

Minutes of the Mental Health

Legislation and Mental Capacity

Act Committee Held on 29th October 2024 Via MS Teams

To view the meeting: [CAVUHB Mental Health Legislation & Mental Capacity Act Committee Meeting 29.10.2024 \(youtube.com\)](https://www.youtube.com/watch?v=CAVUHB)

Chair:		
Ceri Phillips	CP	Committee Chair / University Health Board Vice Chair
Present:		
Rhian Thomas	RT	Independent Member – Capital & Estates
Susan Lloyd-Selby	SLS	Independent Member – Local Authority
Sara Moseley	SM	Committee Vice Chair / Independent Member – Third Sector
In Attendance:		
Francesca Thomas	FT	Head of Corporate Governance
Daniel Crossland	DC	Director of Operations - Mental Health
David Seward	DS	Mental Health Act Manager
Neil Jones	NJ	Clinical Board Director – Mental Health
Robert Kidd	RK	Interim Clinical Director Psychology & Psychological Therapies
Chloe Evans	CE	MCA & Consent Lead
Katie Simpson	KS	Deputy General Manager – Children, Young People & Family Health Services
Jason Roberts	JR	Executive Director of Nursing
Paul Bostock	PB	Chief Operating Officer
Jeff Champney-Smith	JCS	Chair, Powers of Discharge Sub-Committee
Suzanne Rankin	SR	Chief Executive
David Fluck	DF	Executive Medical Director
Secretariat:		
Rachel Chilcott	RC	Corporate Governance Officer
Apologies:		
Richard Skone	RS	Interim Executive Medical Director
Matt Phillips	MP	Director of Corporate Governance

Item No	Agenda Item	Action
MHLMCA 29/10/001	Welcome & Introductions To view the minute: https://youtu.be/UKnZRDK3pjY?list=PLLVdfcKNzmAA7B9IVZC6mznqn8msCNnOV&t=86 The Committee Chair (CC) welcome everybody to the meeting in English and in Welsh.	
MHLMCA 29/10/002	Apologies for Absence To view the minute: https://youtu.be/UKnZRDK3pjY?list=PLLVdfcKNzmAA7B9IVZC6mznqn8msCNnOV&t=103 Apologies for Absence were noted. The Committee Resolved that: a) The Apologies for Absence were noted.	
MHLMCA 29/10/003	Declarations of Interest No declarations of interest were declared.	

MHLMCA 29/10/004	Minutes of the Meeting held on 6th August 2024 To view the minute: https://youtu.be/UKnZRDk3pjY?list=PLLVdfcKNzmAA7B9IVZC6mznqn8msCNnOV&t=127 The Minutes of the Meeting held on 6th August 2024 were received and approved. The Committee Resolved that: a) The minutes of the meeting held on 06.08.2024 were agreed as a true and accurate record.	
MHLMCA 29/10/005	Action Log from the meeting held on 6th August 2024 To view the minute: https://youtu.be/UKnZRDk3pjY?list=PLLVdfcKNzmAA7B9IVZC6mznqn8msCNnOV&t=170 The Action Log was received and discussed. The Committee Resolved that: a) The Action Log was noted.	
MHLMCA 29/10/006	Committee Chair's Actions The Committee Resolved that: a) No Chair's Actions were taken since the last meeting.	
MHLMCA 29/10/007	Any Other Urgent Business Agreed with the Chair The Committee Resolved that: a) No other urgent business was agreed with the Chair.	
	Mental Health Act	
MHLMCA 29/10/008	Mental Capacity Act Monitoring Report and DoLS Monitoring To view the minute: https://youtu.be/UKnZRDk3pjY?list=PLLVdfcKNzmAA7B9IVZC6mznqn8msCNnOV&t=508 The MCA & Consent Lead (MCA-CL) presented the Mental Capacity Act (MCA) and Deprivation of Liberty Safeguards (DoLS) Monitoring report which provided a general update on current issues related to the MCA and DoLS which included the following: • Mandatory MCA Training • MCA Practitioner Led Training • Assessing Decision Making Capacity MSc Module • MCA Team Advice and Support • DoLS Signatories • Referrals and Assessments The Committee Vice Chair (CVC) asked for clarification on the advocacy funding, specifically what it entailed, how it related to legislation, and how it impacted on patients' understanding of their own positions. The MCA-CL responded that:	

