

**CONFIRMED MINUTES OF THE
MENTAL HEALTH AND CAPACITY LEGISLATION COMMITTEE
(MHCLC)
HELD AT 10.00AM ON TUESDAY 23 OCTOBER 2018
CORPORATE MEETING ROOM, HEADQUARTERS, UHW**

Present:

Charles Janczewski
Eileen Brandreth
Sara Moseley

MHCLC Chair and Vice Chair of Cardiff and Vale UHB
Independent Member and MHCLC Vice Chair
Independent Member

In attendance:

Steve Curry
Nicola Foreman
Ian Wile
Sunni Webb

Chief Operating Officer (Lead Executive for Mental Health)
Director of Corporate Governance
Director of Operations, Mental Health
Mental Health Act Manager

Julia Barrell
Dr. Graham Shortland
Jeff Champney Smith
Dr. Jane Hancock
Dr. Robert Kidd
Amanda Morgan
Dr. Jenny Hunt

Mental Capacity Act Manager
Medical Director (Lead Executive for Mental Capacity)
Chair, Hospital Managers Power of Discharge Sub-Committee
Service User Representative
Consultant Clinical & Forensic Psychologist
Service User Representative
Clinical Psychologist

Apologies:

Kay Jeynes
Lucy Phelps

Director of Nursing, PCIC
Service User Rep

Secretariat:

Helen Bricknell

MHCLC 18/18 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

MHCLC 18/19 APOLOGIES FOR ABSENCE

Apologies for absence were noted.

MHCLC 18/20 DECLARATIONS OF INTEREST

The Chair invited Members to declare any interests in the proceedings on the Agenda.

- It was noted that the Chair attends WHSSC Quality and Safety Group meetings.
- It was noted that Dr. Robert Kidd is a member of the All Wales AC Approval group.
- It was noted that the Independent Member SM had a relative on Ward East 12
- It was noted that Independent Member SM has an interest in Mind Cymru.

**MHCLC 18/21 MINUTES OF THE PREVIOUS MEETING OF THE
MENTAL HEALTH AND CAPACITY LEGISLATION
COMMITTEE HELD ON 26TH JUNE 2018**

The minutes were **RECEIVED** and **CONFIRMED** as a true and accurate record for 26th June 2018.

The Chair opened up for any matters arising from the minutes:
No Matters Arising to record.

MHCLC 18/22 ACTION LOG REVIEW

It was noted that the actions assigned to the Medical Director are all complete.

MHCLC 18/07: DoLS Safeguard Monitoring Report. This item is complete.

MHCLC 18/08: MCA Monitoring Report. This item is complete.

MHCLC 18/08: MCA Monitoring Report. This item is complete.

**MHCLC 18/23 ANY OTHER URGENT BUSINESS AGREED WITH THE
CHAIR.**

There was no other urgent business.

**MHCLC 18/24 DEPRIVATION OF LIBERTY SAFEGUARDS
MONITORING REPORT**

The Medical Director delivered a brief outline of the report, including the limited assurance given by the recent Internal Audit on DoLS Applications for DoLS authorizations seem to have largely stabilized in the April to September

period. There will be a further audit in the final quarter of this year's audit cycle, which will be based on the HIW/CIW All-Wales DoLS Report.

The Medical Director noted that the All-Wales DoLS Report showed marked differences in the application of DoLS by the UHBs. It may be that the UHB was implementing DoLS too enthusiastically, compared to other UHBs. However, where deprivations of liberty are occurring without either a DoLS authorization or a court order, this is unlawful and could lead to the UHB being sued.

The DoLS Tripartite Partnership Board has requested a review of the processes and functions being undertaken by the DoLS team to consider efficiency savings and/or where support or resource is required.

There remains an on-going risk of DoLS authorizations not being processed in a timely manner and hence leading to unauthorized deprivations of liberty, but this is a greater risk for local authority partners as the authorisations for urgent requests – mainly from the UHB - are given priority.

