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Bwrdd Iechyd Prifysgol
Bae Abertawe
Swansea Bay University
Health Board



Meeting Date	6th February 2020		Agenda Item	3.1
Report Title	<i>Mental Health Act Performance Report for the period 1 October – 31 December 2019</i>			
Report Author	Lynda Rogan, Mental Health Act Manager			
Report Sponsor	David Roberts, Service Director, Mental Health & Learning Disabilities Service Delivery Unit			
Presented by	David Roberts, Service Director, Mental Health & Learning Disabilities Service Delivery Unit			
Freedom of Information	Open			
Purpose of the Report	The purpose of the paper is to present to the Mental Health Legislation Committee the quarterly Mental Health Act performance report in relation to Hospital Managers' scheme of delegated duties under the Mental Health Act 1983 and the functions, including s23.			
Key Issues	The hospital managers must ensure that patients are detained only as the Act allows, that their care and treatment fully comply with it, and that patients are fully informed of, and supported in exercising their statutory rights. Hospital managers must also ensure that a patient's case is dealt with in line with other legislation which may have an impact, including the Human Rights Act 1998, Mental Capacity Act 2005 and Mental Health (Wales) Measure 2010.			
Specific Action Required <i>(please ✓ one only)</i>	Information	Discussion	Assurance	Approval
			✓	
Recommendations	Members are asked to: <ul style="list-style-type: none"> Approve the report for submission to the Health Board. 			

Governance and Assurance										
Link to corporate objectives (please ✓)	Promoting and enabling healthier communities		Delivering excellent patient outcomes, experience and access		Demonstrating value and sustainability		Securing a fully engaged skilled workforce		Embedding effective governance and partnerships	
			✓		✓				✓	
Link to Health and Care Standards (please ✓)	Staying Healthy	Safe Care	Effective Care	Dignified Care	Timely Care	Individual Care	Staff and Resources			
	✓	✓	✓	✓	✓	✓	✓			
Quality, Safety and Patient Experience										
This report does not impact on the quality, safety and patient experience although the aim of the Committee’s work is to assure the Board that Mental Health and Learning Disabilities Delivery Unit are performing in accordance with the Mental Health Act 1983 which directly impacts on patient care.										
Financial Implications										
There are no financial implications in this report.										
Legal Implications (including equality and diversity assessment)										
There are no specific legal implications (although non-compliance with the Mental Health Act could result in legal proceedings being brought against the Health Board who is the detaining authority).										
Staffing Implications										
There are no workforce issues in this report.										
Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015 - https://futuregenerations.wales/about-us/future-generations-act/)										
The report does not impact on population health.										
Report History		Considered by the Mental Health & Learning Disabilities Legislative Committee Operational Group on 14 January 2020.								
Appendices		<ol style="list-style-type: none">1. Report on exceptions and non-rectifiable errors2. Benchmarking Report on Defective and Rectifiable Errors3. Postponements and adjournments of the Hospital Managers Power of Discharge patient review panels4. Mental Health Act Audit5. Mental Health Act Training								

EXCEPTION REPORT

1.0 INTRODUCTION

The report provides assurance in respect of the work that has been undertaken by Mental Health and Learning Disabilities (MHL) DU during the quarter, that those functions of the Mental Health Act 1983 (the Act), which have been delegated to officers and staff under the policy for Hospital Managers' Scheme of Delegation, are being carried out correctly, and that the wider operation of the Act across the Health Board area is operating properly.

2.0 BACKGROUND

The hospital managers must ensure that patients are detained only as the Act allows, that their care and treatment fully comply with it, and that patients are fully informed of, and supported in exercising their statutory rights. Hospital managers must also ensure that a patient's case is dealt with in line with other legislation which may have an impact, including the Human Rights Act 1998, Mental Capacity Act 2005 and Mental Health (Wales) Measure 2010.

3.0 GOVERNANCE AND RISK ISSUES

3.1 Data Collection and Exception Reporting

Any exceptions highlighted in the Mental Health Act activity report are intended to raise the Committee's awareness of matters relating to the functions of hospital managers and give assurance that the care and treatment of patients detained in Swansea Bay University Health Board and those subject to a community treatment order is only as the Act allows.