	• The advocacy funding contract was renewed in June 2024. • WG had provided increased advocacy funds due to the Liberty of Protection Safeguards, which expanded the need for advocacy to include individuals aged 16-18 and those in the community. • Despite the additional funds, they had not been fully utilised due to the new contract • A six-month review was scheduled for December to assess if the contract needed adjustments. They would ensure that the £63,000 remained available to potentially increase the contract if needed for this financial year. The CVC asked who the advocacy provider was. The MCA-CL responded that it was Advocacy Support Cymru. The Interim Clinical Director Psychology & Psychological Therapies (ICDPPT) asked whether it was necessary to increase the number of Best Interest Assessors (BIAs) and how to facilitate those discussions. The MCA-CL responded that this had been discussed with the Executive Nursing Director (END) over the past few months. They had identified funding for this year, but this had been used for agency staff which was more expensive. She agreed that it would be better to have something embedded into the team to increase the capacity of BIAs and get more value for money. The ICDPPT asked to see the Self-Neglect Protocol. The MCA-CL responded that the Regional Safeguarding Board had developed and released an assessment tool to support individuals who were self-neglecting, regardless of their capacity. A member of their team had delivered training on self-neglect to complement the release of this tool, and this training would also be offered to UHB staff. The MCA-CL agreed to share a poster with the ICDPPT. The END agreed for a paper on Funding for Increased Resource for DoLS to be brought to the following Committee for discussion. The Independent Member – Local Authority (IM-LA) asked about the prioritisation process for BIAs, particularly the four individuals who had waited over 81 days. The MCA-CL responded due to recruitment delays the team had struggled with the administrative workload of the DoLS process. However, the four individuals identified would be prioritised this month to be seen. With additional funding from WG and a potential permanent funding stream, the aim was to prevent such delays in the future. The Committee resolved that: a) The contents of the report were noted.	
	Mental Capacity Act	
MHLMCA 29/10/009	Mental Health Act Monitoring Exception Report To view the minute: https://youtu.be/UKnZRDk3pjY?list=PLLVdfcKNzmAA7B9IVZC6mznqn8msCNnOV&t=1652	

The Mental Health Act Manager (MHAM) presented the Mental Health Act (MHA) Monitoring Exception Report to the Committee which provided a summary of the below:

- Use of the Mental Health Act
- Fundamentally defective applications and reports
- Section 136 - A&E and CAMHS
- Nearest relatives discharge requests
- Development sessions
- Audits

The MHAM provided a summary of the no fundamentally defective applications, and the two fundamentally defective reports reported, and the two lapses reported during this quarter.

The Chief Executive Officer (CEO) asked about the administrative challenges in busy ward areas, particularly in Hafan Y Coed, and whether there were routine mechanisms in place to routinely check and ensure that staff were appropriately trained on the MHA.

The Director of Operations - Mental Health (DO-MH) responded that:

- In wards, staff were clear about who was detained, their leave status, and whether they were formal/informal.
- The main challenges arose from the short turnaround for 5(2) processes, high observation levels, and staffing issues.
- Junior staff needed to ensure that they followed the process and consulted with the MHAM
- The MHA office worked closely with clinicians, and high-quality training was provided to all staff.

The MHAM discussed the challenges of providing training on the MHA, in particular the lack of resources to conduct this training extensively. However, information on Section (2)s had started to be integrated into training for junior doctors, and shift coordinators were undergoing their annual refresher training. Information on Section 5(2)s was also available on their SharePoint page for easy access.

The IM-LA asked if the current process ensured that everybody who needed to know about a patient's detention under Section 5(2) was properly informed, and whether their system supported appropriate information sharing. In addition, she asked whether patients and their families were informed when timescales (particularly the 72hr requirement) were not met.

The MHAM responded that efforts were being made to ensure that people were aware of the necessary information through training, resources, and the MHA office for advice. However, there was currently no capacity to provide in-person training on the wards.

The MHAM also explained that wards were advised to inform patients of any fundamentally defective applications or 5(2) reports if deemed appropriate based on the patient's presentation.

The Committee resolved that:

- a) The approach taken by the Mental Health Clinical Board to ensure compliance with the appropriate Mental Health legislation, as set out in the report, was noted.

MHLMCA 29/10/010	Mental Health and Wellbeing Strategy / Suicide and Self-Harm Prevention Strategy To view the minute: https://youtu.be/UKnZRDk3pjY?list=PLLVdfcKNzmAA7B9IVZC6mznqn8msCNnOV&t=2628 The DO-MH provided the following summary: • There had been no updates on the consultation phase – however some consultation responses on the draft Suicide and Self-Harm Prevention Strategy had been published recently • There was a limited number of responses, likely due to collective submissions from Health Boards, Local Authorities and other providers. • A recent strategy refresh conference had been attended by the DO-MH and the CBD-MH • Once the strategy was published, they would look at how to implement the strategy locally. The DO-MH offered to provide a brief on the Suicide and Self-Harm Prevention Strategy to be presented at the following Committee. The Committee resolved that: a) The update was noted.	
	Mental Health Measure	
MHLMCA 29/10/011	Mental Health Measure Monitoring Reporting including Care and Treatment Plans Update Report To view the minute: https://youtu.be/UKnZRDk3pjY?list=PLLVdfcKNzmAA7B9IVZC6mznqn8msCNnOV&t=2717 The DO-MH and the Deputy General Manager – Children, Young People & Family Health Services (DGM-CYPFHS) presented the Mental Health Measure Report which outlined the performance of CAVUHB against the various mental health specific targets, which included: • Part 1a - target: 28-day referral to assessment compliance target of 80% (Adult) and (Children & Young People) • Part 1b – 28-day assessment to intervention compliance target of 80% (Adult) and (Children & Young People) • Part 2 – Care and Treatment Planning (over 18) and (Children & Young People) • Part 3 – Right to request an assessment by self-referral • Part 4 – Advocacy – standard to have access to an IMHA within 5 working days The Executive Medical Director (EMD) noted that whilst national waiting times for young people's assessment and treatment were poor, the local figures looked much better in comparison. The DGM-CYPFHS thanked her team's hard work and innovative approaches, however acknowledged that increasing demand would continue to pose challenges in maintaining service times for children and young people. The CVC asked what the strategy was to improve Part 1a compliance, and whether there were risk assessments in terms of compliance.	