The Medical Director asked for DoLS to remain on the Risk Register because of the possibility of unauthorized DoLS applications and because of the financial risks for the UHB regarding the funding arrangements with the two partner local authorities.

It was mentioned that the Mental Capacity Amendment Bill has been introduced to Parliament and it is going through the House of Lords. If passed, this Act will amend the Mental Capacity Act 2005 by replacing DoLS with a new framework, known as the Liberty Protection Safeguards (LPS).

- The Committee **RECEIVED** and **NOTED** the report.
- The Committee **AGREED** actions to be taken in light of the Internal Audit Limited Assurance
- The Committee **APPROVED** the continuing arrangements for provision of DoLS assessments.

MHCLC 18/25 MENTAL CAPACITY ACT MONITORING REPORT

The Mental Capacity Act Manager gave a brief overview of the submitted report which outlined raising awareness of the Mental Capacity Act. There is poor engagement by some Medical and Dental staff with Mental Capacity Act training. A comparison of the previous quarter's training figures with the most recent quarter revealed that MCA training uptake had generally improved. However, this was not the case for Medical staff.

The following points were discussed:

- How the MCA training compliance figures have been compiled – they are produced by LED and are an aggregation of the numbers of staff

undertaking the ESR MCA e-learning and those receiving face-to-face training from the MCA Manager

- Providing run charts to show the position regarding clinician's compliance with MCA training for the next Committee meeting
- The MCA Manager explained that she had raised the issue of an All-Wales MCA training data set with Welsh Government's Mental Health Legislation Manager – she will update the Committee on progress with this. Such a data set would allow the UHB to benchmark its position against the other UHBs.
- The MCA Manager drew the Committee's attention to the public interest report from the Ombudsman, regarding a service failure by Newport Council, due to poor implementation of MCA. She explained that awareness of MCA seemed to be increasing amongst regulatory and other statutory bodies.
- A query was raised about who receives the Health Inspectorate Wales (HIW) reports. These are sent to the Clinical Boards' Governance leads initially. Clinical Boards will discuss them at an appropriate meeting such as Quality and Safety and will develop an action plan where necessary. Scrutiny of this process is undertaken by the Nursing Director and the Assistant Director of Patient Safety and Quality.
- Medical Staff have their appraisals through the All-Wales MARS system which is different to the UHB's appraisal process - PADR. The MARS system whilst including checks on professional behaviour and performance, educational and safeguarding checks, does not include mandatory training checks.
- Senior medical staff complete their Mental Capacity Act training in their induction programme. The MCA Manager has enquired about MCA training for junior doctors (F1/F2s) and is awaiting a response.

The Committee **NOTED** the report and in particular the action that the Medical Director and the Mental Capacity Act Manager are taking to improve clinical staff – especially doctors' - compliance with MCA training.

MHCLC 18/26 MENTAL HEALTH ACT EXCEPTION REPORT

The Mental Health Act Manager, Ms. Sunni Webb gave a brief overview of the report and indicated there were no exceptional issues to report. A discussion was held about the different interpretation of the rules around the location and length of time police were required to remain with the detained person following a 136. This is subject to ongoing discussions between the health boards and the police. Further legal advice on Section 136 of the Mental Health Act will be incorporated in Richard Jones' Manual due out shortly.

- Sara Moseley declared an Interest of the Crisis Care Assurance group

The Committee opened up for discussion raising the following points;

- It would be very helpful to clarify the position taken by C&V UHB on the interpretation of 136 compared to other parts of Wales, as the South Wales police report that it is an isolated position. This matter will be discussed at the next concordat assurance group on the 13th November.
- The Chair of the Committee was pleased there were no breaches in the last quarter.

The Committee **AGREED** the report

The Committee **NOTED** the report and the **ASSURANCE** provided by the Mental Health Clinical Board Director.