3.2 Detention without authority or Invalid Detentions

There were eight exceptions for this period and two invalid detentions identified by the Mental Health Act Department. There were no breaches to the Mental Act for in-patients admitted to Swansea Bay UHB who are under the age of 18. An analysis of the reason for the invalid detention between the periods 1 October – 31 December 2019, with actions taken and by whom, is documented to provide assurance that actions are being taken to minimize or eradicate this occurring.

No.	Reason for detention without authority	Actions taken	By Whom
1.	Neath Port Talbot Hospital (Ward D) A section 5(2) was completed for the patient, however, the doctor did not sign or date the Form HO12. As these omissions could not be rectified under section 15 of the Act it rendered the holding power invalid. Detention without authority: 24 hours 9 mins	Ward manager informed that detention is invalid. Doctor informed that detention is invalid and discussed whether further section needs to be applied. Doctor informed to make an entry in the patients' health record to document incident and outcome. Correspondence sent to patient to inform them of the incident.	MHA Administrator MHA Administrator MHA Administrator MHA Administrator

		Incident Report Form completed.	MHA Administrator
2.	Caswell Clinic (Cardigan Ward) The approved clinician completed Part 1 and 3 on Form CP7 to revoke a community treatment order before consulting with the approved mental health professional and Part 2 of the form being completed. Detention without authority: 6 months	Ward manager informed that detention is invalid. Doctor informed that detention is invalid and discussed whether further section needs to be applied. Doctor informed to make an entry in the patients' health record to document incident and outcome. Correspondence sent to patient to inform them of the incident. Incident Report Form completed.	MHA Administrator MHA Administrator MHA Administrator MHA Administrator MHA Administrator

A table detailing the exceptions and non-rectifiable errors is attached at **Appendix 1**. A benchmarking report showing the number of fundamentally defective applications and rectifiable errors by Health Board is attached at **Appendix 2**.

4. Assessment

Mental Health Act 1983

A summary report along with definitions of relevant section of the Act is included below which summarises key points of the use of the Act within Swansea Bay University Health Board. Rates of detention under different sections of the Act typically fluctuate between each quarter; therefore only significant points are highlighted.

1st October – 31st December 2019 (Quarter 3)

KEY TO SECTIONS

Part 2 – Compulsory Admission to Hospital or Guardianship

- Section 5(4) Nurses Holding Power (up to 6 hours)
- Section 5(2) Doctors Holding Power (up to 72 hours)
- Section 4 Emergency Admission for Assessment (up to 72 hours)
- Section 2 Admission for Assessment (up to 28 days)
- Section 3 Admission for Treatment (6 months, renewable)
- Section 7 Application for Guardianship (6 months, renewable)
- Section 17A Community Treatment Order (6 months, renewable)

Part 3 - Patients Concerned with Criminal Proceedings or Under Sentence

- Section 35 Remand for reports (28 days, maximum 12 weeks)
- Section 36 Remand for treatment (28 days, maximum 12 weeks)
- Section 38 Interim Hospital Order (Initial 12 weeks, maximum 1 year)
- Section 47/49 Transfer of sentenced prisoner to hospital
- Section 48/49 Transfer of un-sentenced prisoner to hospital
- Section 37 Hospital or Guardianship Order (6 months, renewable)
- Section 37/41 Hospital Order with restriction (Indefinite period)
- Section 45A Hospital Direction and Limitation Direction

- CPI 5 Criminal Procedure (Insanity) & Unfitness to Plead (Indefinite period)

Part 10 – Miscellaneous and Supplementary

- Section 135(1) Warrant to enter and remove (up to 24 hours)
- Section 135(2) Warrant to enter and take or retake (up to 24 hours)
- Section 136 Removal to a place of safety (up to 24 hours)

5. Mental Health Act, 1983 - Data Collection and Exception Reporting

The data below summarises some of the key points of the use of the Mental Health Act (1983) during the quarter:

- Four under 18 year olds were admitted to Ward F, Neath Port Talbot Hospital, all were admitted on an informal basis.
- One section 2 application for detention was not accepted on behalf of the hospital managers and therefore did not activate the start of the 28 day period.
- There were two recorded deaths of patients detained under the Act. These were reported to Healthcare Inspectorate Wales in accordance with protocol.

