	Incident Rate per 10,000 population	0.48	0.48	0.85	5.75	BCUHB 7.44

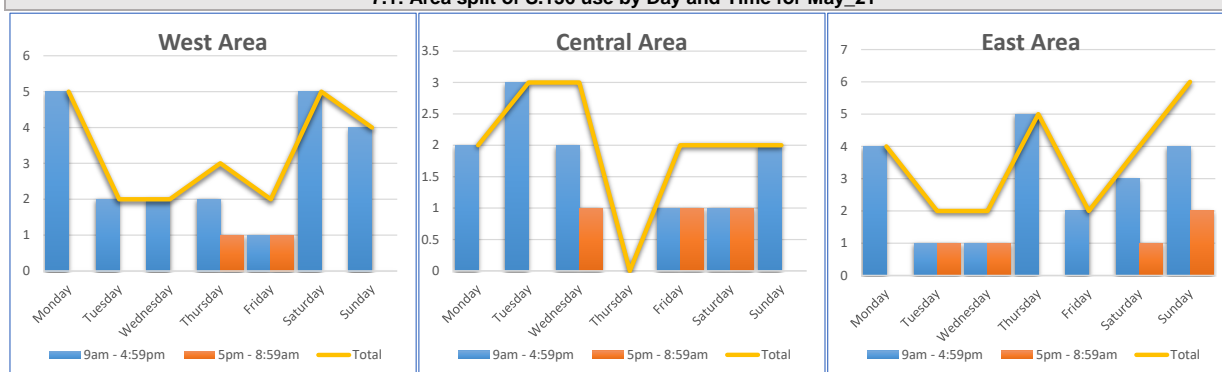
\*Please note: due to County Detained was only captured from November 2017, residents per detention by county detained will only be accurate from November 2018 onwards. Area data is accurate from April 2016

## Section B: 12 Month Data for May\_21

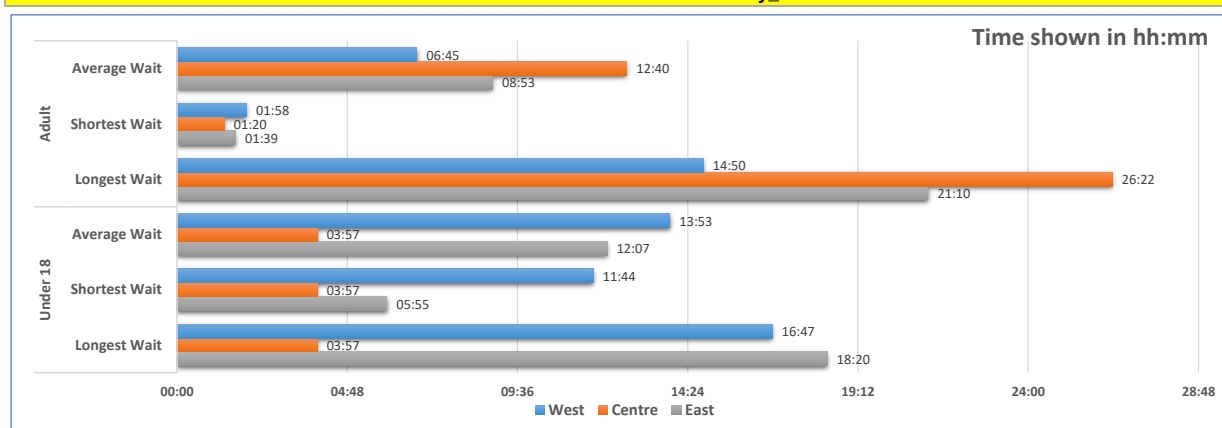
6.1: Consultations and Outcomes all areas during May\_21



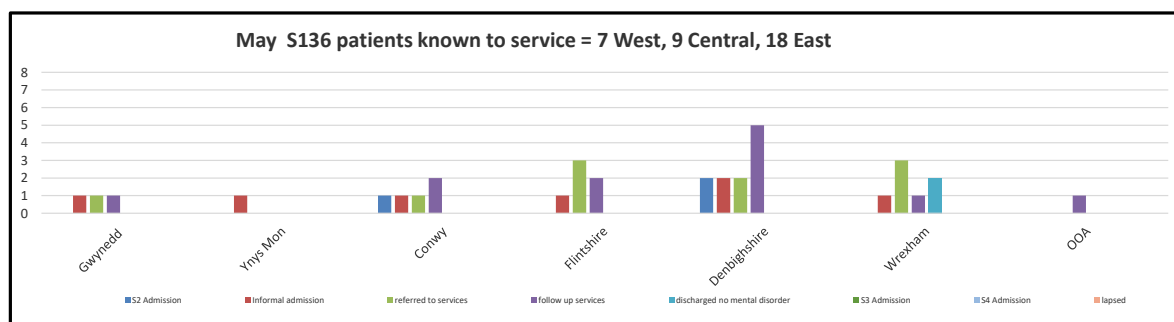
7.1: Area split of S.136 use by Day and Time for May\_21



8.1: Duration in S.136 Suite for May\_21



Within this month there was one request for an extension due to the detained person not being fit for assessment, they were assessed within the 36 hour timeframe. Delayed assessments were recorded as: 12 due to the detained persons being unfit for assessment, one delay due to the uncooperation of the detainee, one due to AMHP availability and one in relation to AMHP and RC availability.



The table below shows the area that someone originates from, where they were detained and which S136 suite they were taken to. Out of the 62 S136 detentions 13 people were not seen within the closest S136 suite.

Eight were due to no capacity, five the reason was not recorded.

Local Authority Originates from	Detained in	S136 Suite assessed at
Ynys Mon	Gwynedd	Ablett
OOA	Wrexham	Ablett
Flintshire	Flintshire	Ablett
Gwynedd	Gwynedd	Ablett
Denbighshire	Denbighshire	Hergest
Conwy	Conwy (Rhos)	Hergest
Conwy	Conwy	Heddfan
Denbighshire x 3	Denbighshire x 3	Heddfan
Gwynedd x 2	Gwynedd x 2	Heddfan
Ynys Mon	Ynys Mon	Heddfan

The Criminal Justice Liaison Service have been actively involved in the police control rooms with qualified nursing staff on hand to assist the police with advice prior to the use of S136.

Instances where the use of S136 does not occur due to the person being diverted to another form of help following consultation either with the Duty Nurse or the Criminal Justice Liaison Service are monitored along with consultations which have lead to a S136.

Within the month of May the Mental Health Act Office has received notification that there have been five instances where the Criminal Justice Liaison Nurses have assisted in preventing a S136 and signposting to a different support network.

There were two consultations with the service that lead to a S136 for the month of May

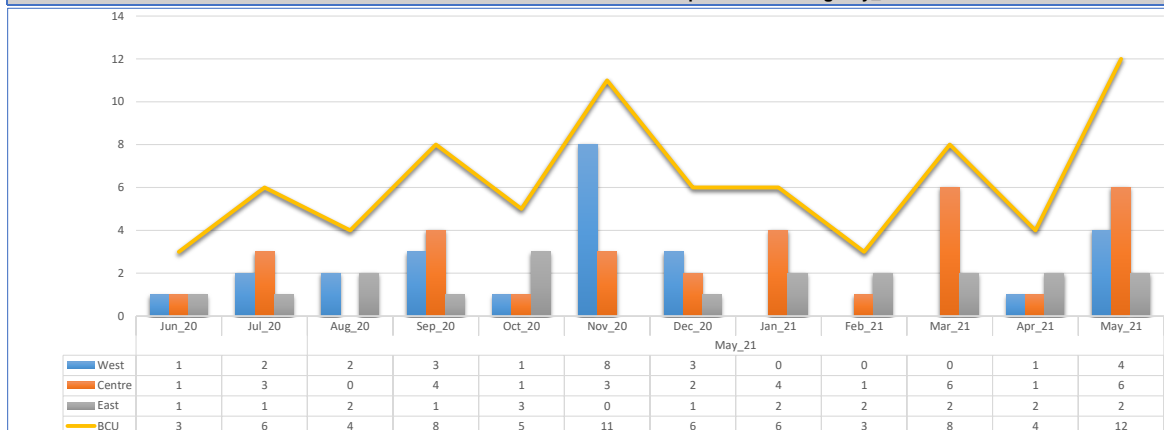
## Under 18's detentions in North Wales

KPI Report for: **May 2021**

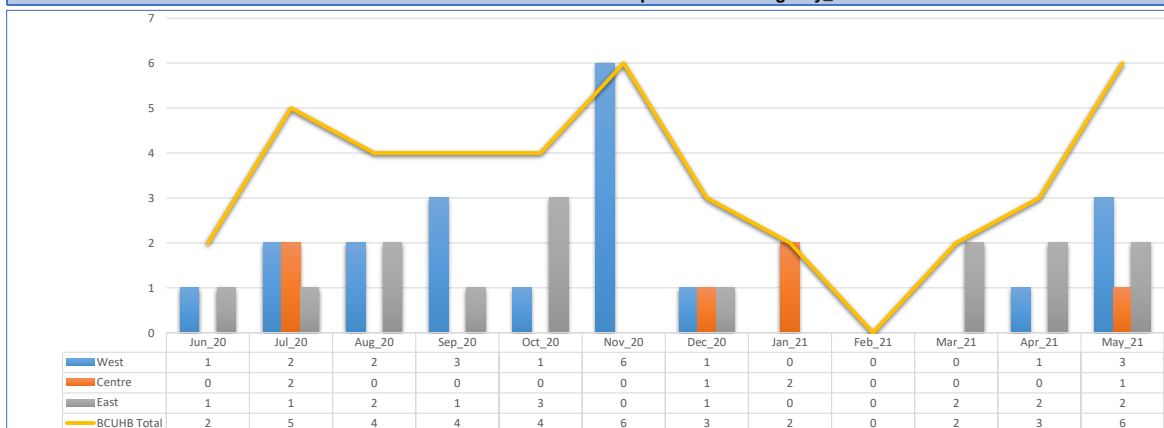
Data Source: BCUHB MHA Database  
 Report Created on: 07/06/2021  
 Report Created by: Performance Directorate

### Section A: 12 Month Data and Trends

1.1: All Detentions for U18's twelve month trend up to and including May\_21



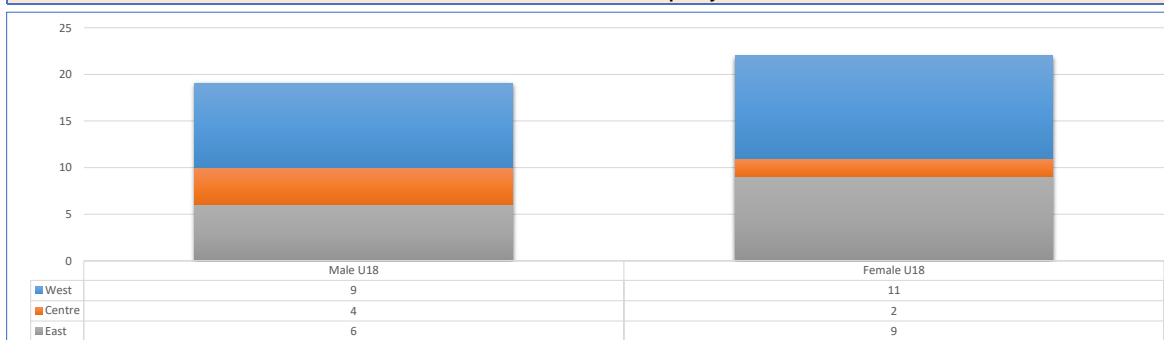
2.1: Section 136 twelve month trend up to and including May\_21



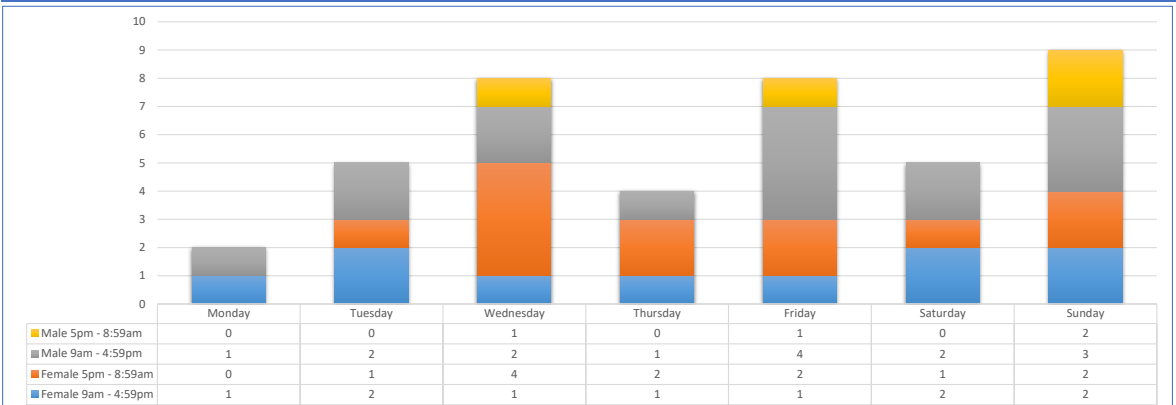
2.2: Section 136 Outcomes twelve month trend up to and including May\_21

Outcome of 136 detention	Jun_20	Jul_20	Aug_20	Sep_20	Oct_20	Nov_20	Dec_20	Jan_21	Feb_21	Mar_21	Apr_21	May_21
Discharged - No Mental Disorder	0	0	0	1	0	1	0	0	0	0	0	0
Discharged - Referred to Services	0	3	1	0	0	1	1	0	0	0	1	0
Discharged - Follow up service	1	2	2	1	3	0	1	2	0	0	1	4
Admitted	1	0	1	2	1	4	0	0	0	2	1	2
Section Lapsed	0	0	0	0	0	0	1	0	0	0	0	0

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



3.2: 12 month combined S.135 and S.136 split by Gender, day and time band of admission



**4: 1st Place of Safety 12 month trend up to and including May\_21**

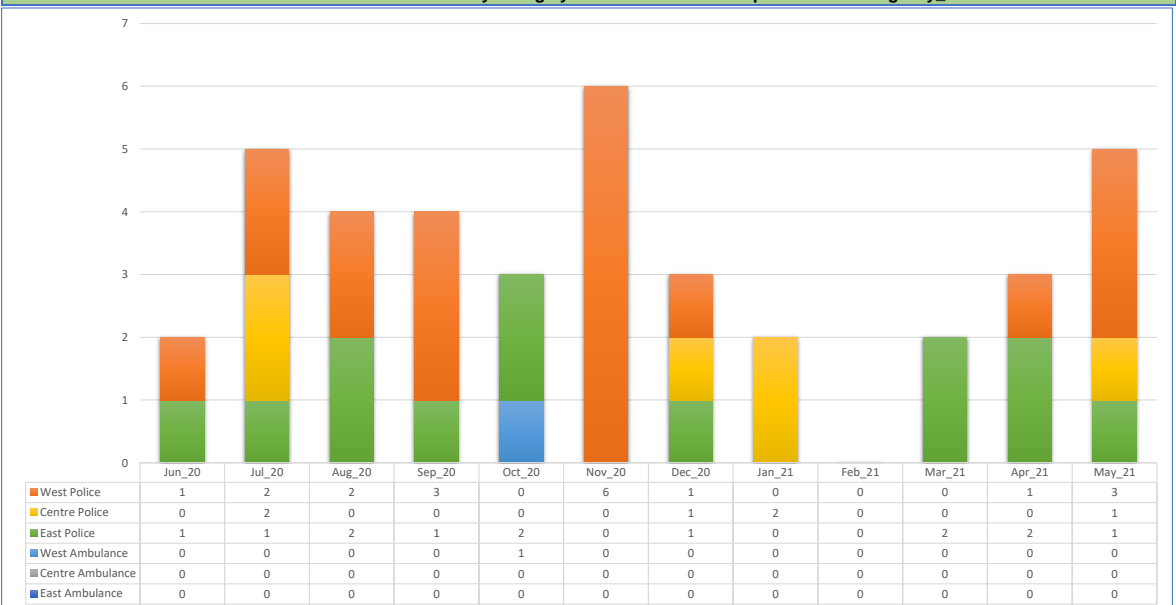
#### 4.1: 1st Place of Safety by BCUHB and split by category

[illegible]

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

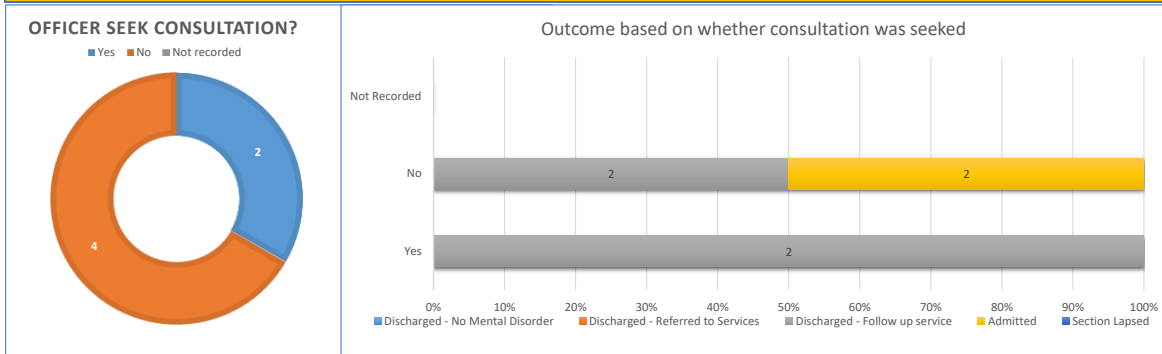
[illegible]

5.1: Police and Ambulance conveyancing by Area 12 month trend up to and including May\_21

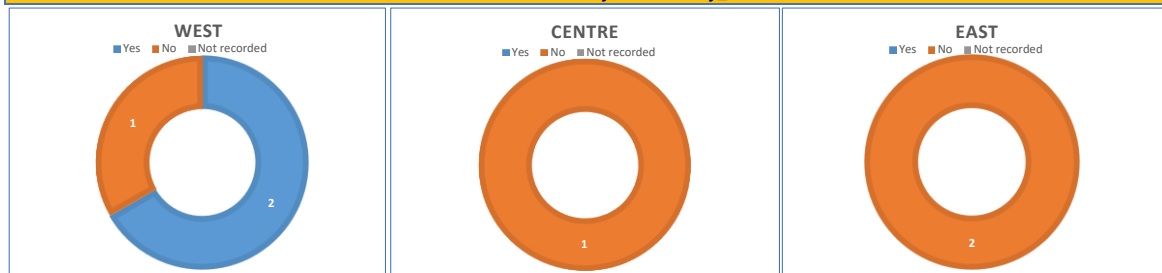


## Section B: Data for May\_21

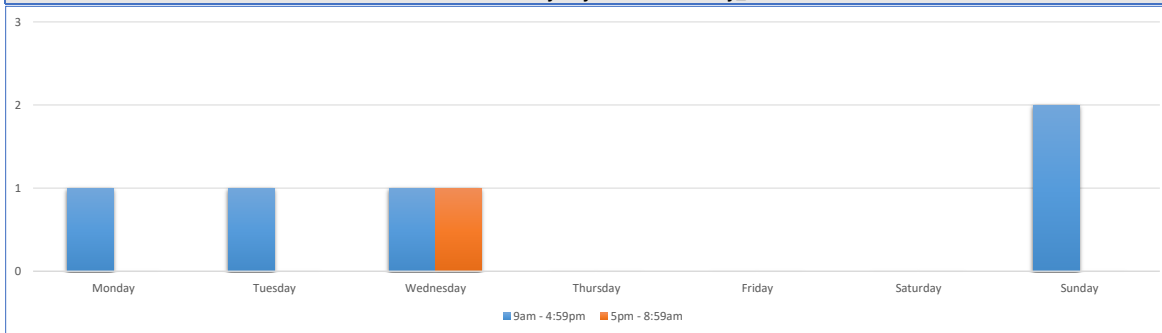
### 7.1: Consultations and Outcomes for May\_21



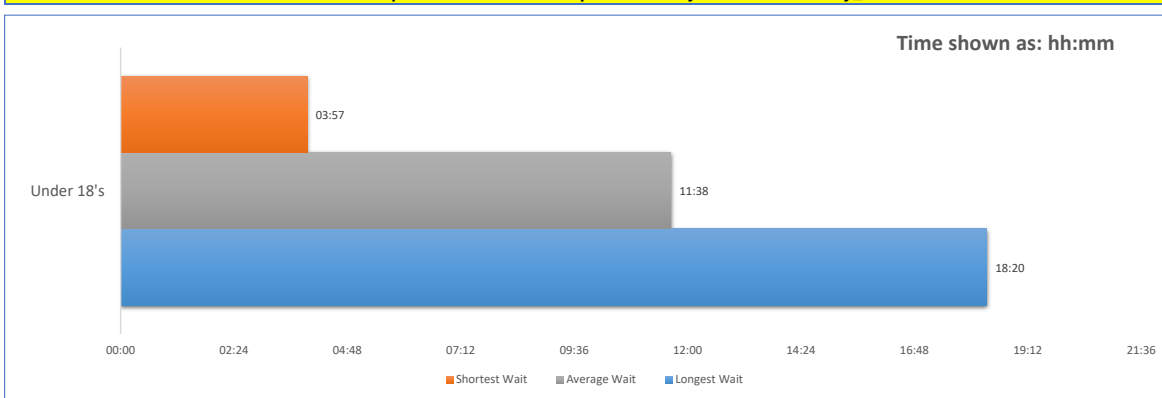
### 7.2: Consultations by Area for May\_21



### 8.1: S.136 use by Day and Time for May\_21

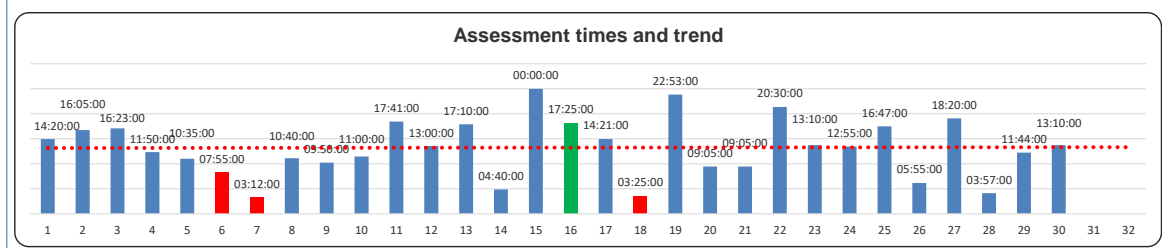


### 9.1: Time spent in S136 Suite / 1st place of safety until Outcome May\_21



### 10.1: Narrative for May\_21

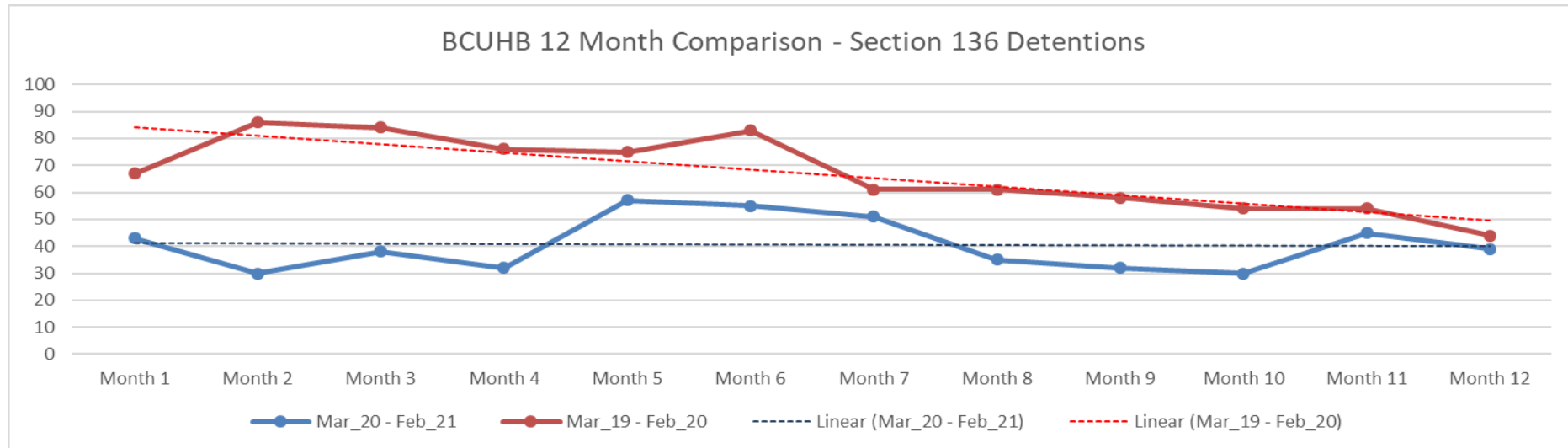
There were twelve detentions this month involving eight young persons. Six under S136, One x S5(4), S5(2) and S3 which was a progression for one young person and three x S2, one young person accounted for two of the S2 detentions due to a transfer of location following an initial S136, there were no detention renewals for young persons this month. The chart below details the length of time that young people have been detained under a S136 and a trend line for the last 30 detentions. The columns have been defined by colour: Blue are in reference to CAMHS assessments, Red for Adult and Green for joint. All assessments not undertaken by CAMHS were in relation to 17 yr olds, the joint assessment was for a 17 year old.



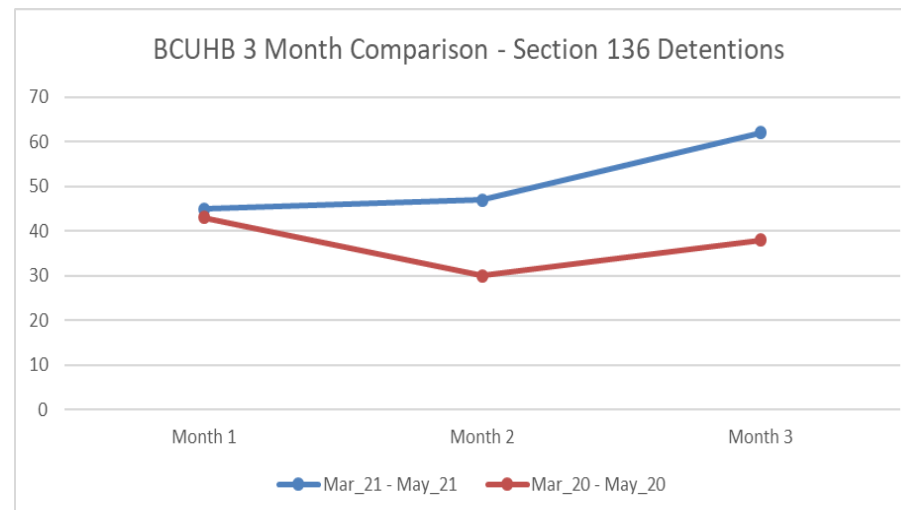
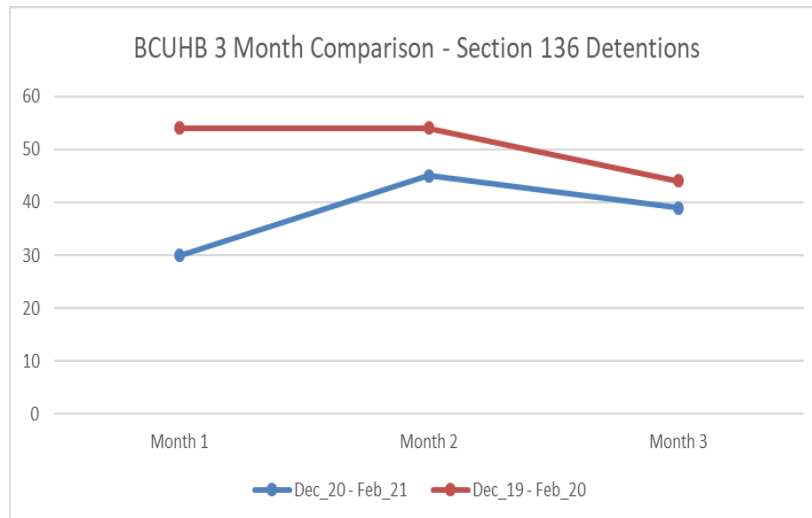


## S136 Deep Dive

### 12 Month comparison March 2020 – February 2021

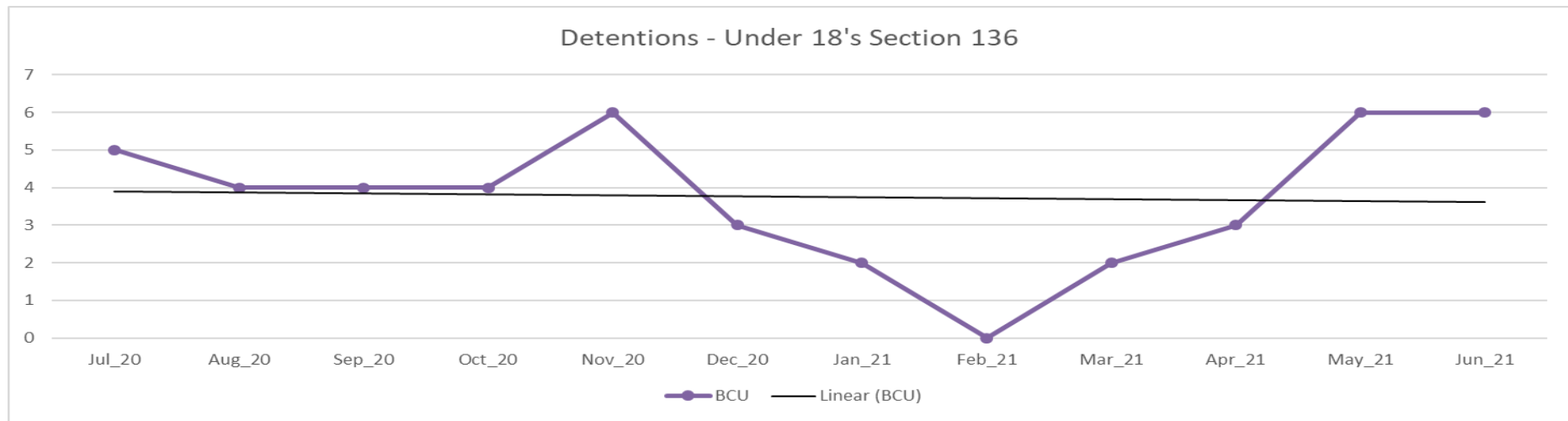


### Three month comparisons

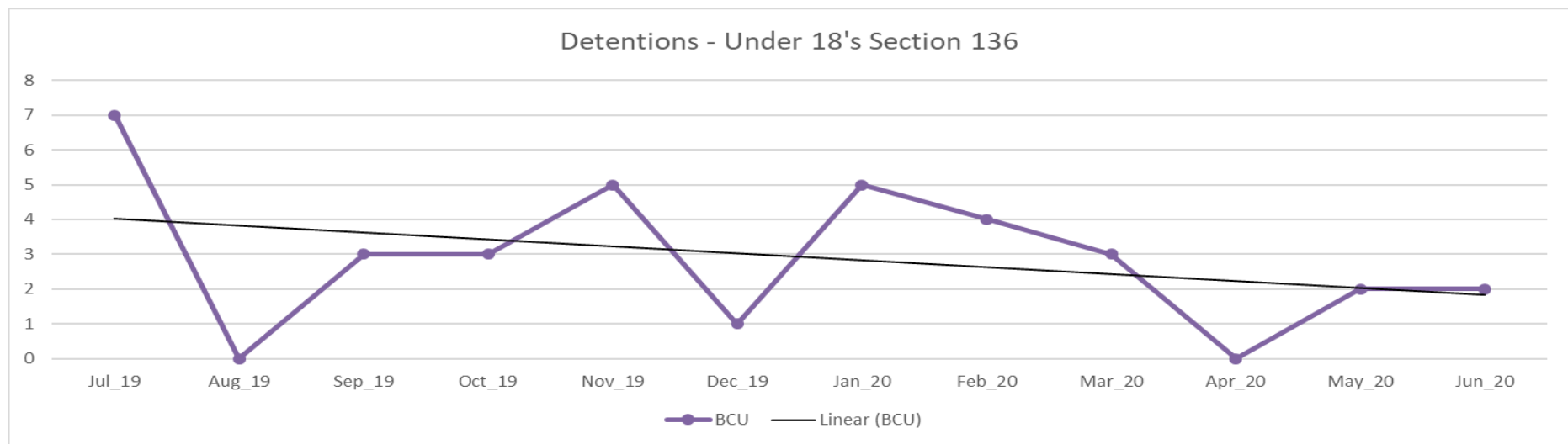


## Under 18 S136

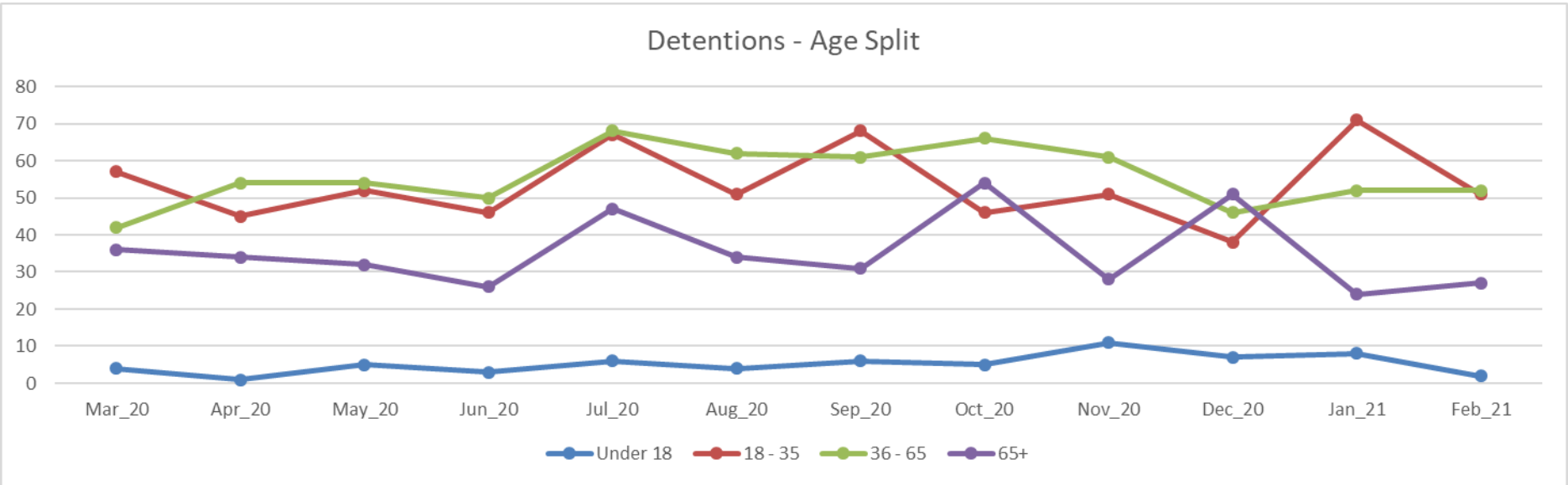
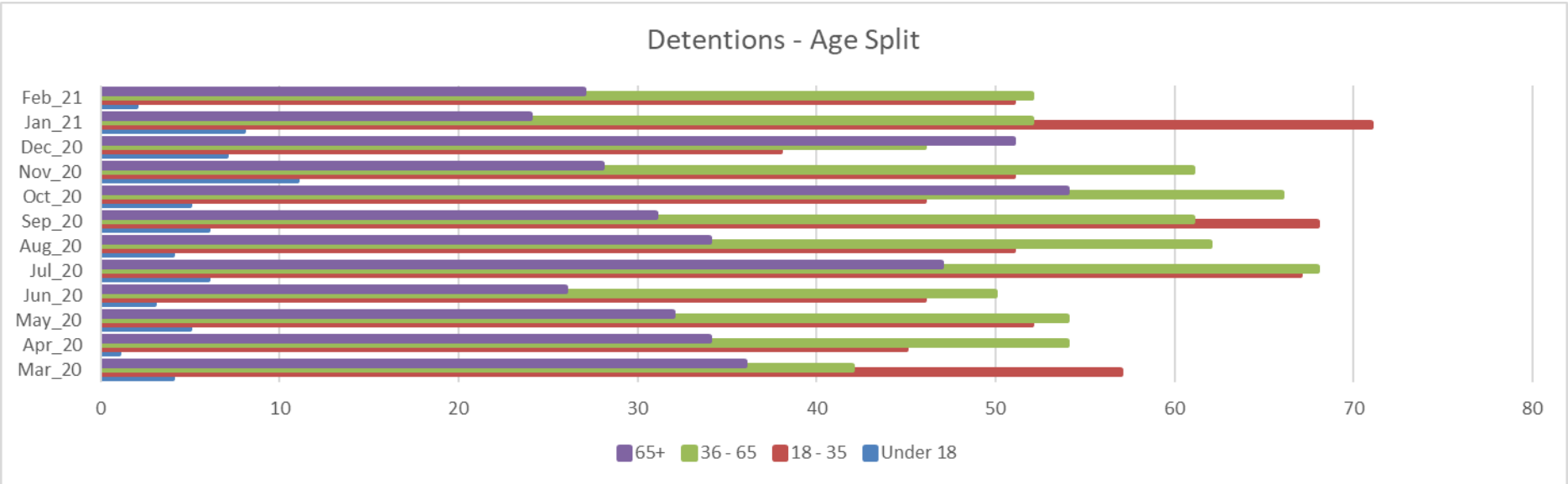
To date due to current rise in under 18s.



