

Minutes of the Mental Health Legislation Committee Held on 26th August 2025 via MS Teams

To view the meeting: <https://youtu.be/XxOJO5j7t4o>

Chair:		
Ceri Phillips	CP	Committee Chair / University Health Board Vice Chair
Present:		
Rachna Upadhya	RU	Independent Member - General
In Attendance:		
Chloe Evans	CE	MCA & Consent Lead
Jason Roberts	JR	Executive Director of Nursing
David Seward	DS	Mental Health Act Manager
David Fluck	DF	Executive Medical Director
Matt Phillips	MP	Director of Corporate Governance
Julian Willett	JW	Transformation & Innovation Lead - Mental Health
Tara Robinson	TR	Interim Deputy Director of Nursing – Mental Health
Secretariat:		
Rachel Chilcott	RC	Corporate Governance Officer
Apologies:		
Daniel Crossland	DC	Director of Operations - Mental Health
Susan Lloyd-Selby	SLS	Independent Member – Local Authority
Sara Moseley	SM	Committee Vice Chair / Independent Member – Third Sector
Clive Curtis	CC	Independent Member - Community
Samuel Barrett	SB	Deputy Director of Operations Children & Women's Clinical Board
Amanda Morgan	AM	Chair of the Power of Discharge Group

Item No	Agenda Item	Action
MHL 2025/08/1.1	<p><u>Welcome, Introductions and Apologies for Absence</u></p> <p>The Committee Chair (CC) welcome everybody to the meeting in English and in Welsh.</p> <p>The CC thanked the Committee Vice Chair (CVC) for her contribution to the Mental Health Legislation Committee before starting a new post.</p> <p>The Executive Nurse Director (END) apologised for the late submission of papers.</p>	
MHL 2025/08/1.2	<p><u>Declarations of Interest</u></p> <p><i>No declarations of interest were declared.</i></p>	
MHL 2025/08/1.3	<p><u>Minutes of the Meeting held on 29.04 2025</u></p> <p>The Minutes of the Meeting held on 29.04.2025 were received and approved.</p> <p>The Committee Resolved that:</p> <p>a) The minutes of the meeting held on 29.04.2025 were agreed as a true and accurate record.</p>	

<p>MHL 2025/08/1.4</p>	<p><u>Action Log from the meeting held on 29.04.2025</u></p> <p>The Action Log was received and discussed.</p> <p>The Committee Resolved that:</p> <p>a) The Action Log was noted.</p>	
<p>MHL 2025/08/1.5</p>	<p><u>Committee Chair's Actions</u></p> <p><i>No Chair's Actions were taken since the last meeting.</i></p>	
Mental Health Act		
<p>MHL 2025/08/2.1</p>	<p><u>Mental Capacity Act Monitoring Report and DoLS Monitoring</u></p> <p>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:</p> <ul style="list-style-type: none"> • Mental Capacity Act Monitoring Actions (April - June 2025) • Mental Capacity IMCA Referral type • Awareness Raising / Training Sessions • Mandatory MCA Training • MCA Practitioner Led Training – 2024/25 • MCA Team Advice and Support • MCA Team Resources for Staff • Deprivation of Liberty Safeguards Monitoring Actions • Referrals and Assessments • Other Business <p>The Independent Member – General (IM-G) asked whether they could receive a further breakdown on the IMCA referrals by age, as the top classification was 65+.</p> <p>It was suggested that the report include a further breakdown of IMCA referrals by age, specifically for the 65+ category – ACTION.</p> <p>Regarding the training programme, the IM-G noted that 10% of people still did not feel confident applying the MCA principles in practice. She asked how they were following up with individuals to raise confidence levels.</p> <p>The MCA-CL responded that this was a common issue across all areas. They reassured staff during training that support was always available and encouraged people to reach out with queries.</p> <p>The IM-G suggested adding a Frequently Asked Questions (FAQs) section to the end of MCA training presentations to help improve staff confidence.</p> <p>The Committee resolved that:</p> <p>a) The contents of the report were noted.</p>	
Mental Capacity Act		
<p>MHL 2025/08/3.1</p>	<p><u>Mental Health Act Monitoring Exception Report</u></p>	

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 MHA
- 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 following reported during the quarter:

- No fundamentally defective applications or reports
- 1 lapse of Section 5(4)
- The use of Section 136s had increased

The CC asked why CAVUHB had received an increase in nearest relative discharge requests compared to other UHBs.

The MHAM responded that he did not know the reason. He had checked with AMPHS to see if any new information has been cascaded, but no new materials had been introduced.

The CC suggested including a graph in future reports to help visualise the increase in nearest relative discharge requests – ACTION.

The END suggested it could either mean that relatives were well informed, or that the UHB was not managing expectations effectively.

The MHAM agreed that it was good that relatives were informed of their rights, but the concern raised by the Power Discharge Group was whether they fully understand what they're requesting. The MHAM explained that he was open to suggestions.

The END suggested that he would review this with the mental health team outside of the meeting and report back to the following Committee - ACTION.