MHCLC 18/27 MENTAL HEALTH MEASURE MONITORING REPORT

The Director of Operations, Mr. Ian Wile presented the report and updated the Committee that there is compliance with Parts 1, 3 & 4 of the Mental Health Measure. With Part 2 of the Measure, which requires Health Boards to ensure all relevant patients in secondary mental health settings have a care and treatment plan there is an ongoing small breach of circa 5% against the 90% target. The issues are complex in relation to this which have received greater attention following a recent DU audit into compliance and quality of CTPs. Critical to this are discussions with medical staff currently having high case-loads with patients in a secondary care settings of patients who may not reach 'relevant' status, about which there are ongoing discussions. Ian Wile then presented the Deep Dive into Part 2 as a fuller response to provide assurance to the committee.

PART 2 MENTAL HEALTH MEASURE – CARE AND TREATMENT PLANS (CTPS) – DEEP DIVE REPORT

Points presented and discussed as part of assurance report presented to the Committee.

- IW is to sponsor and chair the working group in MH to oversee this long term cultural change plan. There were a number of principles and challenges identified in the report:
- It was discussed that it may be beneficial to try a different approach to completing the Care and Treatment Plans to lift the compliance levels, but the quality and application of those plans were generally poor. Also completed poorly were the building blocks of good care and treatment planning such as the completion of risk management plans and use of

the CTPs as a therapeutic tool to support the measurement of outcomes that are identified as important to our service users.

- The recording of assessments and CTPs should reflect service user engagement or co-production, and to evidence this.
- The Health Board and partner agencies should ensure that the formulation of risk and the management of an individual's safety is clearly evidenced, including detailed and wherever possible, personalised crisis planning.
- The Health Board and partner agencies should ensure that formal reviews of CTPs are undertaken in a timely manner that does not exceed the statutory duty for review.
- The Health Board and partner agencies should ensure that there is an integrated and joined up approach between mental health and drug and alcohol services for people who experience co-occurring issues.
- Care Coordinators should ensure the inclusion of third sector agencies that are providing regular and ongoing support to an individual within the assessment, planning and review processes
- The difference between Adult services and Older People with Learning Disability and CAMHS along with the commissioning of Care and Treatment Plans.
- Graphical information showed a drop in performance between March and April because the caseloads were cleansed of any duplicated records or records not shut down which resulted in medical caseload numbers dropping.
- To reference to PIP had an impact also with service users.
- The pilot started between three Mental Health teams in Cardiff and the Vale which are co-located in Barry hospital. The clinical pathway has been redesigned. The referral pathway was frontloaded with more senior staff including psychologist from the third sector to ensure that decisions are made at that junction of the treatment plan and ensure people are correctly processed into the CMHT, also ensure that any further pathways are signposted. The first 6 months of the pilot has been safely transferring people into the unit and the following 6 months will be around the development of the pathways.
- Housing and third sector employment agencies have been offered space within the same premises.

The Committee is asked to:

- **AGREE** the approach taken by the Mental Health Clinical Board

REFERRAL TO TREATMENT – 26 WEEKS BRIEFING

The Director of Operations, Mr. Ian Wile gave a brief overview of this new and developmental target, but will reform the paper. A new non Tier 1 RTT which applies to Mental Health of 26 weeks of Referral to Treatment for a Psychological Therapy. The first set of objectives is in line with Welsh Government and Clinical Boards were to ensure the existence of a reporting mechanism and then a reporting methodology. C&V were a little ahead due to the existence of an electronic patient record. Now the MHCB is to align the reporting arrangements with Psychological Therapies Management Committee. The next phase is the performance management to a target of 80% compliance, with C&V currently at between 70 and 80% Comparing all Wales performance there is a stark difference at any one time with 3000 people waiting for psychological intervention in C&V and numbers in double figures elsewhere. Thus indicates the WG have some refining of its understanding of the application of this target to operational services. It is the case that C&V's extremely busy within this area and can be outlined in the new submitted paper.

The Director of Operations, Mr. Ian Wile and Dr. Robert Kidd have mentioned that:

- Psychological Management Therapies Committee is open for other staff to attend the meeting and ask questions along with how we link into other venues and Boards.
- Internal waiting lists in most departments
- CAMHS – 238 cases with waiting time 14 weeks
- Child Psychology services have adopted the 26 RTT.

