Minutes of the Mental Health Legislation Committee
Held on 28th January 2025 via MS Teams

To view the meeting: CAVUHB Mental Health Legislation Committee 28.01.2025

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
Rachna Upadhya	RU	Independent Member - General
In Attendance:		
Daniel Crossland	DC	Director of Operations - Mental Health
David Seward	DS	Mental Health Act Manager
Robert Kidd	RK	Interim Clinical Director Psychology & Psychological Therapies
Chloe Evans	CE	MCA & Consent Lead
Jason Roberts	JR	Executive Director of Nursing
Matt Phillips	MP	Director of Corporate Governance
Samuel Barratt	SB	Deputy Director of Operations Children & Women's Clinical Board
Richard Skone	RS	Deputy Medical Director
Secretariat:		
Rachel Chilcott	RC	Corporate Governance Officer
Apologies:		
David Fluck	DF	Executive Medical Director

Item No	Agenda Item	Action
MHLMCA 29/10/001	**Welcome & Introductions** The Committee Chair (CC) welcome everybody to the meeting in English and in Welsh.	
MHLMCA 29/10/002	**Apologies for Absence** 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 29th October 2024** The Minutes of the Meeting held on 29th October 2024 were received and approved. **The Committee Resolved that:** a) The minutes of the meeting held on 29.10.2024 were agreed as a true and accurate record.	
MHLMCA 29/10/005	**Action Log from the meeting held on 29th October 2024** 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** No Chair's Actions were taken since the last meeting.	
MHLMCA 29/10/007	**Any Other Urgent Business Agreed with the Chair** No other urgent business was agreed with the Chair.	
	Mental Health Act	
MHLMCA 29/10/008	**Mental Capacity Act Monitoring Report and DoLS Monitoring** 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: • Mental Capacity IMCA Referral type • Awareness Raising / Training Sessions • Mandatory MCA Training • MCA Practitioner Led Training – October to December 2024 • MCA Team Advice and Support • Deprivation of Liberty Safeguards Monitoring Actions • Quarterly Overview from July to September 2024 • Referrals and Assessments The Interim Clinical Director Psychology & Psychological Therapies (ICDPPT) suggested that information on the Court of Protection Section 49 be covered within the report. The MCA-CL highlighted that the Court of Protection Process guidance was under legal review. The goal was to raise awareness so that any court notices/requests were reported to Corporate Governance for tracking. Once more data was available, it would be added into the report. The Committee Vice Chair (CVC) asked for more detail on the complexity of MCA queries and whether the team were able to deal with them effectively. The MCA-CL responded that referrals came from clinicians or through discussions with safeguarding colleagues. The aim was for MCA Practitioners to support without creating delays, helping clinicians to understand the legal processes and empower them to handle similar situations in the future. The CVC asked about the team's capacity as the numbers of queries rise. The MCA-CL responded that currently capacity was being managed, but there would be a need to reassess and consider using Welsh Government (WG) funding to extend capacity. This was under ongoing review. The Executive Nurse Director (END) noted that increasing training would empower staff to feel more confident in the assessment process but expressed concern on the uptake of training due to the financial restraints within the organisation and staffing issues. He concluded that the Consent Training post was presently on hold.	

	The Independent Member – Capital & Estates (IM-CE) asked how effective word of mouth to increase training attendance. The MCA-CL responded that training uptake was largely driven by word of mouth, and welcomed suggestions to help push for further attendance. The Independent Member – Local Authority (IM-LA) asked whether there were any training opportunities across the UHB site outside of the University Hospital for Wales (UHW) and University Hospital of Llandough (UHL). The MCA-CL responded that training was held at central sites like UHW and UHL with the facilities and parking to capture the largest audience. She welcomed the possibility of offering one-off sessions in specific locations to make it more accessible. **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** 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 following reported during the quarter: • One fundamentally defective application • One fundamentally defective report • The use of Section 136s had decreased – there were four 136 lapses, and one 136 was unlawful • They had two nearest relative discharge requests. The ICDPPT asked whether the Right Care Right Person (RCRP) initiative would reduce the number of Section 136s seen. The DO-MH responded that the reduction in Section 136s was unlikely, but there could be a change in who would convey the individual to hospital. The report highlighted that over three quarters of individuals brought to hospital were not detained and flagged restrictive practices by the police. The CVC asked whether good collaboration with the police was ongoing. The MHAM responded with the following: • Collaboration with police partners was ongoing, with the implementation of Phase 4 of RCRP scheduled for March 2025. • In 2023, Cardiff accounted for 28% of all Section 136 detentions in Wales, despite having only 16% of the population. • There were variations across Wales in how police obtained information before bringing individuals into hospital.	