The IM-G referred to the 25.8% of patients discharged with no follow-up after a Section 136 assessment and asked how confident they were that no-follow up was the right decision. She suggested that it would be useful to audit this to understand whether these decisions were appropriate.

The MHAM responded that these decisions were clinical and would not be able to answer her query. Regarding auditing, their system was not set up for retrospective reviews, so an audit would need to be done manually if the Committee requested one.

The IM-G responded that it was to provide the Committee with assurance that nobody would slip through the net.

The MHAM suggested that he would look into the possibility of auditing cases where patients are discharged with no follow-up after a Section 136 assessment and report back to the committee – ACTION.

The Committee resolved that:

	<p>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.</p>	
<p>MHL 2025/08/3.2</p>	<p><u>Mental Health and Wellbeing Strategy / Suicide and Self-Harm Prevention Strategy – Verbal Update</u></p> <p>The Interim Deputy Director of Nursing – Mental Health (IDDN-MH) provided the following summary:</p> <ul style="list-style-type: none"> • The new strategy went live in April 2025. • CAVUHB was working with 36 Degrees to align and role model the service with the strategy. • Work would continue until March 2026 and would work with colleagues across Wales to contribute to an All-Wales approach. <p>The CC asked for a more detailed update to come back to the following Committee – ACTION.</p> <p>The Committee resolved that:</p> <p>a) The verbal update was noted.</p>	
<p>MHL 2025/08/3.3</p>	<p><u>MHA / DoLS Interface - Verbal Update</u></p> <p>The MHAM provided the following summary:</p> <ul style="list-style-type: none"> • He had met with the MCA-CL and Dr Oruganti to discuss the issue of general wards being unsure how to manage the Mental Health Act (MHA), especially when DoLS applied. • They would be undertaking some fact-finding with wards to identify what sort of information would be helpful – potentially a booklet with guidance on the MHA, DoLS, and contact details for the team. <p>The MCA-CL added that the booklet would outline with the MHA applied, why DoLS might not, and include guidance on arranging assessments and key contacts. They felt posters could be overlooked, so a scoping exercise would be undertaken to find out what wards would find most useful.</p> <p>The MHAM noted that they were due to meet in six weeks to discuss the findings.</p> <p>The CC asked for a progress update to come back to the following Committee – ACTION.</p> <p>The Committee resolved that:</p> <p>a. The update was noted.</p>	
<p>MHL 2025/08/3.4</p>	<p><u>Section 12 Challenges and Futureproofing – Verbal Update</u></p> <p>The MHAM provided the following summary:</p> <ul style="list-style-type: none"> • He had sent out a survey because many long-standing Section 12 doctors were retiring or stepping back from night shifts, leaving them short on overnight and weekend cover. • The survey explored their experience, priorities (e.g. DoLS vs mental health assessments), and whether they would recommend becoming Section 12 doctors. 	

	<ul style="list-style-type: none"> • Responses were mixed, but the main issue raised was the fee – it had remained unchanged since 2005 and no travel reimbursement was made from the UHB (unlike some other UHBs). • They were looking at ways to retain and recruit Section 12 doctors, including how assessments were arranged. Currently, AMHPS relied on a long spreadsheet with contacts, but the Local Authority (LA) was trialling an app to streamline this. They needed UHB approval to start a free one-year trial, with future costs to be considered. <p>The END raised that the Regional Safeguarding Board had flagged concerns about delays in securing Section 12 assessments. Whilst they had influence over UHB medical staff, they had less control over GPs. This issue would be looked at across the South Wales region.</p> <p>The CC asked whether the fee was something Welsh Government (WG) determined.</p> <p>The IM-G informed the Committee that she works as a Section 12 doctor, and highlighted the following:</p> <ul style="list-style-type: none"> • She believed fees for paying Section 12 doctors was a national decision • Fees had not increased in years, and because assessments were ad hoc, doctors needed to be available all day. • Another challenge was that Approved Mental Health Professionals (AMHPs) often chose assessors they were familiar with, which can affect the independence of the process. <p>Regarding the app, the Transformation & Innovation Lead - Mental Health (TIL-MH) explained that they were still waiting to confirm the ongoing costs after the initial trial period. However, it looked like an efficient tool to help improve their processes.</p> <p>The IM-G noted awareness of other UHBs using the app effectively, and that it would be a good way forward.</p> <p>It was suggested that an update come to the following Committee on the wider investigation and analysis on the Section 12 doctor retention issues – ACTION.</p> <p>The Committee resolved that:</p> <p>A) The update was noted.</p>	
<p>MHL 2025/08/3.5</p>	<p><u>Board Assurance Framework – Verbal Update</u></p> <p>The Director of Corporate Governance noted that the Board Assurance Framework (BAF) had been added to all UHB Committee agendas for discussion. He proposed it did not come to the Mental Health Committee as a standing item, as relevant strategy elements would be captured under strategic risks and brought to the Quality Committee.</p> <p>The CC agreed.</p> <p>The Committee resolved that:</p> <p>A) The contents of the report was noted.</p>	
<p>MHL 2025/08/3.6</p>	<p><u>Mental Health Bill – Verbal Update</u></p> <p>The MHAM summarised that the Bill was currently in the House of Commons at the report stage. Once this was complete, it would move to the third reading and then final amendments.</p>	