The Committee will **SUPPORT** the approach taken by the Mental Health Clinical Board.

MENTAL HEALTH LEGISLATION OPERATIONAL GROUP

Dr. Robert Kidd presented the report and mentioned that the attendance to the last meeting was very fruitful. The following was mentioned:

- The Health Board is pursuing an issue on Section 135 where the state can effectively enter someone's home and previously being reliant on the Approved Mental Health Professional going to approach the JP or Magistrate to obtain such warrant. Currently it does not have to be an Approved Mental Health Professional so how can this be pursued to get effective response during the day time service.
- The place of safety that an individual attends and when does the clock start ticking at the Accident and Emergency Unit. The different views after 36 hours the police can leave and what is the legal basis for

someone to still be there, the issue being whether they are still receiving medical treatment or not. This is addressed before the Mental Health Act assessment starts

- Safety issues surrounding the Approved Mental Health Professionals in the entrance to Hafan Y Coed.

Discussion from the Mental Health Act Hospital Managers and the quality of Care and Treatment Plans in addition to the Delivery Unit, the Hospital Managers' are picking up on issues not relating to medication factors. Cross Agencies have participated within this group and it performs extremely well. The Committee was opened up for discussion:

- It was asked about the starting time of the Section 136 from Welsh Government, we are still waiting on clarification
- Currently the AMHP are taking the clients into Accident and Emergency in their own vehicles. Transportation wait can take up to six hours. Mental Health specialist ambulance service is not currently being used for Mental Health Act assessments.
- The Police do use their own vehicles as an option for acute symptoms and transportation of section 136 to place of safety.
- Query relating to the qualities act – whether mental health takes priority from physical health issues and the balance of resources available.

The Committee **NOTED** the report.

MHCLC 18/30 COMMITTEE WORKPLAN

The patient story will be presented at the next Committee meeting in February.

The Committee's annual report will feed onto the work plan for the Board meeting at the end of the reporting year. The Committee reports to the Board every year on the effectiveness and will be providing an update.

The Chair introduced the revised Work-plan and offered for any feedback.

The Committee **AGREED** the Work-plan

MHCLC 18/31 HOSPITAL MANAGERS POWER OF DISCHARGE SUB COMMITTEE MINUTES

The Chair of the Power of Discharge presented the report stating there was no further information to update. The mismatch of recording on the Care and Treatment plans and the delays are making it central to the timely process for the patients.

It was mentioned that information is poorly documented or poor care that is being provided or not being recorded effectively. Good therapeutic interaction with staff and patients and it is being recorded in full.

The Care and Treatment plan is a legally binding document but individuals do not necessarily receive what has been outlined on the Care and Treatment plans and feel that the system has failed them.

Section seven of the report whereby the patient feels they have been physically neglected the Mental Health Act Hospital Managers oversee the information but there is a correct reporting procedure whereby the necessary assessments have been undertaken and correct procedures and feedback is reported on throughout the Clinical Boards.

Mental Health Act Hospital Manager's pick up on responses that are completed in reports by the ward/clinical managers. Upon review it should be been dealt with and brought to review timeframe.

No systemic ongoing issue.

Nurse practitioners will complete this work also.

The Committee **NOTED** the report

MHCLC 18/32 HOSPITAL MANAGERS POWER OF DISCHARGE ANNUAL REPORT/ POD RECOMMENDATIONS

There was no further update to the submitted report.

The Committee **SUPPORTED** the **RECOMMENDATIONS** of the Chair of the Power of Discharge Group.

MHCLC 18/33 REVIEW OF THE MEETING

The Chair asked for any opinions or views from the committee, it was mentioned that the slight changes of the agenda worked well.

MHCLC 18/34 DETAILS OF NEXT MEETING

The next meeting will be held on Tuesday 12th February 2019 at 10am, Boardroom, Headquarters, University Hospital of Wales.