	• National work on conveyancing, supported by the Joint Commissioning Committee (JCC), includes exploring the use of video calls prior to enact a Section 136 or conveyance. The ICDPPT noted that police officers had the inherent jurisdiction to exercise their Section 136 powers if necessary and that being a capital city may influence the threshold for officers deciding to act. **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** The DO-MH provided the following summary of the report: • The consultation period for the two strategies closed in June 2024, and the summaries of responses was published by Welsh Government (WG) in October 2024. These strategies were set to replace the "Talk to Me 2" and the "Together for Mental Health" initiatives. • A response was provided by the UHB, who also encouraged individual responses. • The feedback on the Mental Health and Wellbeing Strategy and the Suicide and Self-Harm Prevention Strategy was detailed within the report. • The local 'The Amber Project' had been closed as funding had been withdrawn. Now this had been closed, there was less of an offer locally. The DO-MH highlighted the recommendations from the report: • A mapping and scoping exercise needed to be undertaken locally with Public Health teams, the Third Sector, the Mental Health Clinical Board, Local Authorities (LAs), and the Regional Suicide and Self Harm Lead to understand the demand and current landscape. • Key elements of the published strategies would be communicated widely to teams to understand the implications locally. The CVC asked who had funded the Amber Project and why the funding had been withdrawn. She noted concern about the sustainability of third sector provision under the current circumstances. The DO-MH agreed and responded that the Amber Project had been funded by the Church Army, but he was unsure why the funding had been withdrawn. The DO-MH noted that across the organisation and LAs, there may be duplication in the funding of various projects. Future commissioning would involve collaboration with third sector agencies and the wider community to ensure the best outcomes and impactful contracts. The CC believed that the mapping and scoping exercise would be significant and asked if there were any anticipated outputs from it. The DO-MH responded that the mapping of self-harm provisions could be done quickly, as there was not much available locally. The Regional Suicide Leader, who had centrally funded contracts from the NHS Executive, was a key partner in this work. The new local strategy development aimed to use these resources effectively for the best outcomes, especially for underserved groups.	

	The CC asked for an update to be provided at the following meeting. The ICDPPT noted that the UHB would be establishing a new clinical safety group on suicide and self-harm, chaired by Mark Doherty. The CVC highlighted that the focus was on finding sustainable ways to ensure third sector provision was commissioned correctly and remained a reliable source of support. The CC agreed and noted it had wider significance for the UHB's strategic agenda. The Committee should log this point to be brought to the attention of Board via Chair's Report. **The Committee resolved that:** a) The contents of the report was noted.	
	Mental Health Measure	
MHLMCA 29/10/011	**Mental Health Measure Monitoring Reporting including Care and Treatment Plans Update Report** The DO-MH and the Deputy Director of Operations Children & Women's Clinical Board (DDOCWCB) 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 IM-G sought more information about the increased demand for mental health services this January compared to the seasonal norm. The DO-MH responded that the demand for mental health services had increased by around 10.5% each year. The rise in demand was attributed to the consequences of lockdown, which was referred to as a "pandemic for mental health", as well as the internalisation of mental health disorders and the extensive media coverage on mental health and wellbeing. The DO-MH suggested bringing a longer-term trajectory to illustrate these year-on-year rises in demand to the next MH Committee. The IM-G asked whether most cases were related to affective disorders (such as depression or mood-related issues), rather than psychotic episodes. The DO-MH responded that the Part 1 Measure measured referrals for mild to moderate presentations. The increase in demand was mainly within the mild to moderate sphere, and secondary care provision for moderate to severe conditions (including psychosis) had not seen significant increases in demand. The ICDPPT noted that potential reforms to the MHA emphasised the need for therapeutic benefits and the routine use of outcome measures to ensure positive experiences for those detained under the act. **The Committee Resolved that:** a) The contents of the report was noted.	

