

**Minutes of the Mental Health Legislation and Mental Capacity Act Committee
Held on 1 August 2023
Via MS Teams**

Chair:		
Ceri Phillips	CP	Committee Chair / University Health Board Vice Chair
Present:		
Sara Moseley	SM	Committee Vice Chair / Independent Member – Third Sector
Rhian Thomas	RT	Independent Member – Capital & Estates
In Attendance:		
Rebecca Aylward	RA	Deputy Executive Director of Nursing
Daniel Crossland	DC	Director of Operations - Mental Health
Becci Ingram	BI	General Manager Children, Young People & Family Health Services (CYPFS)
Robert Kidd	RK	Interim Clinical Director Psychology & Psychological Therapies
James Quance	JQ	Interim Director of Corporate Governance
David Seward	DS	Mental Health Act Manager
Elizabeth Singer	ES	Deputy Chair of the Powers of Discharge sub-Committee
Observers:		
Urvisha Perez	UP	Audit Wales
Secretariat:		
Nathan Saunders	NS	Senior Corporate Governance Officer
Apologies:		
Paul Bostock	PB	Chief Operating Officer
Jeff Champney-Smith	JCS	Chair, Powers of Discharge sub-Committee
Susan Elsmore	SE	Independent Member - Council
Neil Jones	NJ	Clinical Board Director – Mental Health
Jason Roberts	JR	Executive Nurse Director

Item No	Agenda Item	Action
MHLMCA 23/08/001	Welcome & Introductions The Committee Chair (CC) welcome everybody to the meeting in English and in Welsh.	
MHLMCA 23/08/002	Apologies for Absence Apologies for Absence were noted	
MHLMCA 23/08/003	Declarations of Interest No Declarations of Interest were noted.	
MHLMCA 23/08/004	Minutes of the Meeting held on 2 May 2023 The Minutes of the Meeting held on 2 May 2023 were received. The Committee Resolved that: a) The minutes of the meeting held on 2 May 2023 were agreed as a true and accurate record.	
MHLMCA 23/08/005	Action Log from the meeting held on 2 May 2023 The Action Log was received and discussed. The Committee Resolved that:	

	a) The Action Log was noted.	
MHLMCA 23/08/006	<p>Chair's Action taken since last meeting</p> <p>The Committee Resolved that:</p> <p>a) No Chair's Actions were taken since the last meeting.</p>	
MHLMCA 23/08/007	<p>Any Other Urgent Business Agreed with the Chair</p> <p>The Committee Resolved that:</p> <p>a) No other urgent business was agreed with the Chair.</p>	
MHLMCA 23/08/008	<p>Mental Capacity Act Monitoring Report and DoLS monitoring including: Workforce Requirements</p> <p>The Mental Capacity Act Monitoring Report and Deprivation of Liberty Safeguards (DoLS) monitoring including Workforce Requirements was received.</p> <p>The Deputy Executive Director of Nursing (DEND) advised the Committee that she would take the paper as read and that the report provided a general overview of the Mental Capacity Act and DoLS compliance as well as the workforce requirements to progress Deprivation of Liberty, which had been supported by Welsh Government (WG) funding until March 2024.</p> <p>Key points from the report were raised which included:</p> <ul style="list-style-type: none"> • Independent Mental Capacity Advocate (IMCA) Referrals which were noted to have decreased however, there had been some data reporting issues with the software used and the end-user leaving the Mental Health team. • Mental Capacity Training where good progress had been made, although low attendance rates on the day were observed, which was likely due to ongoing clinical pressures and staffing issues. • Additional training provision - Mental capacity and best interests training (Edge Training), which continued to be well received by staff, had been extended until September 2023. • Additional training provision - DoLS in Practice Training (Edge Training), which had been commissioned to help raise awareness around what amounted to a deprivation of liberty, in order to ensure that the Health Board was effectively safeguarding vulnerable patients and that staff were completing DoLS referrals where appropriate. • Deprivation of Liberty referrals where it was noted that there was a stable but increased number of applications. • The current workforce requirements to progress Deprivation of Liberty, which had been supported by WG funding until March 2024, with indications that this funding would continue into 2025 would cost a total of £266,000. • Consent to Examination and Treatment, where it was noted that the appointed part-time Consent Lead had recently taken up post and would begin to work with colleagues across the Health Board to raise awareness of the Consent to Examination and Treatment E-learning package and to encourage staff to utilise it as much as possible. <p>The CC asked if there had been a momentum shift between planning for Liberty Protection Safeguards (LPS) and the continuation of DoLS. The DEND responded that there had not been a shift in momentum because the energy and momentum had shifted to the DoLS element and noted that it was reassuring to hear that WG would match fund to progress with DoLS until 2025.</p>	