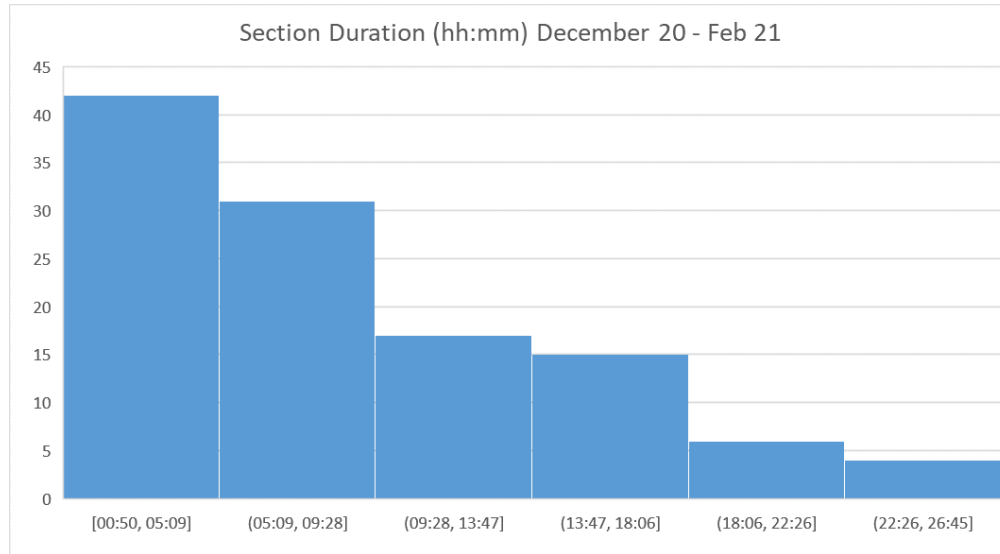
## July 19 – June 20



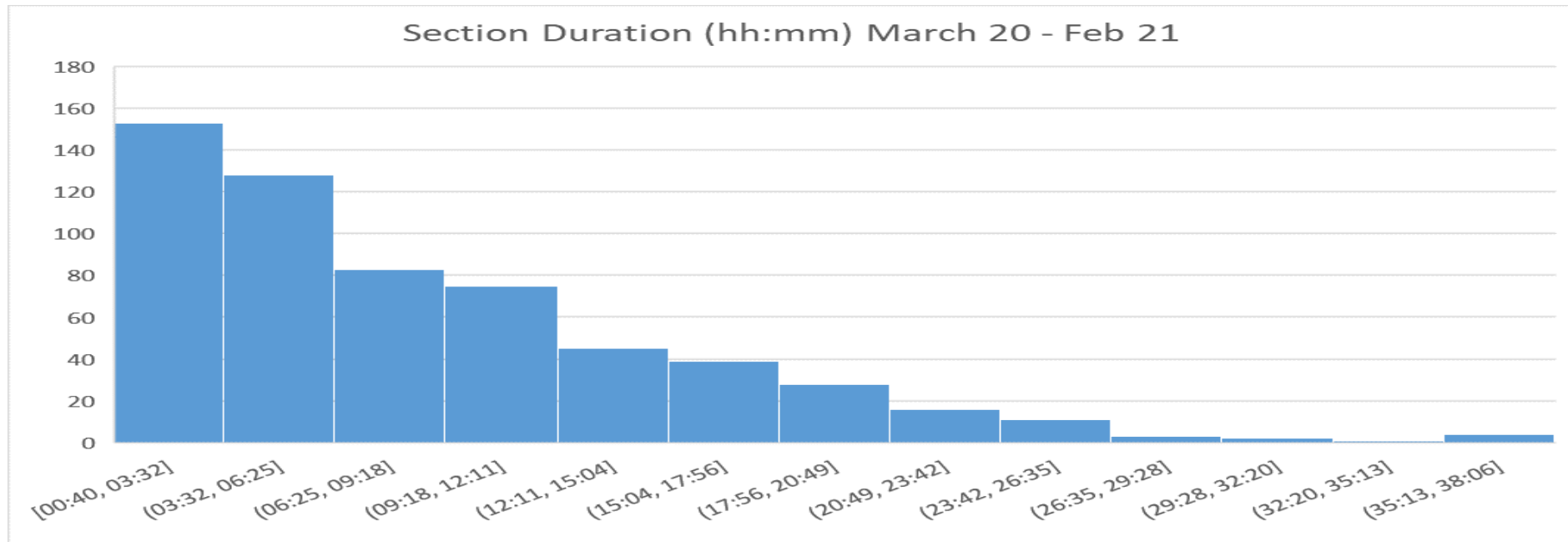
Detentions by age split



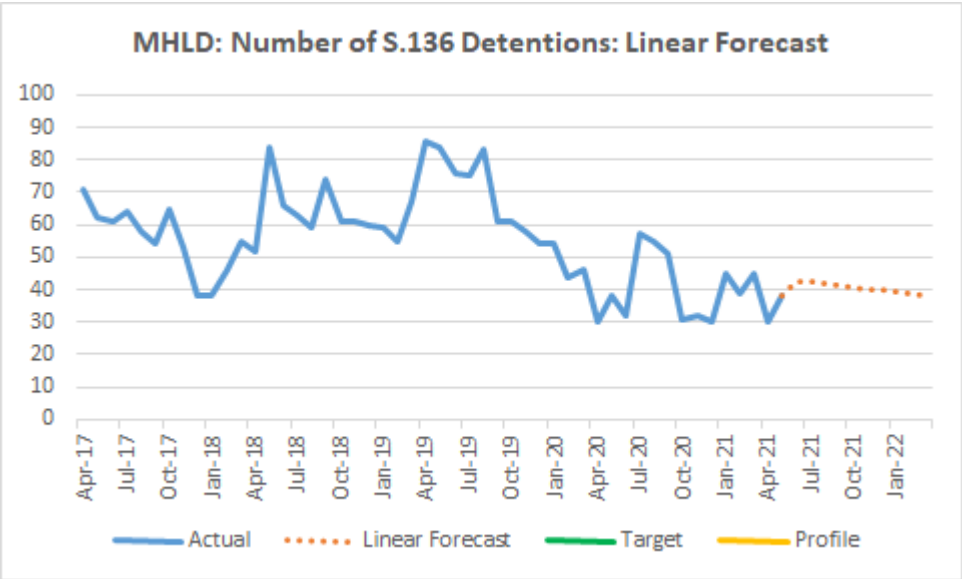
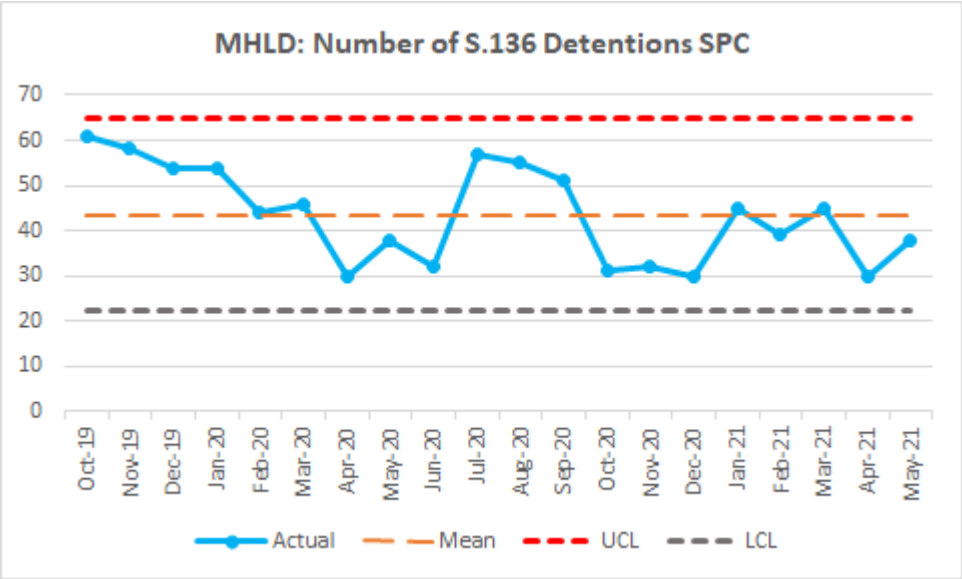
## Time spent on S136 December 20 – February 2021



## March 20 – February 21



SPC S136 reports to date





<b>Cyfarfod a dyddiad: Meeting and date:</b>	<b>Mental Health Act Committee 25.06.2021</b>						
<b>Cyhoeddus neu Breifat: Public or Private:</b>	Public						
<b>Teitl yr Adroddiad Report Title:</b>	Healthcare Inspectorate Wales (HIW) Monitoring Report						
<b>Cyfarwyddwr Cyfrifol: Responsible Director:</b>	Mr Iain Wilkie, Divisional Director of Mental Health and Learning Disabilities (Interim).						
<b>Awdur yr Adroddiad Report Author:</b>	Hilary Owen, Head of Governance Wendy Lappin, Mental Health Act Manager						
<b>Craffu blaenorol: Prior Scrutiny:</b>	Mental Health and Learning Disabilities, Senior Leadership Team Quality Safety and Experience Group 15/06/2021						
<b>Atodiadau Appendices:</b>	Appendix 1 – Inspections Appendix 2 - Quality Check Summary Coed Celyn Hospital						
<b>Argymhelliad / Recommendation:</b>							
The Committee is asked to note the report.							
<b>Ticiwch fel bo'n briodol / Please tick as appropriate</b>							
<b>Ar gyfer penderfyniad /cymeradwyaeth For Decision/ Approval</b>		<b>Ar gyfer Trafodaeth For Discussion</b>	√	<b>Ar gyfer sicrwydd For Assurance</b>	√	<b>Er gwybodaeth For Information</b>	√
<b>Y/N i ddangos a yw dyletswydd Cydraddoldeb/ SED yn berthnasol Y/N to indicate whether the Equality/SED duty is applicable</b>						<b>N</b>	
The report is informing the Health Board of findings under the Mental Health Act and Mental Health Measure following a HIW inspection. Any actions would be taken forward and escalated and if required to inform strategy would be linked with the Mental Health and Learning Disabilities Strategy when reviewed the report does not inform strategic change at this point.							
<b>Sefyllfa / Situation:</b>							
The paper (Appendix 1) provides an update in relation to the inspections conducted by Healthcare Inspectorate Wales (HIW) covering a period of 12 months. New and updated inspections are included. Those which have been dealt with, and are still within the 12 month period are noted for information.							
The HIW quality check summary on Coed Celyn Hospital is included (Appendix 2).							
<b>Cefndir / Background:</b>							
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.							
The primary focus for visits are:							
<ul style="list-style-type: none"> <li>Making a contribution to improving the safety and quality of healthcare services in Wales.</li> </ul>							

- Improving citizen's experience of healthcare in Wales whether as a patient, service user, carer, relative or employee.
- Strengthening the voice of patients and the public in the way health services are reviewed.
- Ensuring that timely, useful, accessible and relevant information about the safety and quality of healthcare in Wales is made available to all.

As part of a new tiered approach to assurance HIW have begun undertaking quality checks to examine how healthcare services are meeting the Health and Care Standards 2015 and other relevant regulations.

The focus for the quality checks is three key areas:

- Environment
- Infection prevention and control
- Governance

A key line of enquiry is: 'considering COVID-19 how is the area discharging their duty of care against the Mental Health Act and how are patients' rights being safeguarded?'

This report provides assurance that following inspections, recommendations/actions are followed up appropriately.

#### **Asesu a Dadansoddi / Assessment & Analysis**

##### **Goblygiadau Strategol / Strategy Implications**

The Health Boards 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.

##### **Opsiynau a ystyriwyd / Options considered**

Not applicable for this report

### **Goblygiadau Ariannol / Financial Implications**

Issues highlighted by HIW may have financial implications. However the aspects covered by this document (namely the Mental Health Act and Mental Health Measure) require no financial consideration at present.

### **Dadansoddiad Risk / Risk Analysis**

Outstanding HIW Actions are reviewed within the MHL D division area Quality Safety and Experience (QSE) meetings on a monthly basis.

Policies –Policies regularly require updating and change as statute and documents change.

The MHL D Policy Implementation Group is working to ensure policies are kept up to date and reviewed by appropriate personnel. This is reported monthly to the MHL D Senior Leadership Team QSE meeting, and reported up to the Health Board QSE committee meetings.

### **Cyfreithiol a Chydymffurfiaeth / Legal and Compliance**

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.

### **Asesiad Effaith / Impact Assessment**

This is a retrospective report, and therefore no EQIA required. All policies which link in with HIW actions will be Equality Impact Assessed.

## HealthCare Inspectorate Wales (HIW) Inspections

### Mental Health and Learning Disabilities Division

**New Inspections undertaken within the last 12 months and current updates are provided below.**

#### **1      Quality check Summary: Coed Celyn Hospital NEW**

Inspection Date:                      17 March 2021

Publication of report due:    7 May 2021

HIW consider the Mental Health Act under the Governance heading of their report specifically questioning how, in light of the impact of Covid 19 are services continuing to discharge their duty of care against the Mental Health Act and safeguarding patients' rights.

The report details that multi-disciplinary team meetings involving external professionals have continued and reviews scheduled under the Mental Health Act have been undertaken within prescribed timeframes. Patients have continued to have access to advocacy and external professional services via telephone during times of restrictions for face to face meetings. Patients leave is managed in accordance with government guidelines and individual risk assessments.

No improvements were identified in relation to the Mental Health Act.

#### **2      Quality check Summary: Glan Clwyd Hospital – Ablett Unit FOR INFORMATION**

Inspection Date:                      20 November 2020

Publication of report due:    16 December 2020

HIW consider the Mental Health Act under the Governance heading of their report specifically questioning how, in light of the impact of Covid 19 are services continuing to discharge their duty of care against the Mental Health Act and safeguarding patients' rights.

The report details positive evidence on:

- staffing

- the needs of patients being met by involvement of families
- continued improvement of communication with CMHTs
- the support of the MHA administration team in providing guidance to ensure patients are aware of their rights and the continued facilitation of tribunals and access to advocacy.

No improvements were identified in relation to the Mental Health Act.

### 3 **Quality Check Summary: Bryn Y Neuadd Hospital – Carreg Fawr Unit** **UPDATE**

Inspection Date: 29<sup>th</sup> September 2020

Publication of report due: 5<sup>th</sup> November 2020

Under Governance HIW enquired how in light of the impact of COVID-19, was the unit continuing to discharge their duty of care against the Mental Health Act and safeguarding patients' rights.

HIW were provided with evidence that the frequency of Mental Health Act Review Tribunals had not been affected by the pandemic. Participation at meetings, and solicitor and Independent Mental Health Advocacy (IMHA) access was being maintained by telephone rather than face to face.

The MHL D Bed Escalation Policy was highlighted as a concern following the review date expiring. The Health Board was asked to ensure that policies are consistently being reviewed and updated as and when scheduled and that governance arrangements are clear. The response and actions are detailed below and have been submitted to HIW for assurance.

Improvement Needed	Service Action	Timescale
The health board should review the governance arrangements in place to ensure policies are consistently being reviewed and updated when required.	<p>The MHL D Division policy group terms of reference were agreed on the 27.08.2020. It meets on a monthly basis. All documents which are nearing the review date are highlighted in advance to ensure allocation of a professional to review, and monthly updates are required as to process and any obstacles which may need escalation. Policies are also considered in relation to risk and the effect of removal from the intranet and circulation if they have not been reviewed and updated prior to the review date. During March to September 2020 the Policy group was stood down due to Covid 19; since resuming documents are now being tracked and reviewed with a monthly report produced for the MHL D Leadership Team, Quality Safety and Experience Meeting.</p> <p>The MHL D 0045 Bed Escalation Policy has been reviewed and this has been sent for consultation until the 12 November 2020 to then</p>	<p>Complete</p> <p>The document is now a</p>

	be presented at the MHLDP Policy Group meeting on the 17 December 2020 for ratification.	procedure and is due for final approval by PQSG 15.06.2021
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#### 4 Heddfan Unit Wrexham Maelor **FOR INFORMATION**

Inspection Date: 7<sup>th</sup> - 9<sup>th</sup> July 2020

Publication of report due: 7<sup>th</sup> October 2020

The purpose of the HIW visit was to gain assurance on whether sufficient attention was being given by the Health Board to address issues that had been raised through concerns reported to HIW. The focus was specifically on: patient care, governance and leadership, safeguarding, staffing and infection prevention and control.

The report highlights the wide range of relevant information leaflets for patients, families and other visitors, including information on mental health issues and guidance around legislation.

Under the Mental Health Measure, care plans viewed were noted to be to a good standard and there was clear evidence of multidisciplinary involvement in production. The Covid 19 care plans were noted to be individualised, detailed and well developed. There were two items highlighted under record keeping (detailed in the table below) linked with unmet needs and documentation under the Mental Health Measure.

Improvement Needed	Service Action	Timescale
The health board must ensure that unmet needs are evidenced and documented within patient care plans.	Teams have been reminded by a memo to ensure unmet needs are documented within the Mental Health Measure documentation.	Complete  Memo dated 19 August 2020 and distributed
	There is a daily Acute Care Meeting (Mon-Fri) where any identified unmet needs have clear actions for resolution.  A weekly audit will include a monitoring question on unmet needs captured in the Mental Health measure documentation and gaps immediately rectified.	The unmet needs are now part of the template for the meetings and are discussed.  Complete

# Quality Check Summary

Coed Celyn Hospital

Activity date: 17 March 2021

Publication date: 7 May 2021



This publication and other HIW information can be provided in alternative formats or languages on request. There will be a short delay as alternative languages and formats are produced when requested to meet individual needs. Please contact us for assistance.

Copies of all reports, when published, will be available on our website or by contacting us:

In writing:

Communications Manager  
Healthcare Inspectorate Wales  
Welsh Government  
Rhydycar Business Park  
Merthyr Tydfil  
CF48 1UZ

Or via

Phone: 0300 062 8163  
Email: [hiw@gov.wales](mailto:hiw@gov.wales)  
Website: [www.hiw.org.uk](http://www.hiw.org.uk)

# Findings Record

## Our Approach

Healthcare Inspectorate Wales (HIW) undertook a remote quality check of Coed Celyn Hospital as part of its programme of assurance work. Coed Celyn is a rehabilitation unit for adults who experience mental health issues. The hospital can accommodate up to eight patients and forms part of Betsi Cadwaladr University Health Board's Mental Health and Learning Disability Specialist Services provision.

HIW's quality checks form part of a new tiered approach to assurance and are one of a number of ways in which it examines how healthcare services are meeting the Health and Care Standards 2015 (and other relevant regulations). Feedback is made available to service representatives at the end of the quality check, in a way which supports learning, development and improvement at both operational and strategic levels.

Quality Checks are a snapshot of the standards of care within healthcare settings. They are conducted entirely offsite and focus on three key areas; infection prevention and control, governance (specifically around staffing) and the environment of care. The work explores arrangements put in place to protect staff and patients from COVID 19, enabling us provide fast and supportive improvement advice on the safe operation of services during the pandemic. More information on our approach to inspections can be found [here](#).

We spoke to the ward manager on Wednesday 17 March 2021, who provided us with information and evidence about their setting. We used the following key lines of enquiry:

- How are you ensuring that the environment is safe and suitable for the needs of patients at this time? What changes, if any, have been made to the physical environment, ward routines and patients' access to leave as a result of COVID-19?
- How is the risk of infection assessed and managed to keep patients, visitors and staff safe?
- Considering the impact of COVID-19, how are you discharging your duty of care against the Mental Health Act and how are patients' rights being safeguarded?
- How are you ensuring that there are sufficient numbers of appropriately trained staff to meet patients' needs, with access to wider mental health professionals where needed?

## Environment

During the quality check, we considered how the service has designed and managed the environment of care to keep it as safe as possible for patients, staff and visitors. We reviewed recent risk assessments, incident reviews and use of restraint and seclusion. We also questioned the setting on the changes they have made to make sure patients continue to receive the care and treatment according to their needs.

### **The following positive evidence was received:**

We were told that Coed Celyn was closed in April 2020, at the start of the COVID-19 pandemic, due to concerns around the lack of adequate ventilation on the first floor corridor. After consulting with the health board's health and safety lead and the Fire Officer, measures were set in place to improve ventilation by fitting sound activated retaining devices to fire doors on the first floor corridor. Coed Celyn re-opened on 18 September 2020.

We were told that all communal rooms are clearly marked with the maximum number of people allowed to enter/occupy the space at the same time. One way systems have been introduced on the first floor corridor to reduce the likelihood of patients and staff coming into close contact in the narrow space.

We were told that, due to the layout of the building, indoor visits with family and friends has not been possible. However, a meeting room can be booked for visits, within an adjoining building which houses the health board's Community Rehabilitation Team, as this enables social distancing and complies with the visiting risk assessment. We were told that money has been made available and a wooden gazebo has been purchased, which is to be erected in the garden, in order to facilitate outdoor visiting when restrictions allow.

We were told that patients have access to an electronic tablet device, loaned through the health board, in order to maintain contact with friends and family. Staff also support patients to use their own devices to keep in touch with loved ones.

We were told that each patient has an individualised rehabilitation programme based on their needs. However, lockdown measures have significantly affected the availability of activities as most of the patients' rehabilitation programme is centred on community integration and accessing community groups, activities and other opportunities. Measures have been set in place to compensate for this by providing more on-site groups which are led by the Occupational Therapy, nursing and healthcare support staff.

Patients have been supported to deal with the change through daily meetings to ensure they understand changes to treatment and restrictions.

We were provided with copies of the health and safety assessment conducted in September 2020, which shows high compliance. We were also provided with a copy of the generic environmental risk assessments completed in July and August 2020, together with a copy of

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the most recent ligature risk assessment, which was undertaken on 9 March 2021. These show that the organisation is making every effort to ensure the health and safety of patients, staff and visitors through robust and comprehensive audits and risk assessments.

We were told that restrictive interventions are not routinely used to manage challenging behaviour. We were provided with data relating to incidents of challenging behaviour over the past five months. This data shows that incidents were low in numbers and managed appropriately, and that the health board has robust recording, reporting and review processes in place.

**No improvements were identified.**

## Infection prevention and control

During the quality check, we considered how the service has responded to the challenges presented by COVID-19. We considered how well the service manages and controls the risk of infection to help keep patients, visitors and staff safe. We reviewed infection control policies, infection rates and risk assessments. We reviewed key systems including the use of personal protective equipment (PPE).

### **The following positive evidence was received:**

We were told that there were no current, confirmed cases of COVID-19, within the staff or patient group, and that all staff and patients had been offered a vaccination.

We were provided with copies of the policies and procedures in place for the prevention and control of infection, which included specific COVID-19 policies and guidance. These were seen to be comprehensive and reflective of current COVID-19 national guidance.

We were also told that there were good links with the health board's specialist infection control nurses and the Occupational Health department for guidance and advice on the management of COVID-19 and other infection prevention and control matters.

We were told that monthly, comprehensive cleaning audits are undertaken.

We saw from the documents submitted, and from discussions with the ward manager, that any patient diagnosed with an infectious disease would be managed appropriately. Should a patient have to isolate due to suspected or diagnosed COVID-19, then they would be cared for in one of three designated bedrooms to limit any risk of cross-infection.

We were told that all health and safety policies have been updated. A COVID-19 specific environmental risk assessment has been developed which covers social distancing, visiting and the management of COVID-19 symptomatic/positive patients. PPE stocks are audited

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every night to ensure sufficient supply and patients are encouraged to wear them.

We were told that regular health board COVID-19 communication is shared with all staff via e-mail. Daily safety huddles are held to enable all staff to raise any concerns and discuss issues relating to the service development, COVID-19 planning and care provision. These meetings also afford staff the opportunity to share ideas and recommendations on how we can improve the environment and processes for patients and staff. A daily morning meeting is also held with the patients and this affords them the opportunity to ask questions and be updated with the most recent guidance. In addition, there is a COVID-19 information file available to staff which contains relevant risk assessments and guidance.

We were told that meetings are held with every patient, prior to admission to Coed Celyn, to discuss their understanding of COVID-19 and what would happen should they become symptomatic. This is then reflected in a COVID-19 specific care plan. The care plan is discussed and reviewed during weekly one to one meetings with patients to ensure their continued understanding and co-operation.

We were told that all staff have completed training on infection prevention and control which included specific modules on the management of COVID-19.

**The following areas for improvement were identified:**

We were told that Coed Celyn has not had a recent infection control audit. This has been escalated by the ward manager who is awaiting a response. The health board must arrange for an infection control audit to be carried out at Coed Celyn, as soon as it is deemed safe to do so under COVID-19 guidelines.

## **Governance**

As part of this standard, HIW considered how the setting ensures there are sufficient numbers of appropriately trained staff to meet patients' needs, with access to wider mental health professionals where needed.

We also questioned the setting about how, in light of the impact of COVID-19, they are continuing to discharge their duty of care against the Mental Health Act and safeguarding patients' rights.

**The following positive evidence was received:**

Discussions with the ward manager highlighted a good understanding of their responsibilities and the hospital's escalation and reporting processes. The ward manager told us that they are very well supported by their immediate line manager and by the wider organisation's senior management team and have access to advice and guidance when required.

We were provided with a copy of Coed Celyn's standard operating procedure document which

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was completed prior to the re-opening of the hospital. The document covers arrangements around the management of COVID-19, with specific reference to environmental and procedural adaptations, maintaining safety of staff and patients, procedure for admissions and discharges, procedure for patients presenting with symptoms of COVID-19 and staff support and wellbeing.

We were told that the hospital has a multidisciplinary team consisting of mental health nurses, healthcare support workers, occupational therapist, activity co-ordinator, consultant psychiatrist and psychologist.

The information provided shows that there is currently one Band five vacant post at the hospital. We were told that there is no intention to advertise this post at present as two preceptorship<sup>1</sup> nurses are due to join the team in April and May 2021. Both nurses have selected Coed Celyn as their preferred place of employment after completing placements at the hospital and also having worked bank shifts there.

We were told that agency staff are rarely used to cover staffing shortfalls with the hospital's permanent staff members willing to cover additional shifts where required. This provides a level of continuity in the care provided and ensures that staff are familiar with the hospital layout and working practices, and are familiar with the patients' individual care needs.

Daytime staffing levels were reported as being Registered Mental Health nurses (RMN), two health care Support workers. From Monday to Friday, this is complemented by the ward manager, deputy ward manager, occupational therapist and activity co-ordinator. Night time staffing levels are, one RMN and one health care support worker. We were told that patient dependency levels are assessed regularly and additional staff brought in to cover any increase in demand.

We were provided with training statistics and saw a high compliance rate for mandatory training.

We were told that multi-disciplinary team meetings, involving external professionals, have continued and that reviews scheduled under the Mental Health Act 1983, have been undertaken within prescribed time frames. Where face to face meetings have not been possible, telephone calls have been used to ensure patients continue to have access to external professional services, including advocacy.

We were told that patients' leave was being managed in accordance with government guidelines and individual risk assessments.

**No improvements were identified.**

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<sup>1</sup> Preceptorship is a process to guide and support all newly qualified nurses to make the transition from student and to develop their practice further.

## What next?

Where we have identified improvements during our check, which require the service to take action, these are detailed in the improvement plan below.

Where an improvement plan is required, it should:

- Clearly state how the findings identified will be addressed
- Ensure actions taken in response to the issues identified are specific, measurable, achievable, realistic and timed
- Include enough detail to provide HIW and the public with assurance that the findings identified will be sufficiently addressed
- Ensure required evidence against stated actions is provided to HIW within three months of the Quality Check.

As a result of the findings from this quality check, the service should:

- Ensure that findings are not systemic across other areas within the wider organisation
- Provide HIW with updates where actions remain outstanding and/or in progress, to confirm when these have been addressed.

The improvement plan, once agreed, will be published on HIW's website.

# Improvement plan

Setting: Coed Celyn Hospital

Date of activity: 17 March 2021

The table below includes improvements identified during the Tier 1 Quality Check, where we require the service to complete an improvement plan telling us about the actions they are taking to address these areas.

Please note, all actions are expected to be complete within three months of the Quality Check and the final version of the Improvement Plan is to be submitted via Objective Connect once complete.

Reference Number	Improvement needed	Standard/ Regulation	Service Action	Responsible Officer	Timescale
1	The health board must arrange for an infection control audit to be carried out at Coed Celyn, as soon as it is deemed safe to do so under COVID-19 guidelines.	Standard 2.4 Infection Prevention and Control (IPC) and Decontamination	An infection control audit has been arranged for 15/04/2021.	Head of Nursing, RSS/SCC	April 2021

The following section must be completed by a representative of the service who has overall responsibility and accountability for ensuring the improvement plan is actioned.

Name: William Haydn Williams

Date: 31/03/2021





<b>Cyfarfod a dyddiad: Meeting and date:</b>	<b>Mental Health Act Committee 25.06.2021</b>						
<b>Cyhoeddus neu Breifat: Public or Private:</b>	Public						
<b>Teitl yr Adroddiad Report Title:</b>	Section 12(2) Doctors Update						
<b>Cyfarwyddwr Cyfrifol: Responsible Director:</b>	Teresa Owen, Executive Director of Public Health						
<b>Awdur yr Adroddiad Report Author:</b>	Alberto Salmoiraghi, Medical Director Mental Health & Learning Disabilities						
<b>Craffu blaenorol: Prior Scrutiny:</b>	None. Action Plan agreed at S12 (2)						
<b>Atodiadau Appendices:</b>	Section 12(2) action plan – Appendix 1						
<b>Argymhelliad / Recommendation:</b>							
The Committee is asked: <ol style="list-style-type: none"> <li>1. To note the approach and progress underway.</li> <li>2. To note the current action plan.</li> </ol>							
<b>Ticiwch fel bo'n briodol / Please tick as appropriate</b>							
<b>Ar gyfer penderfyniad /cymeradwyaeth For Decision/ Approval</b>		<b>Ar gyfer Trafodaeth For Discussion</b>		<b>Ar gyfer sicrwydd For Assurance</b>	x	<b>Er gwybodaeth For Information</b>	x
<b>Y/N i ddangos a yw dyletswydd Cydraddoldeb/ SED yn berthnasol Y/N to indicate whether the Equality/SED duty is applicable</b>						<b>N</b>	
<b>Sefyllfa / Situation:</b>							
The Mental Health Act Committee asked for work to be undertaken to mitigate the risk of lack of Section 12(2) doctors during the out of hours period.  A number of reports have been produced, and most recently it was agreed that a plan be developed to ensure sufficient progress and priority was given to this area of work. A group has now come together to support the planning discussions.  This brief paper provides an update on progress, and the action plan is attached for information.							
<b>Cefndir / Background:</b>							
After the last Mental Health Act Committee meeting, Dr Alberto Salmoiraghi committed to update the Committee with an action plan.							

Two meetings have been organised and chaired by Dr Salmoiraghi, on the 14/05/2021 and on the 16/06/2021. The meetings were attended by Claire Darlington- Assistant Director Primary Care & Community Services, Teresa Owen- Executive Director of Public Health, Heulwen Hughes- All Wales Approval Manager for Approved Clinicians and Section 12(2), Dr Sanjay Ingley- Consultant, Dr Liz Bowen- Area Medical Director, Primary and Community Care, Iain Wilkie- Interim Director and Hilary Owen-Head Of Governance and Compliance, Mental Health & Learning Disabilities.

The discussion focussed on practical issues to improve the immediate availability of Section 12(2) doctors, but also to achieve a sustainable position.

Five areas were covered in the discussion:

1. The role and contribution of the various HB divisions, and the need for support from the Executive Team.
2. The financial situation and potential incentives.
3. The training and development for doctors.
4. The current service delivery.
5. Partnership working arrangements.

The first meeting focussed on the scoping of these key areas, whilst the second meeting focussed on specific actions and agreed deadlines.

#### **Asesu a Dadansoddi / Assessment & Analysis**

##### **Goblygiadau Strategol / Strategy Implications**

The Health Board has responsibility to comply with the requirement of the law, hence it is essential to have a strategy for the sustainable availability of Section 12(2) doctors.

##### **Opsiynau a ystyriwyd / Options considered**

It was agreed that Dr Alberto Salmoiraghi will continue to lead with the support of the relevant Executive Leads, and cross divisional work. The attached action plan provides the key detail.

##### **Goblygiadau Ariannol / Financial Implications**

The group leading on this work, predict there may be financial implications for the Health Board as this work develops. Any proposals for changes will need to be progressed as per usual Health Board arrangements.

##### **Dadansoddiad Risk / Risk Analysis**

The risk is primarily to patients who require a MHA assessment in the community during the out of hours periods.

##### **Cyfreithiol a Chydymffurfiaeth / Legal and Compliance**

There is a legal requirement to comply with the MHA. The Health Board must ensure that there are plans in place for a sufficient number of Section 12(2) doctors.

##### **Asesiad Effaith / Impact Assessment**

N/A

Action Number	Action Type	Action Description	Action Date	Action Deadline	Action Owner	Action status	Action Complete Date DD/MM/YYYY	Action Completed By	Update
<b>ACTIONS LOG</b>									
The purpose of this template is to record all actions from project-related meetings, and to record the action's owner, status and any further notes.									
1	Executive	a) Taking this action log to the Executive Team for discussion/approval.	16/06/2021	6 months	Arpan Guha/ supported by TO	In progress and on track			
		b) Develop a Task & Finish group to support the development of a workforce plan for S12(2) activities.	12/05/2021	16/06/2021	TO/AS	Completed	16/06/2021	All	This follow up meeting with action plan was the task and finish group set up.
2	Financial	a) To explore incentive opportunities and increasing fees. To discuss with the LMC to see what is a reasonable fee and funding to be clarified.	16/06/2021	6 months	CD/TO	In progress			CD to do some work with HH regarding payments. LB stated that the rates haven't gone up since 2004 but they have just been equalised by the Health Board. TO will link in with Joanna Garrigan and Local Authority.
		b) Clarify indemnity fee rules changes and potential for reimbursement of extra costs.	16/06/2021	6 months	CD/Lynne Joanneau	In progress			Indemnity rules for GPs has changed and clarifications on how Sec 12(2) paid work fits with new regulation
		c) Clarify procurement arrangements for paid Sec 12(2) work	16/06/2021	6 months	CD/ Local authorities	In progress			Type of contract with LA to be standardised and clarified
3	Training and development	a) Develop a 'sustainable' plan for paid sessional work for GPs in the MHL D division (to acquire sufficient competencies)	16/06/2021	6 months	AS/IW	Completed	16/06/2021	AS/IW	GP's can be offered sessional work in any Mental health and Learning Disability speciality with supervision from consultant psychiatrist to acquire sufficient competencies for application. The Medical Director and the Director of MHL D support this action and can facilitate the requests within the current vacancies and will allocate a substantive consultant for supervision.
		b) To clarify minimum duration of sessional work to acquire competencies	16/06/2021	6 months	SI	In progress and on track			
		c) Develop a proposal to increase the number of GP trainees within MHL D services	16/06/2021	6 months	AS/CD	In progress and on track			AS will write to Emma Wooley and Raj Sambhi. CD can link into the academy with the trainee programme directors. Psychiatrist can go to GP ETS and offer a session. An offer shadowing to get their references.
		d) Use the Primary Care Academy to improve training opportunities	16/06/2021	6 months	CD	In progress and on track			the Primary Care Academy is a good platform to advertise the opportunity to develop a special interest in MHL D
		e) Use the Primary Care Academy to deliver lectures on legislation and MHA	16/06/2021	6 months	CD/SI	In progress and on track			In the past, delivering lectures to GP trainees has increased the interest in MHL D
		f) send reminders to GP who have attended a MHA course but have not completed the application	16/06/2021	16/06/2021	HH	Completed	16/06/2021	HH	HH will send regular reminders to the GPs who attended the course but did not apply. HH will also offer support for the completion of the application
4	Service	Explore the possibility of expanding the rota to consultants psychiatrists	12/05/2021	16/06/2021	AS	Completed	16/06/2021	AS	AS explored this already and fed back in previous report. It is a possibility already in place on a voluntary basis. The risks of making it compulsory have been explored, but are too high and will incur in contractual issues. It will also have an effect on recruitment and sustainability of the rota. Finally, it potentially may compromise the current services.
5	Partnership	a) Meeting with LAs, so key parties are clear on roles/responsibilities – in hours and out of hours	16/06/2021	3 months	AS	In progress and on track			As will organise a meeting with LAs colleagues and area MDs to clarify the pathways, responsibilities and roles.
		b) agree on a memorandum of Understanding between LAs and HB if a doctor is not available.	16/06/2021	3 months	AS	In progress and on track			AS happy to write a draft with local authority but will ask legal advice for the appropriate wording. AS will also align with national practice.
		c) To discuss potential for training	16/06/2021	3 months	AS	In progress and on track			AS will discuss with LAs colleagues whether there is scope for joint training or training on specific MH topics

<b>Cyfarfod a dyddiad: Meeting and date:</b>	<b>Mental Health Act Committee 25.06.2021</b>						
<b>Cyhoeddus neu Breifat: Public or Private:</b>	Public						
<b>Teitl yr Adroddiad Report Title:</b>	Reforming the Mental Health Act White Paper Consultation Responses from BCUHB						
<b>Cyfarwyddwr Cyfrifol: Responsible Director:</b>	Mr Iain Wilkie, Divisional Director of Mental Health and Learning Disabilities (Interim)						
<b>Awdur yr Adroddiad Report Author:</b>	Wendy Lappin, Mental Health Act Manager						
<b>Craffu blaenorol: Prior Scrutiny:</b>	Mental Health and Learning Disabilities, Senior Leadership Team Quality Safety and Experience Group 15/06/2021						
<b>Atodiadau Appendices:</b>	Appendix 1 – Reforming the Mental Health Act Summary. Appendix 2 – Responses from BCUHB.						
<b>Argymhelliad / Recommendation:</b>							
The Committee is asked to note this report.							
<b>Ticiwch fel bo'n briodol / Please tick as appropriate</b>							
<b>Ar gyfer penderfyniad /cymeradwyaeth For Decision/ Approval</b>		<b>Ar gyfer Trafodaeth For Discussion</b>	√	<b>Ar gyfer sicrwydd For Assurance</b>	√	<b>Er gwybodaeth For Information</b>	√
<b>Y/N i ddangos a yw dyletswydd Cydraddoldeb/ SED yn berthnasol Y/N to indicate whether the Equality/SED duty is applicable</b>						<b>N</b>	
The report is to inform the Committee that the White Paper Consultation of the Mental Health Act was distributed to professionals and responses were received and forwarded following approval from the Board Secretary.							
The decision to change the Mental Health Act Legislation will come from Government to which the Health Board will be required to comply with any changes if these occur.							
This report is highlighting possible changes to the Mental Health Act some of which may have an impact on strategy if they are agreed by government. This would be considered through the Mental Health and Learning Disabilities Strategy if there was a need for change.							
<b>Sefyllfa / Situation:</b>							
The White Paper: ' <i>Reforming the Mental Health Act</i> ' was published by the UK Government for consultation following the independent review undertaken in 2018, with a consultation deadline date of the 21 <sup>st</sup> of April 2021. This consultation asked specific questions on the Mental Health Act and was shared widely within the division. The full report and a summary (Appendix 1) can be accessed via the link <a href="https://www.gov.uk/government/consultations/reforming-the-mental-health-act">Reforming the Mental Health Act - GOV.UK (www.gov.uk)</a>							
Responses received were collated and submitted following review from the Health Board Secretary (Appendix 2).							

## **Cefndir / Background:**

The Independent Review of the Mental Health Act was commissioned by Government in October 2017, and began with the Terms of Reference being published (4<sup>th</sup> of October) which detailed the background, purpose of the review, expected outputs, leadership, co-production, governance and devolution.

The Independent Review was conducted throughout 2018 and this involved engagement with Service Users, Carers and Professionals facilitated through surveys, meetings and conferences. The academic literature review allowed the latest evidence on themes under the Mental Health Act to be gathered.

An interim report was published in May 2018, with the final report and recommendations published on the 6<sup>th</sup> of December 2018.

The final report set out 154 recommendations underpinned by four principles. These are:

- choice and autonomy – ensuring service users' views and choices are respected
- least restriction – ensuring the Act's powers are used in the least restrictive way
- therapeutic benefit – ensuring patients are supported to get better, so they can be discharged from the Act
- people as individuals – ensuring patients are viewed and treated as rounded individuals

The Mental Health Network NHS Confederation published a briefing paper in December 2018 (Issue 310).

## **Asesu a Dadansoddi / Assessment & Analysis**

### **Strategy Implications**

The Summary Document (Appendix A) details the finer points of the proposals under each of the Parts of legislation. The specific points and proposed changes are detailed below:

### **Part 1 Legislative reforms**

- Embedding 4 principles into the MHA as well as the MHA Code of Practice.
- Strengthening and clarity of detention criteria to include Community Treatment Orders (CTOs).
- The ability for those detained under Section 3 to appeal 3 times in a 12 month period of their detention to the Mental Health Review Tribunal (MHRT). Automatic referrals to be instigated at the 3 month point, 6 month and month twelve. With annual reviews thereafter.
- The ability for those detained under Section 2 to appeal to the MHRT within 21 days - an increase of 7 days on the current rules.
- The automatic referrals for CTO patients would be at 6 months, 12 months and then yearly.
- Part 3 patients to move to yearly reviews.
- Part 3 conditionally discharged patients to have automatic reviews 24 months following discharge and then at 4 yearly intervals.
- Greater powers for the MHRT to direct transfer or leave.
- Independent Mental Health Advocates being able to appeal on behalf of the patients and being available to those waiting prison transfer to hospital.
- Removal of automatic referrals when a CTO patient is readmitted to hospital.
- Removal of the Associate Hospital Managers role in reviewing patients for discharge.
- Advance choice documents for patients to include choice about treatment and the ability to

choose a nominated person to replace the nearest relative function

- Care and treatment plans to become statute documents, to be in place by day 7 of detention.
- Changes to Consent to Treatment and Part 4 of the MHA. SOAD for patients not consenting to be contacted by day 14 and certification of treatment at month 2 rather than the current 3 month period.
- Changes to the nearest relative function with the replacement of a nominated person who would have additional powers under the MHA.
- Part 3 patients to be entitled to a nominated person (who would have less powers than civil section nominated persons)
- Children from aged 16 will have the same rights regarding a nominated person as an adult.
- CTOs to be time limited to 24 months if possible.
- Introduction of a clearer process for deciding if someone should be detained under the MHA or Deprivation of Liberty Safeguards (LPS) lack of capacity would automatically be detained under DOLS.
- Consideration of previous consent for informal admission rather than formal detention.
- Use of the Mental Capacity Act to 'hold persons' in A&E rather than police powers needing to be used.
- Magistrates Court Powers to be increased and be in line with the Crown Court.
- Autism or a learning disability to no longer be considered a mental disorder for the purpose of most powers of the MHA.
- Care and treatment plans required for all children whether detained under the Act or not.

## **Part 2: Reforming policy and practice around the new act to improve patient experience**

This section describes the current and future work the government and the NHS is undertaking to bring about changes so people have better experiences of care, under the headings:

- Supporting people in the community
- Improving ward culture for patients and staff
- Improving the physical ward environment
- The role of the Care Quality Commission (CQC)
- Removing police cells as 'places of safety'
- Enabling better handovers from police to health services
- The mental health workforce
- Data and digital
- Impact assessment

## **Opsiynau a ystyriwyd / Options considered**

Not applicable for this paper.

### **Goblygiadau Ariannol / Financial Implications**

The proposed changes will potentially require additional administrative work for clinicians, nursing staff and the Mental Health Act office. This may result in the need for changes in working patterns and extra staffing.

Additional assessments will potentially increase the use of S12(2) doctors and have financial implications.

### **Dadansoddiad Risk / Risk Analysis**

The proposed changes will potentially:

- Strengthen assurance that patients are detained appropriately, and strengthen assurance that patients have access to an IMHA.
- Require additional administrative tasks for the Mental Health Act office staff.
- Require additional reports and assessments by professionals.
- Require increase data assurance and enable comparisons and benchmarking.
- Enable additional monitoring and checks.

### **Cyfreithiol a Chydymffurfiaeth / Legal and Compliance**

The white paper is concerned with the Mental Health Act 1983 (as amended 2007).

### **Asesiad Effaith / Impact Assessment**

An impact assessment has been completed in relation to the white paper, and this is available on the government website and linked within the summary.