	Items to bring to the attention of the Committee for Noting / Information	
MHLMCA 29/10/012	**Sub-Committee Meeting Minutes:** Hospital Managers Power of Discharge Sub-Committee Minutes – 14.01.2025 The MHAM took the minutes as read and highlighted the following about the split decision issue: • In CAV, when there had been a split decision on whether a patient should be discharged, the practice was that there should be a unanimous decision from all three panel members. If there was a split decision, a new panel would review the case. • However, it had come to light that case law stated that if the decision was not unanimous, the patient was not discharged, and there should not be another hearing unless new information was presented. • Discussion ensued around whether patients should be informed of a split decision. The group felt that not telling the patient would not be transparent about their detention. Mental Health Legislation and Governance Group (MHLGG) – 16.01.2025 The ICDPPT took the minutes as read and highlighted the following: • There was discussion about 135 warrants and the procedure for obtaining them. • There had been an increased number of patients being placed out of area due to service pressures, which put additional demand on local authority AMHPs who had to conduct MHA assessments in provider units outside of their area. • Colleagues from the Children & Women Clinical Board services raised procedural issues regarding younger people detained under the Act. • The focus of the meeting was around the reform of the MHA which was currently tabled in Parliament. **The Committee Resolved that:** a) The Sub-Committee Meeting Minutes were noted.	
	Items for Approval / Ratification	
MHLMCA 29/10/013	**Policies** - Cardiff & Vale UHB Mental Capacity Act (MCA) Policy The MCA-CL provided a summary of the Policy for the Committees information. **The Committee Resolved that:** a) The Cardiff & Vale UHB Mental Capacity Act (MCA) Policy was approved.	
MHLMCA 29/10/014	**Any Other Business** Section 117 Verbal Update The DO-MH provided an update to the Committee: • There was further challenge from a service user under Section 117 who was now in another area. Legal support was being provided, and issues had been raised nationally. Health Boards were sharing legal advice to ensure consistency in discussions. • The JCC advised that the Mental Health Bill aimed to reduce some impacts, though this had not been shared.	

	• There was currently one area in dispute, with the Integrated Care Board accepting responsibility but debating who should cover the costs from an NHS England ICB Mental Health Clinical Board perspective. • Will provide an update once they receive more information. Funding for Increased Resource for DoLS The MCA-CL and END highlighted the following: • The report outlined how the DoLS process worked within the organisation. • Funding for the service was split based on population, with the Health Board paying 45%, Cardiff LA 41%, and VoG 14%. • Since the significant Cheshire West case in 2014, the demand for DoLS assessments had increased and led to a shortfall in completed assessments. • The organisation had used surplus WG funding for the MCA and LPS to increase assessment capacity, but concerns remained about future funding and the need for additional best interest assessors and admin support. • The DoLS ensured compliance with the patient's Article 5 rights, and any breaches could result in liability for the UHB. The issue had been registered on the safeguarding risk register. The END noted that the UHB faced considerable risk post-March 31st 2025 due to the challenging financial landscape. A paper had been submitted to the Investment Group for consideration for next year's funding allocation. Additionally, the END would update the Chief Executive Officer to address the potential impact if the necessary funding for these posts was not secured. The CVC asked what the legal risks and consequences of non-compliance were. The MCA-CL responded that since her appointment in 2021, there had not been any known cases of damages, but there had been threats. Courts may take a firmer approach due to increased funding and the risk of harm to individuals who were unable to appeal their detention. The MCA-CL noted that due to the uncertainty of additional funding, the organisation currently paid £560 per assessment via liquid. If the assessments were undertaken by salaried BIAs, the cost would be halved. Securing the full amount of funding would allow them to keep up with urgent assessments and double the assessment capacity. The Committee noted their support for the request of the financial uplift which had gone to the Investment Group. DOLS and MHA Preference The DO-MH highlighted the following: • An issue had been raised regarding the use of DoLS and the preference of the MHA through their liaison psychiatry older people team on medical wards. • This may be subsequent to case law. There was concern around proportionality, as it could lead to costs through increasing the Section 117 eligibility requirements. • A paper would be brought to the following Committee to better understand the risks to the organisation.	
MHLMCA 29/10/015	**To note the date, time and venue of the next meeting:** 29th April 2025 via MS Teams	