	<p>The Independent Member – Third Sector (IMTS) asked if there was a condensed version the DoLS training that Committee members could view to help understand it. The DEND responded that there was and noted that it would be very helpful for the Committee to be sighted on the training, whilst noting that the whole training package, which lasted a full day, would be useful for Committee members to attend.</p> <p>The Independent Member – Capital & Estates (IMCE) noted that the MSc module of the Assessing decision making capacity training had been popular with staff and asked if the impact that the learning programme had could be contextualised. The DEND responded that it was a really valuable module because it took individuals into the complex decision making required around mental capacity and noted that once the module was completed it meant that that person was an expert in that area, which was really valuable to the individual and the Health Board.</p> <p>She added that the funding was being supported by the money from WG and so the Health Board would not be able to sustain people going on that module but noted that the team were trying to get as many people through as possible.</p> <p>The Committee resolved that:</p> <p>a) The contents of the report and the current compliance and actions with Mental Capacity Act and Deprivation of Liberty indicators were noted.</p>	
<p>MHLMCA 23/08/009</p>	<p>Hospital Managers Power of Discharge Sub Committee Annual Report</p> <p>The Hospital Managers Power of Discharge Sub Committee Annual Report was received.</p> <p>The Deputy Chair of the Powers of Discharge sub-Committee advised the Committee that she would take the report as read and noted that it gave the Power of Discharge Sub Committee an opportunity to bring to the attention of clinical staff issues that are highlighted during the hearing. The Annual Report provides a review of these issues. She added that the number of queries the Power of Discharge Sub Committee have around legislation and compliance was very low which would indicate a much better handle on the issues.</p> <p>The Committee resolved that:</p> <p>a) The Hospital Managers Power of Discharge Sub Committee Annual Report was noted.</p>	
<p>MHLMCA 23/08/010</p>	<p>Mental Health Act Monitoring Exception Report</p> <p>The Mental Health Act Monitoring Exception Report was received.</p> <p>The Mental Health Act Manager (MHAM) advised the Committee of the data for a number of areas within the Mental Health Act which included:</p> <ul style="list-style-type: none"> Fundamentally defective applications where it was noted that during the quarter there was one fundamentally defective application and details were provided. Section 136 Accident & Emergency, where it was noted that there may be instances when treatment under a 136 was related to the mental disorder, but the patient was not fit for a mental health act assessment within the 24/36-hour period causing the 136 to lapse; for example, a patient could take an overdose which required admittance to A&E and so the “clock” would start at A&E. <p>The MHAM added that in all instances where the 136 had lapsed due to the patient not being fit for a mental health act assessment, a DATIX would be completed.</p> <ul style="list-style-type: none"> Overall section 136 where it was noted that 80.4% of individuals assessed had not been admitted into hospital, 59.2% had been discharged to community services and 21.2% were discharged with no follow up appointment. 	

The MHAM added that the number of those under 18 assessed under section 136 had increased from 2 in the previous quarter to 12 in the current quarter, which had pushed up the overall 136 sections above the team's upper control limit.

The IMTS noted that it was concerning to see the increase in 136 sections and noted that the Committee held the risk, while in terms of compliance there was something about how the Police needed to somehow share the risk with the Health Board.