1. Home (<https://www.gov.uk/>)
  2. Health and social care (<https://www.gov.uk/health-and-social-care>)
  3. Public health (<https://www.gov.uk/health-and-social-care/public-health>)
  4. Mental health (<https://www.gov.uk/health-and-social-care/mental-health>)
  5. Mental health service reform (<https://www.gov.uk/health-and-social-care/mental-health-service-reform>)
  6. Reforming the Mental Health Act (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act>)
- Department of Health & Social Care (<https://www.gov.uk/government/organisations/department-of-health-and-social-care>)

Closed consultation

## Reforming the Mental Health Act: summary

Updated 6 April 2021

### Contents

What has happened so far

What we're doing now

How do the proposals relate to Wales?

Part 1: legislative reforms

Part 2: reforming policy and practice around the new act to improve patient experience

Responding to the consultation

[Print this page](#)



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This publication is available at <https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act-summary>

We (the UK government) want to let you know about the changes we are proposing to improve care for people who are detained under the Mental Health Act (MHA). This document:

- summarises the main changes proposed, which are available in the full White Paper<sup>[footnote 1]</sup>
- tells you where you can find out more information
- explains how you can tell us what you think about the changes.
- explains how the proposals relate to Wales

## **What has happened so far**

The Mental Health Act (the act) sets out when someone can be detained in hospital and treated for a mental health disorder, at times against their wishes. This is sometimes called being 'sectioned'.

The act sets out the process for assessment, treatment and protection of people's rights.

In October 2017 the UK government announced an independent review of the Mental Health Act. The review was asked to look at how the act is used and how practice can be improved. The review looked at why:

- rising numbers of people are being detained under the act
- disproportionate numbers of people from black, Asian and minority ethnic (BAME) groups are being detained.

The review made 154 recommendations on how the Mental Health Act should be improved. (<https://www.gov.uk/government/publications/modernising-the-mental-health-act-final-report-from-the-independent-review>)

## **What we're doing now**

We have considered the review's recommendations and are proposing changes to improve mental health services and people's experiences under the Mental Health Act. This is called a 'White Paper'.

The changes aim to make sure that:

- people are detained for shorter periods of time, and only detained when absolutely necessary
- when someone is detained the care and treatment they get is focused on making them well
- people have more choice and autonomy about their treatment
- everyone is treated equally and fairly and disparities experienced by people from black and minority ethnic backgrounds are tackled
- people with a learning disability and autistic people are treated better in law and reduce the reliance on specialist inpatient services for this group of people

The White Paper is split into 3 main parts. These are:

- Part 1: legislative reforms – the changes we are proposing to the Mental Health Act itself
- Part 2: reforming policy and practice to improve patient experience – the government's plans to bring about an overall culture change within mental health services, so that people have a far better experience of care under the act

- Part 3: the UK government's response to the Independent Review of the Mental Health Act – the government's response to each of the review's recommendations (this is not covered in this document)

We would like to hear your views on the proposals, so that we can take these into consideration before any changes are made.

The main changes we are proposing in the Mental Health Act white paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act>) are summarised in this document.

## **How do the proposals relate to Wales?**

The current Mental Health Act applies in both England and Wales. Although health policy is devolved to Wales, justice matters remain reserved to the UK government. There is also a separate devolved system for tribunals in Wales.<sup>[footnote 2]</sup>

The White Paper represents the position of the UK government, which commissioned the Independent Review of the Mental Health Act. The review's proposals were largely focused on how the law and mental health system operates in England, although it did make some consideration of policy and practice in Wales.

## **Devolved matters**

The majority of the White Paper concerns health policy which is devolved to Wales. Improving mental health outcomes is a cross-cutting priority in Wales and the Welsh government has a policy commitment to deliver excellent mental health services. Given that the act has application in both England and Wales, the findings of the review and the proposals set out in this White Paper also need to be carefully considered in the context of how the act currently operates alongside specific legislation, mental health services and systems in Wales. In particular, the Mental Health (Wales) Measure 2010 has already put some similar proposals, such as care plans for people subject to detention, on a statutory footing in Wales.

The Welsh government will continue to engage with the UK government on the proposals set out in the White Paper as it considers appropriate next steps for Wales and develops its own response to the review.

## **Reserved matters**

Reserved matters where the UK government could apply changes in both England and Wales are highlighted below and in the White Paper (in particular in relation to the criminal justice system). However, even in reserved areas, the UK and Welsh governments are working closely to understand any distinct impacts and issues for Wales, and there may be cases where it is appropriate for Wales to take a different approach to reform from that being proposed in England.

It is not uncommon that Welsh patients are cared for in England and English patients cared for in Wales. Both governments are therefore committed to ensuring a joined up, person-centred mental health system that works for all patients and staff in these circumstances.

## **Responding to this consultation in Wales**

We want to ensure that voices from Wales are heard during the consultation period. We will be working with the Welsh government to ensure that this consultation will also help inform policy decisions in Wales. While consultation responses to the White Paper will be received directly by the

UK government, if you are responding to this consultation in Wales, your feedback will also be shared with the Welsh government.

On reserved matters, all responses from England and Wales will be fully considered by the UK government. On devolved matters, both governments will read all responses, however, feedback from Wales will not be counted or addressed separately as part of the UK government's consultation response.

## **Part 1: legislative reforms**

### **Chapter 1: new guiding principles**

There are 4 new guiding principles that people working to provide care will need to consider while carrying out their duties. These principles are central to our plans to modernise and improve the Mental Health Act. They are:

- choice and autonomy – making sure people's views and choices are respected
- least restriction – making sure the act's powers are used in the least restrictive way
- therapeutic benefit – making sure patients are supported to get better, so they can be discharged from the act as quickly as possible
- the person as an individual – making sure patients are viewed and treated as rounded individuals

We want these principles to be included up front in the act, as well as in the Code of Practice, which provides practical guidance for staff on how to follow the law. We hope that this change will help ensure that the principles are applied in all aspects of the care and treatment of people under the act.

You can answer the consultation question about applying the guiding principles:

#### **Question**

We propose embedding the principles in the MHA and the MHA code of practice. Where else would you like to see the principles applied to ensure that they have an impact and are embedded in everyday practice?

Your answer can be up to 500 words.

### **Chapter 2: clearer, stronger detention criteria**

The detention criteria are the conditions in law that decision makers must demonstrate that a person is meeting before they are detained under the Mental Health Act. There are 2 main criteria. The first is that the person is suffering from a mental illness severe enough to justify detention. The second is that the person needs to be detained for their health and safety, or to protect other people.

A detention of a person can be for medical assessment (section 2 of the act) or for treatment (section 3 of the act).

We want to strengthen and clarify the criteria for detention under sections 2 and 3 of the act, so that patients are only detained when it is absolutely appropriate. These changes are driven by the following guiding principles:

- therapeutic benefit – more consideration must be given to how care and treatment provided under the act will promote recovery and facilitate patients to get better
- least restriction – ensuring a person is only detained where it is absolutely necessary, and where not detaining poses a substantial risk of significant harm being caused to themselves or others

The reasons why a person meets the detention criteria will need to be documented by their responsible clinician, including the specific risk that justifies detention and, where applicable, how detention will deliver therapeutic benefit.

The reasons for detention should be shared with the patient and reviewed by other decision makers, including by the Mental Health Tribunal when it considers appeals. We hope that this will increase transparency and accountability.

See chapter 2: clearer, stronger detention criteria in part 1 of the White Paper

(<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) for more information and you can also answer the consultation questions about changes to the detention criteria:

### Question

We want to change the detention criteria so that detention must provide a therapeutic benefit to the individual. Do you agree or disagree with this proposal?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

### Question

We also want to change the detention criteria so that an individual is only detained if there is a substantial likelihood of significant harm to the health, safety or welfare of the person, or the safety of any other person. Do you agree or disagree with this change?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

## Chapter 3: giving patients more rights to challenge detention

We want to ensure that a patient's case for discharge from hospital is reviewed more regularly and that patients have more opportunities to appeal for discharge so they are not detained for longer than is necessary.

We will do this by making the changes set out below.

### More frequent review of a patient's case for detention

We want to make sure that the responsible clinician and other decision makers are required to review the patient's case for discharge more regularly. We also intend to increase people's access to the First Tier Tribunal (Mental Health) (Tribunal), which provides vital independent scrutiny of detention.

These changes are supported by the following proposals:

- for patients under section 3 of the act, they should have 3 formal opportunities to appeal their detention at the tribunal, rather than only 2 within their first year of detention
- patients detained under section 2 should be able to apply for discharge during the first 21 days, as opposed to the current 14 day cut off
- independent mental health advocates should be able to apply to the Mental Health Tribunal on the patient's behalf, so that no one slips through the net
- the frequency of automatic referrals to the tribunal are increased to ensure people detained under the Mental Health Act have their case heard
- the tribunal takes into account the patient's statutory care and treatment plan when they consider an application for discharge. This should clearly set out the responsible clinician's justification for the patient's continued detention

See chapter 3: giving patients more rights to challenge detention in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) for more information on our plans for giving patients more rights to challenge their detention. You can answer the consultation questions on the proposed time intervals for referring a patient to the tribunal.

### Question

Do you agree or disagree with the proposed timetable for automatic referrals to the Mental Health Tribunal (see table 1 for details)?

#### 1) Patients on a section 3

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

#### 2) Patients on a community treatment order (CTO)

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

### 3) Patients subject to part 3

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

### 4) Patients on a conditional discharge

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

**Table 1: frequency of automatic referrals**

Type of patient	Current provisions	Proposed provisions
	Referral 6 months after the detention started, if the patient had not made an appeal.	Referral 4 months after detention starts, if the patient had not already made an appeal.
Patients subject to section 3	<p>Thereafter referral takes place if more than 3 years have elapsed since the case was last considered by the tribunal.</p> <p>For patients under the age of 18, cases are referred to the Tribunal annually.</p>	<p>Thereafter, referral would take place 12 months after the detention started, if the Tribunal has not considered the case in the intervening months.</p> <p>After the first 12 months of detention, referral would take place annually.</p>

Type of patient	Current provisions	Proposed provisions
Patients on a <u>CTO</u>	<p>During the <u>CTO</u>, referral takes place 6 months after detention begins, if the tribunal has not considered the case in the first 6 months.</p> <p>Thereafter, referral takes place if more than 3 years (or 1 year in the case of a patient under 18) have elapsed since the case was last considered by the tribunal.</p> <p>If the <u>CTO</u> is revoked, referral to the Tribunal takes place as soon as possible.</p>	<p>Referral would take place 6 months after the patient was put on the <u>CTO</u>, if the tribunal has not considered the case in the first 6 months.</p> <p>Thereafter, referral would take place 12 months after the patient was put on the <u>CTO</u>, if the Tribunal has not considered the case in the intervening month and continue to take place annually.</p>
Patients subject to Part 3	Referral takes place if the tribunal has not considered the patient's case in the last 3 years.	Every 12 months.
Patients on a Conditional Discharge (restricted, part 3 patients)	These patients have no right to an automatic referral.	<p>Referral would take place 24 months following receipt of the conditional discharge by the patient.</p> <p>Thereafter, referral would take place every 4 years.</p>

### Changes to the tribunal's responsibilities

Where the continuation of a patient's detention is justified, we want to give the tribunal the power to grant leave or direct the transfer of patients to other, less restrictive settings, to help facilitate the patient's recovery. We also propose to give the tribunal the power to direct services in the community, where this is a barrier to discharge. We propose that health and local authorities should be given 5 weeks to deliver on directions made by the Mental Health Tribunal.

### Other changes to procedures around a patient's detention

We propose removal of existing parts of the detention review process, which the review concluded were ineffective or are compensated for by the above reforms, which will ensure that a patient's case for discharge is more frequently reviewed:

- removal of the automatic referral to a tribunal when a patient's community treatment order (C.T.O.) is ended and they return to hospital. A C.T.O. is an order made by the responsible clinician to give the patient supervised treatment in the community, instead of staying in hospital.
- removal of the role of associate hospital managers (AHMs) (also known as a hospital managers' panel) in reviewing a patient's case for discharge from detention or a C.T.O.

More information on these changes can be read at chapter 3: giving patients more rights to challenge detention in part 1 the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>). You can also answer the following consultation questions:

### Question

We want to remove the automatic referral to a tribunal received by service users when their community treatment order is revoked. Do you agree or disagree with this proposal?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

### Question

We want to give the Mental Health Tribunal more power to grant leave, transfers and community services.

We propose that health and local authorities should be given 5 weeks to deliver on directions made by the Mental Health Tribunal. Do you agree or disagree that this is an appropriate amount of time?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

### Question

Do you agree or disagree with the proposal to remove the role of the managers' panel in reviewing a patient's case for discharge from detention or a community treatment order?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

## **Chapter 4: strengthening the patient's right to choose and refuse treatment**

We plan to update the Mental Health Act so that patients:

- have greater influence over decisions about their care and treatment
- can expect their wishes and preferences to be respected and followed
- have the opportunity to challenge their care and treatment if their wishes are not followed

We will do this by making the changes set out below.

### **Introducing advance choice documents**

In an advance choice document, people will be able to set out in advance the care and treatment they would prefer and/or treatments they wish to refuse should they later become too unwell to make these decisions themselves. The document can also set out other important information like details of the patient's nominated person, crisis planning arrangements and early signs of relapse.

Our reforms will require that advance choice documents must be taken into account if the patient later lacks the relevant mental capacity to express their wishes.

We propose that advance choice documents will, in most cases be treated as equivalent to the wishes and preferences expressed by someone with the relevant capacity so long as, at the time of writing, the individual had the relevant mental capacity.

You can read more about what can be included in an advance choice document, and how they will work in practice in chapter 4: strengthening the patient's right to choose and refuse treatment in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act/part-1-proposals-for-reform-of-the-mental-health-act>). You can also answer consultation questions about what should be included in a patient's advance choice document and how the validity of an advance choice document should be determined:

### **Question**

Do you have any other suggestions for what should be included in a person's advance choice document?

Your answer can be up to 500 words.

### Question

Do you agree or disagree that the validity of an advance choice document should depend on whether the statements made in the document were made with capacity and apply to the treatment in question, as is the case under the Mental Capacity Act?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

### Making care and treatment plans statutory

We propose that all patients must have a detailed care and treatment plan in place by day 7 of detention and that this is signed off by the medical or clinical director by day 14. The care and treatment plan should include information such as:

- the care and treatment provided and how it can be delivered in the least restrictive way
- how the patient's wishes and preferences are taken into consideration, including the content of any advance choice document
- the responsible clinician's reasoning when the patient's wishes and preferences are not followed, however they have been expressed
- how the recommendations from Care (Education) and Treatment Reviews have been taken on board in the case of patients with a learning disability or autistic patients, including any reasons why these have not been followed.
- planning for discharge, including aftercare arrangements
- acknowledgement of any protected characteristics, for example known cultural needs, and how the plan will take account of these

You can read more about what we propose should be included in a care and treatment plan and how they will work in practice in chapter 4: strengthening the patient's right to choose and refuse treatment in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>). You can also answer the consultation question on what else should be contained in the statutory care and treatment plan:

### Question

Do you have any other suggestions for what should be included in a person's care and treatment plans?

Your answer can be up to 500 words.

## **Introducing a new framework for patient consent and refusal of medical treatment**

We want to give patients greater control over their care and treatment and the right to refuse specific medical treatments at a much earlier point in detention. To achieve this, we propose reforms to part 4 of the act, which regulates decisions about a patient's care and treatment, including what happens when a patient gives consent to treatment being administered to them, and what happens when they don't.

These reforms will improve existing safeguards and introduce new ones for patients who are not consenting to treatment. A key change we wish to make is to bring forward the point at which the second opinion appointed doctor (SOAD) reviews a patient's treatment. The SOAD is independent of their responsible clinician and reviews whether the treatment is right from a clinical perspective and if the patient's views and rights have been sufficiently considered. Currently, the SOAD must certify a patient's treatment 3 months after the treatment began, where they are not consenting. We propose to give the patient access to the SOAD at day 14 of detention and, where the patient lacks the relevant capacity to consent to treatment, we will require that the SOAD certifies their treatment at month 2, as opposed to month 3.

Another important reform we propose to make is the ability for patients to appeal treatment decisions at the tribunal, before a single judge, where there is evidence to suggest their wishes and preferences were inappropriately overruled by the responsible clinician.

Chapter 4 sets out more details on the changes we want to make around:

- the rights of patients to be involved in decisions around medical treatment, and to refuse specific treatments, with different rules depending on whether someone refuses with or without capacity and on the nature of the treatment
- the procedures that must be followed by health professionals to ensure that they take account of a patient's wishes and preferences around medical treatment
- the rights of patients to appeal decisions made by the responsible clinician around their treatment and how these differ for patients with and without the relevant mental capacity and those with an advance choice document
- changes to the criteria for administering treatment in urgent circumstances that protect the right of the patient to refuse treatment, if they have relevant capacity to do so

You can also answer the consultation questions on these changes:

### **Question**

Do you agree or disagree that patients with capacity who are refusing treatment should have the right to have their wishes respected even if the treatment is considered immediately necessary to alleviate serious suffering?

- strongly agree
- agree
- disagree
- strongly disagree

- not sure

Please give reasons for your answer (up to 500 words).

### Question

Do you agree or disagree that in addition to the power to require the responsible clinician to reconsider treatment decisions, the Mental Health Tribunal judge (sitting alone) should also be able to order that a specific treatment is not given?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

## Chapter 5: improving support for people who are detained

### Nominated person

One of the overarching aims of our planned reforms is to give people more choice and autonomy when subject to the act.

This section discusses our plans to replace the current nearest relative role, which we think is out of date and does not give the patient enough say in who is involved in their care, with a new statutory role, known as the 'nominated person'. Individuals will be able to choose their nominated person, if they want one, at the point of detention under the act or in their advance choice document.

If a patient is too unwell to make this decision, an approved mental health professional (AMHP) will appoint one for them. AMHPs are mental health professionals who have been approved by a local authority to carry out certain duties under the act. They are responsible for coordinating a person's assessment and admission to hospital if they are sectioned under the act.

The nominated person will have all the powers of the nearest relative, plus some new powers and rights, including:

- the right to be consulted on statutory care and treatment plans to ensure the patient's best interests are protected
- the right to be consulted on transfers between hospitals, as well as about renewals and extensions of detentions and C.T.O.s
- the ability to appeal clinical treatment decisions, on behalf of the patient where they are too unwell to do so themselves
- the power to object to the use of a C.T.O. on behalf of the patient
- the power to apply for discharge to the tribunal on behalf of the patient

We will change the process around overruling decisions made by the nearest relative, so that the nominated person will not forfeit their role in the patient's care if they object to the patient's detention.

You can read more about the powers of the nominated person, which patients will have access to them and the circumstances and procedures by which their powers can be overruled and where this responsibility lies in chapter 5: improving the support for people who are detained in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>). You can also answer the consultation questions about the new powers of the nominated person:

### Question

Do you agree or disagree with the proposed additional powers of the nominated person?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

We want to see that more patients have the right to a nominated person. We intend to extend this right to patients in the criminal justice system, who are subject to part 3 of the act (also called forensic patients), however, the nominated person's powers will be more limited.

For children and young people, those aged 16 and 17 will have the same right to choose a nominated person as an adult. For children under 16, we think that if they are 'Gillick competent', where they have sufficient understanding, maturity and intelligence to fully understand, we think that they should be able to choose a nominated person too.

You can find more information on this area in chapter 5: improving the support for people who are detained in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) and you can also answer the consultation question on the ability of children and young people to choose a nominated person:

### Question

Do you agree or disagree that someone under the age of 16 should be able to choose a nominated person (including someone who does not have parental responsibility for them), where they have the ability to understand the decision (known as 'Gillick competence')?

- strongly agree
- agree
- disagree
- strongly disagree

- not sure

Please give reasons for your answer (up to 500 words).

## Advocacy

Independent mental health advocates (IMHAs) provide important safeguards to people detained under the MHA. We want to expand the role of IMHAs so that they can also:

- support patients to take part in care planning
- support individuals to prepare advance choice documents
- challenge treatment decisions where they have reason to believe they are not in the patient's best interests
- appeal to the tribunal when patients are too unwell to do so themselves

High quality advocacy is critical to make sure people get the support they need when detained. We are considering how we can improve the role and we welcome your views on whether this can be achieved by professionalising the service.

A priority in the delivery of higher quality services is the development of culturally appropriate advocacy for people of all ethnic backgrounds and communities. We will be conducting culturally-sensitive advocacy pilots to learn how to better respond to the diverse needs of individuals from minority ethnic communities.

You can answer the consultation questions on the expanded powers of IMHAs and how we can ensure that high quality advocacy services are delivered across the board:

### Question

Do you agree with the proposed additional powers of independent mental health advocates?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

### Question

Do you agree or disagree that advocacy services could be improved by:

- 1) enhanced standards

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

## 2) regulation

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

## 3) enhanced accreditation

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

## 4) none of the above, but by other means

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

## Chapter 6: community treatment orders (C.T.O.s)

The purpose of C.T.O.s is to enable some inpatients, who might otherwise remain detained under the act, to be discharged into the community with conditions intended to maintain ongoing contact with services, in order to provide support and prevent relapse.

We will reform C.T.O.s so that they are only used where there is strong justification for doing so and where the C.T.O. is considered to deliver a genuine therapeutic benefit to the patient.

To achieve this, we will:

- strengthen the criteria to make a C.T.O. in the first place, so it reflects the new criteria for detaining someone under section 3 of the act
- increase the evidence requirements needed to make a C.T.O. and the conditions around it
- change the process for recalling a person subject to a C.T.O. back to hospital, so it is less disruptive to the individual

- require that more professionals have to sign off on a C.T.O., to ensure greater scrutiny
- give the tribunal powers to order that the responsible clinician reconsiders the conditions of a patient's C.T.O. where they are overly restrictive
- give the nominated person the right to object to a C.T.O., on behalf of the patient
- introduce an expectation that a C.T.O. should last no longer than 24 months

We hope that these reforms lead to fewer people being placed on C.T.O.s and, where they are used, that patients benefit from the structure they provide to support continued engagement with mental health services.

We will monitor the effects of these reforms over an initial 5-year period. We will further review and update Government policy on the use of C.T.O.s in line with the emerging evidence.

You can read information on the proposed reforms to C.T.O.s in chapter 6: community treatment orders (C.T.O.s) in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>).

## **Chapter 7: the interface between the Mental Health Act and the Mental Capacity Act**

When a person needs to be admitted to hospital because of their mental disorder, the clinician may need to decide whether the person should be admitted under the Mental Health Act or the Mental Capacity Act's Deprivation of Liberty Safeguards (D.o.L.S.), which will soon be replaced by Liberty Protection Safeguards (L.P.S.).

This choice between which framework is most appropriate arises if the patient:

- is suffering from a mental illness that puts their own safety at risk and requires hospital admission for medical treatment
- lacks the relevant mental capacity to consent to detention and treatment
- is not objecting to detention or treatment

In these circumstances, it is currently unclear which legal framework should be used. There are also opposing views on which legal safeguards are better for patients.

We are exploring the review's idea of introducing a simpler 'dividing line' between the Mental Health Act and the Mental Capacity Act to make it clear which framework a clinician should use to detain a patient in these circumstances.

This proposal would mean that the choice would be removed, and decision makers would use the D.o.L.S. or L.P.S. and not the Mental Health Act, if a patient:

- lacks the relevant mental capacity to consent to detention and treatment
- and is not objecting to detention or treatment

You can read more on this issue at chapter 7: the interface between the Mental Health Act and the Mental Capacity Act in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) and also answer the consultation question on how we should make clearer the dividing line between the Mental Capacity Act and the Mental Health Act:

### Question

How should the legal framework define the dividing line between the Mental Health Act and the Mental Capacity Act so that patients may be made subject to the powers which most appropriately meet their circumstances?

Your answer can be up to 500 words.

### Prior consent to be admitted as an informal patient

We also discuss whether we should make a provision in the MHA clearly setting out the right of individuals to consent in advance to admission to hospital for treatment for a mental illness. This would mean that, if an individual had given prior consent and they later become unwell and lose the relevant capacity, then they would be admitted as informal or voluntary patients, as opposed to being detained under the MHA or subject to the DoLs or LPS.

You can read more about what this would mean for patients in chapter 7: the interface between the Mental Health Act and the Mental Capacity Act in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) and you can answer the consultation question on whether we should change the legislation to make clear the option of prior consent to admission as an informal patient.

### Question

Do you agree or disagree that the right to give advance consent to informal admission to a mental health hospital should be set out in the Mental Health Act (MHA) and the MHA code of practice to make clear the availability of this right to individuals?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

If you agree, please provide reasons for your answer (up to 500 words).

Are there any safeguards that should be put in place to ensure that an individual's advance consent to admission is appropriately followed?

Your answer can be up to 500 words.

### Emergency powers in the Mental Health and Mental Capacity Acts

We want to improve the powers available to health professionals in accident and emergency departments so that individuals in need of urgent mental health care, stay on site, pending a clinical assessment. This aims to avoid the use of the police to hold individuals who are in crisis and are attempting to leave A&E, potentially leading to further distress to the individual.

We discuss the merits of relying on section 4B of the Mental Capacity Act to achieve this objective versus extension of section 5 of the Mental Health Act, both of which would provide health professionals in A&E with powers to temporarily hold people in specific circumstances.

See chapter 7: the interface between the Mental Health Act and the Mental Capacity Act in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) for further details of this change and you can also answer the consultation question:

### **Question**

We want to ensure that health professionals are able to temporarily hold individuals in A&E when they are in crisis and need a mental health assessment, but are trying to leave A&E.

Do you think that the amendments to section 4B of the Mental Capacity Act achieve this objective, or should we also extend section 5 of the Mental Health Act (MHA)?

- rely on section 4B of the Mental Capacity Act only
- extend section 5 of the MHA so that it also applies A&E, accepting that section 4B is still available and can be used where appropriate

Please give reasons for your answer (up to 500 words).

## **Chapter 8: Caring for patients in the Criminal Justice System**

Some people in contact with the criminal justice system may have a mental illness severe enough to require treatment in hospital. This could be identified after arrest by the police, recognised by a court, or a person may later become unwell in custody.

We want to ensure that people in these circumstances have access to the right care, at the right time, while fulfilling our duty to protect the public.

Part 3 of the act sets out the framework for the care of these patients. Many of our reforms to improve patient care will apply to patients under this part of the act, however, there are some exceptions:

- the new criteria for detention will not apply to part 3 patients
- the nominated person for a part 3 patient will have limited powers
- tribunal powers and automatic referrals to the tribunal will differ for these patients compared to civil patients
- changes to the detention criteria for individuals with learning disability and/ or autism will not apply to part 3 patients

The criminal justice system covers both England and Wales. We particularly welcome responses from people both in England and Wales to the consultation questions in chapter 8: caring for patients in the Criminal Justice System in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>).

### **Court powers: aligning Magistrate and Crown Courts**

The MHA gives magistrates' courts power to divert a person in mental health crisis away from the criminal justice system and into hospital for assessment and/or treatment. However, there can currently be delays in ensuring people get the care and treatment they need.

To speed up the process, the review recommended that the magistrates' courts' powers should be increased to bring them in line with the Crown Court. As we are currently considering other reforms to the magistrates' courts, made by the Law Commission, we wish to give this further consideration before we make our decision on the review's recommendation.

Read chapter 8: caring for patients in the Criminal Justice System in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) for a full discussion of this proposal.

### **Secure transfers: transferring people between prison or immigration and removal centres and hospital**

We want to ensure that people who need care and treatment under the MHA are not being held in prisons or immigration and removal centres (IRCs) inappropriately.

To speed up transfers of patients from prison or IRCs to mental health inpatient settings, we will introduce a 28-day statutory time limit in England once new guidance, being prepared by NHS England and Improvement (NHSEI), is properly embedded.

You can answer the consultation question on what else should be in place before we can safely bring in the statutory time limit for transferring patients.

#### **Question**

To speed up the transfer from prison or immigration removal centres (IRCs) to mental health inpatient settings, we want to introduce a 28-day time limit.

Do any further safeguards need to be in place before we can implement a statutory time limit for secure transfers?

- Yes
- No
- Not sure

Please give reasons for your answer (up to 500 words).

We also want to introduce a new independent, statutory role for managing the process of transferring people from prison to hospital so that barriers are more quickly overcome, and the patient's needs are put first. We are also considering giving people who are waiting to be transferred the right to have

an IMHA.

You can answer the consultation question on how we should introduce the new statutory role:

### **Question**

We want to establish a new designated role for a person to manage the process of transferring people from prison or an immigration removal centre (IRC) to hospital when they require inpatient treatment for their mental health.

Which of the following options do you think is the most effective approach to achieving this?

- expanding the existing approved mental health professional (AMHP) role in the community so that they are also responsible for managing prison or IRC transfers
- creating a new role within NHS England and Improvement (NHSEI) or across NHSEI and Her Majesty's Prison and Probation Service to manage the prison or IRC transfer process
- an alternative approach (please specify)

Please give reasons for your answer (up to 500 words).

When there is no hospital bed available and a defendant (meaning a person against whom a criminal or civil action is brought) requires mental health care and treatment, courts may be forced to put them in prison as a 'place of safety'. We wish to make sure that alternative locations are in place to end the use of prison as a place of safety.

### **Restricted patients**

Restricted patients are patients detained in hospital under part 3 of the act who are subject to special controls by the Secretary of State for Justice, due to safety concerns.

For restricted patients, the responsible clinician must seek the consent of the Secretary of State for Justice to allow the patient leave, or to transfer the patient to another hospital, or to discharge the patient. The review raised its concerns about inefficiencies in this system which resulted in delays in securing this consent. We have since worked to address this and we are already seeing positive progress.

You can read chapter 8: caring for patients in the Criminal Justice System in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) for a discussion on our approach to reducing delays in the system and progress that has been made so far.

### **Conditionally discharged patients**

Some restricted patients who no longer meet the statutory test for detention in hospital must be discharged. This can be an absolute discharge, with no conditions. Or, if deemed appropriate by the tribunal or the Justice Secretary, a conditional discharge.

A conditional discharge allows patients to move into the community. But they must follow certain conditions, and there is a power which means they may be recalled to hospital if it is necessary to protect the public from harm. There were 2,821 conditionally discharged patients in the community in

2019.

Conditionally discharged patients are generally supervised in the community by a psychiatrist and a social supervisor. Social supervision is an important role, balancing public protection with the care and support of conditionally discharged patients. It has traditionally been a local authority social worker, although other professionals can also take on this role. There is currently some confusion about which professionals should play this role and a lack of national guidance about how it should operate.

### **Question**

Conditionally discharged patients are generally supervised in the community by a psychiatrist and a social supervisor.

How do you think that the role of social supervisor could be strengthened?

Your answer can be up to 500 words.

### **Release of transferred prisoners by the Parole Board**

For part 3 patients who are being treated in a mental health hospital and who are serving an indeterminate or life sentence, decisions around the person's discharge from hospital and release from prison can be complicated.

Currently, the tribunal and then the Parole Board are separately required to consider decisions on discharge and release respectively, resulting in delays.

We are doing work to streamline processes and to identify procedural changes to reduce delays.

### **Giving the tribunal the power to discharge someone with conditions which restrict freedom in the community**

For a small number of restricted patients, the risk they pose to others may still remain significant at the point they are no longer therapeutically benefitting from detention in hospital. We want to make sure that the risk these patients pose is managed in the most appropriate and least restrictive way, while progressing the individual along their care pathway.

To achieve this, we want to give the tribunal the power to discharge restricted patients into the community, under supervision and with conditions that restrict their freedom.

The criteria for doing this and the safeguards the patient would have access to are set out in chapter 8: caring for patients in the Criminal Justice System in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>).

You can also answer the consultation question on whether we should make this new discharge power possible and what it should involve.

### **Question**

For restricted patients who are no longer therapeutically benefiting from detention in hospital, but whose risk could only be managed safely in the community with continuous supervision, we think it should be possible to discharge these patients into the community with conditions that amount to a deprivation of liberty.

Do you agree or disagree that this is the best way of enabling these patients to move from hospital into the community?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

If you agree, please give reasons for your answer (up to 500 words).

We propose that a 'supervised discharge' order for this group of patients would be subject to annual tribunal review. Do you agree or disagree with the proposed safeguard?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

### **Question**

Beyond this, what further safeguards do you think are required?

Your answer can be up to 500 words.

### **Victims of unrestricted patients**

We want to improve the level of information provided to victims of offenders who become subject to the act who have no restriction order, and how it is shared.

See chapter 8: caring for patients in the Criminal Justice System in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) for more details on the work we are doing to make sure that victims receive the information to which they are entitled.

### **Chapter 9: people with a learning disability and autistic people**

We are committed to reducing the reliance on specialist inpatient services for people with a learning disability and autistic people and to developing community alternatives. As part of this, we want to limit the ability to detain people with a learning disability or autistic people under the act.

Both a learning disability and autism are lifelong conditions, which cannot be removed through treatment. We recognise that some people with a learning disability and autistic people may require treatment for a mental illness and we want to ensure that people receive high quality and safe care that is the most appropriate for them.

We propose changing the act to be clearer that autism or a learning disability are not considered to be mental disorders for the purposes of most powers under the act.

Our proposal is to allow for the detention of people with a learning disability and autistic people for assessment, under section 2 of the act, when their behaviour is so distressed that there is a substantial risk of significant harm to the person or to other people (as for all detentions) and a probable mental health cause to that behaviour that warrants assessment in hospital.

Where the driver of this behaviour is not considered to be a mental health condition, for example it is due to an unmet support need, an unmet social or emotional need, or an unmet physical health need (including untreated pain), grounds for a detention under the MHA would no longer be justified and the detention should cease.

You can read chapter 9: people with a learning disability and autistic people in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) to out more about the rationale behind this proposal and you can answer the consultation questions:

### Question

Do you agree or disagree with the proposed reforms to the way the Mental Health Act applies to people with a learning disability and autistic people?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

### Question

Do you agree or disagree that the proposed reforms provide adequate safeguards for people with a learning disability and autistic people when they do not have a co-occurring mental health condition?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

### Question

Do you expect that there would be unintended consequences (negative or positive) of the proposals to reform the way the Mental Health Act applies to people with a learning disability and autistic people?

- Yes
- No
- Not sure

Please give reasons for your answer (up to 500 words).

### Question

We think that the proposal to change the way that the Mental Health Act applies to people with a learning disability and autistic people should only affect civil patients and not those in the criminal justice system. Do you agree or disagree?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

### Question

Do you expect that there would be unintended consequences (negative or positive) on the criminal justice system as a result of our proposals to reform the way the Mental Health Act applies to people with a learning disability and to autistic people?

Your answer can be up to 500 words.

For people with a learning disability and autistic people, we want to make it a statutory requirement for the responsible clinician to consider the findings and recommendations made as part of care and treatment reviews in the patient's care and treatment plan. We know that care and treatment reviews

(or care education and treatment reviews in the case of children) are effective in reducing hospital admissions when they are undertaken correctly and acted upon, this is why we want to give them statutory force.

### **Question**

Do you agree or disagree that the proposal that recommendations of a care and treatment review (CTR) for a detained adult or of a care, education and treatment review (CETR) for a detained child should be formally incorporated into a care and treatment plan and responsible clinicians required to explain if recommendations aren't taken forward, will achieve the intended increase compliance with recommendations of a CETR?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 200 words).

### **Ensuring an adequate supply of community services for people with a learning disability and autistic people**

We are also developing a duty on health and social care commissioners to collaborate to ensure provision of community-based support and treatment for this group. This will be set out in the Mental Health Act.

You can answer the consultation questions on this issue:

### **Question**

We propose to create a new duty on local commissioners (NHS and local government) to ensure adequacy of supply of community services for people with a learning disability and autistic people. Do you agree or disagree with this?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

### Question

We propose to supplement this with a further duty on commissioners that every local area should understand and monitor the risk of crisis at an individual-level for people with a learning disability and autistic people in the local population through the creation of a local 'at risk' or 'support' register. Do you agree or disagree with this?

- strongly agree
- agree
- disagree
- strongly disagree
- not sure

Please give reasons for your answer (up to 500 words).

### Question

What can be done to overcome any challenges around the use of pooled budgets and reporting on spend on services for people with a learning disability and autistic people?

Your answer can be up to 500 words.

## Chapter 10: children and young people

We want to strengthen the rights and support children and young people receive when subject to the act.

In addition to legislative changes, all of which will be available to children and young people, we will ensure that care and treatment plans are provided to all children and young people receiving inpatient mental health care, irrespective of whether they are detained under the act.

See chapter 10: children and young people in part 1 of the White Paper (<https://www.gov.uk/government/consultations/reforming-the-mental-health-act/reforming-the-mental-health-act#part-1-proposals-for-reform-of-the-mental-health-act>) for a discussion of the review's recommendations around assessing the 'competence' of children and young people to consent to their own medical treatment and make decisions about their care and treatment without parental permission or knowledge.

We wish to fully consider these recommendations as part of our review of the code of practice.

## Chapter 11: the experiences of ethnic minority communities

Profound inequalities exist across mental health services and under the act for people from BAME communities, in particular for black African and Caribbean people. We are making a series of reforms to tackle these inequalities:

- the introduction of a new Patient and Carer Race Equality Framework (PCREE) to embed structural and cultural change in healthcare delivery to improve how patients from diverse ethnic backgrounds access and experience mental health care
- the development of culturally appropriate advocacy for people of all ethnic backgrounds and communities, in particular for black African and Caribbean people
- research that aims to support the improvement in mental health outcomes for people from ethnic minority communities

These reforms are supported by work being led by NHSEI to improve the diversity of the mental health workforce and by the wider reforms discussed in the White Paper.

## **Part 2: reforming policy and practice around the new act to improve patient experience**

This section of the White Paper describes the current and future work the government and the NHS is undertaking to bring about changes so people have better experiences of care.

### **Transforming mental health services**

The NHS Long Term Plan outlines the ambition for a radical transformation of mental health services, so that patients have better experiences of inpatient care and better mental health outcomes.

This transformation of mental health services is backed by additional investment rising to £2.3 billion each year by 2023 to 2024 and includes a renewed focus on services for people with severe mental illness and on improving the provision of community care. Ambitions include:

- increasing staff on acute inpatient wards – such as peer support workers, psychologists and occupational therapists to minimise time spent in hospital and improve outcomes
- reducing the lengths of stay in adult acute inpatient mental health settings
- establishing a culture of learning across the NHS so that, when things go wrong, commissioners and providers ensure that issues are circumvented in future
- ensuring that everyone has mental health crisis care support available at all times via NHS 111 by 2023 to 2024
- expanding community services to support 370,000 adults with severe mental illness to provide more support to people in the community before they need crisis or inpatient care, including under the MHA

### **Supporting people in the community**

In addition to the Long Term Plan's ambitions to expand and improve community mental health care to address current gaps and prevent avoidable admissions we wish to make sure that all service users in contact with community mental health teams, inpatient care and/or social services have a high-quality care plan, personalised around their needs.

The current process around the provision of aftercare in the community for patients who have been discharged from the Mental Health Act can be confusing and there are inconsistencies in the way it is carried out. We want to produce national guidance on how budgets and responsibilities should be shared to pay for aftercare.

### **Improving ward culture for patients and staff**

In addition to improving mental health services, we will take steps to create the best ward cultures to improve patient experience. A key part of this is the development of a quality improvement programme focused on implementing the Mental Health Act reforms. This will be led by **NHSEI** and will aim to address issues around quality, patient experience, leadership and culture.

### **Inpatient safety and risk**

The safety of patients in mental health services will always be a crucial concern. The NHS Long Term Plan committed to a new Mental Health Safety Improvement Programme (**MHSIP**) which aims to tackle priority mental health safety issues:

- sexual safety for inpatients
- reducing restrictive practice
- reducing suicide and deliberate self-harm

You can read part 2 of the White Paper to find out more about the work that is underway in these priority areas.

We will work to ensure that new patient safety measures do not come at the expense of developing and maintaining truly therapeutic environments that support people to recover.

### **Improving the physical ward environment**

Inpatient settings should offer rehabilitative environments that enable the delivery of therapeutic care and that support the recovery of patients.

We will improve the physical environment of mental health services, making them far better places for patients and for staff. As part of this, we will bring an end to dormitory accommodation, allowing patients the privacy of their own room and en-suite bathroom. The government has committed over £400 million for this purpose and has identified 1,200 beds that will receive this upgrade over the next 4 years. This is an important step towards improving sexual safety in mental health services and towards ending breaches of single-sex accommodation.

We are also investing in the building of new mental health hospitals as part of the government's hospital building programme.

### **The role of the Care Quality Commission (CQC)**

The **CQC** has consistently reported that many people continue to experience care that is not person-centred and does not fully protect their rights.

Driven by these findings and the ambitions of the Long Term Plan, the **CQC** will review how it assesses factors that inform the quality of inpatient care, such as the physical layout of wards, the safety fixtures and fittings and the provision of same-sex accommodation.

In addition, the **CQC** will be working with people who use services, families, providers, frontline staff and other stakeholders to improve the way that they regulate services, with a particular focus on improving ward culture, given the critical role this can play in a patient's recovery.

Read part 2 of the White Paper to learn more about the other work the **CQC** is taking forward to help improve the experience of patients in mental health services. You can also answer the consultation question on how the **CQC**'s monitoring role could be extended.