6. Hospital Managers Power of Discharge Committee

During the reporting period five hospital managers' panels were postponed or adjourned, see **Appendix 3**. No meetings were held by the committee.

7. Healthcare Inspectorate Wales (HIW) Visits to Mental Health & Learning Disabilities Units

During the reporting period there were no visits by HIW to wards or units within the Mental Health & Learning Disabilities Delivery Unit. A pre-audit of mental health act compliance is attached at **Appendix 4**.

8. Conclusions

Unlawful and de facto detentions are likely to re-occur where qualified ward staff have insufficient training in the receipt and scrutiny procedures under section 15 of the Mental Health Act 1983.

9. Recommendations

- Training sessions to be arranged for qualified staff on the receipt and scrutiny of Mental Health Act documentation across all mental health hospital sites and learning disability units. One training session was undertaken during the reporting period, see **Appendix.5**
- Clinicians to be reminded of their responsibilities under the Act when completing statutory documentation. Persistent non-compliance should be an issue raised formerly.

Actions

- The Mental Health Act Department is arranging training sessions for qualified staff on the receipt and scrutiny of Mental Health Act documentation across all mental health hospital sites and learning disability units. This will instruct staff on how to recognise minor errors and fundamentally defective applications likely to invalidate sections under the Mental Health Act; and should reduce the rate of de facto detentions.