The Interim Clinical Director Psychology & Psychological Therapies (ICDPPT) advised the Committee that although the number of 136 sections had increased, the Health Board had not, importantly, breached its legal function under the Act.

The Director of Operations - Mental Health (DOMH) added that there had been some issues around the Police triage and noted that the team had met with the Deputy Chief Constable to discuss issues and to provide information for links into the right care with the right person.

He added that the Health Board had met with the other Health Boards in South Wales, South Wales Police and the Crisis Care Concordant and concluded that the Health Board had good communication between each team on the issues raised.

- Mental Health Review Tribunal for Wales (MHRT) where it was noted that the MHRT had recently been in touch with the Health Board regarding the parking issues they had experienced when coming to Hafan Y Coed for face to face hearings and a response had been provided to the MHRT.
- Development Sessions where it was noted that The Mental Health Act (MHA) office continued to run awareness sessions including a monthly MHA training day which was available to all staff within the Health Board, a monthly consent to treatment workshop and a quarterly rights and forensic workshop.

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
23/08/011**

HIW MHA Inspection Reports

The Health Inspectorate Wales (HIW) MHA Inspection Reports were received.

The DOMH advised the Committee that since the previous report, 4 reports had been published for East12 ward and East16 ward at the University Hospital Llandough (UHL) and Ash Ward and Pine Ward at Hafan Y Coed.

He added that the reports could be accessed online which outlined issues raised and actions to be taken as well as the positive feedback received around team working.

The IMCE noted that it stated within the report that half of the staff members who completed the HIW online questionnaire disagreed that patient experience feedback was collected and that the organisation acted on concerns raised by patients.

She asked how the leads were bringing the staff, as well as patients along with them to provide the improvements outlined within the report.

The DOMH responded that a large amount of work had been undertaken subsequent to the report as well as leading up to it which included:

	<ul style="list-style-type: none"> • QR codes had been added to all ward so that staff and patients could access questionnaires and be able to upload images if required. • Investment in broad support of teams and the implementation of 2 Schwartz rounds facilitators and a Schwartz rounds coordinator who would report into Health Board Committees. • Use of third sector partners to work alongside patients on the ward to undertake surveys. <p>The CC asked the DOMH to convey the thanks of the Committee to all of the various teams within Mental Health.</p> <p>The Committee Resolved that:</p> <p>a) The HIW MHA Inspection Reports were noted.</p>	
<p>MHLMCA 23/08/012</p>	<p>Public Service Ombudsman Wales Reports</p> <p>The Public Service Ombudsman Wales Reports were received.</p> <p>The CC advised the Committee the covering report outlined the detail well.</p> <p>He added that out of the 20 cases detailed, 5 required attention which was indicative of the high performance of the various teams.</p> <p>The IMTS noted that 3 of the 4 themes identified were around access to various services and treatments and asked if there was any learning from that, as well as what communication was being provided to patients.</p> <p>The ICDPPT responded that he would look at the psychology directorate Quality & Safety meetings to look at the issues identified around access and would work with the DOMH and the Executive Nurse Director (END) to address that.</p> <p>The Committee Resolved that:</p> <p>a) The contents of the PSOW-Public Service Ombudsman for Wales Mental Health Clinical Board report were noted.</p>	
<p>MHLMCA 23/08/013</p>	<p>Mental Health Measure Monitoring Reporting including Care and Treatment Plans Update Report.</p> <p>The Mental Health Measure Monitoring Reporting including Care and Treatment Plans Update Report was received.</p> <p>The DDOMH advised the Committee that the report was separated into 4 parts and he would take the report as read.</p> <p>Part 1A – target: 28-day referral to assessment compliance target of 80% (Adult):</p> <p>It was noted that Q1 in 2023-24 showed a dip in activity which was one of the first periods of decline since the Covid-19 pandemic, which was largely due to highest number of referrals received in March 2023.</p> <p>The DOMH noted that the Clinical Board had anticipated a return to 100% compliance in July 2023 but it had been met June 2023.</p> <p>Part 1A – target: 28-day referral to assessment compliance target of 80% (Children & Young People)</p>	

The General Manager Children, Young People & Family Health Services (GMCYPFHS) advised the Committee that the same had been observed for Children & Young people with the highest number of referrals received in March 2023, but noted that levels had returned to normal with a compliance rate of above 80%

Part 1B – 28-day assessment to intervention compliance target of 80% (Adult); remained 100% compliant.