## **Question**

How could the Care Quality Commission support the quality (including safety) of care by extending its monitoring powers?

Your answer can be up to 500 words.

## **Removing police cells as 'places of safety'**

A 'place of safety' is a designated safe place where people who are experiencing a mental health crisis can be taken and where a mental health assessment can be carried out.

Currently, people can be taken to police cells for a mental health assessment. We want to put an end to this and ensure that, in future, all people in mental health crisis are taken to a clinical environment, where they can receive the care and support they urgently need. We have committed to reform the MHA to stop the use of police cells as places of safety by 2023 to 2024.

## **Enabling better handovers from police to health services**

Currently, more people experiencing a mental health crisis are taken to hospital by the police than by ambulance.

The NHS Long Term Plan commits to investment to improve the capacity and capability of ambulance services to meet mental health demand, helping to avoid the use of the police to convey patients.

## **The mental health workforce**

Expanding and developing the mental health workforce is vital to fulfilling our commitment to modernise the Mental Health Act. The government will be working with **NHSE**, Health Education England and other stakeholders to look at further national support requirements, including training staff on the changes to the act, meaningful co-production and the development of expert-by-experience leadership roles within providers and local systems.

These reforms are, to an extent, supported by broader work to expand and develop the mental health workforce as part of the NHS Long Term Plan. However, we anticipate that the reforms will require further expansion of the workforce to meet additional demands.

We are working to increase the diversity of the mental health workforce to ensure that it better meets the needs of the community it serves. This involves work to recruit more people from the black African and Caribbean communities into mental health professions and supporting them to rise to senior levels.

We know that improving staff morale is important to delivering high quality patient care. **NHSE** is working to improve the experience of staff and therefore the experience of patients through its Improving Health and Wellbeing programme.

Read part 2 of the White Paper for more information on our plans to expand and develop the mental health workforce.

## **Data and digital**

The government is committed to working with all the organisations involved in the operation of the act to bring about improvements to data collection and to new digital approaches to service delivery. This is a critical part of building a modern mental health service that can more efficiently respond to patients' needs.

This ambition has been accelerated during the pandemic period in 2020, which has served to highlight the benefits that digital can bring.

## Impact assessment

Alongside the White Paper we have produced an impact assessment ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/946264/mha-review-impact-assessment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/946264/mha-review-impact-assessment.pdf)) in which we have estimated likely costs and benefits of implementing the proposed changes to the act.

Please provide information (up to 500 words). You can also upload files when you respond to the consultation (<https://consultations.dhsc.gov.uk/5fd10ed02513901f29167e1d>).

### Question

In the impact assessment

([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/946264/mha-review-impact-assessment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/946264/mha-review-impact-assessment.pdf)) we have estimated likely costs and benefits of implementing the proposed changes to the act. We would be grateful for any further data or evidence that you think would assist the departments in improving the methods used and the resulting estimates.

We are interested in receiving numerical data, national and local analysis, case studies or qualitative accounts, etc that might inform what effect the proposals would have on the following:

- different professional groups, in particular:
  - how the proposals may affect the current workloads for clinical and non-clinical staff, independent mental health advocates, approved mental health professionals, Mental Health Tribunals, SOADs etc
  - whether the proposals are likely to have any other effects on specific interested groups that have not currently been considered
- service users, their families and friends, in particular:
  - how the proposal may affect health outcomes
  - ability to return to work or effects on any other daily activity
  - whether the proposals are likely to have any other effects on specific interested groups that have not currently been considered
  - any other impacts on the health and social care system and the justice system more broadly

Please provide information (up to 500 words). You can also upload files when you respond to the consultation.

## Responding to the consultation

There are a lot of questions and you may not wish to answer all of them. We have created a survey (<https://consultations.dhsc.gov.uk/5fd10ed02513901f29167e1d>) so you can answer as many or a few questions as you would like.

The questions have been divided up into sections and themes. The consultation will be open until 21 April 2021. This consultation is our formal consultation with the public.

Respond to the consultation. (<https://consultations.dhsc.gov.uk/5fd10ed02513901f29167e1d>)

1. A white paper is a document produced by the government that sets out proposals for future legislation.
2. The functions, which in England are performed by the Mental Health jurisdiction of the First-tier Tribunal (usually referred to as the Mental Health Tribunal or **MHT**), are dealt with by a separate tribunal in Wales, the Mental Health Review Tribunal for Wales, or **MHRTW**. This is a devolved Welsh Tribunal under the President of Welsh Tribunals and is administered by the Welsh government. It's important to note that the response to the recommendations in this White Paper only refer to the **MHT** in England and not the **MHRTW**.

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## Reforming the Mental Health Act Questions and Responses

21.04.2021

Q1 (p. 22)	<p><b>We propose embedding the principles in the MHA and the MHA Code of Practice. Where else would you like to see the Principles applied to ensure that they have an impact and are embedded in everyday practice?</b></p> <p><b>The principles should be considered in policies of the local authorities and health boards. The MHA should direct that the principles are reflected in care and treatment plans and linked into reports for tribunals.</b></p>
Q2 (p. 26)	<p><b>We want to change the detention criteria so that detention must provide a therapeutic benefit to the individual. Do you agree or disagree with this proposal?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure * please delete leaving answer or circle/highlight</p>
Q2a (p. 26)	<p><b>Please give reasons for your answer</b></p> <p><b>Whilst in principle therapeutic benefit should always be available for people but people's views of what is therapeutically beneficial to individuals may differ what may be of therapeutic benefit to one may not be to another this may be difficult to fully define and ensure is appropriately considered.</b></p>
Q3 (p. 26)	<p><b>We also want to change the detention criteria so that an individual is only detained if there is a substantial likelihood of significant harm to the health, safety or welfare of the person, or the safety of any other person. Do you agree or disagree with this change?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure * please delete leaving answer or circle/highlight</p>
Q3a (p. 26)	<p><b>Please give reasons for your answer</b></p> <p><b>Detention is supposed to be least restrictive this will ensure that detention would be the least restrictive and safeguard against unnecessary detention, but if someone does not agree to informal admission and it is not felt that there is substantial likelihood there will need to be robust services in the community to assist in providing appointments quickly for monitoring and follow up if other services are to support.</b></p> <p><b>This also appear to be a very high test, how would this be measured during the renewal process and being able to evidence.</b></p>
Q4 (p. 30)	<p><b>Do you agree or disagree with the proposed timetable for automatic referrals to the Mental Health Tribunal? (see Table 1 for details - p. 31)</b> * please delete leaving answer or circle/highlight</p> <p><b>a) Patients on a Section 3</b> Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure</p> <p><b>b) Patients on a CTO</b> Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure</p> <p><b>c) Patients subject to Part III</b> Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure</p> <p><b>d) Patients on a Conditional Discharge</b> Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure</p>

<p>Q4a (p. 30)</p>	<p><b>Please give reasons for your answer</b></p> <p>Not sure what this will achieve in regards to inpatients on civil sections other than a massive amount of work for all staff involved.</p> <p>For Part III and Conditional Discharge the new timeframes will ensure that the Tribunal review patients more often for those that do not appeal.</p> <p>Consideration would be needed in relation to whether a managers hearing also sits within a short space of time and consideration may need to be taken if both are held and if appeals have been received to the Managers would this be discounted if an automatic hearing was held as has been done during the covid pandemic.</p>
<p>Q5 (p. 32)</p> <p>Q5a (p. 32)</p>	<p><b>We want to remove the automatic referral to a Tribunal received by service users when their Community Treatment Order is revoked. Do you agree or disagree with this proposal?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure      * please delete leaving answer or circle/highlight</p> <p><b>Please give reasons for your answer</b></p> <p>The current safeguard of having a referral when a CTO is revoked ensures that the revocation is used appropriately.</p>
<p>Q6 (p. 33)</p> <p>Q6a (p. 33)</p>	<p><b>We want to give the Mental Health Tribunal more power to grant leave, transfers and community services. We propose that Health and Local Authorities should be given five weeks to deliver on directions made by the Mental Health Tribunal. Do you agree or disagree that this is an appropriate amount of time?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure      * please delete leaving answer or circle/highlight</p> <p><b>Please give reasons for your answer</b></p> <p>Will the tribunal have a detailed understanding of current area situations, bed management can be difficult and in regards to transfers there may be a longer wait than five weeks what would be the implication if the transfer was not done within this timeframe. If an RC has not given leave there may be a legitimate reason if the Tribunal was to grant and the clinical team did not agree what would be the safeguards for the patient or health board if things went wrong.</p>
<p>Q7 (p. 34)</p> <p>Q7a (p. 34)</p>	<p><b>Do you agree or disagree with the proposal to remove the role of the managers' panel in reviewing a patient's case for discharge from detention or a CTO?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure      * please delete leaving answer or circle/highlight</p> <p><b>Please give reasons for your answer</b></p> <p>The Managers add an additional safeguard for the patients and provide an independent review of renewals. As patients can only apply to the tribunal within certain timeframes the managers allows for appeals at any time.</p> <p>The hearings are a very effective and useful appeal mechanism for many patients. They are well administrated and organised and can also offer an alternative to patients who do not necessarily want the absolute formality the tribunal process provides. The Hospital Managers are dedicated, committed and extremely well trained and experienced. Many patients will use this rather than the tribunal process and to take this away would be counterproductive and not necessarily patient centred.</p>

	<p><b>Consideration does need to be given though in relation to those patients who apply to both at the same time in this instance it would be suggested that the Tribunal sits and not the managers.</b></p>
Q8 (p. 37)	<p><b>Do you have any other suggestions on what should be included in a person's Advance Choice Document?</b></p> <p><b>NO</b></p>
Q9 (p. 38)	<p><b>Do you agree or disagree that the validity of an Advance Choice Document should depend on whether the statements made in the document were made with capacity and apply to the treatment in question, as is the case under the Mental Capacity Act?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure * please delete leaving answer or circle/highlight</p>
Q9a (p. 38)	<p><b>Please give reasons for your answer.</b></p> <p><b>It will need to be clear that the person agreed and wrote the advance choice document when they had capacity. Will there be a capacity assessment to sit alongside the advance choice document, how often would the document need to be reviewed as people may also change their mind or their capacity could fluctuate. It would be necessary to be clear on the validity and be accessible and visible.</b></p>
Q10 (p. 40)	<p><b>Do you have any other suggestions for what should be included in a person's Care and Treatment Plans?</b></p> <p><b>NO</b></p>
Q11 (p. 45)	<p><b>Do you agree or disagree that patients with capacity who are refusing treatment should have the right to have their wishes respected even if the treatment is considered immediately necessary to alleviate serious suffering?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure * please delete leaving answer or circle/highlight</p>
Q11a (p. 45)	<p><b>Please give reasons for your answer</b></p> <p><b>This is a difficult question to answer for a health setting as it would be difficult to watch someone suffer when as a health professional it would be known that this could be alleviated. There would need to be a robust review procedure to ensure that the person's wishes were appropriate to be followed, clear capacity was held and detailed records were maintained.</b></p>
Q12 (p. 48)	<p><b>Do you agree or disagree that, in addition to the power to require the Responsible Clinician to reconsider treatment decisions, a the Mental Health Tribunal judge (sitting alone) should also be able to order that a specific treatment is not given?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure * please delete leaving answer or circle/highlight</p>
Q12a (p. 48)	<p><b>Please give reasons for your answer</b></p> <p><b>This will give patients more rights to challenge treatment decisions but a MHRT judge would not know the patient, what knowledge do they have in regards to medication, would the RC have the opportunity to discuss and provide justification if so this would then involve additional work for the RC, we currently have the Second Opinion Appointed Doctor who reviews when a patient does not have capacity perhaps it would be better for the Tribunal Doctor rather than the Judge to consider.</b></p>
Q13 (p. 51)	<p><b>Do you agree or disagree with the proposed additional powers of the Nominated Person?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/Not sure * please delete leaving answer or circle/highlight</p>

Q13a (p. 51)	<p><b>Please give reasons for your answer.</b></p> <p>If a patient lacks capacity the Nominated Person is an important link for the patient.</p> <p>In regards to the practicalities, the process and the impact on staffing there are concerns.</p>
Q14 (p. 52)	<p>Do you agree or disagree that someone under the age of 16 should be able to choose a Nominated Person (including someone who does not have parental responsibility for them), where they have the ability to understand the decision (known as “Gillick competence”)?</p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/ Not sure * please delete leaving answer or circle/highlight</p>
Q14a (p. 52)	<p><b>Please give reasons for your answer.</b></p> <p>This may make children feel more supported as well as the parent they will be able to choose someone that they trust to be informed of their detention and who can support.</p> <p>What would happen if the Nominated person didn't want the role? Will appropriate funding be available to support?</p>
Q15 (p. 54)	<p>Do you agree or disagree with the proposed additional powers of Independent Mental Health Advocates?</p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/ Not sure * please delete leaving answer or circle/highlight</p>
Q15a (p. 54)	<p><b>Please give reasons for your answer.</b></p> <p>Some aspects are agreed with. The power to challenge a treatment decision we are unsure on as what would be deemed not to be in the best interest of the patient by one person may not be by another and if the patient does not have capacity to inform the IMHA of their view or understanding would the IMHA be qualified to understand the reasoning for the treatment and potential other treatments to be able to justify what is in the best interest of the patient.</p>
Q16 (p. 55)	<p>Do you agree or disagree that advocacy services could be improved by:</p> <p><b>-Enhanced standards</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/ Not sure</p> <p><b>-Regulation</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/ Not sure</p> <p><b>-Enhanced accreditation</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/ Not sure</p> <p><b>-None of the above, but by other means</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/ Not sure * please delete leaving answer or circle/highlight</p>
Q16a (p. 55)	<p><b>Please give reasons for your answer.</b></p> <p>IMHAs should be qualified and able to advise their clients, it should be a regulated service with accredited staff as they are supporting vulnerable persons.</p>
Q17 (p. 64)	<p>How should the legal framework define the dividing line between the Mental Health Act and the Mental Capacity Act so that patients may be made subject to the powers which most appropriately meet their circumstances?</p>

	<p>If someone clearly lacks capacity this should determine that the Mental Health Act is not appropriate and LPS should be instigated. If there is fluctuating or unclear capacity it is agreed that either should be an option whilst an assessment is undertaken this should be done within as short a timeframe as possible to ensure that the correct legislation is used.</p>
Q18 (p. 65)	<p>Do you agree or disagree that the right to give advance consent to informal admission to a mental health hospital should be set out in the MHA and the MHA Code of Practice to make clear the availability of this right to individuals?</p> <p>Strongly agree/ <b>Agree</b>/Disagree/ Strongly disagree/ Not sure * please delete leaving answer or circle/highlight</p>
Q18a (p. 65)	<p><b>Please give reasons for your answer.</b></p> <p>The views of patient should always be considered but the difficulty would then occur if the person wished to leave even if they had made an advanced decision to informal admission. Currently a Section 5 would be used what would be the process if the advanced consent was being followed.</p>
Q18b (p. 65)	<p>If agree –</p> <p>Are there any safeguards that should be put in place to ensure that an individual's advance consent to admission is appropriately followed?</p> <p>Strongly agree/ <b>Agree</b>/Disagree/ Strongly disagree/ Not sure * please delete leaving answer or circle/highlight</p> <p>Agree that there would need to be regular review this could be obtained if someone had contact with the CMHT but if there was not contact for a long period of time it would need to be decided where this information would sit and how a psychiatrist / AMHP would access.</p>
Q19 (p. 67)	<p>We want to ensure that health professionals are able to temporarily hold individuals in A&amp;E when they are in crisis and need a mental health assessment, but are trying to leave A&amp;E. Do you think that the amendments to section 4B of the Mental Capacity Act achieve this objective, or should we also extend section 5 of the MHA?</p> <p>a) Rely on section 4B of the Mental Capacity Act only</p> <p>b) <b>Extend section 5 of the Mental Health Act so that it also applies A&amp;E, accepting that section 4B is still available and can be used where appropriate.</b></p> <p>*please delete leaving answer or circle/highlight</p>
Q19a (p. 67)	<p><b>Please give reasons for your answer.</b></p> <p>Section 5 should be extended to A&amp;E but there needs to be clear guidance on who will use this section and the reasons for use, if required for treatment this would not be beneficial as this cannot be given under section 5.</p>
Q20 (p. 70)	<p>To speed up the transfer from prison or immigration removal centres (IRCs) to mental health inpatient settings, we want to introduce a 28 day time limit. Do any further safeguards need to be in place before we can implement a statutory time limit for secure transfers?</p> <p>Yes/<b>No</b>/Not sure * please delete leaving answer or circle/highlight</p>
Q20a (p. 70)	<p><b>Please explain your answer</b></p> <p>Currently the MOJ have a KPI of 5 days for prison transfers with the warrant being valid for 14 days from issue which then means that someone from prison is already transferred in less than 28 days. There is no experience in regards to immigration removal centres so comments cannot be made within this aspect.</p>

Q21 (p. 72)	<p><b>We want to establish a new designated role for a person to manage the process of transferring people from prison or an Immigration Removal Centre to hospital when they require inpatient treatment for their mental health. Which of the following options do you think is the most effective approach to achieving this?</b></p> <p>-Expanding the existing Approved Mental Health Professional (AMHP) role in the community so that they are also responsible for managing prison/ IRC transfers</p> <p>-Creating a new role within NHSEI or across NHSEI and HMPPS to manage the prison/IRC transfer process</p> <p>-An alternative approach (please specify) *please delete leaving answer or circle/highlight</p>
Q21a (p. 72)	<p><b>Please give reasons for your answer</b></p> <p><b>It is agreed that the AMHPs already have a stretched role and for some areas having a dedicated role will be of benefit for the transfer to and from prison to hospital.</b></p>
Q22 (p. 75)	<p><b>Conditionally discharged patients are generally supervised in the community by a psychiatrist and a social supervisor. How do you think that the role of Social Supervisor could be strengthened?</b></p> <p><b>The social supervisor should be a social worker or a CPN with relevant experience and qualifications of mental health and relapse prevention to support the Conditionally Discharged persons. The supervisors should also be within the area that the person resides to ensure support is immediately available if required.</b></p>
Q23 (p. 77)	<p><b>For restricted patients who are no longer therapeutically benefitting from detention in hospital, but whose risk could only be managed safely in the community with continuous supervision, we think it should be possible to discharge these patients into the community with conditions that amount to a deprivation of liberty.</b></p> <p><b>Do you agree or disagree that this is the best way of enabling these patients to move from hospital into the community?</b></p> <p>Strongly agree/ <b>Agree</b>/ Disagree/ Strongly disagree/Not sure * please delete leaving answer or circle/highlight</p>
Q23a (p. 77)	<p><b>Please give reasons for your answer.</b></p> <p><b>This would allow an additional step from hospital to community. It should be used for a specific period of time with the view to move to being conditionally discharged this would be of benefit to the patient and would ensure that step down is progressed at a quicker pace.</b></p>
Q24 (p. 77)	<p><b>If agree:</b></p> <p><b>We propose that a 'supervised discharge' order for this group of patients would be subject to annual Tribunal review. Do you agree or disagree with the proposed safeguard?</b></p> <p>Strongly agree/ <b>Agree</b>/ Disagree/ Strongly disagree/Not sure * please delete leaving answer or circle/highlight</p>
Q25 (p. 77)	<p><b>Beyond this, what further safeguards do you think are required?</b></p> <p><b>More frequent reports to the MOJ by the social supervisor and RC with a structured outpatient plan and frequent contact.</b></p>
Q26 (p. 83)	<p><b>Do you agree or disagree with the proposed reforms to the way the Mental Health Act applies to people with a learning disability and autistic people:</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/ <b>Not sure</b> * please delete leaving answer or circle/highlight</p>

Q26a (p. 83)	<b>Please give reasons for your answer</b>	
Q27 (p. 83)	<p><b>Do you agree or disagree that the proposed reforms provide adequate safeguards for people with a learning disability and autistic people when they do not have a co-occurring mental health condition?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/ <b>Not sure</b>      * please delete leaving answer or circle/highlight</p>	
Q27a (p. 83)	<b>Please give reasons for your answer</b>	
Q28 (p. 83)	<p><b>Do you expect that there would be unintended consequences (negative or positive) of the proposals to reform the way the Mental Health Act Applies to people with a learning disability and autistic people?</b></p> <p>Yes/No/<b>Not sure</b>      * please delete leaving answer or circle/highlight</p>	
Q28a (p. 83)	<b>Please give reasons for your answer</b>	
Q29 (p. 83)	<p><b>We think that the proposal to change the way that the Mental Health Act applies to people with a learning disability and autistic people should only affect civil patients and not those in the criminal justice system. Do you agree or disagree?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/<b>Not sure</b>      * please delete leaving answer or circle/highlight</p>	
Q29a (p. 83)	<b>Please give reasons for your answer</b>	
Q30 (p. 83)	<p><b>Do you expect that there would be unintended consequences (negative or positive) on the criminal justice system as a result of our proposals to reform the way the Mental Health Act applies to people with a learning disability and autistic people?</b></p>	
Q31 (p. 84)	<p><b>Do you agree or disagree that the proposal that recommendations of a Care and Treatment Review (CTR) for a detained adult or of a Care, Education and Treatment Review (CETR) for a detained child should be formally incorporated into a Care and Treatment Plan and Responsible Clinician required to explain if recommendations aren't taken forward, will achieve the intended increase compliance with recommendations of a CETR?</b></p> <p>Strongly agree/Agree/Disagree/ Strongly disagree/<b>Not sure</b>      * please delete leaving answer or circle/highlight</p>	
Q31a (p. 84)	<b>Please give reasons for your answer</b>	
Q32 (p. 86)	<p><b>We propose to create a new duty on local commissioners (NHS and Local Government) to ensure adequacy of supply of community services for people with a learning disability and autistic people. Do you agree or disagree with this?</b></p> <p>Strongly agree/ <b>Agree</b>/Disagree/ Strongly disagree/Not sure      * please delete leaving answer or circle/highlight</p>	
Q32a (p. 86)	<b>Please give reasons for your answer.</b>	
Q33 (p. 86)	<p><b>We propose to supplement this with a further duty on commissioners that every local area should understand and monitor the risk of crisis at an individual-level for people with a learning disability and autistic people in the local population through the creation of a local “at risk” or “support” register. Do you agree or disagree with this?</b></p> <p>Strongly agree/ Agree/Disagree/ Strongly disagree/ <b>Not sure</b>      * please delete leaving answer or circle/highlight</p>	
Q33a (p. 86)	<b>Please give reasons for your answer.</b>	

Q34 (p. 86)	<b>What can be done to overcome any challenges around the use of pooled budgets and reporting on spend on services for people with a learning disability and autistic people?</b>
Q35 (p.102)	<b>How could the Care Quality Commission support the quality (including safety) of care by extending its monitoring powers?</b>
Q35 (p.113)	<p><b>In the impact assessment, we have estimated the likely costs and benefits of implementing the proposed changes to the Act. We would be grateful for any further data or evidence that you think would assist Departments in improving the methods used and the resulting estimates. We are interested in receiving numerical data, national and local analysis, case studies or qualitative accounts, etc, that might inform what effect the proposals would have on the following:</b></p> <p><b>Different professional groups, in particular:</b></p> <ul style="list-style-type: none"> <li>-How the proposals may impact the current workloads for clinical and non-clinical staff, Independent Mental Health Advocates, Approved Mental Health Professionals, Mental Health Tribunals, SOADs etc; and</li> <li>-Whether the proposals are likely to have any other effects on specific interested groups that have not currently been considered.</li> </ul> <p>There will be a considerable increase in workload not only for all clinicians but the administration of the Mental Health Act if the changes in relation to renewals, hearings come into force. This will impact on all clinicians time in attending more frequent hearings and report writing. Extra financial support would be required to ensure that there are enough staff to deal with the demand.</p> <p>The IMHA service will also require financial support as changes will impact on their work loads and training.</p> <p><b>Service users, their families and friends, in particular:</b></p> <ul style="list-style-type: none"> <li>-How the proposal may affect health outcomes;</li> <li>-How the proposals may improve the ability for individuals to return to work, or effects on any other daily activity;</li> <li>-Whether the proposals are likely to have any other effects on specific interested groups that have not currently been considered; and</li> <li>-Any other impacts on the health and social care system and the justice system more broadly.</li> </ul>

Questionnaire to be returned to Wendy Lappin: [Wendy.R.Lappin@wales.nhs.uk](mailto:Wendy.R.Lappin@wales.nhs.uk) by the 26<sup>th</sup> of March 2021.

<b>Cyfarfod a dyddiad: Meeting and date:</b>	<b>Mental Health Act Committee 25<sup>th</sup> June 2021</b>						
<b>Cyhoeddus neu Breifat: Public or Private:</b>	Public						
<b>Teitl yr Adroddiad Report Title:</b>	Criminal Justice Liaison service update						
<b>Cyfarwyddwr Cyfrifol: Responsible Director:</b>	Mr Iain Wilkie, Divisional Director of Mental Health and Learning Disabilities (Interim)						
<b>Awdur yr Adroddiad Report Author:</b>	Ruth Joyce, Criminal Justice Liaison Service Manager						
<b>Craffu blaenorol: Prior Scrutiny:</b>	Leadership QSE received an earlier version of this paper						
<b>Atodiadau Appendices:</b>	Attached full report						
<b>Argymhelliad / Recommendation:</b>							
The committee is asked to: <ul style="list-style-type: none"> <li>Note this report.</li> <li>Support the planned focus for the next 6-12 months in regard to service establishment design and aim to assist North Wales Police to increase rates of consultation prior to use of S136 police power.</li> </ul>							
<b>Ticiwch fel bo'n briodol / Please tick as appropriate</b>							
<b>Ar gyfer penderfyniad /cymeradwyaeth For Decision/ Approval</b>		<b>Ar gyfer Trafodaeth For Discussion</b>		<b>Ar gyfer sicrwydd For Assurance</b>		<b>Er gwybodaeth For Information</b>	<b>X</b>
<b>Y/N i ddangos a yw dyletswydd Cydraddoldeb/ SED yn berthnasol Y/N to indicate whether the Equality/SED duty is applicable</b>						<b>N</b>	
<b>Sefyllfa / Situation:</b>							
This paper will give a summary of the activity during the quarter February – May 2021 with regards to performance data, along with planned focus for the coming 6-12 months.							
<b>Cefndir / Background:</b>							
This paper does not make any proposal and is for information sharing in regard to the service activity performance. Criminal Justice Liaison (CJLS) has been operational since January 2019, and as with many services, has been affected by the covid-19 pandemic, and is entering a recovery phase.							
CJLS practitioners input data onto a bespoke sharepoint site for both the force control room (FCC) and the work carried out in Police custody, magistrates courts, probation offices and other community venues. This data has been collated and is displayed in this report in charts.							

<b>Asesu a Dadansoddi / Assessment &amp; Analysis</b>
<b>Goblygiadau Strategol / Strategy Implications</b> <p>This paper provides data in regard to the diversion of S136, and the continuing work between partnership agencies as an attempt to increase consultations. Data within this paper and the Mental Health Act paper shows a significant increase in the use of S136 from April to May with an overall reduction in consultation rates. However in those (seven) cases where consultation was conducted with CJLS, only two of those seven resulted in use of S136 police powers. Thus showing the benefits of consultation on reducing the inappropriate use of S136.</p>
<b>Opsiynau a ystyriwyd / Options considered</b> <p>Not applicable</p>
<b>Goblygiadau Ariannol / Financial Implications</b> <p>CJLS is funded via Welsh Government funding on top of existing legacy CJLS service. Legacy provision establishment figures: 1 Whole time equivalent (WTE) band 7, and three WTE band 6.</p> <p>Current establishment provision is: 1 WTE service manager band 8a, 6.5 WTE band 6 practitioners and one 0.5 band 3 (admin support).</p>
<b>Dadansoddiad Risk / Risk Analysis</b> <p>The current risks identified focus on the recruitment and retention of staff within the service.</p>
<b>Cyfreithiol a Chydymffurfiaeth / Legal and Compliance</b> <p>No legal and compliance implications are highlighted within the paper.</p>
<b>Asesiad Effaith / Impact Assessment</b> <p>Impact assessment has been submitted previously.</p>

## **Criminal Justice Liaison Service Mental Health Act Committee Quarter 1 report February-April 2021**

This is the second report submitted to the committee since October 2020, due to covid management and command status within BCUHB MH&LD division.

### **Background.**

The Criminal Justice Liaison service (CJLS) has been operational since January 2019. The team cover a 09:00-17:00hrs Monday-Friday pattern providing mental health assessments in North Wales Police three custody suites (Llay, Caernarfon and St Asaph), and the three North Wales Magistrates courts (Mold, Llandudno and Caernarfon). The team previously covered a 15.5 hour period in Force Communication Centre (FCC) from 10:00-02:00hrs made up of two 7.5hr shifts.

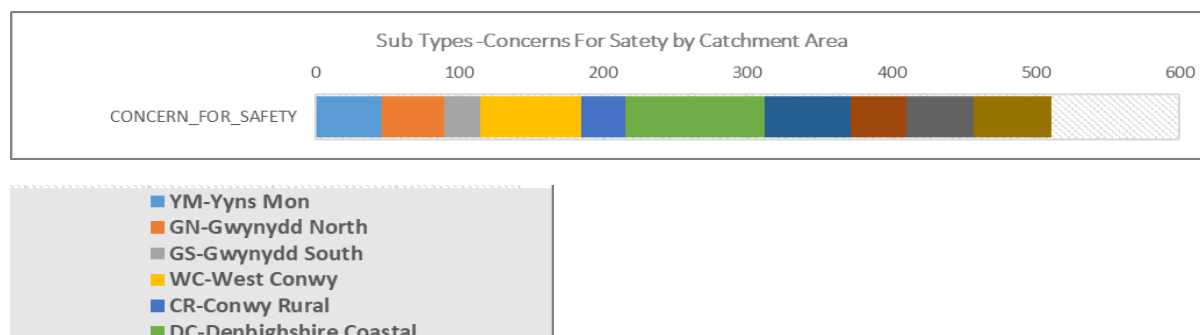
The service in FCC continues offering advice to officers and staff dealing with mental health incidents. CJLS practitioners can access the usual health databases to ascertain if the individual has accessed services along with psychiatric liaison records for West and Central. The team are continually reviewing access to health information and will shortly have access to SharePoint single point of access (SPOA) data. This documents all referrals made to services. CJLS continue to work alongside colleagues to ensure the information shared is up to date, and will benefit the individual, the officers, and teams attempting to provide support.

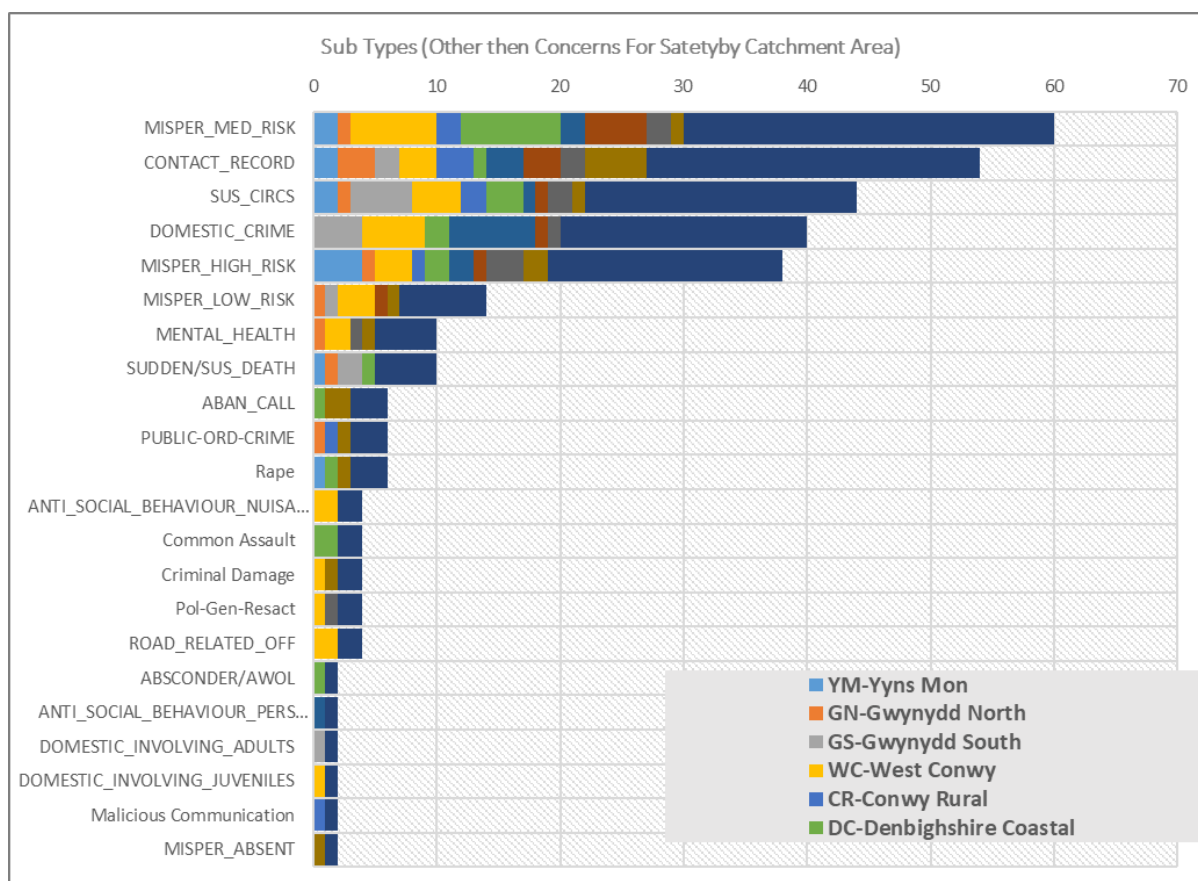
### **Performance:**

During this previous quarter, CJLS documented involvement with 676 calls/events received in FCC. Data from North Wales Police states that within the same quarter period the force control center (FCC) received 17,795 emergency calls and 60,466 non-emergency calls. This equates to approximately 3 % of emergency calls having had input from CJLS. This percentage is increasing each quarter, and often complex calls can take a large portion of activity for a single practitioners shift. As the service matures to be part of the core business within North Wales Police control centre.

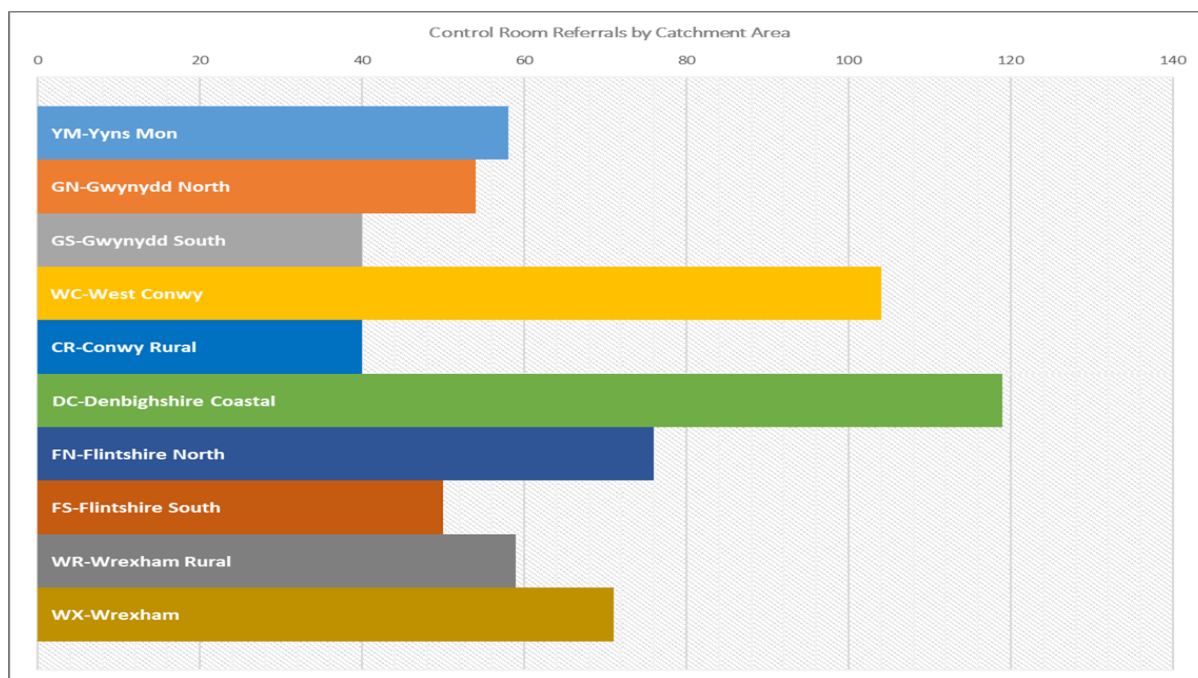
### **Calls/Events- Overall:**

The data below shows a breakdown of calls as categorised on police systems. As in previous reports submitted, this quarter highlights that the highest percentage of calls/events dealt with by CJLS are those classified as 'concern for safety'. This accounts for 492 of the 676 events entered onto SharePoint within this quarter. This information is further broken down by catchment areas for the events.





### Calls/Events by Area of Referral:



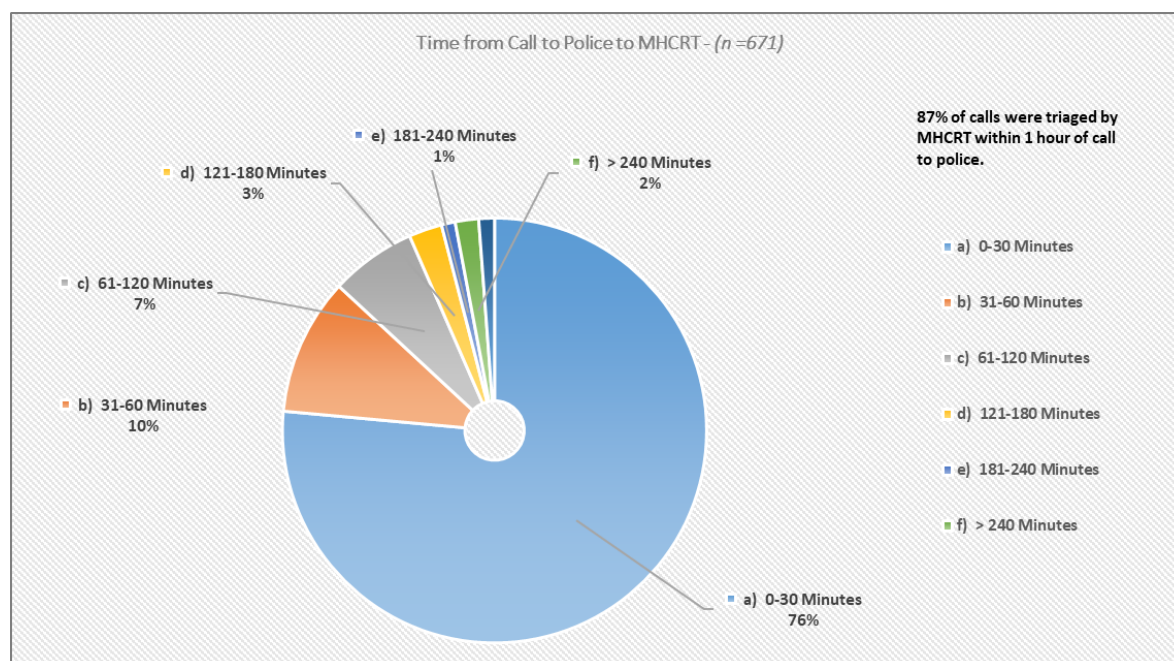
### Calls/Events- Timeline:

There are many event/incident classifications. Within each of these classifications a call is graded in order of seriousness and response needed. These range from P0 immediate response to P8 slow time enquiries. CJLS continue to focus on the P0 and P1 calls to ensure swift sharing of information and intervention where needed.

There are many times where 'slow time' graded calls may be flagged to the team at a much later stage of the call/incident. This will account for those times beyond the usual quick response.

That data informs the team of the average time from a call being received by FCC to CJLS involvement. Data collection allows for further exploration making it possible to ascertain any particular peak days/times. This assists in future business planning.

The data for this quarter shows activity remains stable (as in previous reports). 76% of all calls/events requiring CJLS intervention are dealt with within 30 minutes of the call being received by FCC call handlers.



