

**Unconfirmed**  
**MINUTES OF THE**  
**MENTAL HEALTH LEGISLATION COMMITTEE**  
**HELD ON 25<sup>TH</sup> NOVEMBER 2019 AT 2.00PM**  
**MILLENNIUM ROOM, SBU HEADQUARTERS**

**Present**

Martyn Waygood	Interim Vice Chair (in the chair)
Jackie Davies	Independent Member
Maggie Berry	Independent Member
Chris White	Chief Operating Officer and Director of Therapies and Health Science
Gareth Howells	Director of Nursing and Patient Experience
Dai Roberts	Service Director, Mental Health and Learning Disabilities
Pamela Wenger	Director of Corporate Governance

**In Attendance**

Rhonwen Parry	Head of Psychology
Lynda Rogan	Mental Health Act Manager
Claire Mulcahy	Corporate Governance Officer
Tanya Spriggs	Interim Unit Nurse Director ( Minute 54/19)
Fran Goodman	Best Interest Assessor (Minute 54/19)
Julian Hardwick	Best Interest Assessor (Minute 54/19)
Jodie Denniss	Safeguarding (Minute 60/19)

MINUTE		ACTION
48/19	<b>WELCOME AND INTRODUCTIONS</b>	
	Martyn Waygood welcomed all to the meeting.	
49/19	<b>APOLOGIES FOR ABSENCE</b>	
	Apologies for absence were received from Jacqui Maunder, Interim Head of Compliance; Hazel Powell, Unit Nurse Director.	
50/19	<b>DECLARATIONS OF INTEREST</b>	
	There were none.	
51/19	<b>MINUTES OF THE PREVIOUS MEETING</b>	
	The minutes of the meeting held on the 8 <sup>th</sup> August 2019 were <b>received</b> and <b>approved</b> as a true and accurate record.	
52/19	<b>MATTERS ARISING</b>	
	There were none.	
53/19	<b>ACTION LOG</b>	
	The action log was <b>received</b> and <b>noted</b> with the following updates: <u>Action Point 4</u> Dai Roberts advised he would need to clarify this action outside of the meeting and circulate an update to members separately.	

MINUTE		ACTION
	<p><u>Action Point 7</u></p> <p>Jackie Davies advised that the minute referred to the arrangement for hospital managers to have electronic devices. Work was now underway to progress this within the unit, IT and corporate governance. She advised that hospital managers had recently attended an Information governance training session in preparation for this.</p>	
54/19	<p><b>DEPRIVATION OF LIBERTY SAFEGUARDS TEAM PRESENTATION</b></p>	
	<p>Tanya Spriggs, Fran Goodman and Julian Hardwick were welcomed to the meeting.</p> <p>A presentation providing an overview of the Deprivation of Liberty Safeguards Team (DoLS) was <b>received</b>.</p> <p>In discussing the presentation, the following points were made;</p> <p>Chris White thanked the team for the work undertaken to move the DoLS from limited assurance on the internal audit. He queried, in terms of resources, if there was clarity on what was required. Tanya Spriggs stated they were clear in terms of the requirement for a Mental Capacity Act dedicated lead as the work was currently being picked up by the Best Interest Assessors (BIA) and also there was need for a co-ordinator. In terms of BIA additional roles, this would need to wait until the new legislation comes through. Chris White offered his assistance in pushing this forward and stated there needed to be a plan in place within the next 2-3 months in readiness for the new legislation.</p> <p>Martyn Waygood commented that there are internal BIA's who had been trained but were not given the time to carry out the assessments, the health board were then paying for external BIAs to carry out the work. David Roberts stated there was a cohort within mental health but when new legislation comes in, this will be extended to care homes, learning disabilities, children and older adults and this will need to be factored into the resource. Tanya Spriggs commented that local authority colleagues would need to gauge numbers on this and this was a big piece of work and will include CHC patients with complex needs. Rhonwen Parry added that there was a national piece of work underway in this area.</p> <p>Pamela Wenger queried whether the risks posed by the new legislation should be highlighted through Senior Leadership Team Meeting and then through to Board to understand the risks involved. She undertook to work with Gareth Howells on this.</p> <p>Gareth Howells thanked the team for their presentation, it provided a view for the committee of the journey from where DoLS had come from, in terms of the three limited assurance reports. The progression from there has been commendable and he would like to thank the team in pushing this forward. He added that in order to future proof this, there needed to be accountability and focus.</p> <p>Maggie Berry queried whether there was communication between</p>	