	<p>The END suggested that a gap analysis be undertaken once the Bill was agreed, to ensure that they were compliant.</p> <p>The Committee resolved that:</p> <p>A) The update was noted.</p>	
Mental Health Measure		
MHL 2025/08/4.1	<p><u>Mental Health Measure Monitoring Reporting including Care and Treatment Plans Update Report</u></p> <p>The IDDN-MH and the TIL-MH presented the Mental Health Measure Report and slides which outlined the performance of CAVUHB against the various mental health specific targets, which included:</p> <ul style="list-style-type: none"> • 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 – Self-Referral Assessment Outcomes • Part 4 – Advocacy Access <p>The CC thanked the teams for their hard work.</p> <p>The IDDN-MH provided assurance that they were working with NHS Executives to clearly define the recovery plans.</p> <p>The TIL-MH commented that it would be interesting to see the future of Part 1a, Part 1b, and the measure overall, especially with NHS performance heading towards a stepped care model and open access, which conflicted with PMHSS’s referral only approach.</p> <p>The Committee Resolved that:</p> <p>a) The contents of the report was noted.</p>	
Items to bring to the attention of the Committee for Noting / Information		
MHL 2025/08/5.1	<p><u>Sub-Committee Meeting Minutes:</u></p> <p>The Committee noted the below Sub-Committee Meeting Minutes:</p> <ul style="list-style-type: none"> • Hospital Managers Power of Discharge Sub-Committee Minutes – 22.07.2025 • Mental Health Legislation and Governance Group (MHLGG) - 31.07.2025 <p>The Committee Resolved that:</p> <p>a) The Sub-Committee Meeting Minutes were noted.</p>	
Items for Approval / Ratification		
MHL 2025/08/6.1	<p>Policies</p> <p><u>Court of Protection Procedure & Guidance</u></p> <p>The MCA-CL provided the following summary:</p> <ul style="list-style-type: none"> • There had been a notable rise in the number of Court of Protection (COP) cases within CAVUHB, reflecting a wider UK trend. • This seemed linked to an increased awareness of the statutory responsibilities of organisations under the MCA and more delayed discharges, leading to Section 21A appeals. • Cases were also becoming more complex. 	

- The MH Committee had previously requested guidance and a process for staff, developed with Legal & Risk, which included a step-by-step guide, key contacts, and how to access legal advice.
- Legal & Risk also offered another COP training day in September 2025.

The Executive Medical Director (EMD) asked when appeals were made, what percentage were successful (meaning that the UHB got it wrong).

The MCA-CL responded that the court usually agreed that the person should be in hospital, but the issue often lay in discharge planning – whether they go home or to a care facility. It was a chance for individuals to have their voice heard.

The EMD explained that during the appeals process, patients remained in hospital whilst their discharge destination was decided. He wondered whether they could learn from this, especially since many patients may prefer to return home.

The MCA-CL responded that the Head of Integrated Discharge was actively looking into this and had liaised with Swansea Bay UHB (SBUHB), who explored interim placements. They were reviewing the legal aspects to ensure it was appropriate and patient centred.

The Committee Resolved that:

- A) The Court of Protection Procedure & Guidance was approved.

[Memorandum of Understanding: MHA/DoLS Interface Guidance](#)

The MCA-CL provided the following summary:

- Following the report provided to the April 2025 MH Committee, they had developed staff guidance with LAs on when the MHA or DoLS was appropriate, given the complex interface between the two.
- They had also delivered joint training to health and LA staff, which was well received and seemed to have reduced issues.
- The changes in guidance as a result of case law can have potential implications for patient flow, increased requests for beds in older adult mental health services, Section 117, and an impact on community services.
- The guidance outlined legal implications and included escalation steps for disputes based on advice from the COP.
- Further work was planned on supporting staff when someone was found ineligible for DoLS.

The DCG explained that if this was an agreement with LAs, it may need to be signed by the Executive Lead (the END). If it was guidance for staff, it can sit in the UHBs policies.

The MCA-CL responded that she would be directed by the DCG.

The DCG suggested the Committee lending their support for the document, and he would follow-up with the MCA-CL and the END outside of the meeting.

The IM-G recommended that Figure 6 in the document be used as a visual aid and displayed across the UHB sites.

The Committee Resolved that:

- A) The document received Committee support, to be followed up outside of the meeting by the DCG, the MCA-CL, and the END.

[Any Other Business](#)

MHL 2025/08/7.1	<i>No other business was discussed.</i>	
MHL 2025/08/8.1	<u>To note the date, time and venue of the next meeting:</u> 21st October 2025 via MS Teams	