### **S136 suite usage:**

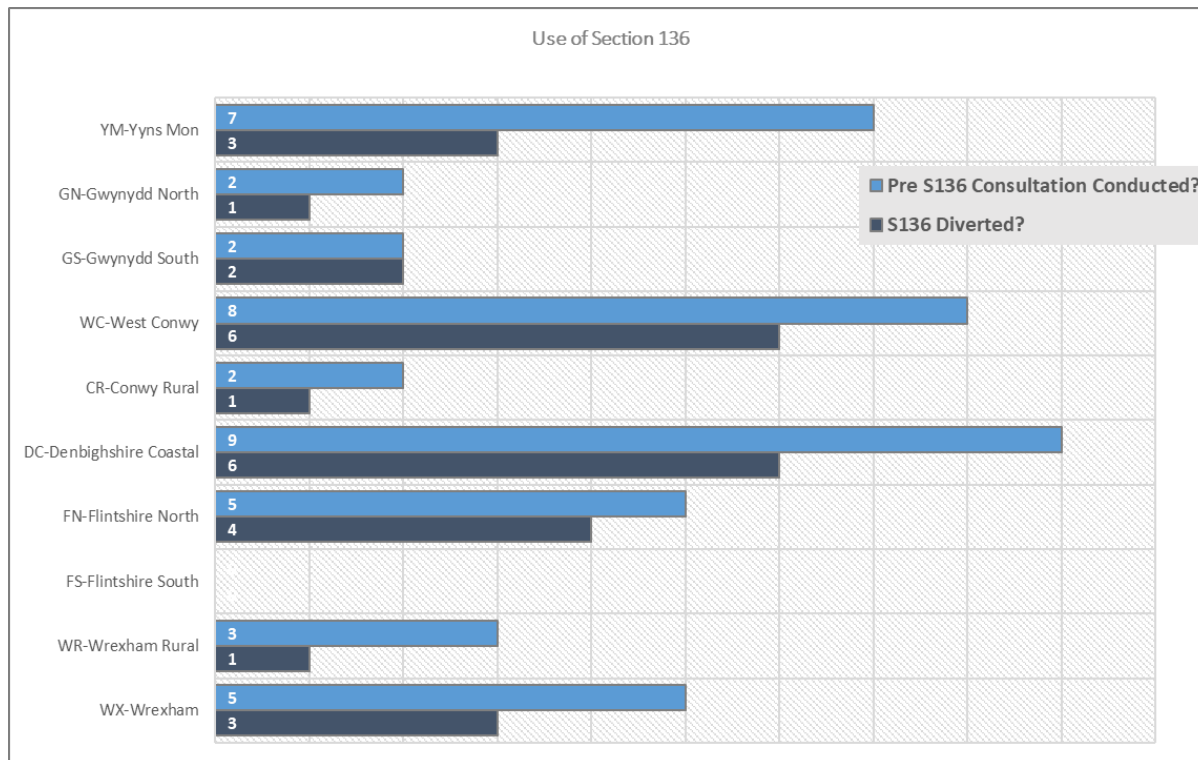
The chart below shows that CJLS have been consulted on 70 potential S136. Of the 70, there has been a documented diversion on 27. This data is further broken down by geographical area. (The overall usage number of S136 was 131 in the past quarter, thus CJLS have been involved in over a half of these in the last quarter).

Diverts occur by discussing an alternative intervention or liaising with officers and individuals in regard to accessing services in a voluntary capacity, and liaison with appropriate services to assist the individual.

S136 consultations is an area where CJLS are continuing to educate officers and duty nurses regarding the opportunities CJLS affords, as dictated in legislation.

Awareness raising of CJLS is an area of continual activity. Colleagues in North Wales Police are promoting this within local policing, response and relevant policing areas via 'need to know' documents, 'Forcebook' - the police intranet. CJLS are also a pivotal part of North Wales Police two day mandatory mental health training. Scenarios to show the effectiveness of 'consultation' where practicable are shared.

CJLS also have plans to explore other areas of training, and meetings are underway with the crime agency to establish how CJLS can fit into the existing training package that are planned bespoke for the 'Protecting Vulnerable Persons' unit. This will also include utilising stories and experiences from individuals who have experienced use of S136 or contact with North Wales Police during crisis or distress. CJLS are working alongside Caniad to facilitate this.



As part of post covid recovery work CJLS practitioners have returned to community work in local custody suites, courts and probation from July 2020.

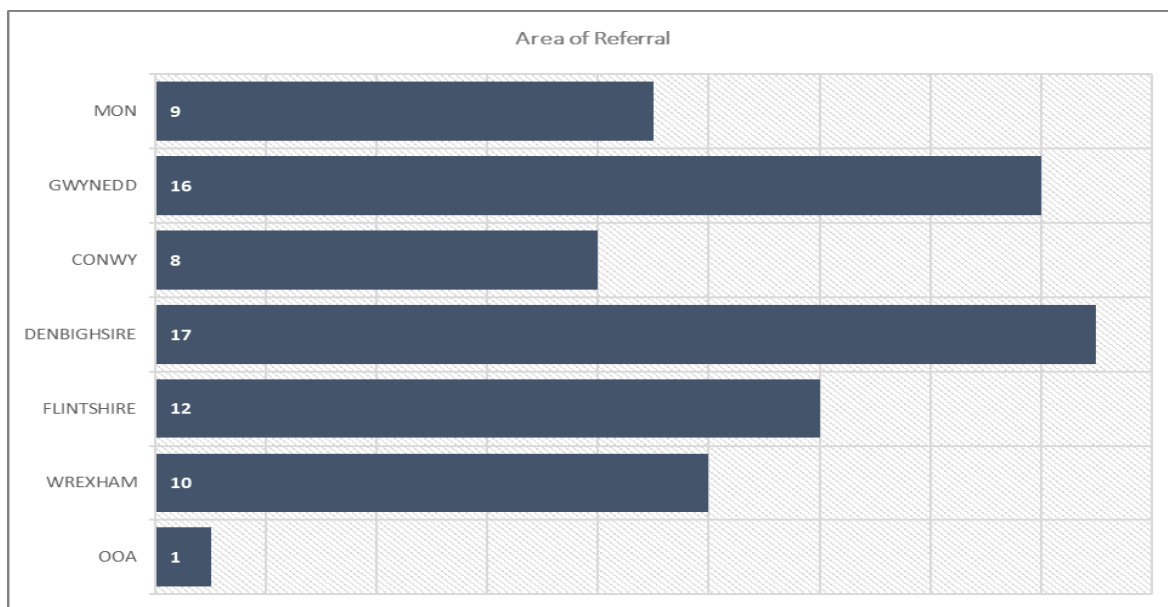
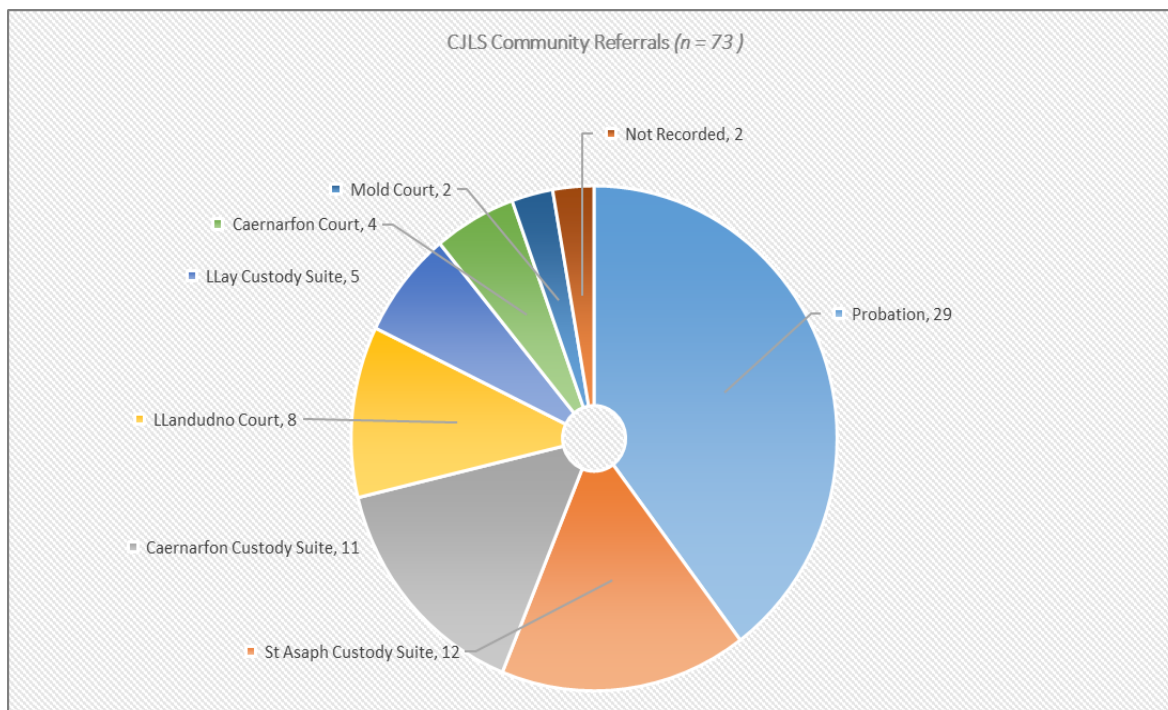
The referral rates were initially lower than expected as courts dealt with a back log of criminal cases. The local courts are continually adapting in regard to covid management and following regular liaison with court teams and the lead Court Clerk. CJLS have adapted to meet demand in the three local magistrates courts. They attend where demand dictates at overnight remand courts whilst adhering to local restrictions in place due to covid management.

Her Majesty's Courts and Tribunals Service (HMCTS) continue to keep the footfall within court buildings down to a minimum, therefore, CJLS attendance is for planned assessment and it is not routine as was pre-covid.

For this quarter there have been 73 community assessments/intervention completed by the team. This is an increase of 50 compared to the previous report submitted in October 2020.

### **Community referrals and Probation clinics:**

The graphs below evidence that the source and geographical area of the referrals. This remains similar to previous reports. In comparison to previous periods, there is an increase in the number of probation referrals due to the significant work within CJLS to provide bespoke clinics for the National Probation Service. These referrals are accepted from all areas of offender management including approved premises.

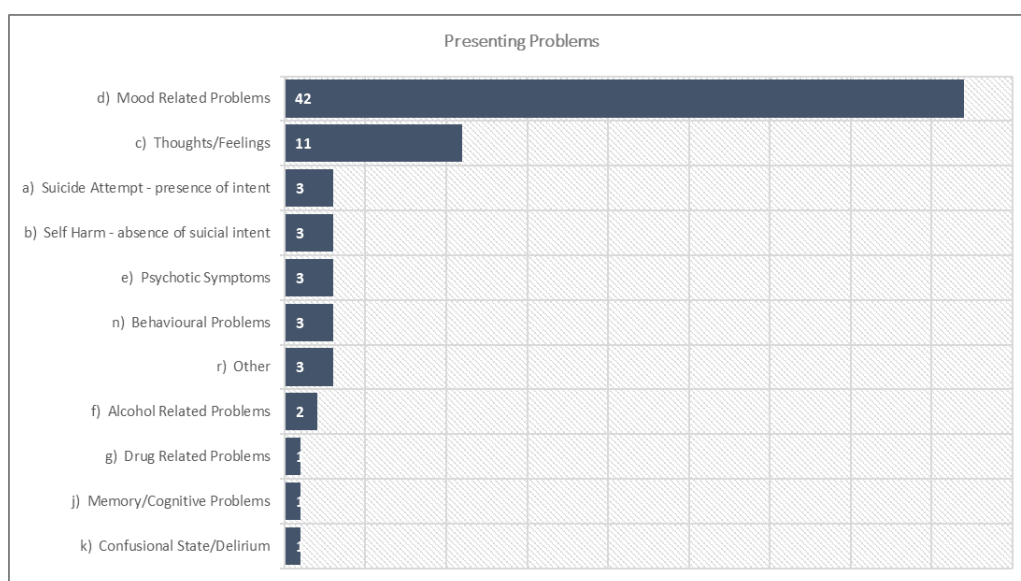


Probation clinics are held in five areas as listed below. The team have received 140 referrals since the launch of bespoke clinics in October 2020. Referral rates are also shown below:

Month		Eastern		Central	Western	
	TOTAL REFERRALS RECEIVED	Flint	Wrexham	Colwyn Bay	Caernarfon	Llangefni
Oct 2020	13	6	5	1	0	1
Nov 2020	18	6	7	1	4	0
Dec 2020	19	13	0	0	5	1
Jan 2021	16	4	6	3	3	0
Feb 2021	19	8	9	1	1	0
Mar 2021	18	8	3	4	2	1
April 2021	37	11	8	8	6	4
<b>TOTAL</b>	<b>140</b>	<b>56</b>	<b>38</b>	<b>18</b>	<b>21</b>	<b>7</b>

CJLS continue to monitor referral rates and have very recently added an extra clinic day in the East area due to referral demand. CJLS attend probation team meetings regularly to ensure positive communication routes and to ensure the teams are aware of how to refer or contact CJLS for advice.

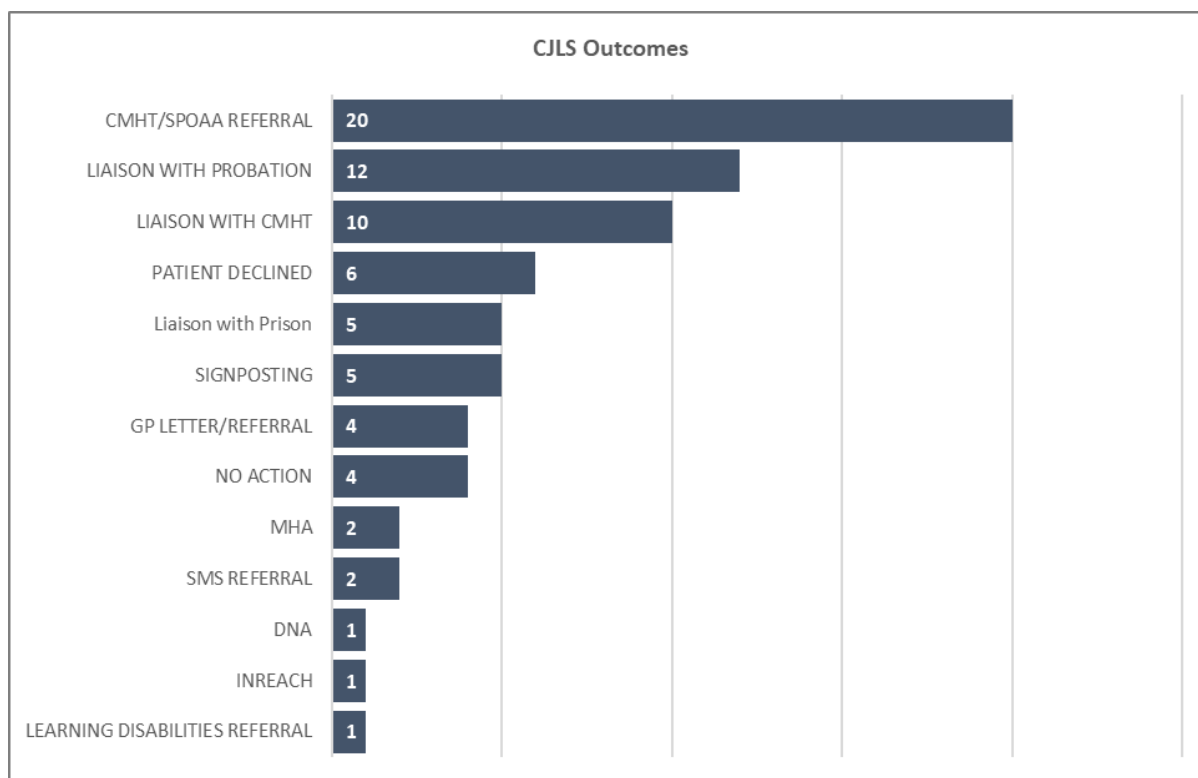
(Specific probation clinic data in regard to appointment offered, attendance and DNA rates will be available for next reporting period).



The presenting problems remain similar to last quarter with very similar themes (see graph above). A covid-19 related data set was added to the presenting problems list, however this has not been utilised as a regularly recurring theme.

The SharePoint data reflects the different referral sources. These include police custody work, court attendance and referrals from offender managers within National Probation Service. The outcome of the completed assessments can be diverse depending on the individuals' need.

These include general advice/signposting, referral to secondary services or the request for further assessment under the Mental Health Act. (See graph below)



### **Risk**

A key risk is the vacancy situation. CJLS currently has two whole time equivalent band 6 vacancies. Due to these vacancies alongside the recruitment process, the shift allocation has recently changed to one 12.5 hour shift daily in FCC (11:30-00:00) seven days a week. The previous shift pattern was cited within exit interviews as a contributing factor by leavers. The shift pattern will remain under review for the coming quarter. This will ensure core hours of service continue to cover the hours of demand, as recognised by police colleagues.

### **Activity for Quarters 2 and 3**

CJLS as a team continue to explore ways of working to benefit the individuals who encounter the criminal justice agencies. For the next two quarters, CHLS will focus on the following areas:

- The service has been involved in many multi-disciplinary reviews where police have engaged with health services to discuss particular cases and themes that affect both organisations. For the next 6-12 months, this will be an area of focus and there will be specific liaison in regard to Child and Adolescent services as demand in this area has increased in the CJLS force control room.
- The S135/136 monitoring group will recommence later this month as a forum for thematic review and to enable the sharing of best practice and lessons learnt amongst health, local authority, Welsh Ambulance Service Trust, medical and police colleagues.

- As previously mentioned a continuing area of activity will be around increasing the rate of “consultation” with North Wales Police colleagues. This work links strongly to ensuring awareness of CJLS for all across the system.
- CJLS will also consider its own service configuration over the next quarters. This will allow us to focus on our leadership and service management elements, to strengthen our service as it continues to evolve.

<b>Cyfarfod a dyddiad:</b> <b>Meeting and date:</b>	<b>Mental Health Act Committee</b> <b>25/06/2021</b>
<b>Cyhoeddus neu Breifat:</b> <b>Public or Private:</b>	Public
<b>Teitl yr Adroddiad</b> <b>Report Title:</b>	Mental Health Act Policies
<b>Cyfarwyddwr Cyfrifol:</b> <b>Responsible Director:</b>	Mr Iain Wilkie, Divisional Director of Mental Health and Learning Disabilities (Interim)
<b>Awdur yr Adroddiad</b> <b>Report Author:</b>	Wendy Lappin, Mental Health Act Manager
<b>Craffu blaenorol:</b> <b>Prior Scrutiny:</b>	<ul style="list-style-type: none"> <li>• MHLD Policy/Procedure Group</li> <li>• MHLD Divisional Senior Leadership Team Quality Safety and Experience Group</li> <li>• Patient Experience and Quality Group – 11 May 2021</li> </ul>
<b>Atodiadau</b> <b>Appendices:</b>	<ul style="list-style-type: none"> <li>• Appendix 1 - MHLD 0034 - Mental Health and Learning Disabilities Policy for Section 5(2) Doctors Holding Power in Psychiatric Units</li> <li>• Appendix 2 - MHLD 0033 - Mental Health and Learning Disabilities Policy for the Implementation of Section 5(4) Nurses Holding Power</li> <li>• Appendix 3 - MHLD 0030 - Mental Health &amp; Learning Disabilities Division Policy for Information to Patients (S132/3 Mental Health Act)</li> </ul>

**Argymhelliad / Recommendation:**

The committee is asked to approve the policies.

**Ticiwch fel bo'n briodol / Please tick as appropriate**

<b>Ar gyfer</b> <b>penderfyniad /cymeradwyaeth</b> <b>For Decision/</b> <b>Approval</b>	√	<b>Ar gyfer</b> <b>Trafodaeth</b> <b>For</b> <b>Discussion</b>		<b>Ar gyfer</b> <b>sicrwydd</b> <b>For</b> <b>Assurance</b>	√	<b>Er</b> <b>gwybodaeth</b> <b>For</b> <b>Information</b>	
<b>Y/N i ddangos a yw dyletswydd Cydraddoldeb/ SED yn berthnasol</b> <b>Y/N to indicate whether the Equality/SED duty is applicable</b>						<b>N</b>	

*Following discussion with MH&LD Senior Management Team, the Office of the Board Secretary and the Equality Team, the assessment is that a SEIA is not required. The Policies submitted to the Committee for approval involve the application by the Health Board of UK legislation. The legislation is highly prescriptive and not open to interpretation. The strategic or 'policy' decisions as to the content and application of the legislation are made at a national level by the UK Government (the Mental Health Act is not devolved). Therefore, the request for the Committee to approve the policies has been assessed as 'not strategic'. The Mental Health Act is currently under review following the final report of the [Independent Review of the Mental Health Act 1983 \(December 2018\)](#) and a consultation '[reforming the Mental Health Act](#)', ran from the 13/01/20 to the 21/04/21. A collective response was submitted by the Health Board 21/04/2021. The Impact assessment for the review is*

available for information here: [Reforming the Mental Health Act: impact assessment \(publishing.service.gov.uk\)](https://publishing.service.gov.uk).

[EqIAs attached below]

### **Sefyllfa / Situation:**

Extant policies are required to be reviewed at regular periods, the attached Mental Health Act Policies have been in situ for a number of years and have progressed through review and require sign off to be uploaded to the Mental Health and Learning Disabilities policy page to ensure staff are working to an up to date document.

### **Cefndir / Background:**

All policies relating to patient care should be written with the Code of Practice for Wales in mind and take into consideration the Mental Health Act, Human Rights Act and the Mental Capacity Act.

Within the Code of Practice for Wales 2016 it states:

“It is essential that compliance with the legal requirements of the Mental Health Act 1983 (the Act) and the Mental Health Act Code of Practice for Wales (the Code) are monitored. Local health boards (LHB) and local authorities (LA) should have agreed governance processes for ensuring the appropriate policies and procedures in place are regularly reviewed” (CoPW A1.1).

The Health Board has a number of Mental Health Act policies, procedures and guidance to ensure staff fully understand the legalities of the detentions, their roles and responsibilities, with detailed information on how to process and progress detentions.

The policies attached as appendices are in reference to detentions under Section 5 of the Mental Health Act and the required information that patients should receive following a detention.

Section 5(4) allows a registered mental health or learning disability nurse to detain an inpatient for a maximum period of up to 6 hours in order for their assessment under the Mental Health Act.

Under section 5(4) nurses of the prescribed class may detain a hospital inpatient who is already receiving treatment for the mental disorder for up to six hours. The decision to invoke the power is the personal decision of the nurse, who cannot be instructed to exercise the power by anyone else.

The use of Section 5(4) is monitored and scrutinised as they occur to ensure that the section is used appropriately.

Section 5(2) is the power under the Mental Health Act, 1983 (MHA) that allows a responsible doctor or approved clinician to detain an in-patient for a maximum period of up to 72 hours in order to make arrangements for their assessment for detention under section 2 or section 3 of the MHA. This power can only be used to detain patients who have already been informally admitted to a hospital. It can be used whether or not the patient has capacity to consent to their admission but cannot be used with outpatients, or with those attending the hospital in other capacities, e.g. as visitors.

The use of section 5(2) is monitored and recorded to ensure that the section is used appropriately.

Section 132/132A/133 Mental Health Act 1983 applies to all patients who are detained or subject to a Community Treatment Order (CTO). It places a duty on the Hospital Managers to provide information to patients and their Nearest Relative, regarding which section of the Mental Health Act they are subject to and the effects of that section. For the information to be given in a language that the receiving person understands.

The MHA legislation is law and people must be informed of certain aspects of their detentions and how they are able to challenge this and appeal.

### **Asesu a Dadansoddi / Assessment & Analysis**

#### **Goblygiadau Strategol / Strategy Implications**

Detentions under the Mental Health Act require monitoring, consideration of the appropriateness, and aligned with a least restrictive pathway for our patients. Monitoring of activity is captured on a quarterly basis and reported to the Mental Health Act Committee.

#### **Opsiynau a ystyriwyd / Options considered**

Not applicable.

#### **Goblygiadau Ariannol / Financial Implications**

The enactment of a Section 5 potentially will progress to a detention under Section 2 or 3 this will require the securing of section 12(2) approved doctors to assess incurring a cost.

#### **Dadansoddiad Risk / Risk Analysis**

Risks are associated with sections not being enacted correctly and patients detentions deemed invalid. Patients have the right to be aware of their detention and the processes available to them to appeal their detentions.

#### **Cyfreithiol a Chydymffurfiaeth / Legal and Compliance**

Monitoring of Mental Health Act Section 5 activity is captured on a quarterly basis and reported to the Mental Health Act Committee.

Benchmarking data is submitted on a quarterly basis to Cardiff and Vale who produce a benchmarking report.

Mental Health Act data relating to Section 5 is submitted to Welsh Government (KP90) on a yearly basis.

#### **Asesiad Effaith / Impact Assessment**

The three policies have undergone an Equality Impact Assessment as below. Each includes actions that have been taken to mitigate any potential discrimination.

MHLD 0033 EQIA October 2017 reviewed October 2020

MHLD 0034 EQIA October 2017 reviewed September 2020

MHLD 0030 EQIA August 2017 reviewed July 2020



GIG  
CYMRU  
NHS  
WALES

Bwrdd Iechyd Prifysgol  
Betsi Cadwaladr  
University Health Board

IT FORMS

**PARTS A (Screening – Forms 1-4) and**  
**B (Key Findings and Actions – Form 5)**

<u>For:</u>	Section 5(2) Doctors Holding Power in Psychiatric Units
<u>Date form completed:</u>	October 2017 reviewed September 2020



**PARTS A: SCREENING and B:**

**KEY FINDINGS AND ACTIONS**

**Introduction:**

These forms have been designed to enable you to record, and provide evidence of how you have considered the needs of all people (including service users, their carers and our staff) who may be affected by what you are writing or proposing, whether this is:

- a policy, protocol, guideline or other written control document;
- a strategy or other planning document e.g. your annual operating plan;
- any change to the way we deliver services e.g. a service review;
- a decision that is related to any of the above e.g. commissioning a new service or decommissioning an existing service.

Remember, the term 'policy' is used in a very broad sense to include "...all the ways in which an organisation carries out its business" so can include any or all of the above.

**Assessing Impact**

As part of the preparation for your assessment of impact, consideration should be given to the questions below.

You should also be prepared to consider whether there are possible impacts for subsections of different protected characteristic groups. For example, when considering disability, a visually impaired person will have a completely different experience than a person with a mental health issue.

It is increasingly recognised that discrimination can occur on the basis of more than one ground. People have multiple identities; we all have an age, a gender, a sexual orientation, a belief system and an ethnicity; many people have a religion and / or a disability as well. The experience of black women, and the barriers they face, will be different to those a white woman faces. The elements of identity cannot be separated because they are not lived or experienced as separate. Think about:-

- ✓ *How does your policy / proposal promote equality for people with protected characteristics (Please see the General Equality Duties)?*
- ✓ *What are the possible negative impacts on people in protected groups and those living in low-income households and how will you put things in place to reduce / remove these?*
- ✓ *What barriers, if any, do people who share protected characteristics face as a result of your policy / proposal? Can these barriers be reduced or removed?*
- ✓ *Consider sharing your EqIA wider within BCUHB (and beyond), e.g. ask colleagues to consider unintended impacts.*
- ✓ *How have you/will you use the information you have obtained from any research or other sources to identify potential (positive or negative) impacts?*

# Part A

## Form 1: Preparation

1.	What are you assessing i.e. what is the title of the document you are writing or the service review you are undertaking?	Section 5(2) Doctors Holding Power in Psychiatric Units
2.	Provide a brief description, including the aims and objectives of what you are assessing.	<p>Section 5(2) allows a doctor (in charge of a patient's treatment) to detain an inpatient for a maximum of up to 72 hours in order for their assessment under the Mental Health Act.</p> <p>The aim of the policy is to ensure doctors are aware of their individual and collective responsibilities when considering implementing holding powers.</p> <p>To provide clear guidance to staff in relation to their legal responsibilities under the Mental Health Act 1983 as amended by the MHA 2007.</p> <p>Ensure that statutory requirements under the Mental Health Act 1983 are met.</p> <p>Practitioners should have due regard to the Mental Health Act Code of Practice generally and specifically to the Guiding Principles when they are considering the use of Doctors holding powers. This would ensure that considerations are given as to whether the objectives can be met in a less restrictive way.</p>
3.	Who is responsible for whatever you are assessing – i.e. who has the authority to agree/approve any changes you identify are necessary?	<p>Mental Health and Learning Disabilities Division Policy/Procedure Sub Group.</p> <p>Mental Health and Learning Disabilities Division Senior Leadership Team Quality and Safety Experience Group.</p>
4.	Is the Policy related to, or influenced by, other Policies/areas of work?	<p>Mental Health Act 1983 (amended 2007)</p> <p>Code of Practice for Wales (2016)</p> <p>Mental Health Wales Measure 2010</p> <p>Mental Capacity Act 2005</p> <p>Welsh Language Act 2016</p> <p>Deprivation of Liberty Safeguards 2007</p>

# Part A

## Form 1: Preparation

		<p>Equality Act 2010</p> <p>Mental Health Act Hospital Managers Scheme of Delegation</p> <p>Welsh Language Wales Measure 2011</p> <p>MHLD 0026 Admission, Receipt and Scrutiny of Statutory Documentation</p> <p>MHLD 0033 S5(4) Nurses Holding Powers</p>
5.	Who are the key Stakeholders i.e. who will be affected by your document or proposals? Has a plan for engagement been agreed?	<p>Service Users, Nursing Staff, Responsible Clinicians, Approved Clinicians, Mental Health Act Administrators and Assistants, Approved Mental Health Professionals, Qualified Nursing staff and other professionals working within mental health services.</p>
6.	What might help/hinder the success of whatever you are doing, for example communication, training etc.?	<p>Training for all Mental Health Staff</p> <p>Communication to staff</p> <p>Workflow chart and examples.</p> <p>Cooperation of staff</p> <p>Time constraints</p>
7.	Think about and capture the positive aspects of your policy that help to promote and advance equality by reducing inequality or disadvantage.	<p>This policy relates to voluntary patients who are inpatients. This policy ensures that there is evidence all persons detained under a 5(2) are done so for appropriate purposes, the monitoring allows for the Health Board to capture the numbers, reasons for the use of this section and the outcome ie progression to another detention.</p>

# Part A

## Form 2: Record of potential Impacts - protected characteristics and other groups

Please complete the next section to show how this policy / proposal could have an impact (positive or negative) on the protected groups listed in the Equality Act 2010. (*Please refer to the [Step by Step guidance](#) for more information*) It is important to note any opportunities you have identified that could advance or promote equality of opportunity. This includes identifying what we can do to remove barriers and improve participation for people who are under-represented or suffer disproportionate disadvantage.

Lack of evidence is not a reason for *not assessing equality impacts*. Please highlight any gaps in evidence that you have identified and explain how/if you intend to fill these gaps.

**Remember to ask yourself this:** If we do what we are proposing to do, in the way we are proposing to do it, will people who belong to one or more of each of the following groups be affected differently, compared to people who don't belong to those groups? i.e. Will they experience different outcomes, simply by reason of belonging to that/those group(s). And if so, will any different outcome put them at a disadvantage?

The sort of information/evidence that may help you decide whether particular groups are affected, and if so whether it is likely to be a positive or negative impact, could include (but is not limited to) the following:-

- population data
- information from EqIAs completed in other organisations
- staff and service users data, as applicable
- needs assessments
- engagement and involvement findings and how stakeholders have engaged in the development stages
- research and other reports e.g. Equality & Human Rights Commission, Office for National Statistics
- concerns and incidents
- patient experience feedback
- good practice guidelines
- participant (you and your colleagues) knowledge

# Part A

## Form 2: Record of potential Impacts - protected characteristics and other groups

Protected characteristic or group	Will people in each of these protected characteristic groups be impacted by what is being proposed? If so is it positive or negative? (tick appropriate below)				Reasons for your decision (including evidence that has led you to decide this) A good starting point is the EHRC publication: <a href="#">"Is Wales Fairer (2018)?"</a>  You can also visit their website <a href="#">here</a>	How will you reduce or remove any negative Impacts that you have identified?
	Yes	No	(+ve)	(-ve)		
Age (e.g. think about different age groups)	√			√	<p>This policy relates to all persons of any age who will be detained under the MHA under a S5(2). As North Wales has a large demographic of older persons it is highly likely that the detained patients could be suffering from dementia.</p> <p>Older person may be more likely to have a sensory impairment or a physical impairment which may lead to a lack of understanding of the implications of wanting to leave the unit.</p>	<p>Easy read leaflets are available to assist people who may have an impairment due to their age.</p> <p>Staff are aware of how to access translation services which are available for sign language, braille and languages.</p>
Disability (think about different types of impairment and health conditions:- i.e. physical,	√			√	<p>Mental Health Illness can affect anyone and it is acknowledged that people with learning impairments may require additional support to understand their detention. Persons who are detained under the 5(2) MHA will often initially be in a state of crisis and not fully understand the information given to them or why they are no longer allowed to leave the unit. Sensory and physical impairments can</p>	<p>Discrimination is eliminated by everyone being treated in accordance with the current legislation. Easy read leaflets will be available for people to assist their understanding of why they are being placed under a</p>

# Part A

## Form 2: Record of potential Impacts - protected characteristics and other groups

mental health, sensory loss, Cancer, HIV)					apply at all ages and may render understanding and communication difficult.	<p>Section when previously they were voluntary. Provisions have been considered for specialised services such as sign language and assistance by learning disability staff.</p> <p>Staff will explain to the patient their rights and leaflets are not simply handed over with the expectation of the patient to understand.</p>
Gender Reassignment (sometimes referred to as 'Gender Identity' or transgender)		√			We do not consider there are any impact for persons who are undergoing gender reassignment.	
Pregnancy and maternity		√			Having considered potential impacts none have been identified considerations will be given to pregnant women and nursing mothers under workforce policies.	
Race (include different ethnic minorities,	√			√	We are aware that people from BAME backgrounds can be more likely to have a Mental illness. If someone meets the criteria for detention under this section and it is felt that they	Discrimination will be eliminated through the understanding of cultural

## Part A

### Form 2: Record of potential Impacts - protected characteristics and other groups

Gypsies and Travellers)  Consider how refugees and asylum-seekers may be affected.				need to be stopped from leaving the unit and have an assessment race would not affect the decision. This policy applies to all who meet the criteria.	values and communication needs will be met by where possible providing information and leaflets in alternative languages. Translators are also available as required.
Religion, belief and non-belief		√		We do not consider there are any impact for persons due to their belief or non-belief.	
Sex (men and women)		√		We do not consider there are any impact due to a person's sex.	
Sexual orientation (Lesbian, Gay and Bisexual)		√		We do not consider there are any impact due to a person's sexual orientation.	
Marriage and civil Partnership (Marital status)		√		We do not consider there are any impacts due the marital status.	
Low-income households		√		No impact on this policy.	

## **Part A**

### **Form 2: Record of potential Impacts - protected characteristics and other groups**

## Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language

### Human Rights:

Do you think that this policy will have a positive or negative impact on people's human rights? For more information on Human Rights, see our intranet pages at: <http://howis.wales.nhs.uk/sitesplus/861/page/42166>

The Articles (Rights) that may be particularly relevant to consider are:-

- *Article 2*      *Right to life*
- *Article 3*      *Prohibition of inhuman or degrading treatment*
- *Article 5*      *Right to liberty and security*
- *Article 8*      *Right to respect for family & private life*
- *Article 9*      *Freedom of thought, conscience & religion*

Will people's Human Rights be impacted by what is being proposed? If so is it positive or negative? (tick as appropriate below)				Which Human Rights do you think are potentially affected	Reasons for your decision (including evidence that has led you to decide this)	How will you reduce or remove any negative Impacts that you have identified?
Yes	No	(+ve)	(-ve)			
	√				The powers under the MHA and S5(2) do not violate human rights because the procedural safeguards established under convention case law do not apply to emergency situations.	

## **Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language**

## Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language

### Welsh Language:

There are 2 key considerations to be made during the development of a policy, project, programme or service to ensure there are no adverse effects and / or a positive or increased positive effect on:

Welsh Language	Will people be impacted by what is being proposed? If so is it positive or negative? (tick appropriate below)				Reasons for your decision (including evidence that has led you to decide this)	How will you reduce or remove any negative Impacts that you have identified?
	Yes	No	(+ve)	(-ve)		
Opportunities for persons to use the Welsh language	√			√	The Welsh Language Standards are to be adhered to in Wales this involves ensuring that it is clarified at the outset as to what language a patient wishes to communicate in.	Once someone is detained under a section they must be explained their rights and information given to them with confirmation they have understood. Within the explanation of rights form this now details if the information has been given in the patients preferred language and will be reported on.

## Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language

Treating the Welsh language no less favourably than the English language	√			√	Information for the patients are available in both English and Welsh. When it is explained to a patient the reason for the section and the use this should be done in Welsh if this is the patients first language.	Forms are also in English and Welsh for staff to choose which they wish to complete.
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## Part A Form 4: Record of Engagement and Consultation

Please record here details of any engagement and consultation you have undertaken. This may be with workplace colleagues or trade union representatives, or it may be with stakeholders and other members of the community including groups representing people with protected characteristics. They may have helped to develop your policy / proposal, or helped to identify ways of reducing or removing any negative impacts identified.

We have a legal duty to engage with people with protected characteristics under the Equality Act 2010. This is particularly important when considering proposals for changes in services that could impact upon vulnerable and/or disadvantaged people.

What steps have you taken to engage and consult with people who share protected characteristics and how have you done this? Consider engagement and participatory methods.	Engagement has been via the Health Boards consultation page of the intranet and distribution to appropriate groups.  The document was distributed to the MHLD divisional staff, Local Authority, safeguarding and the Welsh Language Department. This enabled care coordinators / safeguarding to consider the impact on those with protected characteristics and discuss if necessary.	
Have any themes emerged? Describe them here.	No	
If yes to above, how have their views influenced your work/guided your policy/proposal, or changed your recommendations?	N/A	

For further information and help, please contact the Corporate Engagement Team – see their intranet page at:- <http://howis.wales.nhs.uk/sitesplus/861/page/44085>

## Part B Form 5: Summary of Key Findings and Actions

1. What has been assessed? (Copy from Form 1)	Section 5(2) Doctors Holding Power in Psychiatric Units
2. Brief Aims and Objectives: (Copy from Form 1)	<p>Section 5(2) allows a doctor (in charge of a patient's treatment) to detain an inpatient for a maximum of up to 72 hours in order for their assessment under the Mental Health Act.</p> <p>The aim of the policy is to ensure doctors are aware of their individual and collective responsibilities when considering implementing holding powers.</p> <p>To provide clear guidance to staff in relation to their legal responsibilities under the Mental Health Act 1983 as amended by the MHA 2007.</p> <p>Ensure that statutory requirements under the Mental Health Act 1983 are met.</p> <p>Practitioners should have due regard to the Mental Health Act Code of Practice generally and specifically to the Guiding Principles when they are considering the use of Doctors holding powers. This would ensure that considerations are given as to whether the objectives can be met in a less restrictive way.</p>

From your assessment findings (Forms 2 and 3):

3a. Could any of the protected groups be negatively affected by your policy or proposal?	Yes <input checked="checked" type="checkbox"/>	No <input type="checkbox"/>
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## Part B Form 5: Summary of Key Findings and Actions

3b. Could the impact of your policy or proposal be discriminatory under equality legislation?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3c. Is your policy or proposal of high significance?  For example, does it mean changes across the whole population or Health Board, or only small numbers in one particular area?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4. Did your assessment findings on Forms 2 & 3, coupled with your answers to the 3 questions above indicate that you need to proceed to a Full Impact Assessment?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	<p>Record here the reason(s) for your decision i.e. what did Forms 2 &amp; 3 indicate in terms of positive and negative impact for each characteristic, Human Rights and Welsh Language?</p> <p>This policy will ensure that the law is complied with under the MHA and the provision of ensuring appropriate use of section 5(2).</p> <p>It is felt this policy has a positive effect on all as it ensures the law is upheld and it is evidenced that patients are being detained to ensure their safety and the safety of others.</p> <p>Article 5 is considered in ensuring the patient is not deprived of their liberty .</p> <p>Although potential negative impacts have been identified these have been mitigated against.</p>	
5. If you answered 'no'	Yes <input checked="" type="checkbox"/>	<input type="checkbox"/>

## Part B Form 5: Summary of Key Findings and Actions

above, are there any issues to be addressed e.g. reducing any identified minor negative impact?	Record Details:  Negative impacts have been identified under Age, Disability, and Race but these have been mitigated within the document.	
6. Are monitoring arrangements in place so that you can measure what actually happens after you implement your policy or proposal?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	How is it being monitored?	The use of Section 5(2) is monitored on a quarterly basis and reported to the Mental Health Act Committee where further scrutiny takes place.  Changes are monitored and agreed via the MHL D Policy/Procedure Sub Group and the MHL D SLT QSE.
	Who is responsible?	Mental Health Act Manager.
	What information is being used?	E.g. will you be using existing reports/data or do you need to gather your own information?  The number of section 5(2) used. The area of use. The timeframe of the section and the outcome.
	When will the EqIA be reviewed? (Usually the	3 years from re-approval.

## Part B Form 5: Summary of Key Findings and Actions

	same date the policy is reviewed)	
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7. Where will your policy or proposal be forwarded for approval?	MHLD Policy/Procedure Implementation Group MHLD Senior Leadership Team Quality, Safety and Experience Group. Safeguarding Policy Sub Group BCUHB Policy Group BCUHB QSE
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8. Names of all parties involved in undertaking this Equality Impact Assessment – <b>please note EqIA should be undertaken as a group activity</b>  Senior sign off prior to committee approval:	Name	Title/Role
	Wendy Lappin	Mental Health Act Manager
	All Wales Policy Group	Mental Health Act Managers

## Part B Form 5: Summary of Key Findings and Actions

**Please Note: The Action Plan below forms an integral part of this Outcome Report**

### Action Plan

This template details any actions that are planned following the completion of EqIA including those aimed at reducing or eliminating the effects of potential or actual negative impact identified.