MINUTE		ACTION
	<p>the DOLs and the MHA team and stated it would be important to link the two in light of the new legislation.</p> <p>Martyn Waygood thanked the team for the presentation and acknowledged the great deal of work that was underway. It was also acknowledged that there is currently no MCA lead, which needs to be resolved. He requested a further update in the May Committee.</p>	
	<ul style="list-style-type: none"> <li>- Update on position to be provided at the May Committee</li> <li>- The report be <b>noted</b>.</li> </ul>	<b>GH/TS</b>
<b>55/19</b>	<b>DEPRIVATION OF LIBERTY SAFEGUARDS UPDATE REPORT</b>	
	<p>A report providing an update on the Deprivation of Liberty Safeguards was <b>received</b>.</p> <p>Tanya Spriggs highlighted the following points;</p> <ul style="list-style-type: none"> <li>- The supervisory body would be required to exceed its financial allocation in order to discharge its obligations. This was a result of the requirement of the use of external BIA's;</li> <li>- They were currently between models due to the new legislation, further guidance was expected in January 2020;</li> <li>- The committee were asked to support the ongoing work to reduce unnecessary referrals and the number of unnecessary urgent requests;</li> <li>- In preparation for the Liberty Protection Safeguards (LPS) a focus group would need to be established to scope the impact and implementation. This would include objectives, costings, timescales for the training and development needs;</li> <li>- SBUHB would need to identify the required workforce for the new LPS and deliverables to ensure SBUHB was able to meet the new legislative requirements.</li> </ul> <p>In discussing the report, the following points were raised:</p> <p>Chris White advised that he, Gareth Howells and Tanya Spriggs would meet outside of the meeting to discuss the way forward with regards the supernumerary Best Interest Assessors (BIA's) within the health board. Martyn Waygood commented that we needed to utilise our internal BIA's to prevent them from becoming de-skilled.</p> <p>Maggie Berry asked whether the BIA support groups were well attended. Fran Goodman confirmed that this was not the case and there could be improvement here.</p>	
<b>Resolved:</b>	The report be <b>noted</b> .	
<b>56/19</b>	<b>CHAIRS UPDATE</b>	
	<p>Martyn Waygood provided the committee with a verbal update on a number of recent visits he had undertaken to mental health and learning disability sites across the health board. This was <b>received</b> and <b>noted</b>. <b>He agreed to send a written overview to independent</b></p>	

MINUTE		ACTION
	<b>members.</b>	
<b>57/19</b>	<b>WORK PROGRAMME 2019/20</b>	
	The work programme for 2019/20 was <b>received</b> and <b>noted</b> by the committee.	
<b>58/19</b>	<b>MENTAL HEALTH LEGISLATION COMMITTEE TERMS OF REFERENCE</b>	
	<p>An update on the Mental Health Legislation Committee Terms of Reference (TOR) was <b>received</b>.</p> <p>Pam Wenger highlighted the following points;</p> <ul style="list-style-type: none"> <li>- To ensure effective governance Committee terms of reference should be reviewed on an annual basis,</li> <li>- The revised terms of reference had been updated to include: comments received from the Chair of the Mental Health legislation Committee and the updated reference to the legislative and regulatory frameworks for Mental health;</li> <li>- The Mental Health Legislation Training day provided by Blake Morgan Solicitors 30 July 2019 outlined key areas of good practice that have been incorporated into the revised TOR for the MHLC, Appendix 1;</li> <li>- The TOR for the Powers of Discharge Committee had also been reviewed and updated.</li> </ul> <p>In discussing the report, the following points were made;</p> <p>Chris White commented for noting, that the inclusion of the Chief Operating Officer as a member was due to the current lack of Director of Mental Health and Learning Disabilities within the health board. He also added that the Service Director of Mental Health and Learning Disabilities should be included within the membership of the committee.</p> <p>Maggie Berry made reference to 5.2 within the TOR which stated Independent members should hold office on the committee for a period of 4 years. Pam Wenger advised that she would review the wording.</p>	<p><b>PW</b></p> <p><b>PW</b></p>
<b>Resolved</b>	<ul style="list-style-type: none"> <li>- Subject to the minor amendments suggested, the Terms of Reference for the Mental Health Legislation Committee and Powers of Discharge Committee were <b>approved</b> for sign off at the Board meeting in January.</li> <li>- The report be <b>noted</b>.</li> </ul>	<b>PW</b>
<b>59/19</b>	<b>CHANGE IN AGENDA ORDER</b>	
<b>Resolved</b>	Item 6.1 of the agenda, Mental Capacity Act Monitoring Report be taken next.	