	In addition, the CVC asked how much of Part 1b's compliance was done through referral to online provision, and whether they had an indication of the outcomes of these interventions. The DO-MH responded with the following: • The team faced a backlog of assessments due to sickness and maternity leave. To address this, three additional posts were being created based on extensive modelling of capacity and demand to maintain the target compliance. • During COVID, they accurately predicted the volume of Part 1 referrals but underestimated the sustained demand post-COVID. • The planned care funding and restructuring should increase the number of assessments being undertaken. The additional positions should help to clear the backlog by increasing weekly referrals by 36. • The highly-person focused and therapeutic assessments helped to maintain high compliance rates with Part 1b. They provided a range of services including immediate help, information provision and referrals for highly specialised therapy. The Committee Resolved that: a) The contents of the Mental Health Measure Monitoring Reporting including Care and Treatment Plans Update Report was noted.	
	Items to bring to the attention of the Committee for Noting / Information	
MHLMCA 29/10/012	Sub-Committee Meeting Minutes: To view the minute: https://youtu.be/UKnZRDk3pjY?list=PLLVdfcKNzmAA7B9IVZC6mznqn8msCNnOV&t=3961 <u>Hospital Managers Power of Discharge Sub-Committee Minutes – 08.10.2024</u> The Chair of the Power of Discharge Sub-Committee (C-PDSC) took the minutes as read and informed the Committee that this was his last meeting as Chair of the C-PDSC. <u>Mental Health Legislation and Governance Group (MHLGG) – 11.10.2024</u> The ICDPPT highlighted the following: • Nearest Relative Discharge Requests – this issue was specific to CAV. • Voluntary Assessments – there was a need to improve the recording of voluntary assessments (particularly Section 136s). • Staff Attendance at Hearings – the importance of staff attending hearings and being able to comprehensively speak to the reports being examined by the Tribunal or hospital managers was discussed. • Informal Patients and Deprivation of Liberty – progress was being made with the revised DoLS structure in psychiatric settings. The Committee Resolved that: a) The Sub-Committee Meeting Minutes were noted.	
	Items for Approval / Ratification	
MHLMCA 29/10/013	<i>No items for approval.</i>	
MHLMCA 29/10/014	Any Other Business To view the minute: https://youtu.be/UKnZRDk3pjY?list=PLLVdfcKNzmAA7B9IVZC6mznqn8msCNnOV&t=4220	

	<u>Right Care, Right Person Verbal Update</u> The DO-MH provided the following summary: • They were currently in the phase of managing AWOLs and walkouts from hospital settings. Coordination with police, local authorities, Welsh Ambulance and other providers was going smoothly. • An issue where the police asked the hospital security to attend and convey was flagged and deemed to be resolved. • The next phase around conveyancing was expected to be more challenging. • The most challenging phase would be managing Section 136 cases in February 2025 - CAV were overrepresented in Section 136 cases (e.g. CAV had 28% of all cases in Wales the previous year, however 72% of them were not converted into further action). <u>Section 117 Verbal Update</u> The DO-MH provided the following summary: • Following the Worcestershire judgement, challenges arose around the duty to provide aftercare for Section 117 patients – e.g. where the local authority had Section 117 responsibility, but the health provision was held by another ICB/UHB. • Confusion existed around containing this within health records, which presented the risk of appearing as an open referral. • A meeting was due with both local authorities to work through challenges. • There were similar issues with other Health Boards, as English ICBs often moved quite large volumes of patients into placements in/around Wales for which they held Section 117 responsibility and would try to transfer the care over to local Health Boards. • They were seeking legal advice, and they hoped to start developing local policies. The CC asked to what extent WG were involved. The DO-MH responded that they had written to WG and advised them of one of their legal approaches taken with an English ICB. He noted that another challenge was that their Responsible Clinical Guidance had not been updated since 2014, which caused difficulty in making sure Wales was not disadvantaged. At present, they were waiting for this guidance to be developed and updated to be concordant with who paid in England.	
MHLMCA 29/10/015	To note the date, time and venue of the next meeting: 28th January 2025 via MS Teams	