	Proposed Actions	Who is responsible for this action?	When will this be done by?
1. If the assessment indicates significant potential negative impact such that you cannot proceed, please give reasons and any alternative action(s) agreed:	N/A		
2. What changes are you proposing to make to your policy or proposal as a result of the EqIA?	These are already in place as described in mitigating actions		
3a. Where negative impacts on certain groups have been identified, what actions are you taking or are proposed to reduce these impacts? Are these already in place?	These are already in place as described in mitigating actions		

## Part B Form 5: Summary of Key Findings and Actions

	Proposed Actions	Who is responsible for this action?	When will this be done by?
3b. Where negative impacts on certain groups have been identified, and you are proceeding without reducing them, describe here why you believe this is justified.	N/A		
4. Provide details of any actions taken or planned to advance equality of opportunity as a result of this assessment.	N/A		



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NHS  
WALES

Bwrdd Iechyd Prifysgol  
Betsi Cadwaladr  
University Health Board

IT FORMS

**PARTS A (Screening – Forms 1-4) and**  
**B (Key Findings and Actions – Form 5)**

<u>For:</u>	Section 5(4) Nurses Holding Power
<u>Date form completed:</u>	October 2017 reviewed October 2020



GIG  
CYMRU  
NHS  
WALES

Bwrdd Iechyd Prifysgol  
Betsi Cadwaladr  
University Health Board

## IT FORMS

### **PARTS A: SCREENING and B:**

### **KEY FINDINGS AND ACTIONS**

#### **Introduction:**

These forms have been designed to enable you to record, and provide evidence of how you have considered the needs of all people (including service users, their carers and our staff) who may be affected by what you are writing or proposing, whether this is:

- a policy, protocol, guideline or other written control document;
- a strategy or other planning document e.g. your annual operating plan;
- any change to the way we deliver services e.g. a service review;
- a decision that is related to any of the above e.g. commissioning a new service or decommissioning an existing service.

Remember, the term 'policy' is used in a very broad sense to include "...all the ways in which an organisation carries out its business" so can include any or all of the above.

#### **Assessing Impact**

As part of the preparation for your assessment of impact, consideration should be given to the questions below.

You should also be prepared to consider whether there are possible impacts for subsections of different protected characteristic groups. For example, when considering disability, a visually impaired person will have a completely different experience than a person with a mental health issue.

It is increasingly recognised that discrimination can occur on the basis of more than one ground. People have multiple identities; we all have an age, a gender, a sexual orientation, a belief system and an ethnicity; many people have a religion and / or a disability as well. The experience of black women, and the barriers they face, will be different to those a white woman faces. The elements of identity cannot be separated because they are not lived or experienced as separate. Think about:-

- ✓ *How does your policy / proposal promote equality for people with protected characteristics (Please see the General Equality Duties)?*
- ✓ *What are the possible negative impacts on people in protected groups and those living in low-income households and how will you put things in place to reduce / remove these?*
- ✓ *What barriers, if any, do people who share protected characteristics face as a result of your policy / proposal? Can these barriers be reduced or removed?*
- ✓ *Consider sharing your EqIA wider within BCUHB (and beyond), e.g. ask colleagues to consider unintended impacts.*
- ✓ *How have you/will you use the information you have obtained from any research or other sources to identify potential (positive or negative) impacts?*

# Part A

## Form 1: Preparation

1.	What are you assessing i.e. what is the title of the document you are writing or the service review you are undertaking?	Section 5(4) Nurses Holding Power
2.	Provide a brief description, including the aims and objectives of what you are assessing.	<p>Section 5(4) allows a nurse (of a prescribed class) to detain an inpatient who is already receiving treatment for the mental disorder for up to 6 hours.</p> <p>The aim of the policy is to ensure nurses are aware of their individual and collective responsibilities when considering implementing holding powers.</p> <p>To provide clear guidance to staff in relation to their legal responsibilities under the Mental Health Act 1983 as amended by the MHA 2007.</p> <p>Ensure that statutory requirements under the Mental Health Act 1983 are met.</p> <p>Practitioners should have due regard to the Mental Health Act Code of Practice generally and specifically to the Guiding Principles when they are considering the use of Nurses holding powers. This would ensure that considerations are given as to whether the objectives can be met in a less restrictive way.</p>
3.	Who is responsible for whatever you are assessing – i.e. who has the authority to agree/approve any changes you identify are necessary?	<p>Mental Health and Learning Disabilities Division Policy/Procedure Sub Group.</p> <p>Mental Health and Learning Disabilities Division Senior Leadership Team Quality and Safety Experience Group.</p>
4.	Is the Policy related to, or influenced by, other Policies/areas of work?	<p>Mental Health Act 1983 (as amended 2007)</p> <p>Code of Practice for Wales, Revised 2016</p> <p>Mental Health Wales Measure 2010</p> <p>Mental Capacity Act 2005</p> <p>Welsh Language Act 2016</p> <p>Deprivation of Liberty Safeguards 2007</p>

# Part A

## Form 1: Preparation

		<p>Equality Act 2010</p> <p>Mental Health Act Hospital Managers Scheme of Delegation</p> <p>Welsh Language Wales Measure 2011</p> <p>MHLD 0026 Admission, Receipt and Scrutiny of Statutory Documentation</p> <p>MHLD 0030 Information to patient's policy.</p> <p>MHLD 0034 Section 5(2) Doctors Holding Power in Psychiatric Units</p> <p>MHLD 0047 Physical Restraint Guidelines</p>
5.	Who are the key Stakeholders i.e. who will be affected by your document or proposals? Has a plan for engagement been agreed?	<p>Service Users, Nursing Staff, Responsible Clinicians, Approved Clinicians, Mental Health Act Administrators and Assistants, Approved Mental Health Professionals, Qualified Nursing staff and other professionals working within mental health services.</p>
6.	What might help/hinder the success of whatever you are doing, for example communication, training etc.?	<p>Training for all Mental Health Staff</p> <p>Communication to staff</p> <p>Workflow chart and examples.</p> <p>Cooperation of staff</p> <p>Time constraints</p>
7.	Think about and capture the positive aspects of your policy that help to promote and advance equality by reducing inequality or disadvantage.	<p>This policy relates to voluntary patients who are inpatients. This policy ensures that there is evidence all persons detained under a 5(4) are done so for appropriate purposes, the monitoring allows for the Health Board to capture the numbers, reasons for the use of this section and the outcome ie progression to another detention.</p>

# Part A

## Form 2: Record of potential Impacts - protected characteristics and other groups

Please complete the next section to show how this policy / proposal could have an impact (positive or negative) on the protected groups listed in the Equality Act 2010. (*Please refer to the [Step by Step guidance](#) for more information*) It is important to note any opportunities you have identified that could advance or promote equality of opportunity. This includes identifying what we can do to remove barriers and improve participation for people who are under-represented or suffer disproportionate disadvantage.

Lack of evidence is not a reason for *not assessing equality impacts*. Please highlight any gaps in evidence that you have identified and explain how/if you intend to fill these gaps.

**Remember to ask yourself this:** If we do what we are proposing to do, in the way we are proposing to do it, will people who belong to one or more of each of the following groups be affected differently, compared to people who don't belong to those groups? i.e. Will they experience different outcomes, simply by reason of belonging to that/those group(s). And if so, will any different outcome put them at a disadvantage?

The sort of information/evidence that may help you decide whether particular groups are affected, and if so whether it is likely to be a positive or negative impact, could include (but is not limited to) the following:-

- population data
- information from EqIAs completed in other organisations
- staff and service users data, as applicable
- needs assessments
- engagement and involvement findings and how stakeholders have engaged in the development stages
- research and other reports e.g. Equality & Human Rights Commission, Office for National Statistics
- concerns and incidents
- patient experience feedback
- good practice guidelines
- participant (you and your colleagues) knowledge

# Part A

## Form 2: Record of potential Impacts - protected characteristics and other groups

Protected characteristic or group	Will people in each of these protected characteristic groups be impacted by what is being proposed? If so is it positive or negative? (tick appropriate below)				Reasons for your decision (including evidence that has led you to decide this) A good starting point is the EHRC publication: <a href="#">"Is Wales Fairer (2018)?"</a>  You can also visit their website <a href="#">here</a>	How will you reduce or remove any negative Impacts that you have identified?
	Yes	No	(+ve)	(-ve)		
Age (e.g. think about different age groups)	√			√	<p>This policy relates to all persons of any age who will be detained under the MHA under a S5(4). As North Wales has a large demographic of older persons it is highly likely that the detained patients could be suffering from dementia.</p> <p>Older person may be more likely to have a sensory impairment or a physical impairment which may lead to a lack of understanding of the implications of wanting to leave the unit.</p>	<p>Easy read leaflets are available to assist people who may have an impairment due to their age.</p> <p>Staff are aware of how to access translation services which are available for sign language, braille and languages.</p>
Disability (think about different types of impairment and health conditions:- i.e. physical,	√			√	<p>Mental Health Illness can affect anyone and it is acknowledged that people with learning impairments may require additional support to understand their detention. Persons who are detained under the 5(4) MHA will often initially be in a state of crisis and not fully understand the information given to them or why they are no longer allowed to leave the unit. Sensory and physical impairments can</p>	<p>Discrimination is eliminated by everyone being treated in accordance with the current legislation. Easy read leaflets will be available for people to assist their understanding of why they are being placed under a</p>

# Part A

## Form 2: Record of potential Impacts - protected characteristics and other groups

mental health, sensory loss, Cancer, HIV)					apply at all ages and may render understanding and communication difficult.	<p>Section when previously they were voluntary. Provisions have been considered for specialised services such as sign language and assistance by learning disability staff.</p> <p>Staff will explain to the patient their rights and leaflets are not simply handed over with the expectation of the patient to understand.</p>
Gender Reassignment (sometimes referred to as 'Gender Identity' or transgender)		√			We do not consider there are any impact for persons who are undergoing gender reassignment.	
Pregnancy and maternity		√			Having considered potential impacts none have been identified considerations will be given to pregnant women and nursing mothers under workforce policies.	
Race (include different ethnic minorities,	√			√	We are aware that people from BAME backgrounds can be more likely to have a Mental illness. If someone meets the criteria for detention under this section and it is felt that they	Discrimination will be eliminated through the understanding of cultural

## Part A

### Form 2: Record of potential Impacts - protected characteristics and other groups

Gypsies and Travellers)  Consider how refugees and asylum-seekers may be affected.					need to be stopped from leaving the unit and have an assessment race would not affect the decision. This policy applies to all who meet the criteria.	values and communication needs will be met by where possible providing information and leaflets in alternative languages. Translators are also available as required.
Religion, belief and non-belief		√			We do not consider there are any impact for persons due to their belief or non-belief.	
Sex (men and women)		√			We do not consider there are any impact due to a person's sex.	
Sexual orientation (Lesbian, Gay and Bisexual)		√			We do not consider there are any impact due to a person's sexual orientation.	
Marriage and civil Partnership (Marital status)		√			We do not consider there are any impacts due the marital status.	
Low-income households		√			No impact on this policy.	

## Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language

### Human Rights:

Do you think that this policy will have a positive or negative impact on people's human rights? For more information on Human Rights, see our intranet pages at: <http://howis.wales.nhs.uk/sitesplus/861/page/42166>

The Articles (Rights) that may be particularly relevant to consider are:-

- *Article 2*      *Right to life*
- *Article 3*      *Prohibition of inhuman or degrading treatment*
- *Article 5*      *Right to liberty and security*
- *Article 8*      *Right to respect for family & private life*
- *Article 9*      *Freedom of thought, conscience & religion*

Will people's Human Rights be impacted by what is being proposed? If so is it positive or negative? (tick as appropriate below)				Which Human Rights do you think are potentially affected	Reasons for your decision (including evidence that has led you to decide this)	How will you reduce or remove any negative Impacts that you have identified?
Yes	No	(+ve)	(-ve)			
	√				The powers under the MHA and S5(4) do not violate human rights because the procedural safeguards established under convention case law do not apply to emergency situations.	

## Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language

### Welsh Language:

There are 2 key considerations to be made during the development of a policy, project, programme or service to ensure there are no adverse effects and / or a positive or increased positive effect on:

Welsh Language	Will people be impacted by what is being proposed? If so is it positive or negative? (tick appropriate below)				Reasons for your decision (including evidence that has led you to decide this)	How will you reduce or remove any negative Impacts that you have identified?
	Yes	No	(+ve)	(-ve)		
Opportunities for persons to use the Welsh language	√			√	The Welsh Language Standards are to be adhered to in Wales this involves ensuring that it is clarified at the outset as to what language a patient wishes to communicate in.	Once someone is detained under a section they must be explained their rights and information given to them with confirmation they have understood. Within the explanation of rights form this now details if the information has been given in the patients preferred language and will be reported on.

## Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language

Treating the Welsh language no less favourably than the English language	√			√	Information for the patients are available in both English and Welsh. When it is explained to a patient the reason for the section and the use this should be done in Welsh if this is the patients first language.	Forms are also in English and Welsh for staff to choose which they wish to complete.
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## Part A Form 4: Record of Engagement and Consultation

Please record here details of any engagement and consultation you have undertaken. This may be with workplace colleagues or trade union representatives, or it may be with stakeholders and other members of the community including groups representing people with protected characteristics. They may have helped to develop your policy / proposal, or helped to identify ways of reducing or removing any negative impacts identified.

We have a legal duty to engage with people with protected characteristics under the Equality Act 2010. This is particularly important when considering proposals for changes in services that could impact upon vulnerable and/or disadvantaged people.

What steps have you taken to engage and consult with people who share protected characteristics and how have you done this? Consider engagement and participatory methods.	Engagement has been via the Health Boards consultation page of the intranet and distribution to appropriate groups.  The document was distributed to the MHLD divisional staff, Local Authority, safeguarding and the Welsh Language Department. This enabled care coordinators / safeguarding to consider the impact on those with protected characteristics and discuss if necessary.
Have any themes emerged? Describe them here.	It was highlighted that the document should be read in conjunction with the Physical Restraint Guidelines of the Health Board.
If yes to above, how have their views influenced your work/guided your policy/proposal, or changed your recommendations?	The reference to Physical Restraint Guidelines has been included within the policy.

For further information and help, please contact the Corporate Engagement Team – see their intranet page at:- <http://howis.wales.nhs.uk/sitesplus/861/page/44085>

## Part B Form 5: Summary of Key Findings and Actions

1. What has been assessed? (Copy from Form 1)	Section 5(4) Nurses Holding Power
2. Brief Aims and Objectives: (Copy from Form 1)	<p>Section 5(4) allows a nurse (of a prescribed class) to detain an inpatient who is already receiving treatment for the mental disorder for up to 6 hours.</p> <p>The aim of the policy is to ensure nurses are aware of their individual and collective responsibilities when considering implementing holding powers.</p> <p>To provide clear guidance to staff in relation to their legal responsibilities under the Mental Health Act 1983 as amended by the MHA 2007.</p> <p>Ensure that statutory requirements under the Mental Health Act 1983 are met.</p> <p>Practitioners should have due regard to the Mental Health Act Code of Practice generally and specifically to the Guiding Principles when they are considering the use of Nurses holding powers. This would ensure that considerations are given as to whether the objectives can be met in a less restrictive way.</p>

From your assessment findings (Forms 2 and 3):

3a. Could any of the protected groups be negatively affected by your policy or proposal?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
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## Part B Form 5: Summary of Key Findings and Actions

3b. Could the impact of your policy or proposal be discriminatory under equality legislation?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3c. Is your policy or proposal of high significance?  For example, does it mean changes across the whole population or Health Board, or only small numbers in one particular area?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4. Did your assessment findings on Forms 2 & 3, coupled with your answers to the 3 questions above indicate that you need to proceed to a Full Impact Assessment?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	<p>Record here the reason(s) for your decision i.e. what did Forms 2 &amp; 3 indicate in terms of positive and negative impact for each characteristic, Human Rights and Welsh Language?</p> <p>This policy will ensure that the law is complied with under the MHA and the provision of ensuring appropriate use of section 5(4).</p> <p>It is felt this policy has a positive effect on all as it ensures the law is upheld and it is evidenced that patients are being detained to ensure their safety and the safety of others.</p> <p>Article 5 is considered in ensuring the patient is not deprived of their liberty.</p> <p>Although potential negative impacts have been identified these have been mitigated against.</p>	

## Part B Form 5: Summary of Key Findings and Actions

5. If you answered 'no' above, are there any issues to be addressed e.g. reducing any identified minor negative impact?	Yes <input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Are monitoring arrangements in place so that you can measure what actually happens after you implement your policy or proposal?	Record Details:	
	Negative impacts have been identified under Age, Disability, and Race but these have been mitigated within the document.	
	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	How is it being monitored?	The use of Section 5(4) is monitored on a quarterly basis and reported to the Mental Health Act Committee where further scrutiny takes place. At the point of every detention of Section 5(4) the paperwork is scrutinised by the Mental Health Act office and forwarded to the Mental Health Act Manager for appropriateness scrutiny.  Changes are monitored and agreed via the MHL D Policy/Procedure Sub Group and the MHL D SLT QSE.
	Who is responsible?	Mental Health Act Manager.
	What information is being used?	E.g. will you be using existing reports/data or do you need to gather your own information?  The number of section 5(4) used.  The area of use.

## Part B Form 5: Summary of Key Findings and Actions

		The timeframe of the section and the outcome. The appropriateness.
	When will the EqIA be reviewed? (Usually the same date the policy is reviewed)	3 years from re-approval.

7. Where will your policy or proposal be forwarded for approval?	MHLD Policy/Procedure Implementation Group MHLD Senior Leadership Team Quality, Safety and Experience Group. Safeguarding Policy Sub Group BCUHB PSG BCUHB QSE
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8. Names of all parties involved in undertaking this Equality Impact Assessment – <b>please note EqIA should be</b>	Name	Title/Role
	Wendy Lappin	Mental Health Act Manager
	All Wales Policy Group	Mental Health Act Managers

## Part B Form 5: Summary of Key Findings and Actions

<b>undertaken as a group activity</b>  Senior sign off prior to committee approval:		
<b>Please Note: The Action Plan below forms an integral part of this Outcome Report</b>		

### Action Plan

This template details any actions that are planned following the completion of EqIA including those aimed at reducing or eliminating the effects of potential or actual negative impact identified.

	Proposed Actions	Who is responsible for this action?	When will this be done by?
1. If the assessment indicates significant potential negative impact such that you cannot proceed, please give reasons and any alternative action(s) agreed:	N/A		
2. What changes are you proposing to make to your policy or proposal as a result of the EqIA?	These are already in place as described in mitigating actions		

## Part B Form 5: Summary of Key Findings and Actions

	Proposed Actions	Who is responsible for this action?	When will this be done by?
3a. Where negative impacts on certain groups have been identified, what actions are you taking or are proposed to reduce these impacts? Are these already in place?	These are already in place as described in mitigating actions		
3b. Where negative impacts on certain groups have been identified, and you are proceeding without reducing them, describe here why you believe this is justified.	N/A		
4. Provide details of any actions taken or planned to advance equality of opportunity as a result of this assessment.	N/A		



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IT FORMS

**PARTS A (Screening – Forms 1-4) and**  
**B (Key Findings and Actions – Form 5)**

<u>For:</u>	MHLD 0030 Policy for Information to Patients (S132/3 Mental Health Act)
<u>Date form completed:</u>	(Reviewed) July 2020



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University Health Board

## IT FORMS

### **PARTS A: SCREENING and B:**

### **KEY FINDINGS AND ACTIONS**

#### **Introduction:**

These forms have been designed to enable you to record, and provide evidence of how you have considered the needs of all people (including service users, their carers and our staff) who may be affected by what you are writing or proposing, whether this is:

- a policy, protocol, guideline or other written control document;
- a strategy or other planning document e.g. your annual operating plan;
- any change to the way we deliver services e.g. a service review;
- a decision that is related to any of the above e.g. commissioning a new service or decommissioning an existing service.

Remember, the term 'policy' is used in a very broad sense to include "...all the ways in which an organisation carries out its business" so can include any or all of the above.

#### **Assessing Impact**

As part of the preparation for your assessment of impact, consideration should be given to the questions below.

You should also be prepared to consider whether there are possible impacts for subsections of different protected characteristic groups. For example, when considering disability, a visually impaired person will have a completely different experience than a person with a mental health issue.

It is increasingly recognised that discrimination can occur on the basis of more than one ground. People have multiple identities; we all have an age, a gender, a sexual orientation, a belief system and an ethnicity; many people have a religion and / or a disability as well. The experience of black women, and the barriers they face, will be different to those a white woman faces. The elements of identity cannot be separated because they are not lived or experienced as separate. Think about:-

- ✓ *How does your policy / proposal promote equality for people with protected characteristics (Please see the General Equality Duties)?*
- ✓ *What are the possible negative impacts on people in protected groups and those living in low-income households and how will you put things in place to reduce / remove these?*
- ✓ *What barriers, if any, do people who share protected characteristics face as a result of your policy / proposal? Can these barriers be reduced or removed?*
- ✓ *Consider sharing your EqIA wider within BCUHB (and beyond), e.g. ask colleagues to consider unintended impacts.*
- ✓ *How have you/will you use the information you have obtained from any research or other sources to identify potential (positive or negative) impacts?*

# Part A

## Form 1: Preparation

1.	What are you assessing i.e. what is the title of the document you are writing or the service review you are undertaking?	MHLD 0030 Policy for Information to Patients (S132/3 Mental Health Act)
2.	Provide a brief description, including the aims and objectives of what you are assessing.	Section 132/132A/133 Mental Health Act 1983 applies to all patients who are detained or subject to a Community Treatment Order (CTO). It places a duty on the Hospital Managers to provide certain information to patients and their Nearest Relative, regarding which section of the Mental Health Act they are subject to and the effects of that section. The Hospital Managers are the Health Board as a body. Under the Mental Health Act, they have the authority to delegate this duty to staff within the Health Board. The aims and objectives are to ensure Information is given to patients both verbally and in writing, in accessible formats, appropriate to the patient's needs, eg, easy read, Braille, Moon, in a language the patient understands. Information must be given wherever possible in the patient's primary language. Everything possible should be done to overcome communication barriers. There are statutory duties to inform patients about certain aspects of their detention under the Mental Health Act and evidence provided to show this has occurred. Patients have a legal right under the Mental Health Act 1983 to be informed of their legal situation and rights.
3.	Who is responsible for whatever you are assessing – i.e. who has the authority to agree/approve any changes you identify are necessary?	Mental Health and Learning Disabilities Division Policy/Procedure Sub Group.  Mental Health and Learning Disabilities Division Senior Leadership Team Quality and Safety Experience Group.
4.	Is the Policy related to, or influenced by, other Policies/areas of work?	Mental Health Act 1983 (amended 2007) Code of Practice for Wales (2016) Mental Health Wales Measure 2010 Mental Capacity Act 2005 Mental Health Act Hospital Managers Scheme of Delegation

# Part A

## Form 1: Preparation

		MD01 Policy on Consent to Examination or Treatment Welsh Language Wales Measure 2011 MHLD 0026 Admission, Receipt and Scrutiny of Statutory Documentation
5.	Who are the key Stakeholders i.e. who will be affected by your document or proposals? Has a plan for engagement been agreed?	Service Users, Nursing Staff, Mental Health Act Administrators and Assistants, Local Authority Approved Mental Health Professionals (AMHPs).
6.	What might help/hinder the success of whatever you are doing, for example communication, training etc.?	Training for all Mental Health Staff Communication to staff Workflow chart. Cooperation of staff Time constraints
7.	Think about and capture the positive aspects of your policy that help to promote and advance equality by reducing inequality or disadvantage.	This policy relates to all persons who are detained under the Mental Health Act 1983 (as amended 2007). The Mental Health Act is law and therefore all persons must be informed of their rights and given information about their section status and the aspects of their detention. This policy ensures that there is evidence all persons detained have received their rights in appropriate formats and in a timely manner.

# Part A

## Form 2: Record of potential Impacts - protected characteristics and other groups

Please complete the next section to show how this policy / proposal could have an impact (positive or negative) on the protected groups listed in the Equality Act 2010. (*Please refer to the [Step by Step guidance](#) for more information*) It is important to note any opportunities you have identified that could advance or promote equality of opportunity. This includes identifying what we can do to remove barriers and improve participation for people who are under-represented or suffer disproportionate disadvantage.

Lack of evidence is not a reason for *not assessing equality impacts*. Please highlight any gaps in evidence that you have identified and explain how/if you intend to fill these gaps.

**Remember to ask yourself this:** If we do what we are proposing to do, in the way we are proposing to do it, will people who belong to one or more of each of the following groups be affected differently, compared to people who don't belong to those groups? i.e. Will they experience different outcomes, simply by reason of belonging to that/those group(s). And if so, will any different outcome put them at a disadvantage?

The sort of information/evidence that may help you decide whether particular groups are affected, and if so whether it is likely to be a positive or negative impact, could include (but is not limited to) the following:-

- population data
- information from EqIAs completed in other organisations
- staff and service users data, as applicable
- needs assessments
- engagement and involvement findings and how stakeholders have engaged in the development stages
- research and other reports e.g. Equality & Human Rights Commission, Office for National Statistics
- concerns and incidents
- patient experience feedback
- good practice guidelines
- participant (you and your colleagues) knowledge

# Part A

## Form 2: Record of potential Impacts - protected characteristics and other groups

Protected characteristic or group	Will people in each of these protected characteristic groups be impacted by what is being proposed? If so is it positive or negative? (tick appropriate below)				Reasons for your decision (including evidence that has led you to decide this) A good starting point is the EHRC publication: <a href="#">"Is Wales Fairer (2018)?"</a>  You can also visit their website <a href="#">here</a>	How will you reduce or remove any negative Impacts that you have identified?
	Yes	No	(+ve)	(-ve)		
Age (e.g. think about different age groups)	√			√	<p>This policy relates to all persons of any age who are detained under the MHA and who use services this also relates to their carers and nearest relatives. As North Wales has a large demographic of older persons it is highly likely that a majority of the detained patients could be suffering from dementia and detained under the MHA.</p> <p>Older person may be more likely to have a sensory impairment or a physical impairment which may render written communications less accessible.</p>	<p>Easy read leaflets are available to assist people who may have an impairment due to their age.</p> <p>Staff are aware of how to access translation services which are available for sign language, braille and languages.</p>
Disability (think about different types of impairment and health conditions:- i.e. physical, mental health,	√			√	<p>Mental Health Illness can affect anyone and it is acknowledged that people with learning impairments may require additional support to understand the information being given to them. Persons who are detained under the MHA due to their mental health will often initially be in a state of crisis and not fully understand the information given to them. This is one of the reasons why repeated giving of information to patients at prominent times of their detention</p>	<p>Discrimination is eliminated by everyone being treated in accordance with the current legislation. Easy read leaflets will be available for people to assist their understanding. Provisions have been considered for</p>

## Part A

### Form 2: Record of potential Impacts - protected characteristics and other groups

sensory loss, Cancer, HIV)					must be done. Sensory and physical impairments can apply at all ages and may render understanding and communication difficult.	specialised services such as sign language and assistance by learning disability staff.  Staff will explain to the patient their rights and leaflets are not simply handed over with the expectation of the patient to understand.
Gender Reassignment (sometimes referred to as 'Gender Identity' or transgender)		√			We do not consider there are any impact for persons who are undergoing gender reassignment.	
Pregnancy and maternity		√			Having considered potential impacts none have been identified considerations will be given to pregnant women and nursing mothers under workforce policies.	
Race (include different ethnic minorities, Gypsies and Travellers)	√			√	We are aware that people from BAME backgrounds can be more likely to have a Mental illness however the reading of their rights remains unaffected by this. This policy applies to all who are detained under the MHA information may	Discrimination will be eliminated through the understanding of cultural values and communication needs will be met by where possible providing leaflets in

## Part A

### Form 2: Record of potential Impacts - protected characteristics and other groups

Consider how refugees and asylum-seekers may be affected.					therefore need to be given to those from different race or ethnicity.  People who's first language is not English may struggle to understand information given to them.	alternative languages. Translators are also available as required.
Religion, belief and non-belief		√			We do not consider there are any impact for persons due to their belief or non-belief.	
Sex (men and women)		√			We do not consider there are any impact due to a person's sex.	
Sexual orientation (Lesbian, Gay and Bisexual)		√			There is a specific hierarchy in regards to Section 26 of the Mental Health Act and who is classified as a person's Nearest Relative. This policy conforms to this and sexual orientation of the patient or their carer or nearest relative does not affect.	
Marriage and civil Partnership (Marital status)		√			Section 26 of the Mental Health Act is regulated by law, the marital status of a patient or staff has no impact on this policy.	
Low-income households		√			There will be no impact on this policy.	

## Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language

### Human Rights:

Do you think that this policy will have a positive or negative impact on people's human rights? For more information on Human Rights, see our intranet pages at: <http://howis.wales.nhs.uk/sitesplus/861/page/42166>

The Articles (Rights) that may be particularly relevant to consider are:-

- *Article 2*      *Right to life*
- *Article 3*      *Prohibition of inhuman or degrading treatment*
- *Article 5*      *Right to liberty and security*
- *Article 8*      *Right to respect for family & private life*
- *Article 9*      *Freedom of thought, conscience & religion*

Will people's Human Rights be impacted by what is being proposed? If so is it positive or negative? (tick as appropriate below)				Which Human Rights do you think are potentially affected	Reasons for your decision (including evidence that has led you to decide this)	How will you reduce or remove any negative Impacts that you have identified?
Yes	No	(+ve)	(-ve)			
	✓	✓		Article 5 and Article 8	PJ v A Local Health Board and Others [2018] – The supreme court found that there is no power to impose conditions in a CTO which have the effect of depriving a person of his liberty because there is nothing in the MHA that permits this, either expressly or by implication. An example would be	

## Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language

					<p>someone could not be directed to be within their home for a certain amount of time or between timeframes EG 5pm and 9am, the community has to be less restrictive than detention in hospital. There would be no impact, patients are informed that if on a CTO their conditions cannot constitute a deprivation of liberty under Article 5 as this would be unlawful. As an inpatient Article 5(2) of the Human Rights Act requires that patients are informed of the reasons for detention and Article 5(4) ensures that the patient has the right to a tribunal upheld. This information is given within the explanation of rights and information to patient's policy.</p> <p>There is a positive impact under Article 8 as we are explaining to people clearly that they are still entitled to a right to freedom and family life. Patients are asked if they wish their nearest relatives to receive information about their detention if they indicate they do not the Health Board would not share any detention information with them following admission unless in exceptional circumstances.</p>	
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## **Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language**

## Part A Form 3: Record of Potential Impacts – Human Rights and Welsh Language

### Welsh Language:

There are 2 key considerations to be made during the development of a policy, project, programme or service to ensure there are no adverse effects and / or a positive or increased positive effect on:

Welsh Language	Will people be impacted by what is being proposed? If so is it positive or negative? (tick appropriate below)				Reasons for your decision (including evidence that has led you to decide this)	How will you reduce or remove any negative Impacts that you have identified?
	Yes	No	(+ve)	(-ve)		
Opportunities for persons to use the Welsh language	√		√		The Welsh Language Standards are to be adhered to in Wales this involves ensuring that it is clarified at the outset as to what language a patient wishes to communicate in.	Within the explanation of rights form this now details if the information has been given in the patients preferred language and will be reported on.
Treating the Welsh language no less favourably than the	√		√		Information leaflets for the patients are available in both English and Welsh with both being sent to Nearest relatives and patients. All letters sent in relation to the MHA are in English and Welsh.	Forms are also in English and Welsh for staff to choose which they wish to complete.

**Part A   Form 3: Record of Potential Impacts – Human Rights and Welsh Language**

English language						
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## Part A Form 4: Record of Engagement and Consultation

Please record here details of any engagement and consultation you have undertaken. This may be with workplace colleagues or trade union representatives, or it may be with stakeholders and other members of the community including groups representing people with protected characteristics. They may have helped to develop your policy / proposal, or helped to identify ways of reducing or removing any negative impacts identified.

We have a legal duty to engage with people with protected characteristics under the Equality Act 2010. This is particularly important when considering proposals for changes in services that could impact upon vulnerable and/or disadvantaged people.

What steps have you taken to engage and consult with people who share protected characteristics and how have you done this? Consider engagement and participatory methods.	Engagement has been via the Health Boards consultation page of the intranet and distribution to appropriate groups.  The document was distributed to the MHLD divisional staff, Local Authority, safeguarding and the Welsh Language Department. This enabled care coordinators / safeguarding to consider the impact on those with protected characteristics and discuss if necessary.
Have any themes emerged? Describe them here.	Changes in case law.  Welsh Language Standards.
If yes to above, how have their views influenced your work/guided your policy/proposal, or changed your recommendations?	Recent Case law has been referenced in relation to Article 5.  The language was changed within the policy to ensure compliance with the Welsh Language Standards to strengthen the understanding of staff and how the MHA law links.

For further information and help, please contact the Corporate Engagement Team – see their intranet page at:- <http://howis.wales.nhs.uk/sitesplus/861/page/44085>

## Part B Form 5: Summary of Key Findings and Actions

1. What has been assessed? (Copy from Form 1)	MHLD 0030 Policy for Information to Patients (S132/3 Mental Health Act)
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2. Brief Aims and Objectives: (Copy from Form 1)	<p>Section 132/132A/133 Mental Health Act 1983 applies to all patients who are detained or subject to a Community Treatment Order (CTO). It places a duty on the Hospital Managers to provide certain information to patients and their Nearest Relative, regarding which section of the Mental Health Act they are subject to and the effects of that section. The Hospital Managers are the Health Board as a body. Under the Mental Health Act, they have the authority to delegate this duty to staff within the Health Board. The aims and objectives are to ensure Information is given to patients both verbally and in writing, in accessible formats, appropriate to the patient's needs, eg, easy read, Braille, Moon, in a language the patient understands. Information must be given wherever possible in the patient's primary language. Everything possible should be done to overcome communication barriers. There are statutory duties to inform patients about certain aspects of their detention under the Mental Health Act and evidence provided to show this has occurred. Patients have a legal right under the Mental Health Act 1983 to be informed of their legal situation and rights.</p>
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From your assessment findings (Forms 2 and 3):

3a. Could any of the protected groups be negatively affected by your policy or proposal?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
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## Part B Form 5: Summary of Key Findings and Actions

3b. Could the impact of your policy or proposal be discriminatory under equality legislation?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3c. Is your policy or proposal of high significance?  For example, does it mean changes across the whole population or Health Board, or only small numbers in one particular area?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4. Did your assessment findings on Forms 2 & 3, coupled with your answers to the 3 questions above indicate that you need to proceed to a Full Impact Assessment?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	<p>Record here the reason(s) for your decision i.e. what did Forms 2 &amp; 3 indicate in terms of positive and negative impact for each characteristic, Human Rights and Welsh Language?</p> <p>This policy will ensure that the law is complied with under the MHA and the provision of ensuring people are given information regarding their detention regardless of the protected characteristics as the MHA applies to all.</p> <p>It is felt this policy has a positive effect on all as it ensures the law is upheld and it is evidenced that patients are receiving information that they are entitled to.</p> <p>Article 5 and Article 8 are considered in ensuring the patient is not deprived of their liberty and is aware that this is not appropriate and that their privacy if requested is respected.</p> <p>Although potential negative impacts have been identified these have been mitigated against.</p>	
5. If you answered 'no'	Yes <input checked="" type="checkbox"/>	<input type="checkbox"/>

## Part B Form 5: Summary of Key Findings and Actions

<p>above, are there any issues to be addressed e.g. reducing any identified minor negative impact?</p>	<p>Record Details:</p> <p>Negative impacts have been identified under Age, Disability, and Race but these have been mitigated within the document.</p>	
<p>6. Are monitoring arrangements in place so that you can measure what actually happens after you implement your policy or proposal?</p>	<p>Yes <input checked="" type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
	<p>How is it being monitored?</p>	<p>The Associate Hospital Managers under the policy MHL D 0026 Admission, Receipt and Scrutiny of Statutory Documentation scrutinise a sample of forms on a monthly basis.</p> <p>A yearly audit is produced.</p> <p>Changes are monitored and agreed via the MHL D Policy/Procedure Sub Group and the MHL D SLT QSE.</p>
	<p>Who is responsible?</p>	<p>Mental Health Act Manager and Governance Department of MHL D Division</p>
	<p>What information is being used?</p>	<p>The detail within the rights forms, was the patient given their rights in their language of choice, are their rights revisited if they do not understand? Were patients offered and accepted or declined access to an Independent Mental Health Advocate.</p>
	<p>When will the EqIA be reviewed? (Usually the</p>	<p>3 years' time from re-approval.</p>

## Part B Form 5: Summary of Key Findings and Actions

	same date the policy is reviewed)	
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7. Where will your policy or proposal be forwarded for approval?	MHL D Policy/Procedure Implementation Group MHL D Senior Leadership Team Quality, Safety and Experience Group. Safeguarding Policy Sub Group BCUHB QSG BCUHB QSE
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8. Names of all parties involved in undertaking this Equality Impact Assessment – <b>please note EqIA should be undertaken as a group activity</b>  Senior sign off prior to committee approval:	Name	Title/Role
	Wendy Lappin	Mental Health Act Manager
	Stephen Doore	Equality and Inclusion Manager

## Part B Form 5: Summary of Key Findings and Actions

**Please Note: The Action Plan below forms an integral part of this Outcome Report**

### Action Plan

This template details any actions that are planned following the completion of EqIA including those aimed at reducing or eliminating the effects of potential or actual negative impact identified.

	Proposed Actions	Who is responsible for this action?	When will this be done by?
1. If the assessment indicates significant potential negative impact such that you cannot proceed, please give reasons and any alternative action(s) agreed:	N/A		
2. What changes are you proposing to make to your policy or proposal as a result of the EqIA?	Changes have already been made there are no further changes to mitigate.		
3a. Where negative impacts on certain groups have been identified, what actions are you taking or are proposed to reduce these impacts? Are these already in place?	These are already in place as described in mitigating actions		

## Part B Form 5: Summary of Key Findings and Actions

	Proposed Actions	Who is responsible for this action?	When will this be done by?
3b. Where negative impacts on certain groups have been identified, and you are proceeding without reducing them, describe here why you believe this is justified.	N/A		
4. Provide details of any actions taken or planned to advance equality of opportunity as a result of this assessment.	N/A		

## Mental Health and Learning Disabilities Policy for Section 5(2) Doctors Holding Power in Psychiatric Units

<b>Author &amp; Title</b>	Wendy Lappin, Mental Health Act (Legislation) manager				
<b>Responsible Director:</b>	Director of Mental Health and Learning Disabilities Division				
<b>Type of Document</b>	Policy				
<b>Approved by:</b>	MHLD Policy/Procedure Group – 5 <sup>th</sup> November 2020 MHLD Divisional Senior Leadership Team Quality Safety and Experience Group – 19 <sup>th</sup> November 2020 Patient Experience and Quality Group – 11 May 2021				
<b>Date approved:</b>	November 2020 as draft whilst progressing through Health Board approval routes.				
<b>Date activated (live):</b>	November 2020				
<b>Documents to be read alongside this document:</b>	Mental Health Act 1983 (amended 2007) Code of Practice for Wales (2016) Mental Health Wales Measure 2010 Mental Capacity Act 2005 Mental Health Act Hospital Managers Scheme of Delegation MD01 Policy on Consent to Examination or Treatment Welsh Language Wales Measure 2011 MHLD 0026 Admission, Receipt and Scrutiny of Statutory Documentation MHLD 0030 Information to patient's policy.				
<b>Date of next review:</b>	October 2023				
<b>Date EqlA completed / reviewed:</b>	October 2017 Reviewed September 2020				
<b>First operational:</b>	3 <sup>rd</sup> November 2008				
<b>Previously reviewed:</b>	31 <sup>st</sup> March 2009	October 2017			
<b>Changes made yes/no:</b>	No	Yes			
<b>Details of changes since last review</b>	Formatting and update to new template only.				