MINUTE		ACTION
60/19	<b>MENTAL CAPACITY ACT 2005</b>	
	<p>Jodie Denniss was welcomed to the meeting.</p> <p>A report providing an update on performance against the Mental Capacity Act 2005 was <b>received</b>.</p> <p>In introducing the report, Jodie Denniss highlighted the following points:</p> <ul style="list-style-type: none"> <li>- During the period 1<sup>st</sup> July to the 30<sup>th</sup> September, the IMCA provider service, Mental Health Matters, received 24 instructions for an Independent Mental Capacity Advocate (IMCA) from the health board;</li> <li>- For the period the majority of the instructions of IMCA's were for support in making decisions regarding the Long term move of accommodation;</li> <li>- It was anticipated that the target date for implementation of the Liberty Protection Safeguards (LPS) would be Autumn 2020, with 12 months of transitional arrangements whereby DoLS and LPS are used alongside each other, with full implementation of LPS in 2021;</li> <li>- The Safeguarding Team were engaging with Welsh Government on the change of legislation and the implications for the health board;</li> <li>- Mental Capacity Act level 3 training attendances had increased over the last quarter;</li> <li>- Following an evaluation of the training, there were concerns that a number of staff had responded that they did not find the e-learning training adequate for their job role.</li> </ul>	
<b>Resolved</b>	The report be <b>noted</b>	
61/19	<b>SAFEGUARDING TRAINING NEEDS ANALYSIS</b>	
	<p>A report providing an update on the Safeguarding Training Needs Analysis was <b>received</b>.</p> <p>In introducing the report, Jodie Denniss highlighted the following points:</p> <ul style="list-style-type: none"> <li>- A Safeguarding training needs analysis was carried out by the Corporate Safeguarding Team in order to assess the training requirements for staff;</li> <li>- Key issues included the poor number of returns completed and returned, despite the number of requests/reminders sent, an extension of the submission date and a second request via Safeguarding Committee.</li> </ul> <p>In discussing the report the following points were raised;</p> <p>Pam Wenger commented that she had not seen a questionnaire for the corporate function and felt that the 1% compliance in this area</p>	