By Whom

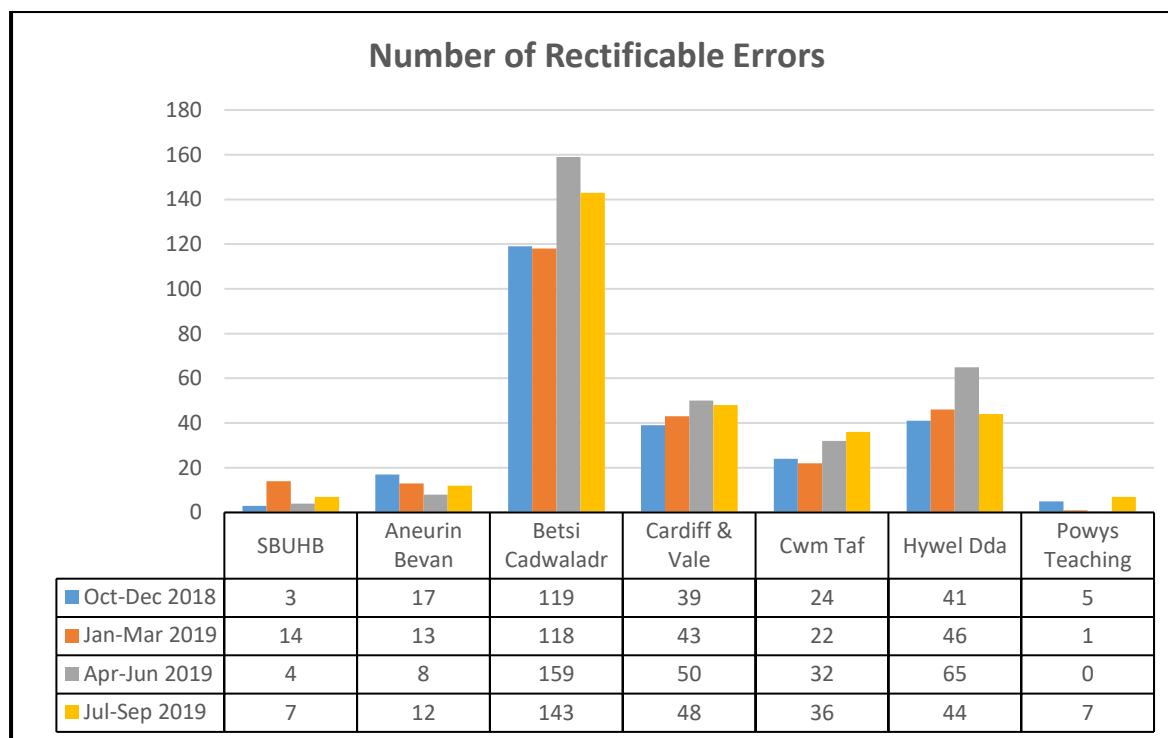
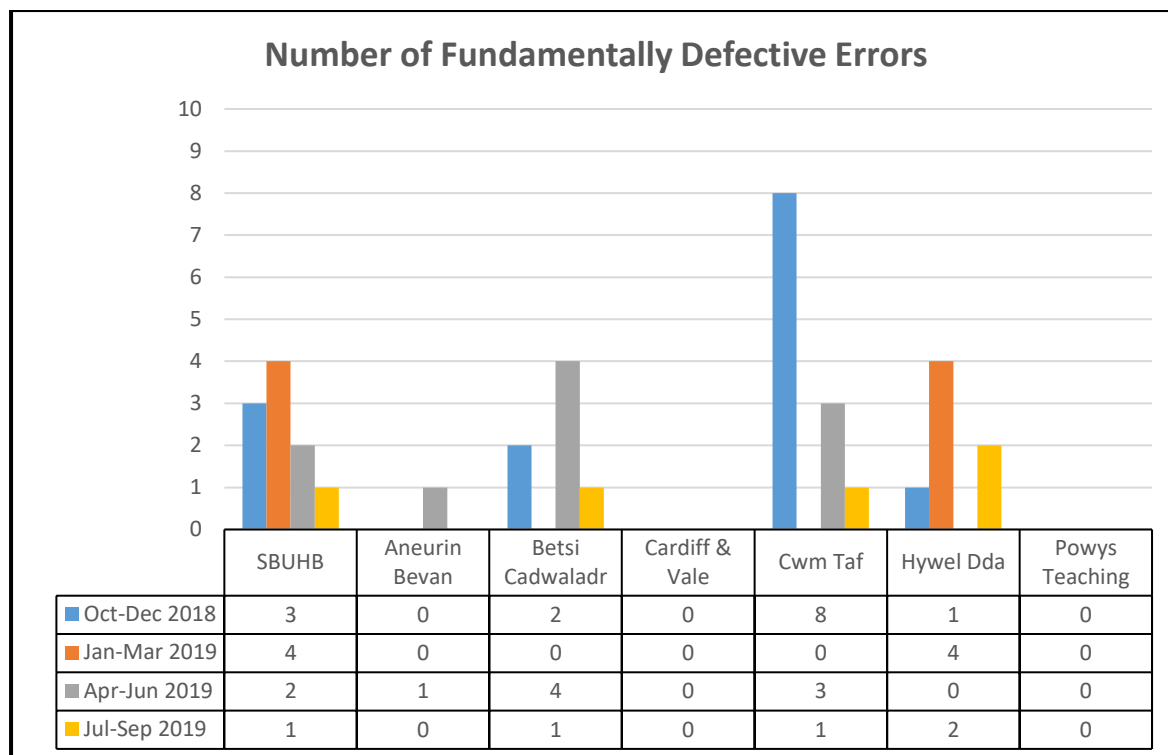
- Training will be delivered by the Mental Health Act Senior Managers.

Appendix.1

Report on exceptions and non-rectifiable errors on Mental Health Act statutory documents for the period 1 October – 31 December 2019

Hospital	Ward	Exceptions under Section 15 of the Act	By Whom	Section
LDS	Hafod Y Wennol	Doctor sectioned himself	Responsible Clinician	4
LDS	Hafod Y Wennol	Entry on application did not relevant	AMHP	4
LDS	Hafod Y Wennol	Incorrect part of acceptance Form HO14 completed	Nurse	3
NPTH	F	Patient's name not spelt correctly on Form HO14	Nurse	3
NPTH	F	Patient's full name not entered on Form HO6, Form HO14	AMHP/Nurse	3
NPTH	F	Patient's full name not entered on Form HO6	AMHP	3
NPTH	F	Time not entered for the discharge of the patient on Form HO17	Responsible Clinician	2
Area		Non-correctable errors under Section 15 of the Act	By Whom	Section
Court	Cardiff	Return date to court not entered on interim hospital order	Officer of the Court	38
Forensic	Caswell Clinic	Incorrect date entered on renewal report Form HO15	Responsible Clinician	CTO
NPTH	F	Patient's full name not entered on Form HO7	Responsible Clinician/G.P.	3
Forensic	Taith Newydd	Incorrect address entered on renewal report Form CP3	Responsible Clinician	CTO
Forensic	Caswell Clinic	All parts of Form HO15 not completed	Responsible Clinician	47