*N.B. Staff should be discouraged from printing this document. This is to avoid the risk of out of date printed versions of the document. The Intranet should be referred to for the current version of the document*

## Contents

<b>1. Introduction and Policy Statement.....</b>	<b>3</b>
<b>2. Purpose of the Document .....</b>	<b>3</b>
<b>3. Scope .....</b>	<b>3</b>
<b>4. Aims and Objectives.....</b>	<b>3</b>
<b>5. Roles and Responsibilities .....</b>	<b>4</b>
5.1 Doctors and Approved Clinicians.....	4
5.2 Nomination of Deputies.....	4
5.3 Qualified Nurses .....	5
5.4 Mental Health Act Office .....	5
<b>6. Procedure .....</b>	<b>6</b>
<b>7. Section 17 Leave .....</b>	<b>6</b>
<b>8. Section 18 Absent without Leave (AWOL).....</b>	<b>6</b>
<b>9. Community Treatment Order Patients .....</b>	<b>6</b>
<b>10. Inappropriate Use of Section 5(2).....</b>	<b>7</b>
<b>11. Ending of Section 5(2) .....</b>	<b>7</b>
<b>12. Further assessment for Section 2 or Section 3.....</b>	<b>7</b>
<b>13. Medical Treatment of Patients .....</b>	<b>8</b>
<b>14. Transfer to other hospitals.....</b>	<b>8</b>
<b>15. Information for patients .....</b>	<b>8</b>
<b>16. Monitoring.....</b>	<b>8</b>
<b>17. Training .....</b>	<b>9</b>
<b>18. Reference to Legislation .....</b>	<b>9</b>
<b>APPENDICES .....</b>	<b>10</b>
Appendix 1 - HO12.....	10
Appendix 2 - Receipt of MHA documents .....	12
Appendix 3 - Checklist .....	13
Appendix 4 - Procedure .....	14
Appendix 5 - Form HO12 Example .....	15

## **1. Introduction and Policy Statement**

Section 5(2) is the power under the Mental Health Act, 1983 (MHA) that allows a responsible doctor or approved clinician to detain an in-patient for a maximum period of up to 72 hours in order to make arrangements for their assessment for detention under section 2 or section 3 of the MHA. This power can only be used to detain patients who have already been informally admitted to a hospital. It can be used whether or not the patient has capacity to consent to their admission but cannot be used with outpatients, or with those attending the hospital in other capacities, e.g. as visitors.

Section 5(2) should only be used if; at the time it is not practicable or safe to take the steps necessary to make an application for detention without detaining the patient in the interim. It should not be used as an alternative to making an application, even if it is thought that the patient will only need to be detained for 72 hours or less.

## **2. Purpose of the Document**

This policy has been developed to guide staff on the implementation and management of section 5(2) doctors holding power in accordance with the Mental Health Act 1983 as amended by MHA 2007. This guidance has been developed in line with the Mental Health Act 1983 Code of Practice for Wales 2016 (Code of Practice).

Holding powers when implemented authorises the detention of the patient in the hospital for a maximum of 72 hours so the patient can be assessed with a view to an application for detention under the MHA being made.

## **3. Scope**

This policy is applicable to all qualified doctors within all Mental Health Inpatient setting.

A separate policy exists for the use of Section 5(2) in General and Community Hospital Settings

The policy does not apply to patients seen in the Emergency Department (ED) and Outpatient Departments (OPD).

## **4. Aims and Objectives**

The aims of the policy are to:

- Ensure staff are aware of their individual and collective responsibilities when considering and assessing individuals before implementing holding powers.
- Provide clear guidance to staff in relation to their legal responsibilities under the Mental Health Act 1983.
- Ensure that statutory requirements under the Mental Health Act 1983 are met.
- To facilitate the development of good practice.

Practitioners should have due regard to the Mental Health Act Code of Practice generally and specifically to the guiding principles when they are considering the use of Section 5(2) doctors holding powers. This would ensure that considerations are given as to whether the objectives can be met in a less restrictive way.

## **5. Roles and Responsibilities**

### **5.1 Doctors and Approved Clinicians**

Section 5(2) authorises the detention of the patient in the hospital for a maximum of 72 hours so the patient can be assessed with a view to an application for detention under the Act being made. It should only be used if, at the time, it is not practicable or safe to initiate an application for detention without also detaining the patient in the interim. That is, the patient must be unwilling to remain in hospital in order for the assessment for detention to be made and it must be necessary for the person to remain in hospital until the assessment can be undertaken.

Section 5(2) should not be used as an alternative to making an application, even if it is thought the patient will only need to be detained for 72 hours or less.

The identity of the person in charge of a patient's medical treatment at any time will depend on the particular circumstances. However, a professional who is treating the patient under the direction of another professional should not be considered to be in charge.

The Doctor must be fully aware of the diverse needs of the patient when considering detention and must take them in to account at all times. They must ensure the patient fully understands what is happening to them in a language and format which they are able to understand, this will include sensory and cognitive abilities and physical impairment. Where necessary, an interpreter should be obtained.

They must complete a written record of the assessment (Statutory Form HO12, Appendix 1). As well as the completion of the statutory documentation, doctors must make a record of the assessment including the start time of the section in the patients' clinical notes.

### **5.2 Nomination of Deputies**

Section 5(3) allows the doctor or approved clinician in charge of an inpatient's treatment to nominate a deputy to independently exercise section 5(2) powers in their absence.

Only a doctor or approved clinician on the staff of the same hospital may be a nominated deputy. The deputy does not have to be a member of the same profession as the person nominating them. Only one deputy may be authorised at any time for any patient, and it is unlawful for a nominated deputy to nominate another.

Doctors and approved clinicians should only be nominated as a deputy if they are competent to perform the role. Nominated deputies should report the use of section 5(2) to the person for whom they are deputising as soon as practicable.

It is permissible for deputies to be nominated by title, rather than by name e.g. the junior doctor on call for particular wards, provided there is only one nominated deputy for any patient at any time and it can be determined with certainty who that nominated deputy is.

Doctors and approved clinicians may leave instructions with ward staff to contact them (or their nominated deputy) if a particular patient wants or tries to leave. However, they may not leave instructions for their nominated deputy to use section 5(2), nor may they complete a section 5(2) report in advance to be used in their absence. The deputy must exercise their own professional judgment. Patients should not be admitted informally with the sole intention of then using the holding power.

A professional who is treating the patient under the direction of another professional should not be considered to be in charge.

Outside of 9-5 working hours, Monday-Friday the Duty Doctor will automatically be the nominated doctor to carry out section 5(2). Within 9-5 working hours, Monday – Friday the Duty Doctor should first try to contact the doctor or the approved clinician in charge of the patient's care. Where the doctor in charge of the patient's care is not contactable the position will be the same as for out of hours that the nominated doctor for Section 5(2) is the Duty Doctor.

The Doctor should ensure that that have completed form HO12 correctly. As per the procedure summary (Appendix 5) and the checklist (Appendix 3)

### **5.3 Qualified Nurses**

The nurse in charge of the ward should ensure that the patient is made aware of their rights under the Act and this is documented in the patients' notes.

**Out of hours**, the nurse in charge of the local psychiatric unit (Duty Nurse/Bleep Holder) must accept the section 5(2) for the section to be in place on the form (Appendix 2) checking against the checklist (Appendix 3).

The nurse in charge will contact a Psychiatrist and an Approved Mental Health Professional (AMHP) to instigate a Mental Health Act Assessment for detention under Section 2 or 3 of the Mental Health Act. Additional forms will need completing if a further section is applied.

The nurse in charge will ensure that all section paperwork is accounted for and delivered to the Mental Health Act Office.

### **5.4 Mental Health Act Office**

**Within normal working hours** the Mental Health Act Administrator will ensure the Section paperwork is completed sufficiently and arrange for acceptance by the Hospital Managers who will complete Part 2 of the HO12.

The Mental Health Act Administrator will contact clinicians and an AMHP for further assessment under the Mental Health Act.

## **6. Procedure**

Please refer to the procedure summary (Appendix 5)

Holding powers can only be used on a patient who has been admitted to hospital. Admission should be defined as completion of the admission process performed by nursing staff or medical staff.

Patients who are in hospital by virtue of a deprivation of liberty authorisation under the Mental Capacity Act 2005 (MCA) may be detained under section 5(2).

If a patient is already detained under section 5(4) the request from a nurse to assess for detention under section 5(2) should be treated as an emergency and be responded to accordingly i.e. within 6 hours of the section 5(4) commencing. The 72 hour timeframe for the 5(2) starts when the 5(4) was commenced.

Although section 5(2) can last up to a maximum of 72 hours, the assessment process must be put in place once the HO12 is completed.

The Approved Mental Health Practitioner (AMHP) should be contacted at this stage in order to co-ordinate a Mental Health Act assessment and for those attending to consider the need for section 2 or section 3 of the Mental Health Act.

Patients subject to section 5(2) are not subject to consent to treatment provisions contained in Part 4 of the MHA. If the patient is mentally capable of making a decision about treatment, the common law enables him to refuse to be treated for either a physical or mental disorder. However, if the patient is assessed as being mentally incapable of making a decision about treatment, the treatment can be provided under the Mental Capacity Act 2005 if it is deemed to be in his best interests.

A record of the assessment must be made in the patient's clinical notes.

## **7. Section 17 Leave**

A patient detained on Section 5(2) cannot receive section 17 leave. They are not detained by virtue of either an application under Section 2 or Section 3 and therefore do not have a Responsible Clinician to grant such leave.

## **8. Section 18 Absent without Leave (AWOL)**

A patient detained under section 5(2) who leave the hospital is AWOL and can be retaken but only within the 72 hour period.

## **9. Community Treatment Order Patients**

Section 5(2) is not applicable to a patient subject to a Community Treatment Order (CTO). Patients can be recalled even during periods when they are in-patients. Therefore where it is considered necessary, the recall procedure must be used to detain the patient and within the 72 hours allowed a decision must be made whether to revoke the CTO.

Section 5(2) cannot be used to keep a patient in hospital after the end of the 72 hour recall period if the CTO has not been revoked.

## **10. Inappropriate Use of Section 5(2)**

Section 5(2) cannot be used in the following circumstances:

- For an outpatient attending an emergency department or any other out-patient facility.
- For a patient who is already liable to be detained (application by an Approved Mental Health Professional made) under section 2, section 3 or section 4, or who is subject to a CTO.
- Is not to be used as a holding power simply for the purpose of persuading the patient to stay.

Patients should not be informally admitted with the sole intention of then using the holding power.

## **11. Ending of Section 5(2)**

Section 5(2) holding powers lasts for a maximum of 72 hours and cannot be renewed.

Detention under section 5(2) will end if:

- The result of the assessment is a decision not to make an application under section 2 or section 3.
- An application under section 2 or section 3 is made.
- After the expiry of 72 hours
- The patient is discharged for clinical reasons before an assessment can be undertaken

The patient should be informed once they are no longer held under section 5(2) and advised of the reasons why. If this is because section 2 or 3 was not applied the patient should be informed they are free to leave hospital.

Though section 5(2) cannot be renewed its subsequent reuse can be considered upon the patients reversion to informal status should circumstances arise; however repeated use of section 5(2) would tend to indicate that the patient has been inadequately assessed or managed and should not arise.

## **12. Further assessment for Section 2 or Section 3**

The purpose of the 5(2) assessment is for the possibility for admission under either a section 2 or 3 of the Mental Health Act.

Good practice requires that the assessment takes place at the earliest opportunity once section 5(2) begins.

It should not be assumed that patients detained under section 5(2) on a Friday evening or at weekends can safely be left until Monday before being seen by a Psychiatrist/Approved Clinician. Wherever possible and necessary, assessment should be carried out by the on call psychiatrist / approved clinician.

### **13. Medical Treatment of Patients**

The rules in Part 4 of the Act do not apply to patients detained under section 5(2) and as such there is no power under the Act to treat them without their consent. In other words, they are in exactly the same position in respect of consent to treatment as patients who are not detained under the Act.

### **14. Transfer to other hospitals**

Patients detained under section 5(2) cannot be transferred to another hospital under section 19, because they are not detained by virtue of an application made under Part 2 of the Act. This includes transfer between hospitals managed by the same hospital managers.

A patient who is subject to section 5(2) of the Act but needs to go to another hospital urgently for treatment, security or other exceptional reasons, can only be taken there if they consent to the transfer. If the patient lacks capacity to consent to the transfer, any transfer must be carried out in accordance with the MCA.

If, following transfer, the patient tries to leave the receiving hospital, a new situation will have arisen. In this circumstance, the receiving hospital may need to use section 5(2) to provide authority to detain the patient in that hospital.

In all cases, if the conditions are met, an emergency application for detention under section 4 of the Act could be made by the sending hospital. The patient could then be transferred to the receiving hospital under section 19. Alternatively, an emergency application under section 4 could be submitted to the managers of the receiving hospital.

### **15. Information for patients**

The person detained on section 5(2) should be given MHA Patient Information Leaflet 4 by the Nurse in Charge of the ward which explains their legal rights.

Leaflet 4 (Section 5(2) information can be found via the link:

<http://www.wales.nhs.uk/sites3/page.cfm?orgid=816&pid=33957>

An easy read leaflet is available from the Mental Health Act Office.

There are no rights of appeal by either the patient or the nearest relative to the Hospital Manager or the Mental Health Review Tribunal.

### **16. Monitoring**

The HO12 forms will be checked by the Mental Health Act Office for irregularities which will be followed up with the ward/Doctor concerned.

Hospital Managers should monitor the use of section 5(2) including:

- How quickly patients are assessed for detention and discharged from the holding power
- The proportion of cases in which applications for detention are, in fact, made following use of section 5(2).

The Mental Health Act Manager will provide a quarterly report covering the use of section 5(2), appropriateness of use, speed of assessments and outcomes to the Mental Health Act Committee.

## **17. Training**

The health board will provide ongoing training for staff who have a delegated duty under the scheme of delegation. Details of training courses available can be found by contacting the Mental Health Act Manager.

## **18. Reference to Legislation**

All staff will work within the Mental Health Act 1983 and in accordance with the Code of Practice for Wales 2007, Mental Capacity Act 2005, and Human Rights Act 1998.

Mental Health Act 1983 - [www.legislation.gov.uk/ukpga/1983/20/contents](http://www.legislation.gov.uk/ukpga/1983/20/contents)

Mental Capacity Act 2005 - [www.legislation.gov.uk/ukpga/2005/9/schedule/7](http://www.legislation.gov.uk/ukpga/2005/9/schedule/7)

Mental Health Review Tribunal for Wales - [www.justice.gov.uk/tribunals/mental-health](http://www.justice.gov.uk/tribunals/mental-health)

Human Rights Act 1998 - [www.legislation.gov.uk/ukpga/1998/42/contents](http://www.legislation.gov.uk/ukpga/1998/42/contents)

## APPENDICES

### Appendix 1 - HO12

Available from NHS website <http://www.wales.nhs.uk/sites3/page.cfm?orgid=816&pid=33958> must be printed on pink paper

## Form HO 12

### Regulation 4(1)(g)

#### Mental Health Act 1983 section 5(2) - report on hospital in-patient

##### PART I

*(To be completed by the registered medical practitioner or approved clinician in charge of the treatment of the patient under section 5(2) or any person nominated under section 5(3))*

To the managers of

*(name and address of hospital)*


*(full name)*

I am

and I am

Delete (a) or (b) as appropriate

*(delete the phrase which does not apply)*

(a) the registered medical practitioner/the approved clinician (who is not a registered medical practitioner)

OR

(b) a registered medical practitioner/an approved clinician who is the nominee of the registered medical practitioner or the approved clinician

in charge of the treatment of

*(full name of patient)*

--

who is an in-patient in this hospital and not at present liable to be detained under the Mental Health Act 1983.

It appears to me that an application ought to be made under Part 2 of the Act for this patient's admission to hospital for the following reasons

*(the full reasons why informal treatment is no longer appropriate must be given)*

--

Please turn over

**Form HO 12 (Cont'd)**

*Delete the phrase which does not apply*

I am furnishing this report by:

consigning it to the hospital managers' internal mail system today

(time)

at

delivering it (or having it delivered) by hand to a person authorised by the hospital managers to receive it.

**Signed:** .....

**Date:** .....

**PART 2**

*To be completed on behalf of the hospital managers*

This report was:

(delete the phrase  
which does not  
apply)

furnished to the hospital managers through their internal mail system

delivered to me in person as someone authorised by the hospital managers

(time and date)

to receive this report at

on

**Signed:** ..... on behalf of the hospital managers

**Name:** .....

**Date:** .....

## Appendix 2 - Receipt of MHA documents

### MENTAL HEALTH ACT 1983 RECEIPT OF MENTAL HEALTH ACT DOCUMENTS

*This form must be completed by the Duty Nurse in Charge of the Unit for any patient admitted under the following Sections –*

Section 5(4) .....  
Section 5(2) .....  
Section 4 .....  
Section 2 .....  
Section 3 .....  
Section 17E (CTO recall – CP5) .....  
Section 17F (CTO revocation – CP7) .....

**PATIENTS NAME:** \_\_\_\_\_

As the Duty Nurse in Charge of the Unit, I have received the section papers for the above named patient on behalf of the Hospital Managers of Betsi Cadwaladr University Local Health Board – (Insert Names of Unit below)

\_\_\_\_\_

Date and time of section (if already an inpatient) **OR** date and time of admission into hospital under section: ***(Time is when patient is sectioned/arrives in unit, NOT when paperwork is checked by Duty Nurse)***

**Date:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Time:** \_\_\_\_\_

**Was Patient admitted from England:**

**Yes / No**

**I have checked** the papers with the checklist attached (**Appendix 2, 3, 4 or 5 as appropriate**).

The following errors need to be amended:

.....  
.....  
.....

#### **REPORT BY AMHP (REQUIRED UNDER ‘CODE OF PRACTICE 14.87’)**

**FORM RECEIVED:** YES ☐

NO ☐

Senior Nurse Full Name: \_\_\_\_\_

Designation: \_\_\_\_\_ Signature: \_\_\_\_\_

*This form and the Section Papers must be forwarded to the  
Mental Health Act Office **AS SOON AS POSSIBLE***

## Appendix 3 - Checklist

### CHECKLIST FOR SECTION 5(2)

1 x FORM HO12 REQUIRED

---

#### APPLICATION IN RESPECT OF PATIENT ALREADY IN HOSPITAL

- 1 The form must be correctly address to the appropriate hospital (Eg: Ysbyty Gwynedd, Glan Clwyd or Wrexham Maelor)
- 2 **Full** correct name of the Doctor
- 3 **Full** forename(s), surname of patient
- 4 The form must be signed by the registered medical practitioner in charge of the patient's treatment, or his nominee – i.e. The On Call Doctor who does not have to be approved under Section 12(2) of the Act\*
- 5 The doctor must give sufficient reasons why informal treatment is no longer appropriate. Full description of the patient's mental state and possible reluctance to stay in hospital.
- 6 Correctly signed, dated and time\*

#### \*ERRORS WHICH CANNOT BE RECTIFIED

#### PROCEED TO COMPLETE 'RECORD OF ACCEPTANCE'

## Appendix 4 - Procedure

### Section 5(2) Procedure Summary

- **N.B. Before acting ensure that you are the nominated doctor. Discuss circumstances with colleagues/psychiatrist on call.**

**Either way, the decision to implement section 5(2) must be yours alone.**

- Assess and personally examine the patient. If you decide to hold the patient under section 5(2), complete form HO12 **legibly**, as follows:
- Complete Part 1 of the HO12 (see example – Appendix 5).
  1. Provide the **full and correct address** of the hospital in which the patient is to be held under section 5(2).
  2. Enter your **full** name
  3. Declare by deleting **(a)** or **(b)**, your status for the purpose of Section 5(2)
  4. Enter the patient's full name
  5. Give **full reasons why informal treatment is no longer appropriate. Support this with evidence:**
    1. Suggesting the presence of a mental disorder
    2. Suggesting that the patient was at risk
    3. That the patient would no longer remain on the ward informally
    4. That there is a need for a further assessment under the Act
  6. State the **exact time** when you furnished the report to the Hospital Managers. In BCUHB this means hand deliver or fax to the Mental health Act Office (normal working hours) or Duty staff/Nurse in Charge of the Psychiatric units (outside of normal working hours). This is the start time of the Section 5(2).  
**Do not use the Health Boards Internal Mail system!**
  7. Make sure that you sign and date the completed Form HO12
  8. Inform the Nurse in Charge of the Psychiatric Unit or the Mental Health Act Office to instigate a Mental health Act Assessment.
  9. Record your actions.

## Appendix 5 - Form HO12 Example

### Regulation 4(1)(g) Mental Health Act 1983 section 5(2) – report on hospital in-patient

#### PART 1

(To be completed by registered medical practitioner or approved clinician in charge of the treatment of the patient under section 5(2) or any person nominated under section 5(3))

To the managers of

(name and  
address  
of hospital)

Hergest Unit

Ysbyty Gwynedd

BANGOR, Gwynedd LL57 2PW

Full name

I am

Christian Name, Surname

and I am

Delete (a) or (b) as appropriate

(a) the registered medical practitioner/the approved clinician (who is not a registered medical practitioner)

Delete the  
phrase  
which does  
not apply

OR

(b) a registered medical practitioner/an approved clinician who is the nominee of the registered medical practitioner or approved clinician

in charge of the treatment of

(full name  
of patient)

Full (not abbreviated) Christian Name, Middle Names,

Who is an in-patient in this hospital and not at present liable to be detained under the Mental Health Act 1983

It appears to me that an application ought to be made under Part 2 of the Act for this patient's admission to hospital for the following reasons

(the full  
reasons  
why  
informal  
treatment is  
no longer  
appropriate  
must be  
given)

**Give Reasons why the holding power is needed ie describe patient's behaviour, is the patient threatening other patients/staff, is the patient a danger to self or others, is the patient trying to leave hospital, risks, further assessment needed, be clear on why informal treatment is no longer an option.**

**NOTE: You should always record on the form whether or not you have contacted the patient's Consultant (Monday – Friday 9-5) or the on-call consultant weekends and out of hours**

**Other addresses would be**

Ablett Unit  
Glan Clwyd Hospital  
Bodelwyddan  
LL18 5UJ

Heddfan **(Adult or Older Persons)** Mental Health Unit  
Wrexham Maelor Hospital  
Croesnewydd Road  
Wrexham  
LL13 7TD

**Please turn over**

Delete the phrase which does not apply

I am furnishing this report by:

Consigning it to the hospital managers' internal mail system today.

at

**20:30 (Time S5/2 put on)**

(time)

delivering it (or having it delivered) by hand to a person authorised by the hospital managers to receive it.

**Signed:** .....Your Signature.....

**Date:** .....Ensure correct date.....

## PART 2

**To be completed by Hospital Managers ONLY - The Mental Health Act Office will ensure the correct person signs.**

*To be completed on behalf of the hospital managers*

This report was:

(delete  
the  
phrase  
which  
does not  
apply)  
(time and  
date)

Furnished to the hospital managers through their internal mail system

Delivered to me in person as someone authorised by the hospital manager to receive this report at

on

Signed: ..... on behalf of the hospital managers

Name: .....

Date: .....

## Mental Health and Learning Disabilities Policy for the Implementation of Section 5(4) Nurses Holding Power

<b>Author &amp; Title</b>	Wendy Lappin, Mental Health Act (Legislation) manager
<b>Responsible Dept / Director:</b>	Director of Mental Health and Learning Disabilities Division
<b>Type of Document</b>	Policy
<b>Approved by:</b>	MHLD Policy/Procedure Group – 28 January 2021 MHLD Divisional Senior Leadership Team Quality Safety and Experience Group – 20 February 2021 Patient Experience Quality Group – 11 May 2021
<b>Date approved:</b>	February 2021 as DRAFT whilst progressing through Health Board processes
<b>Date activated (live):</b>	March 2021
<b>Documents to be read alongside this document:</b>	Mental Health Act 1983 (as amended 2007) Code of Practice for Wales Revised 2016 Mental Health Wales Measure 2010 Mental Capacity Act 2005 Mental Health Act Hospital Managers Scheme of Delegation Welsh Language Wales Measure 2011 MHLD 0026 Admission, Receipt and Scrutiny of Statutory Documentation MHLD 0030 Information to patient's policy. MHLD 0034 Section 5(2) Doctors Holding Power in Psychiatric Units MHLD 0047 Physical Restraint Guidelines
<b>Date of next review:</b>	March 2024
<b>Date EqlA completed / reviewed:</b>	October 2017 Reviewed October 2020
<b>First operational:</b>	February 2018
<b>Previously reviewed:</b>	
<b>Changes made yes/no:</b>	
<b>Details of changes since last review</b>	Formatting and update to new template, reference to MHLD 0047 Physical Restraint Guidelines, form updated with an end time for the detention.

*N.B. Staff should be discouraged from printing this document. This is to avoid the risk of out of date printed versions of the*

*document. The Intranet should be referred to for the current version of the document*

## **Contents**

<b>1. Introduction and Policy Statement.....</b>	<b>3</b>
<b>2. Purpose of the Document .....</b>	<b>3</b>
<b>3. Scope .....</b>	<b>3</b>
<b>4. Aims and Objectives .....</b>	<b>3</b>
<b>5. Roles and Responsibilities .....</b>	<b>4</b>
5.1 Nurses of the prescribed class.....	4
5.2 Doctors/Approved Clinicians.....	4
5.3 Mental Health Act Administrator / Office .....	4
<b>6. Procedure .....</b>	<b>4</b>
6.1 Assessment prior to implementation.....	4
6.2 Implementation .....	5
<b>7. Section 17 Leave .....</b>	<b>5</b>
<b>8. Section 18 Absent without Leave (AWOL).....</b>	<b>5</b>
<b>9. Community Treatment Order Patients .....</b>	<b>5</b>
<b>10. Inappropriate Use of Section 5(4).....</b>	<b>6</b>
<b>11. Ending of Section 5(4) .....</b>	<b>6</b>
<b>12. Medical Treatment of Patients .....</b>	<b>6</b>
<b>13. Transfer to other hospitals.....</b>	<b>6</b>
<b>14. Appeals .....</b>	<b>7</b>
<b>15. Information for patients .....</b>	<b>7</b>
<b>16. Monitoring.....</b>	<b>7</b>
<b>17. Training .....</b>	<b>8</b>
<b>18. Reference to Legislation .....</b>	<b>8</b>
<b>APPENDICES .....</b>	<b>9</b>
Appendix 1 .....	9
Appendix 2 - Checklist .....	10
Appendix 3 - Receipt of MHA documents .....	11

## **1. Introduction and Policy Statement**

Section 5(4) allows a registered mental health or learning disability nurse to detain an inpatient for a maximum period of up to 6 hours in order for their assessment under the Mental Health Act.

Under section 5(4) nurses of the prescribed class may detain a hospital inpatient who is already receiving treatment for the mental disorder for up to six hours. The decision to invoke the power is the personal decision of the nurse, who cannot be instructed to exercise the power by anyone else. This power may only be used where the nurse considers:

- The patient is suffering from mental disorder to such a degree that it is necessary for the patient to be immediately prevented from leaving the hospital, either for the patient's health or safety or the protection of other people.
- The patient is not an informal patient who is also subject to a community treatment order.
- It is not practicable to secure the attendance of a doctor or approved clinician who can submit a report under section 5(2).

## **2. Purpose of the Document**

This policy has been developed to guide staff on the implementation and management of nurses holding powers (Section 5(4)) in accordance with the Mental Health Act 1983 as amended by MHA 2007. This policy has been developed in line with the Mental Health Act 1983 Code of Practice for Wales 2016 (Code of Practice).

## **3. Scope**

This policy is applicable to all qualified nurses within all mental health inpatient settings.

## **4. Aims and Objectives**

The aims of this policy are to:

- Ensure staff are aware of their individual and collective responsibilities when considering and assessing individuals before implementing holding powers.
- Provide clear guidance to staff in relation to their legal responsibilities under the Mental Health Act 1983.
- Ensure that statutory requirements under the Mental Health Act 1983 are met.

Practitioners should have due regard to the Mental Health Act Code of Practice generally and specifically to the guiding principles when they are considering the use of doctors holding powers. This would ensure that considerations are given as to whether the objectives can be met in a less restrictive way.

The Health Board as the Hospital Managers should ensure suitably qualified, experienced and competent nurses are available to all wards where there is a possibility of section 5(4) being invoked.

## **5. Roles and Responsibilities**

### **5.1 Nurses of the prescribed class**

A nurse of the prescribed class is defined in the Mental Health (Nurses) (Wales) Order 2008 as a nurse registered in sub-part 1 or 2 of the nurses part of the Register of the Nursing and Midwifery Council, with a recordable qualification in mental health or learning disability nursing as follows:

A nurse registered in	<b>Sub-part 1</b> of the register, whose entry includes an entry to indicate the nurse's field of practice is mental health nursing
	<b>Sub-part 2</b> of the register, whose entry includes an entry to indicate the nurse's field of practice is mental health nursing
	<b>Sub-part 1</b> of the register, whose entry includes an entry to indicate the nurse's field of practice is learning disabilities nursing
	<b>Sub-part 2</b> of the register, whose entry includes an entry to indicate the nurse's field of practice is learning disabilities nursing

### **5.2 Doctors/Approved Clinicians**

The use of section 5(4) is an emergency measure, and the doctor or approved clinician with the power to use section 5(2) in respect of the patient should treat it as such and arrive as soon as possible. The doctor or approved clinician should not wait the maximum time of six hours before attending.

The power to detain lapses once the doctor or approved clinician arrives to assess the patient. The time at which the patient ceased to be detained under section 5(4) should be recorded within the patient's clinical notes, together with the reasons and outcome.

### **5.3 Mental Health Act Administrator / Office**

The Mental Health Act administrator will ensure that all relevant documents are received within the Mental Health Act Administration department.

The Mental Health Act administrator will carry out the scrutiny of documents and ensure that forms comply with guidance and the persons completing the forms are authorised to do so.

The Mental Health Act administrator will ensure that the original detention papers are filed in the patients' Corri file within the Mental Health Act administration department and details entered onto the Mental Health Act Database.

## **6. Procedure**

### **6.1 Assessment prior to implementation**

Before using the power, nurses should make as full as assessment as possible in the circumstances, but sometimes it may be necessary to invoke the power on the basis of only a brief assessment e.g. when events occur very quickly and the patient is determined to leave, the result of which could potentially have serious consequences if the patient was successful in leaving.

When making a full assessment they should assess:

- The likely arrival of the doctor or approved clinician
- The likely intention of the patient to leave, as it may be possible to persuade the patient to wait until a doctor or approved clinician arrives
- The harm that might occur to the patient or others if the patient were to leave the hospital before the doctor or approved clinician arrives. In this regard, the nurse should consider all aspect of the patient's communication and behaviour, including:
  - The patient's expressed intentions
  - The likelihood of the patient harming themselves or others, or behaving violently
  - Any evidence of disordered thinking
  - Any changes to their usual behaviour and any history of unpredictability or impulsiveness
  - Dates of special significance for the patient
  - Any recent disturbances on the ward
  - Any relevant involvement of other patients
  - Any formal risk assessments, which have been undertaken
  - Any other relevant information

## **6.2 Implementation**

The use of the holding power permits the patient's detention for up to six hours or until a doctor or approved clinician with the power to use section 5(2) arrives at the place the person is being detained, whichever is the earlier. Detention under section 5(4) cannot be renewed although this does not prevent it from being used on more than one occasion if necessary.

The patient is detained from the moment the nurse makes the necessary record. The reasons for invoking the power and the time this was done should be entered on the monitoring form (Appendix 1), and within the patients' clinical notes. A Form HO13 is completed by the nurse. These documents must then be delivered to the Mental Health Act Office.

A nurse using section 5(4) should use the least restricting intervention to prevent the patient leaving hospital – for further information please refer to Policy MHLD 0047, Physical Restraint Guidelines.

## **7. Section 17 Leave**

A patient detained on section 5(4) cannot receive section 17 leave. They are not detained by virtue of either an application under section 2 or section 3 and therefore do not have a Responsible Clinician to grant such leave.

## **8. Section 18 Absent without Leave (AWOL)**

A patient detained under section 5(4) who leaves the hospital is AWOL and can be retaken but only within the six hour period.

## **9. Community Treatment Order Patients**

Section 5(4) is not applicable to a patient subject to a Community Treatment Order (CTO). Patients can be recalled even during periods when they are in-patients. Therefore where it is considered necessary, the recall procedure must be used to detain the patient and within the 72 hours allowed a decision must be made whether to revoke the CTO.

Section 5(4) cannot be used to keep a patient in hospital after the end of the 72 hour recall period if the CTO has not been revoked.

## **10. Inappropriate Use of Section 5(4)**

Section 5(4) is restricted to use with persons who are voluntary inpatients (not currently under a detention) and cannot be used in the following circumstances:

- For an outpatient attending an accident and emergency department or any other out-patient facility.
- For a patient who is already liable to be detained under section 2, section 3 or section 4, or who is subject to a CTO.
- Is not to be used as a holding power simply for the purpose of persuading the patient to stay.

Patients should not be informally admitted with the sole intention of then using the holding power.

## **11. Ending of Section 5(4)**

Section 5(4) holding powers last for a maximum of six hours and cannot be renewed.

Detention under section 5(4) will end if:-

- The result of the assessment is a decision not to make an application under section 2 or section 3.
- An application under section 2 or section 3 is made.
- The patient is discharged for clinical reasons before an assessment can be undertaken.

The patient should be informed once they are no longer held under section 5(4) and advised of the reasons why. If this is because section 2 or section 3 was not applied, the patient should be informed they are free to leave hospital.

A record of the end time of the Section 5(4) should be made within the patients clinical notes.

## **12. Medical Treatment of Patients**

Patients subject to section 5(4) are not subject to consent to treatment provisions contained in Part 4 of the MHA. If the patient is mentally capable of making a decision about treatment, the common law enables them to refuse to be treated for either a physical or mental disorder. However, if the patient is assessed as being mentally incapable of making a decision about treatment, the treatment can be provided under the Mental Capacity Act 2005 if it is deemed to be in their best interests.

### **13. Transfer to other hospitals**

Patients detained under section 5(4) cannot be transferred to another hospital under section 19, because they are not detained by virtue of an application made under Part 2 of the Act. This includes transfer between hospitals managed by the same hospital managers.

A patient who is subject to section 5(4) of the Act but needs to go to another hospital urgently for treatment, security or other exceptional reasons, can only be taken there if they consent to the transfer. If the patient lacks capacity to consent to the transfer, any transfer must be carried out in accordance with the MCA.

If, following transfer, the patient tries to leave the receiving hospital, a new situation will have arisen. In this circumstance, the receiving hospital may need to use section 5(4) to provide authority to detain the patient in that hospital.

In all cases, if the conditions are met, an emergency application for detention under section 4 of the Act could be made by the sending hospital. The patient could then be transferred to the receiving hospital under section 19. Alternatively, an emergency application under section 4 could be submitted to the managers of the receiving hospital.

### **14. Appeals**

A patient detained under section 5(4) cannot make an application to the Mental Health Review Tribunal for Wales or appeal to the hospital managers.

### **15. Information for patients**

The nurse must be fully aware of the diverse needs of the patient when considering detention and must take them into account at all times. They must ensure the patient fully understands what is happening to them in a language and format which they are able to understand, this will include sensory and cognitive abilities and physical impairment. Where necessary, an interpreter should be obtained.

The nurse should ensure that the patient is made aware of their rights under the Act and this is documented in the patients' notes.

The person detained on section 5(4) should be given MHA Patient Information Leaflet 5 by the Nurse in Charge of the ward which explains their legal rights.

Leaflet 5 (Section 5(4) information can be found via the link:

<http://www.wales.nhs.uk/sites3/page.cfm?orgid=816&pid=33957>

An easy read leaflet is available from the Mental Health Act Office.

There are no rights of appeal by either the patient or the nearest relative to the Hospital Manager or the Mental Health Review Tribunal.

### **16. Monitoring**

Hospital managers should monitor the use of section 5(4), including:

- How quickly patients are assessed for detention and discharged from the holding power
- The proportion of cases in which applications for detention are, in fact, made following use of section 5(4).
- Ensure the patients are made aware of their rights under section 132 of the Mental Health Act.

Monitoring is maintained through the scrutiny of the Statutory Documents. The use of Section 5(4) is reported to the Mental Health Act Committee on a quarterly basis.

## **17. Training**

The health board will provide ongoing training for staff who have a delegated duty under the scheme of delegation. Details of training courses available can be found by contacting the Mental Health Act Manager.

## **18. Reference to Legislation**

All staff will work within the Mental Health Act 1983 and in accordance with the Code of Practice for Wales 2007, Mental Capacity Act 2005, and Human Rights Act 1998.

Mental Health Act 1983 - [www.legislation.gov.uk/ukpga/1983/20/contents](http://www.legislation.gov.uk/ukpga/1983/20/contents)

Mental Capacity Act 2005 - [www.legislation.gov.uk/ukpga/2005/9/schedule/7](http://www.legislation.gov.uk/ukpga/2005/9/schedule/7)

Mental Health Review Tribunal for Wales - [www.justice.gov.uk/tribunals/mental-health](http://www.justice.gov.uk/tribunals/mental-health)

Human Rights Act 1998 - [www.legislation.gov.uk/ukpga/1998/42/contents](http://www.legislation.gov.uk/ukpga/1998/42/contents)

## APPENDICES

### Appendix 1

#### Mental Health Act 1983 Monitoring Form for Section 5(4)

Full name  
and ward  
of nurse

I \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

used section 5 (4) (Nurses Holding Power) to detain

Full name  
and address  
of patient

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Currently a voluntary inpatient on \_\_\_\_\_ (ward) in \_\_\_\_\_ Hospital/Unit

Reason for using  
Section 5 (4)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Doctor / Approved Clinician / Nominated Deputy contacted at \_\_\_\_\_(time)

S5(4) ended at: \_\_\_\_\_(time)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NB: This form should be completed and attached to Section 5(4) (HO13) papers and forwarded to the Mental Health Act Administrator.**

## Appendix 2 - Checklist

(NAME OF UNIT HEDDFAN, HERGEST, ABLETT UNIT)

### CHECKLIST FOR SECTION 5(4)

1 x FORM HO13 REQUIRED

1 x MHA monitoring form (Appendix 1)

---

### FORM HO13 – NURSES POWER TO DETAIN

- 1 The form must be correctly address to the appropriate unit (Eg: Hergest, Heddfan or Ablett Unit)
- 2 **Full** forename(s), surname of patient
- 3 Complete prescribed class of Registered Nurse\*.
- 4 Correctly signed, dated and time\*

### \*ERRORS WHICH CANNOT BE RECTIFIED

PROCEED TO COMPLETE Appendix 3 'RECORD OF ACCEPTANCE'

### Appendix 3 - Receipt of MHA documents

#### MENTAL HEALTH ACT 1983 RECEIPT OF MENTAL HEALTH ACT DOCUMENTS

*This form must be completed by the Duty Nurse in Charge of the Unit for any patient admitted under the following Sections –*

Section 5(4) .....  
Section 5(2) .....  
Section 4 .....  
Section 2 .....  
Section 3 .....  
Section 17E (CTO recall – CP5) .....  
Section 17F (CTO revocation – CP7) .....

**PATIENTS NAME:** \_\_\_\_\_

As the Duty Nurse in Charge of the Unit, I have received the section papers for the above named patient on behalf of the Hospital Managers of Betsi Cadwaladr University Local Health Board – (Insert Names of Unit below)

\_\_\_\_\_

Date and time of section (if already an inpatient) **OR** date and time of admission into hospital under section: **(Time is when patient is sectioned/arrives in unit, NOT when paperwork is checked by Duty Nurse)**

**Date:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Time:** \_\_\_\_\_

**Was Patient admitted from England:**

**Yes / No**

**I have checked** the papers with the checklist attached (**Appendix 2, 3, 4 or 5 as appropriate**).

The following errors need to be amended:

.....  
.....  
.....

#### **REPORT BY AMHP (REQUIRED UNDER ‘CODE OF PRACTICE 14.87’)**

**FORM RECEIVED:**                      **YES**    ☐

**NO**    ☐

Senior Nurse Full Name: \_\_\_\_\_

Designation: \_\_\_\_\_ Signature: \_\_\_\_\_

*This form and the Section Papers must be forwarded to the  
Mental Health Act Office **AS SOON AS POSSIBLE***

## Mental Health & Learning Disabilities Division

### Policy for Information to Patients (S132/3 Mental Health Act)

<b>Author &amp; Title</b>	Wendy Lappin, Mental Health Act Manager
<b>Responsible Dept / Director:</b>	Director of Mental Health and Learning Disabilities Division
<b>Type of Document</b>	Policy
<b>Approved by:</b>	MHLD Policy/Procedure Sub Group – 24 September 2020 MHLD Senior Leadership Team Quality Safety and Experience Group – 15 October 2020 Patient Experience Quality Group – 11 May 2021
<b>Date approved:</b>	October 2020 as a draft document to be worked towards whilst progressing through Health Board ratification.
<b>Date activated (live):</b>	October 2020
<b>Documents to be read alongside this document:</b>	Mental Health Act 1983 (amended 2007) Code of Practice for Wales (2016) Mental Health Wales Measure 2010 Mental Capacity Act 2005 Mental Health Act Hospital Managers Scheme of Delegation MD01 Policy on Consent to Examination or Treatment Welsh Language Wales Measure 2011 MHLD 0026 Admission, Receipt and Scrutiny of Statutory Documentation
<b>Date of next review:</b>	October 2023
<b>Date EqIA completed / reviewed:</b>	March 2017 Reviewed July 2020
<b>First operational:</b>	3 <sup>rd</sup> November 2008
<b>Previously reviewed:</b>	2017
<b>Changes made yes/no:</b>	Yes
<b>Details of changes since last review</b>	Appendices B and C added. Strengthening of links to Welsh Language Standards. Section 11 expanded and strengthened Procedure updated

*N.B. Staff should be discouraged from printing this document. This is to avoid the risk of out of date printed versions of the document. The Intranet should be referred to for the current version of the document*

## Contents

<b>1. Introduction and Policy Statement.....</b>	<b>3</b>
<b>2. Purpose of the Document .....</b>	<b>3</b>
<b>3. Scope .....</b>	<b>4</b>
<b>4. Aims and Objectives.....</b>	<b>5</b>
<b>5. Responsibilities.....</b>	<b>6</b>
<b>6. Detentions and CTO's.....</b>	<b>6</b>
<b>7. Consent to Treatment .....</b>	<b>7</b>
<b>8. Seeking discharge from detention or CTOs .....</b>	<b>7</b>
<b>9. Information about Healthcare Inspectorate Wales (HIW) .....</b>	<b>8</b>
<b>10. Withholding correspondence and additional information .....</b>	<b>8</b>
<b>11. Nearest Relative .....</b>	<b>9</b>
<b>12. Communication with other people nominated by the patient....</b>	<b>9</b>
<b>13. Procedure .....</b>	<b>10</b>
<b>14. Renewal or Discharge from Detention .....</b>	<b>11</b>
<b>15. Monitoring.....</b>	<b>12</b>
<b>16. References .....</b>	<b>12</b>
<b>17. Appendices .....</b>	<b>13</b>
Appendix A – Explanation of Rights .....	13
Appendix B S58 Consent to Treatment.....	14
Appendix C – Letter to RC .....	16

## 1. Introduction and Policy Statement

Section 132/132A/133 Mental Health Act 1983 applies to all patients who are detained or subject to a Community Treatment Order (CTO). It places a duty on the Hospital Managers to provide information to patients and their Nearest Relative, regarding which section of the Mental Health Act they are subject to and the effects of that section. The Local Health Board is defined as the 'hospital managers' for the purposes of the Mental Health Act. Most of the decisions of the hospital managers are undertaken by individuals (or groups of individuals) on their behalf by means of the formal delegation of specific powers and duties.