MINUTE		ACTION
	<p>was not accurate. She suggested that further work was carried out to assure that the request for training information had gone out to the right services and leads. Jodie Denniss replied in that this was something she would check. Jodie Denniss added that ESR was an ongoing issue in which there was not a clear picture from the system. Maggie Berry commented that the lack of returns was surprising and she felt that ESR should pick this data up. Dai Roberts commented that the ESR system itself only gave results on the data that was input to the system. There needed to be a timely, accurate input and the system would give results.</p> <p>Jackie Davies commented that the poor engagement from the service delivery units was concerning considering this was a legislative requirement. Martyn Waygood stated that the figures on page 8 of 10 were of a concern, as a health board we are unaware if staff are fulfilling their statutory duties. He made reference to the recommendations that stated that the Director of Nursing and Patient Experience meet with the Director of Workforce in relation to how the SDU's can further progress the work of mapping and validating staff groups to their mandatory safeguarding training. He queried what the timescales of this would be and when would we have a better picture. Jodie Denniss confirmed that would be February 2020. Martyn Waygood requested an update on the progress in February.</p> <p>Martyn Waygood requested that service delivery units were contacted formally to confirm their figures and Gareth Howells and Pam Wenger undertook to meet to discuss this further.</p> <p>Gareth Howells added that this issue was a matter for consideration at the Workforce and OD Committee and Martyn Waygood undertook to refer this through.</p>	<p><b>GH/JD</b></p> <p><b>PW/GH</b></p> <p><b>MW</b></p>
<b>Resolved</b>	<ul style="list-style-type: none"> <li>- Update on the progress of the mapping and validating staff groups to their mandatory safeguarding training be received in February;</li> <li>- Gareth Howells and Pam Wenger to discuss formal contact with the delivery units for their training information.</li> <li>- Item be referred through to the Workforce and OD Committee.</li> </ul>	<p><b>GH/JD</b></p> <p><b>GH/PW</b></p> <p><b>MW</b></p>
<b>62/19</b>	<b>MENTAL HEALTH ACT (1983) MONITORING REPORT</b>	
	<p>A report providing an update on performance against the Mental Health Act 1983 during was <b>received</b>.</p> <p>In introducing the report, Lynda Rogan highlighted the following points:</p> <ul style="list-style-type: none"> <li>- During the reporting period, there had been six exceptions and one invalid detention identified by the Mental Health Act (MHA) Department;</li> <li>- There were no breaches of the Mental Health Act for in-patients admitted to Swansea Bay UHB who are under the age of 18;</li> <li>- Two under 18 year olds were admitted to Ward F, Neath Port</li> </ul>	

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	<p>Talbot Hospital, one informally, the other under section 2 of the Mental Health Act.</p> <ul style="list-style-type: none"> <li>- One section 3 patient's authority for detention was not renewed and the patient continued to be kept in circumstances which amounted to de facto detention for a period of 47 days. This was reported as a serious incident to Health Care Inspectorate Wales (HIW);</li> <li>- There were seven postponed or adjourned Hospital Managers' hearings during the period;</li> </ul> <p>In discussing the report, the following points were raised:</p> <p>Martyn Waygood raised his concern around the unlawful detention of a patient for a period of 47 days. Lynda Rogan advised that the patient was transferred into the unit and the date of the transfer was entered instead of the date of the section 3, this was picked up at audit. She added that HIW had been informed of the matter. Martyn Waygood stated that he understood this was an administration error but it was a very serious error of the law and this was concerning. Members queried whether there was a mechanism in place to counteract these errors, a possible process of double checking. Dai Roberts requested that Lynda Rogan looked into ensuring there was a fail-safe within the process to ensure this error did not occur again.</p> <p>Martyn Waygood made reference to the postponed hearings during the period, he commented that it would be beneficial to have a clerk at the panel - Lynda Rogan stated that this would be reinstated, however resource within the team was an issue at the moment.</p>	
<b>Resolved</b>	<ul style="list-style-type: none"> <li>- Lynda Rogan to ensure there is a fail-safe within the process to ensure this error did not occur again. Update be provided at next meeting.</li> <li>- The report be <b>noted</b>.</li> </ul>	<b>LR</b>
<b>63/19</b>	<b>POWERS OF DISCHARGE COMMITTEE UPDATE</b>	
	<p>A report providing an update on the Power of Discharge committee including the Hospital Manager's Policy was <b>received</b>.</p> <p>In introducing the report, Pam Wenger highlighted the following points;</p> <ul style="list-style-type: none"> <li>- The purpose of the report was to set out the proposed process to revise the arrangements for the Hospital Managers' Powers of Discharge Committee;</li> <li>- Concern had been raised at the May 2019 meeting as to the quality of the work arising from the Hospital Managers' Powers of Discharge Committee, its remit and membership';</li> <li>- The hospital manager's policy, including the scheme of delegations and terms of conditions of service had been updated for approval of the committee.</li> </ul> <p>In discussing the report, the following points were raised;</p>	