Part 1B – 28-day assessment to intervention compliance target of 80% (Children & Young People)

The GMCYPFHS advised the Committee that there were ongoing issues with the achievement of the Part 1B target, largely as a result of the volume of assessments which had been undertaken through the previous waiting list initiative where the focus had been on the external waiting list.

She added that there had also been an additional impact as a result of the significant increase in referrals for assessment in March 2023, with increased numbers requiring follow on intervention.

It was noted that a number of actions were being undertaken to improve the compliance rate which included but were not limited to:

- Working with PARIS and the clinical team to address data capture, recording and reporting quality
- Active sickness monitoring and wellbeing support to the team
- Ongoing capacity and demand monitoring
- Recruitment to vacant posts
- Active work on clinical pathways to ensure a clear model that allowed for clear capacity and demand planning
- Active monitoring of caseloads and support of the process of letting go through peer group
- Launch of an anxiety group in May 2023 which had provided an alternative intervention offer for a number of children and young people

Part 2 – Care and Treatment Planning (CTP) - Over 18.

The DOMH advised the Committee that compliance had proved challenging and that engagement with the Delivery Unit (DU) was ongoing.

Part 2 – Care and Treatment Planning (Children & Young People)

The GMCYPFHS noted that the same challenges had been observed in Children & Young People services in terms of engagement from patients within the process which was currently at 89%.

She added that actions to improve compliance against the target included:

- Staff training
- Development of improved data capture and reporting mechanisms through PARIS
- Engagement with Youth Board re: ensuring a child and young person friendly approach to the Care and Treatment Planning process.

Part 3 - Right to request an assessment by self –referral.

The DOMH advised the Committee that compliance had improved in May 2023 and allocation rates had increased.

Part 4 – Advocacy – standard to have access to an IMHA within 5 working days; remained 100% compliant.

	<p>The CC noted that the overall context was one of extreme pressure and noted the comparison with Aneurin Bevan University Health Board.</p> <p>The Committee Resolved that:</p> <p>a) The contents of the report were noted.</p>	
MHLMCA 23/08/014	<p>Corporate Risk Register</p> <p>The Corporate Risk Register (CRR) was received.</p> <p>The DCG advised the Committee that the report was for noting and that there was one extreme risk still being reported on the corporate risk register, which fell within the remit of the Committee with regards to discharge of patients from Mental Health services.</p> <p>The ICDPPT noted that there were operational pressures across South Wales with regard to appropriate beds for Young People and asked where the risk was located within the Health Board.</p> <p>The DOMH responded that Children in Adult placements was represented in the Mental Health Clinical Board Corporate Risk Register and noted the level of mitigation to put in place was one of the biggest issues in relation to risk.</p> <p>The Committee Resolved that:</p> <p>a) The Corporate Risk Register update was noted.</p>	
MHLMCA 23/08/015	<p>Sub-Committee Meeting Minutes:</p> <p>The Committee received copies of the Sub-Committees' meeting minutes:</p> <ul style="list-style-type: none"> • Mental Health Act Hospital Managers Power of Discharge Sub Committee – 11th July 2023. • Mental Health Legislation and Governance Group (MHLGG) – 13th July 2023. <p>The Committee Resolved that:</p> <p>a) The Sub-Committee Meeting Minutes were noted.</p>	
MHLMCA 23/08/016	<p>Any Other Business</p> <p>No further business was raised.</p>	
	<p>To note the date, time and venue of the next meeting: 31st October 2023 Via MS Teams</p>	