## 2. Purpose of the Document

In order to fulfil their statutory duties Hospital Managers should ensure that:

- a) The correct information is given to the patient/nearest relative (with patient consent).
- b) The information is given in an accessible manner, in a format or language that the patient understands, at a suitable time and in accordance with the law.
  - The Health Board must ensure that the Welsh Language Standards are complied with whether this be written or verbal communication. (For example, If you don't know whether a person wishes to receive correspondence from you in Welsh, when you correspond with that person you must provide a Welsh Language version of the correspondence and If you produce a Welsh language version and a corresponding English language version of correspondence, you must not treat the Welsh language version less favourably than the English language version).
- c) The member of staff who is to give the information has received adequate guidance and is aware of the key issues regarding the information to be given.
  - The Health Board must ensure that the Welsh Language Standards are complied with and it must be clear if the patient wishes to converse in Welsh. (You must ask an in-patient ("A") on the first day of A's in-patient admission whether A wishes to use the Welsh language to communicate with you during that in-patient admission and if the patient wishes to use the Welsh language this must be communicated to staff who would come into contact with A).
- d) A record is kept of the information given, including how, when and by whom it was given, and an assessment made of how well the information was understood by the recipient.
- e) Regular checks are made that the information has been properly given to each patient, and understood by him or her.

- f) Informal patients should be informed of their legal position and rights, a record should be recorded within the patient's notes.

Although the act does not impose any duties to give information to informal patients, they should be given an explanation of their legal position and rights. Informal patients should be provided with all relevant information pertinent to their care, informal patients, where appropriate their carers and advocates should be made aware of the patient's right to leave hospital if they wish. Failure to do so could lead a patient to mistakenly believing they are not allowed to leave hospital, which could result in an unlawful deprivation of their liberty and a breach of their human rights. (CoPW 4.21 – 4.22)

### 3. Scope

This policy applies to all patients whether informal or those liable to be detained under the following sections of the Mental Health Act 1983:

<b>Sections of the Mental Health Act 1983</b>	<b>Patient's Information Leaflet</b>
Section 2	1
Section 3	2
Section 4	3
Section 5 (2)	4
Section 5 (4)	5
Section 7	6
Section 17A CTO (SCT)	7
Section 17E	8
Section 20	9
Section 35	10
Section 36	11
Section 37 hospital by Court Order	12
Section 37 Guardianship by Court Order	13
Section 37&41 Admission to Hospital by a Crown Court Order	14
Section 37&41 Recall from CD	15
Section 38	16
Section 45A	17
Section 47	18
Section 47	19

Section 48	20
Section 135	21
Section 136	22
Patients Admitted to Hospital from the Courts	23
Nearest Relative	24

<http://www.wales.nhs.uk/sites3/page.cfm?orgid=816&pid=33957>

## 4. Aims and Objectives

Information must be given to the patient both verbally and in writing, in accessible formats, appropriate to the patient's needs, eg, easy read, Braille, Moon, in a language the patient understands. Accessible information booklets for detained patients, informal patients, nearest relatives and friends and family are also available on the Welsh Government Website.

All attempts should be made to source and provide leaflets in the patient's primary language, if the primary language is Welsh, leaflets must be provided in Welsh to ensure compliance with the Welsh Language Standards.

Everything possible should be done to overcome communication barriers by enlisting specialist help if required such as sign language experts or a learning disability liaison nurse for clients with a learning disability.

There is a statutory duty to inform patients detained under specific sections of their right of access to an Independent Mental Health Advocate (IMHA). IMHA's are available for all patients and can be invaluable in assisting the patient to understand the questions and information that is being presented to them and in helping patients communicate their views to staff, an IMHA should not be used as an interpreter, translator or as providers of general communication support other than in exceptional circumstances. If this is a requirement the reasons must be recorded within the patient notes.

Patients have a legal right under the Mental Health Act 1983 to be informed of their legal situation and rights. Under Section 132 the Hospital Managers must ensure that all detained patients are given information on:

- a) Detention and CTO's
- b) Consent to Treatment
- c) Seeking discharge from detention and avenues available
- d) Information about Healthcare Inspectorate Wales (HIW)

## **5. Responsibilities**

### **Approved Mental Health Professional (AMHP)**

The Approved Mental Health Professional (AMHP) should:

- Inform the patient of their right of appeal contained within the information leaflets during the consultation prior to the detention being put on.

### **Ward Staff**

The ward staff must:

- Check that the patient has received an information leaflet from the AMHP, if not this should be given.
- Notify the Nearest Relative of transfers by the care team/ward staff.
- Assist in the referral to IMHA and must ensure that this is followed up.
- Ensure the patient is provided with information within the time scales set in the seven day pathway.
- Complete the explanation of rights form and forward to the Mental Health Act office.

### **Ward Manager**

The ward manager will be responsible for:

- Ensuring that staff within the ward are aware of their responsibilities and this policy.

### **The Mental Health Act Office is responsible for:**

- Writing to the nearest relative on admission and discharge providing they have received consent from the patient. This should not prevent the care team from continuing with communication between themselves and carers.
- Writing to the patient to provide information on the section renewal.

## **6. Detentions and CTO's**

Following the Supreme Court Judgement in the case of *PJ v A Local health Board and Others* [2018]. The Supreme Court found that there is no power to impose conditions in a CTO which have the effect of depriving a person of their liberty because there is nothing in the Mental Health Act that permits this either expressly or by implication.

Patients must be informed of:

- The provisions of the Act under which they are detained or made subject to a CTO and the effect of those provisions.
- The rights (if any) of their nearest relative to discharge them and what can happen if their responsible clinician does not agree with that decision.
- The effect of the CTO for patients when in the community, including the conditions to which they are required to adhere and the circumstances in which their responsible clinician may recall them to hospital, including the information that CTO conditions cannot constitute a deprivation of liberty under Article 5 and to do so would be unlawful.

- The help available to them from an IMHA and how to obtain that help.

As part of the above patients should be told:

- The reasons for their detention or CTO
- The maximum length of the current period of detention or CTO
- That their detention or CTO may be ended at any time if it is no longer required or the criteria for it are no longer met.
- That they will not automatically be discharged when the current period of detention or CTO ends
- That their detention or CTO will not automatically be renewed or extended when the current period of detention or CTO ends.
- The reasons for being recalled to hospital from a CTO – oral reasons for the decision should have been given before the recall
- The reasons for the revocation of a CTO
- For Conditionally discharged patients a full explanation of the reasons for recall must be given both orally and in writing within 72 hours of admission.
- Their right to seek legal advice and assisted to do so if required.
- A copy of the detention or CTO document should be made available to the patient if they wish to receive this, unless the hospital managers are of the opinion that this would adversely affect their health. Redaction of some information would need to be discussed by the clinical team if this was deemed appropriate.

## **7. Consent to Treatment**

Capacity and consent must be considered in all instances. Patients must be told what the Act says about treatment for their mental disorder. In particular they must be told:

- The circumstances (if any) in which they can be treated without their consent and the circumstances in which they have the right to refuse treatment.
- The role of the second opinion appointed doctors (SOADs) and the circumstances in which they may be involved, and
- Where relevant, the rules on electro-convulsive therapy (ECT) and medication administered as part of ECT or other invasive treatment.

Appendix B must be completed by the RC with the patient and this should accompany the medication certificate to confirm capacity and consent.

Appendix C must be completed following a SOAD certificate (CO3) to confirm that the patient has been provided with information and if not the reasons why.

## **8. Seeking discharge from detention or CTOs**

Patients must be informed of their rights to be considered for discharge including:

- That their responsible clinician and the hospital managers can discharge them. It should be noted that where a patient appeals against section 2 to both the Mental Health Review Tribunal (MHRT) and hospital managers' priority will be given to the MHRT appeal (and that for restricted patients that it is subject to the agreement of the Secretary of State for Justice)
- That they have a right to ask the hospital managers to discharge them and the role of the hospital managers and Hospital Managers Discharge Panels.
- That the hospital managers must consider discharging them when their detention is renewed or their CTO is extended.
- Of their rights to apply to the MHRT for Wales and of the rights, if any, of their nearest relative to apply to the MHRT for Wales on their behalf
- How to apply to, and the role of, the MHRT for Wales.
- How to contact a suitably qualified representative
- That free legal aid may be available, and how this may be accessed
- How to contact any other organisation which may be able to help them to make an application to the MHRT for Wales.
- Automatic referral to MHRT for Wales in case of CTO revocation or recall from conditional discharge.

## **9. Information about Healthcare Inspectorate Wales (HIW)**

Patients must be informed:

- About the role of HIW
- Their right to meet visitors appointed by HIW in private
- That they may make a complaint to HIW.
- The patient must also be given information about the Health Boards Putting Things Right and Raising Concerns system.

## **10. Withholding correspondence and additional information**

Patients should routinely have access to any correspondence they receive or send. Their privacy must be respected.

Detained patients must be told their letter for posting may be withheld if the person to whom it is addressed asks the hospital managers to do so [section 134(1) (a) of the Act]. To withhold patient's mail must be a Multi-Disciplinary Decision, the decision, reasons and risk must be documented within the patient's notes.

Patients should be made aware of the Code of Practice for Wales and how to access it.

Patients should be informed of the provisions for making an application to the County Court to displace their nearest relative under Section 29 of the Act and given help with the application if they want.

Patients should be informed of their right to vote if they are eligible, and should be helped in voting, where appropriate. (The Representation of the People Act 2000

widened the franchise to vote to all patients liable to be detained under Part 2 of the Act, or those on remand) CoPW 4.33

Patients should be informed that under the Data Protection Act 1998 they may have a right to access information held about them.

## **11. Nearest Relative**

The Approved Mental Health Professional (AMHP) should endeavour to make contact with the nearest relative during assessment and application for detention under a S2 of the MHA. For a S3 detention the AMHP cannot make this application without prior contact with the nearest relative and confirmation that they are not objecting unless it is unreasonably practicable or would involve unreasonable delay.

Following admission as an inpatient the consent of the patient is required prior to information being given to the patient's nearest relative this will include:

- Details of the section
- Renewal/extension of CTO
- Right of appeal to the Hospital Managers
- Right of appeal to the MHRT
- Transfer from one hospital to another
- Details of discharge from detention or CTO

The Code of Practice for Wales, chapter 4 point 4.40 states: In almost all cases, information is not to be shared if the patient objects. However, consideration should also be given to any advance decision, wishes or statements made by the patient to inform their nearest relative if detained. It may also be necessary to share information in order to ensure the nearest relative is aware of any risk to themselves, or others. Before disclosing information to nearest relatives without a patient's consent, the person who is considering the disclosure must consider whether the disclosure would be likely to:

- Be in breach of the patient's right to privacy under Article 8 of the European Convention on Human Rights.
- Put the patient at risk of physical harm or financial or other exploitation.
- Cause the patient emotional distress or lead to a deterioration in their mental health, or
- Have any other detrimental effect on their health or wellbeing and, if so, whether the advantages to the patient and the public interest of the disclosure outweigh the disadvantages to the patient, in the light of all the circumstances of the case.

## **12. Communication with other people nominated by the patient**

In line with the Code of Practice to part 2 and 3 of the Mental Health (Wales) Measure 2010 and the application of the MHA Code of Practice for Wales 2016 professionals should agree to a patients request to involve carers, relative, friends or

other informal supporters or advocates in their care and treatment unless the professional considers that it is not appropriate to do so, for example if:

- Contacting or involving the person would result in a delay in making the decision in question and would not be in the patient's interests
- The involvement of the person is contrary to the interests of the patient
- The person has requested that they should not be involved.

Where a patient's request to involve others is refused, the reasons for the refusal must be recorded in the patient's notes.

Professionals should take steps to find out whether patients who lack capacity to take particular decisions for themselves have an attorney or deputy with authority to take decisions on their behalf.

### **13. Procedure**

Within two hours of admission the Nurse in Charge of the shift will give the patient information on his/her rights under the Mental Health Act 1983.

- The nurse in charge of the ward during the shift must ensure that there is a record that verbal and written information has been given to the patient. This must be recorded on the Explanation of Rights form (Appendix A). If a patient is detained written information must be given in the form of the appropriate rights leaflet (detailed on page 4). If informal his/her rights should be explained and a record must be made in the patient's notes.
- If the patient seems unable to clearly understand the information, further attempts to read the rights must be made regularly and recorded on the Explanation of Rights form and documented within the patient's notes.
- If the patient has difficulties understanding because of impairments or language barriers, appropriate arrangements have to be made. A referral to IMHA must be made at this point.
- The patient should be read their rights on a daily basis until the member of staff feels that the patient understands, or the multidisciplinary team and IMHA agree that the patient's cognitive condition will never improve to the level that the patient will understand their rights. This must be recorded on the form and within the patient's notes.
- Where the patient has the need for an interpreter or other augmented communication, this should be recorded in the care plan and appropriate support sought throughout the period of care.
- Independent interpreters should always be sought, however in the case of emergencies staff should consult with their manager or the manager on call regarding the appropriateness of using relative or carers, if this issue occurs it should; be fully documented in the patient's notes.

- On completion the Explanation of Rights form for detained patients must be forwarded to the Mental Health Act Administrator.
- If the patient is consenting the Mental Health Act Administrator must write to the patient's nearest relative providing relevant information.

The reading of rights should be undertaken to reflect the individual needs of the patient but it is recommended that, as a minimum, staff should adhere to the guidance detailed below:

Section / Trigger	Frequency	Who by
Sections: 5(4), 5(2), 4, 2,	<ul style="list-style-type: none"> <li>• As soon as practicable after patients detention begins.</li> <li>• On the changing of a section status</li> <li>• Following a Hospital Managers hearing or Mental Health Review Tribunal</li> <li>• Following a hospital transfer</li> </ul>	Named nurse or other nominated clinical staff
3	<ul style="list-style-type: none"> <li>• As soon as practicable after patients detention begins</li> <li>• On a renewal of the section</li> <li>• At three monthly periods for the remaining period of detention.</li> <li>• Following a Hospital Managers hearing or Mental Health Review Tribunal</li> <li>• Following a hospital transfer</li> </ul>	Named nurse or other nominated clinical staff
36, 37, 38, 37/41, 47, 47/49, 48/49,	<ul style="list-style-type: none"> <li>• As soon as practicable after patients detention begins</li> <li>• On a renewal of the section</li> <li>• At three monthly periods for the remaining period of detention.</li> <li>• Following a Hospital Managers hearing or Mental Health Review Tribunal</li> <li>• Following a hospital transfer</li> </ul>	Named nurse or other nominated clinical staff

## 14. Renewal or Discharge from Detention

The patient will be informed in writing if the section is renewed at the end of the period of detention.

The patient will have their rights read again on renewal of section.

When the decision is made for the patient to be discharged from section, the patient and nearest relative (if appropriate) will be informed in writing.

## **15. Monitoring**

The Mental Health Act Office will ensure that Explanation of Rights forms are received for each detained patient.

The explanation of rights form will be filed within the MHA office correspondence file and a copy in the patient's clinical notes.

The Associate Hospital Managers conduct scrutiny on a monthly basis this includes consideration of the Explanation of Rights forms, a yearly audit will be produced by the Mental Health Act Manager to outline any needs to improve process or amendment to the forms.

## **16. References**

Jones, R. (2019) Mental Health Act Manual, Twenty-Second Edition, London: Sweet & Maxwell

Code of Practice for Wales (revised 2016) Welsh Government

Mental Health (Wales) Measure 2010

Welsh Language (Wales) Measure 2011

## Appendix A – Explanation of Rights

**Name:** ..... **Section of MH Act:** .....

**Commencement Date and Time:** ..... **@** ..... **Expiry Date:** .....

**Explanation given by:** .....

***In my opinion, the patient **has/has not** been able to demonstrate an adequate understanding of the information given.***

**Signed:** .....

**Further explanation planned:**      **Date:** .....

**Date:** .....

**Date:** .....

On further explanation ..... **was able** to demonstrate understanding as stated above.

**Was the patient offered the explanation in their language of choice \*YES/NO**

**If not why:** \_\_\_\_\_

**IMHA Services have been offered to this patient: \*YES/NO**

**If yes, has the patient:**                      **\*Accepted/Declined offer**

**Date referral made to IMHA:** ..... **Referred by (Name):** .....

Referral method: \*Phone/Letter/email (\*Please delete as appropriate)

**If already working with IMHA, please give name of IMHA: .....**

### Unsuccessful Attempt

**Name:** ..... **Section:** ..... **Date applied:** .....

***An unsuccessful attempt has been made to explain the above patient his/her rights.***

**Print Name:** ..... **Signed:** ..... **Date:** .....

### Unsuccessful Attempt

**Name:** ..... **Section:** ..... **Date applied:**.....

***An unsuccessful attempt has been made to explain the above patient his/her rights.***

**Print Name:** ..... **Signed:** ..... **Date:** .....

**PLEASE FORWARD FULLY COMPLETED FORM TO MENTAL HEALTH ACT OFFICE**

## Atodiad A - Esbonio Hawliau

### BWRDD IECHYD LLEOL PRIFYSGOL BETSI CADWALADR ESBONIO HAWLIAU

Enw: ..... Adran y Ddeddf Iechyd: .....

Dyddiad ac Amser Dechrau: ..... am ..... Dyddiad Dod i Ben: .....

Dyddiad Esboniad: .....

Rhoddwyd esboniad gan: .....

Yn fy marn i, **gall/ni all** y claf ddangos dealltwriaeth ddigonol o'r wybodaeth a roddwyd.

Llofnod: .....

Esboniad pellach i ddod: Dyddiad: .....

Dyddiad: .....

Dyddiad: .....

O roi esboniad pellach, **gallai** ..... ddangos dealltwriaeth fel y nodir uchod.

A gafodd y claf gynnig esboniad yn eu dewis iaith **\*DO/NADDO**

Mae Gwasanaethau IMHA wedi'u cynnig i'r claf hwn: **\*DO/NADDO**

Os do, a yw'r claf: **\*Wedi Derbyn/Gwrthod y cynnig**

Dyddiad cyfeirio at IMHA: ..... Cyfeiriwyd gan (Enw): .....

Dull cyfeirio: **\*Ffôn/Llythyr/e-bost** (**\*Dileer fel bo'n briodol**)

Os yw eisoes yn gweithio gydag IMHA, rhowch enw'r IMHA: .....

#### Ymgais Aflwyddiannus

Enw: ..... Adran: ..... Dyddiad cymhwyso: .....

Mae ymgais aflwyddiannus wedi'i gwneud i esbonio ei hawliau i'r claf uchod.

Printiwch Enw: ..... Llofnod: ..... Dyddiad: .....

#### Ymgais Aflwyddiannus

Enw: ..... Adran: ..... Dyddiad cymhwyso: .....

Mae ymgais aflwyddiannus wedi'i gwneud i esbonio ei hawliau i'r claf uchod.

Printiwch Enw: ..... Llofnod: ..... Dyddiad: .....

**ANFON Y FFURFLEN WEDI'I CHWBLHAU'N LLAWN I SWYDDFA'R DDEDDF IECHYD MEDDWL**

## Appendix B S58 Consent to Treatment

### **BETSI CADWALADR UNIVERSITY HEALTH BOARD**

#### **Section 58 Consent to Treatment (Record of patients capacity and consent to Treatment) To accompany **Form CO2/CO8** or **SOAD request****

Full Name of Patient: \_\_\_\_\_

D No: \_\_\_\_\_

Responsible Clinician: \_\_\_\_\_

WARD: \_\_\_\_\_

This document is to be treated as the primary source for assessing capacity and consent to treatment under S58 MHA. As such a copy must be placed on the patients records. As a matter of good practice it is also advisable to include a further summary note of the discussion in the clinical notes section of the patient's records. **Responsible Clinician to address the following as per Code of Practice for Wales 24:31, 24:33, 24:34, 24:37,24:41:**

1	Does the patient demonstrate understanding of the treatment information given (which includes the medical condition/s being treated and proposed treatments)?	Yes <input type="checkbox"/> No <input type="checkbox"/>
2	Has the patient retained knowledge of proposed treatment/s and of any reasonable alternatives, for sufficient time, in order to form a decision?	Yes <input type="checkbox"/> No <input type="checkbox"/>
3	Does the patient demonstrate awareness of common and material risks of treatment, as explained to them?' [Montgomery –v-Lanarkshire Health Board * ]	Yes <input type="checkbox"/> No <input type="checkbox"/>
4	Has the patient demonstrated awareness of the benefits of treatment and any relevant limitations or qualifications on beneficial outcomes?	Yes <input type="checkbox"/> No <input type="checkbox"/>
5	Has the patient demonstrated the ability to weigh in the balance relevant benefits against the risks of treatment/s?	Yes <input type="checkbox"/> No <input type="checkbox"/>
6	Can the patient, with aids or assistance, communicate a decision relevant to this matter?	Yes <input type="checkbox"/> No <input type="checkbox"/>
7	Does the patient have capacity to consent to this treatment?	Yes <input type="checkbox"/> No <input type="checkbox"/>

**Please record your discussion with the patient about the proposed form of treatment in accordance with Chapter 24:34 and 24:41 of the Code of Practice for Wales within the patient's clinical notes.**

8	. Does the patient consent to the treatment? (patient to sign proforma)	Yes <input type="checkbox"/> No <input type="checkbox"/>
9	The patient was informed that he/she can withdraw consent for treatment at any time	Yes <input type="checkbox"/> No <input type="checkbox"/>

**Responsible Clinician / Approved Clinician Name:**

**Signature:**

**Date:**

\* Information and guidance can be obtained from the Mental Health Act Office

**BWRDD IECHYD PRIFYSGOL BETSI CADWALADR**

**Cydsynio i Driniaeth Adran 58**  
**(Cofnod o alluedd y claf a chydsyniad i driniaeth)**  
**I fynd gyda Ffurflen CO2/CO8 neu gais SOAD**

Enw Llawn y Claf: \_\_\_\_\_ Rhif D: \_\_\_\_\_

Clinigwr Cyfrifol: \_\_\_\_\_ WARD: \_\_\_\_\_

Dylid ymdrin â'r ddogfen hon fel y brif ffynhonnell asesu galluedd a chydsyniad i driniaeth o dan Adran 58 y Ddeddf Iechyd Meddwl. Fel y cyfryw, mae'n rhaid i gopi gael ei roi yng nghofnodion y claf. Fel mater o arfer da, mae hefyd yn ddoeth cynnwys nodyn cryno pellach o'r drafodaeth yn adran nodiadau clinigol cofnodion y claf. **Y Clinigwr Cyfrifol i fynd i'r afael â'r canlynol yn unol â Chod Ymarfer Cymru 24:31, 24:33, 24:34, 24:37, 24:41:**

1	A yw'r claf yn dangos dealltwriaeth o'r wybodaeth a'r driniaeth a roddwyd (sy'n cynnwys y cyflwr/cyflyrau meddygol sy'n cael eu trin a'r triniaethau arfaethedig)?	Ydy <input type="checkbox"/> Nac ydy <input type="checkbox"/>
2	A yw'r claf wedi cadw gwybodaeth am driniaeth/triniaethau arfaethedig ac am unrhyw ddewisiadau rhesymol eraill, am gyfnod digonol, er mwyn gwneud penderfyniad?	Ydy <input type="checkbox"/> Nac ydy <input type="checkbox"/>
3	A yw'r claf yn dangos ymwybyddiaeth o risgiau cyffredin a sylweddol yn ymwneud â thriniaeth, fel yr esboniwyd iddo? [Montgomery –v-Lanarkshire Health Board *]	Ydy <input type="checkbox"/> Nac ydy <input type="checkbox"/>
4	A yw'r claf wedi dangos ymwybyddiaeth o fuddion triniaeth ac unrhyw gyfyngiadau neu gymwyster perthnasol ar ganlyniadau buddiol?	Ydy <input type="checkbox"/> Nac ydy <input type="checkbox"/>
5	A yw'r claf wedi dangos y gallu i bwyso a mesur y buddion perthnasol yn erbyn risgiau triniaeth/triniaethau?	Ydy <input type="checkbox"/> Nac ydy <input type="checkbox"/>
6	A yw'r claf, gyda chefnogaeth neu gymorth, yn gallu cyfleu penderfyniad sy'n berthnasol i'r mater hwn?	Ydy <input type="checkbox"/> Nac ydy <input type="checkbox"/>
7	A oes gan y claf y galluedd i gydsynio i'r driniaeth hon?	Oes <input type="checkbox"/> Nac oes <input type="checkbox"/>

**Cofnodwch eich trafodaeth gyda'r claf am y ffurf arfaethedig o driniaeth yn unol â Phennod 24:34 a 24:41 Cod Ymarfer Cymru yn nodiadau clinigol y claf.**

8	. A yw'r claf yn cydsynio i'r driniaeth? (y claf i lenwi'r ffurflen)	Ydy <input type="checkbox"/> Nac ydy <input type="checkbox"/>
9	Cafodd y claf wybod bod modd iddo/iddi dynnu cysyniad i driniaeth yn ôl ar unrhyw adeg	Do <input type="checkbox"/> Naddo <input type="checkbox"/>

Enw'r Clinigwr Cyfrifol / Clinigwr Cymeradwy:

Llofnod:

Dyddiad:

\* Mae gwybodaeth ac arweiniad ar gael o Swyddfa'r Ddeddf Iechyd Meddwl

## **BETSI CADWALADR UNIVERSITY HEALTH BOARD**

### **Section 58 Consent to Treatment (Record of patients consent to Treatment) To accompany **Form CO2/CO8****

#### **Patient's Consent Proforma**

I (patient's full name) .....

Give consent and understand the treatment information explained to me by my Consultant.

**SIGNATURE:** ..... **DATE:** .....

## **BWRDD IECHYD PRIFYSGOL BETSI CADWALADR**

### **Cydsynio i Driniaeth Adran 58 (Cofnod o gydsyniad y claf i driniaeth) I fynd gyda **Ffurflen CO2/CO8****

#### **Ffurflen Gydsyniad y Claf**

Rwyf i (enw llawn y claf) .....

yn rhoi cydsyniad ac rwy'n deall y wybodaeth am driniaeth a esboniwyd i mi gan fy Meddyg Ymgynghorol.

**LLOFNOD:** ..... **DYDDIAD:** .....

**Ffurflen i'w dychwelyd i swyddfa MHA  
Cyfeiriad Swyddfa MHA isod**

**Form to be returned to the MHA office  
MHA Office Address inserted below**

## Appendix C – Letter to RC

**Confidential**

**RC in charge of treatment**

**Ein cyf / Our ref:** SOAD

**Eich cyf / Your ref:**

**☎:**

**Dyddiad / Date:**

Dear **Dr**

**RE: (PATIENT NAME) Currently an Inpatient, (UNIT NAME)**

You recently spoke to the SOAD regarding the proposed treatment plan under Part 4 of the Mental Health Act for the above named patient. Under the MHA and within the Code of Practice 25:69 *'The clinician in charge of the treatment is personally responsible for communicating the results of the SOAD visit to the patient. This need not wait until any separate statement of reasons has been received from the SOAD. But when a separate statement is received from the SOAD, the patient should be given the opportunity to see it as soon as possible, unless the clinician in charge of treatment, or the SOAD, thinks it would be likely to cause serious harm to the patient's or anyone else's physical or mental health'*.

**For completion by the Responsible Clinician following receipt of the CO3/CO7:**

I have conveyed the SOAD decision to the patient and discussed the reasons for the decision.

**Yes**

☐

**No**

☐

I have not conveyed the SOAD decision to the patient for the following reasons:

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Copy has been given to the patient: **Yes**

☐

**No**

☐

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Please return to the Mental Health Act Office within 7 days.**

**Encs:** Copy of SOAD Certificate (for information/patient)

## Atodiad C – Llythyr at RC

Cyfrinachol

RC sy'n gyfrifol am driniaeth

Ein cyf / Our ref: SOAD

Eich cyf / Your ref:

☎:

Dyddiad / Date:

Annwyl Dr

**Parthed: (ENW'R CLAF) Claf Mewnol ar hyn o bryd, (ENW'R CLAF)**

Gwnaethoch siarad â SOAD yn ddiweddar mewn perthynas â'r cynllun triniaeth arfaethedig o dan Ran 4 y Ddeddf Iechyd Meddwl ar gyfer y claf a enwir uchod. O dan y Ddeddf Iechyd Meddwl ac yng Nghod Ymarfer 25:69 'Mae'r clinigwr sy'n gyfrifol am driniaeth yn bersonol gyfrifol am gyfleu canlyniadau'r ymweliad SOAD i'r claf. Nid oes angen aros gyda hyn hyd nes i unrhyw ddatganiad o resymau ar wahân gael ei dderbyn gan SOAD. Ond pan gaiff datganiad ar wahân ei dderbyn gan SOAD, dylai'r claf gael cyfle i'w weld cyn gynted â phosibl, oni bod y clinigwr sy'n gyfrifol am driniaeth, neu'r SOAD, yn tybio ei bod yn debygol o beri niwed difrifol i iechyd corfforol neu feddyliol y claf neu unrhyw un arall.'

**I gael ei gwblhau gan y Clinigwr Cyfrifol ar ôl derbyn CO3/CO7:**

Rwyf wedi cyfleu'r penderfyniad SOAD i'r claf ac rwyf wedi trafod y rhesymau dros y penderfyniad.

**Do**

☐☐

**Naddo** Nid wyf wedi cyfleu'r penderfyniad SOAD i'r claf am y rhesymau canlynol:

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Mae copi wedi'i roi i'r claf:

**Do**

☐☐

**Naddo**

**Llofnod:** \_\_\_\_\_ **Dyddiad:** \_\_\_\_\_

**Dychwelwch y copi i Swyddfa'r Ddeddf Iechyd Meddwl o fewn saith niwrnod.**

**Amg:** Copi o'r Dystysgrif SOAD (er gwybodaeth/i'r claf)

**Engagement has taken place with:**

<b>Name / Title / Group</b>	<b>Date Consulted</b>
BCUHB Division – Inpatient and community staff	August/September 2020
Health Board consultation page	August/September 2020
Safeguarding	September 2020
Welsh Language Officer	September 2020
Approved Mental Health Professionals (Local Authority Staff)	August/September 2020



<b>Cyfarfod a dyddiad:</b> <b>Meeting and date:</b>	<b>Mental Health Act Committee 2021</b> <b>25<sup>th</sup> June 2021</b>						
<b>Cyhoeddus neu Breifat:</b> <b>Public or Private:</b>	Public						
<b>Teitl yr Adroddiad</b> <b>Report Title:</b>	Update on the approval functions of Approved Clinicians and Section 12(2) Doctors in Wales						
<b>Cyfarwyddwr Cyfrifol:</b> <b>Responsible Director:</b>	Professor Arpan Guha Executive Medical Director (acting).						
<b>Awdur yr Adroddiad</b> <b>Report Author:</b>	Mrs Heulwen Hughes All Wales Approval Manager for Approved Clinicians and Section 12(2) Doctors						
<b>Craffu blaenorol:</b> <b>Prior Scrutiny:</b>	The report has been scrutinised by Professor Arpan Guha prior to submitting to the Committee. Approval received on 14 June 2021.						
<b>Atodiadau</b> <b>Appendices:</b>	Appendix 1 – Additions and Removals to the All Wales register of Approved Clinicians. Appendix 2 – Additions and Removals to the All Wales register of Section 12(2) Doctors. Appendix 3 - Breakdown of Section 12(2) GPs currently approved in Wales as at 27 <sup>th</sup> May 2021.						
<b>Argymhelliad / Recommendation:</b>							
To note for assurance purposes that appropriate governance arrangements, processes and activities are in place to underpin the approval and re-approval of Approved Clinicians and Section 12(2) Doctors in Wales.							
<b>Ticiwch fel bo'n briodol / Please tick as appropriate</b>							
<b>Ar gyfer penderfyniad /cymeradwyaeth</b> <b>For Decision/ Approval</b>		<b>Ar gyfer Trafodaeth</b> <b>For Discussion</b>		<b>Ar gyfer sicrwydd</b> <b>For Assurance</b>	✓	<b>Er gwybodaeth</b> <b>For Information</b>	
<b>Y/N i ddangos a yw dyletswydd Cydraddoldeb/ SED yn berthnasol</b> <b>Y/N to indicate whether the Equality/SED duty is applicable</b>						<b>N</b>	
<b>Sefyllfa / Situation:</b>							
Betsi Cadwaladr University Health Board is responsible for the initial approval, re-approval, suspension and termination of approval of Approved Clinicians and Section 12(2) Doctors in Wales.							
<b>Cefndir / Background:</b>							
The change introduced to the Mental Health Act 1983 was the abolishing of Responsible Medical Officers (RMOs) and Community Responsible Medical Officers (CRMOs) and the introduction of Approved/Responsible Clinicians (ACs and RCs) in their place.							
The Minister for Health and Social Services agreed that as of the 3 <sup>rd</sup> November 2008, Wrexham Local Health Board (LHB) would act as the Approval Body for Approved Clinicians and section 12(2) Doctors on behalf of the LHBs in Wales. The transfer of function from Wrexham Local Health Board to Betsi Cadwaladr University Health Board took place on 1 <sup>st</sup> October 2009							

<b>Asesu a Dadansoddi / Assessment &amp; Analysis</b>
<b>Goblygiadau Strategol / Strategy Implications</b>  It is important to ensure the highest standards of governance for approving and re-approving practitioners who are granted these additional responsibilities, which apply when people are mentally disordered.
<b>Opsiynau a ystyriwyd / Options considered</b>  This is a factual report on the numbers of applications and therefore, options are not considered relevant for this purpose.
<b>Goblygiadau Ariannol / Financial Implications</b>  The Approvals Team receive a ring-fenced budget from Welsh Government to support the monitoring and approvals of Clinicians in Wales.
<b>Dadansoddiad Risk / Risk Analysis</b>  To ensure that all Clinicians are approved and reapproved within the agreed timescales, the All Wales Approval Panel assesses applications according to the Procedural Arrangements agreed with Welsh Government.
<b>Cyfreithiol a Chydymffurfiaeth / Legal and Compliance</b>  The Approval Process meets the legislative requirements of the Mental Health Act 1983 (as amended 2007) and the Mental Health Act 1983 (Approved Clinicians)(Wales) Directions 2018.
<b>Asesiad Effaith / Impact Assessment</b>  An impact assessment is considered unnecessary for this update paper. The Approval Process is part of the legislative process.

## Service Developments

### 1. Approved Clinician/Section 12(2) Induction and Refresher Training

The June Induction and Refresher training was held via Webinar. The next induction and refresher training will take place in September and November 2021. This will also be via Webinar. Training dates have been agreed up to February 2022.

### 2. Temporary Arrangements for the re-approval of Approved Clinicians and Section 12(2) Doctors during Covid-19

Following discussions with Welsh Government, a letter was sent via email in June 2020 to all ACs and S12 (2) doctors informing of and clarifying details for a temporary variation in the arrangements for re-approval during the Covid19 pandemic. The variation applied to ACs/S12(2) doctors who were due to apply for re-approval during the pandemic advising that the team were able to continue to offer Webinar-based refresher training compliant with social distancing requirements during Covid-19. This would enable clinicians to meet the extant requirements of re-approval. Welsh Government agreed that it would also be prudent to make a temporary and minor variation in the event that the refresher training could not be delivered or where a clinician had been unable to attend due to Covid-19 related reasons.

In that exceptional circumstance, the Approving Board may grant approval, on condition that the clinician attends refresher training within 12 months of the start date of the new approval period.

To date all applicants have attended refresher training and there has therefore, been no need to use the temporary arrangements.

### **3. Internal Audit**

An audit of the Approved Clinician and Section 12(2) Approval Processes was completed in March 2021 by BCUHB Internal Auditors.

The audit evidenced full compliance with the AC Procedural Arrangements and the Section 12(2) Guidance.

Some concerns were raised in relation to delays in the Board ratifying the recommended approvals on a bi-monthly basis. In order to avoid delays in approving applicants, as advised by Internal Audit, Chairs Action forms are completed and forwarded for ratification to Board electronically.

The Audit report also identified other key areas for improved governance outside the remit of the Approvals Team which relate to budgetary accountability and made recommendations for changing accountability to sub committees of the Board.

**APPENDIX 1****Additions and Removals to the all Wales register of Approved Clinicians****24<sup>th</sup> February 2021 – 27<sup>th</sup> May 2021**

<b>New Applications Received</b>	<b>10</b>
Number of applications from professions other than Psychiatrists	
Mental Health/Learning Disability Nurse	0
Social Worker	0
Occupational Therapist	0
Psychologist	0
Number of applications approved	9
Number of ACs already approved in England	4
Number of applications with panel (including portfolios)	1
Number of applications not approved	0
<b>Re-approval Applications Received (5 Yearly)</b>	<b>16</b>
Number of applications with panel	5
Number of applications approved	11
Number of applications not approved	0
Number of ACs reinstated	1
<b>Number of re-approvals which have come to an end</b>	
Expired	3
Retirement	1
No longer working in Wales	10
No longer registered with professional body	0
AC requested	2
Registered without a licence to practise	2
Awaiting CCT	0
Suspended	0
<b>Total Number of Approved Clinicians</b>	<b>377</b>
<b>Total Number of Approved Clinicians from previous report</b>	<b>387</b>

**APPENDIX 2****Additions and Removals to the all Wales register of section 12(2) Doctors****24th February 2021 – 27<sup>th</sup> May 2021**

<b>New Applications Received</b>	<b>7</b>
Applications from GPs	1
Applications from Psychiatrists	6
Application from Forensic Medical Examiner	0
Number of Applications Approved	6
Number of Applications Not Approved	0
Number of Applications with Panel	0
Incomplete Applications	1
<b>Re-approval Applications (5 years)</b>	<b>1</b>
Applications from GPs	0
Applications from Psychiatrists	1
Applications from Forensic Medical Examiners	0
Number of Applications Approved	1
Number of Applications Not Approved	0
Number of Applications with Panel	0
<b>Transferred from AC register</b>	<b>0</b>
<b>Number of Approvals which have come to an end:</b>	<b>7</b>
Expired	0
Become an Approved Clinician	2
No longer working in Wales	1
No longer registered	0
Registered without a licence to practise	0
Retired	3
Under Police Investigation	0
RIP	1
Suspended from Medical Practitioners List	0
<b>Total Number of S12(2) Doctors currently approved</b>	<b>164</b>
<b>Total Number of S12(2) Doctors from previous report</b>	<b>163</b>

## APPENDIX 3

### Breakdown of Section 12(2) GPs currently approved in Wales

As at 27<sup>th</sup> May 2021

	Anglesey	Conwy	Denbighshire	Flintshire	Gwynedd	Wrexham	TOTAL
<b>Section 12(2) GPs</b>	3	5	0	0	2	3	<b>13</b>
<b>Section 12(2) Psychiatrists</b>	0	4	5	2	2	5	<b>18</b>
<b>Approved Clinicians</b>	3	11	21	9	15	20	<b>(79)</b>

### Number of 12(2) GPs per Health Board

<b>BCUHB</b>	13
<b>ANEURIN BEVAN</b>	7
<b>CARDIFF &amp; VALE</b>	5
<b>CWM TAF</b>	0
<b>HYWEL DDA</b>	2
<b>POWYS</b>	2
<b>SWANSEA BAY</b>	1