MINUTE		ACTION
	<p>Jackie Davies commented that this had been a substantial piece of work and she felt that more assurance had been gained that they were on the right track. Work would now be underway to go forward with the actions set out in the policy and ensure the committee's alignment with it.</p> <p>Discussion ensued surrounding declarations of interest of the members of the Powers of Discharge Committee and Pam Wenger advised that work was currently underway with regard to governance and an update would be provided at the next meeting.</p> <p>Pam Wenger requested to meet outside of the committee to discuss attendance as an observer at a hospital managers hearing.</p> <p>Maggie Berry raised the point of term of office and whether there would be a review of this, Martyn Waygood commented that as part of the terms of reference update, this would be a good time to review the length of terms of office.</p> <p>Maggie Berry queried whether a benchmarking exercise had been undertaken in terms of the remuneration for hospital manager's attendance at hearings. Lynda Rogan confirmed that it had and that the health board was in the mid-range in comparison to other health boards.</p> <p>Maggie Berry raised the point that hospital managers in this case were named differently in other health boards and highlighted an example of 'Associate Hospital Managers'. In the SBUHB policy it was difficult to differentiate between the independent members, operational hospital managers and the hearing panel members as hospital managers.</p> <p>Martyn Waygood highlighted some points for accuracy within the Policy and Pam Wenger undertook to change these for the final iteration.</p>	<p><b>PW</b></p> <p><b>PW/LG</b></p>
<b>Resolved:</b>	<ul style="list-style-type: none"> <li>- Pam Wenger requested to meet outside of the committee to discuss attendance as an observer at a hospital managers hearing.</li> <li>- Update on the review of Declarations of Interest to be received at the next meeting;</li> <li>- Pam Wenger to update the Policy to reflect the points of accuracy highlighted by Martyn Waygood.</li> <li>- The report be <b>noted</b>.</li> </ul>	<p><b>PW/LG</b></p> <p><b>PW</b></p> <p><b>PW</b></p>
<b>64/19</b>	<b>MENTAL HEALTH MEASURE 2010 MONITORING REPORT</b>	
	<p>A report providing an update on performance against the Mental Health (Wales) Measure 2010 was <b>received</b>.</p> <p>In introducing the report, Dai Roberts highlighted the following points:</p> <ul style="list-style-type: none"> <li>- For Part 1a, which related to access to local primary mental health services (LPMHSS) there was a slight dip in compliance with 79.4% out of 80% of assessments taking place within the 28 day referral period;</li> </ul>	



MINUTE		ACTION
	<ul style="list-style-type: none"> <li>- For Part 1b (interventions), 91.6% of intervention started within the 28 days following an assessment by LPMHSS</li> <li>- Part 2, which relates to care and treatment plans (CTPs), 91.1% of patients who were in receipt of secondary mental health services had valid care and treatment plans in place at the end of the month;</li> <li>- Part 2 compliance was back above target; however this would continue to be managed by direct interventions.</li> <li>- Parts 3 and 4 of the measure (relating to self-referral and advocacy) were met throughout the period;</li> </ul>	
<b>Resolved:</b>	The report be <b>noted</b> .	
<b>65/19</b>	<b>CARE AND TREATMENT PLANNING UPDATE</b>	
	<p>A verbal update on the actions following the review on Care and Treatment Planning was <b>received</b>.</p> <p>Dai Roberts advised he would be taking the issue of performance in this area forward, ensuring that compliance in areas was green. Martyn Waygood commented that target dates were not being met. Dai Roberts stated that there needed to be focus and leadership to get there.</p>	
<b>Resolved</b>	The report be <b>noted</b> .	
<b>66/19</b>	<b>WHSSC LETTER – CAMHS INPATIENT CARE</b>	
	A letter setting out CAMHS inpatient care was <b>received</b> and <b>noted</b> .	
<b>67/19</b>	<b>ANY OTHER BUSINESS</b>	
	There was none.	
<b>68/19</b>	<b>DATE OF THE NEXT MEETING</b>	
	The next meeting would take place on <b>the 6<sup>th</sup> February 2020, Millennium Room, HQ</b>	