Benchmarking Report – 1 July 2018 – 30 September 2019



Hospital Managers Postponed/Adjourned 1 October – 31 December 2019

Postponed/Adjourned	Type of hearing	Date/time	Reason for postponement/adjournment	Outcome
Postponed	Renewal of detention	04/10/2019 10.00 a.m.	The patient had transferred to a new care team on 13/09/2019. The new responsible clinician was on annual leave and no other clinician was available to attend the hearing.	Rescheduled hearing on 09/10/2019
Postponed	Renewal of detention	02/10/2019 10.00 a.m.	Informed that the care co-ordinator was on sickness absence, however assurances were given by the local authority that the report would be submitted before the hearing. Informed on 01/10/2019 that the care co-ordinator was on bereavement leave and no report was subsequently available for the hearing.	Rescheduled hearing on 11/10/2019
Postponed	Renewal of detention	17/10/2019 10.00 a.m.	Request for a social circumstance report sent to Area 1, however patient transferred under the care of Area 3. The care coordinator was on annual leave and unable to provide a report before the hearing date.	Rescheduled hearing on 07/11/2019
Adjourned	Application for discharge from detention	18/11/2019 10.00 a.m.	The time of the hearing re-scheduled from 2 pm to 10 am. One of the panel members had not been informed of the change by their staff and attendees were unable to wait until their arrival to undertake the review. The hearing was consequently adjourned by the Chair.	Rescheduled hearing 20/12/2019
Adjourned	Renewal of detention	09/12/19 10.00 a.m.	One of the panel members had mistaken the time of the hearing and attendees were unable to wait until their arrival to undertake the review. The hearing was consequently adjourned by the Chair.	Rescheduled hearing on 23/12/19

Mental Health & Learning Disabilities DU

Pre-HIW Audit

October – December 2019

Ysbryd Y Coed, Cefn Coed Hospital (06/11/2019)

The statutory detention documents of three patients on Onnen Ward were reviewed. We also reviewed the governance processes and audited the compliance with the Code of Practice and Mental Health Act 1983.

Our scrutiny of statutory documents observed omissions in practice:

- Section 17 leave authorization forms that no longer authorised treatment were not clearly marked to indicate to staff that they were no longer valid, this was the case with copies held on the ward. Non-compliance with chapter 27.17 of the Code.
- Treatment forms under section 58(3)(b) not filed in the patients' health record , non-compliance with chapter 25.22 of the Code.

Learning Disabilities Services (08/11/2019)

The statutory detention documents of two patients on Hafod Y Wennol unit were reviewed. We also reviewed the governance processes and audited the compliance with the Code of Practice and Mental Health Act 1983.

Our scrutiny of statutory documents observed omissions in practice:

- New section 17 leave generated by the responsible clinician had not been forwarded to the Mental Health Act Department for processing.
- Completed section 132 patient rights proforma not forwarded to Mental Health Act Department for processing.
- One statutory consultee proforma was not filed in the patient's case notes.

Cefn Coed Hospital (28/11/2019)

The statutory detention documents of fourteen patients on Fendrod ward were reviewed. We also reviewed the governance processes and audited the compliance with the Code of Practice and Mental Health Act 1983.

Our scrutiny of statutory documents saw omissions in practice, these were:

- A copy of the Approved Mental Health Professional (AMHP) report was not present in three patient records. Non-compliance with chapter 14.87 of the Code.
- New section 17 leave generated by the responsible clinician had not been forwarded to the Mental Health Act Department for processing.
- One temporary section 17 leave authorization needed to be re-done following the return of the patient's responsible clinician.

Cefn Coed Hospital revisited (19/12/2019)

The statutory detention documents of sixteen patients on Fendrod ward were reviewed. We also reviewed the governance processes and audited the compliance with the Code of Practice and Mental Health Act 1983.

Our scrutiny of statutory documents saw omissions in practice, these were:

- A copy of the Approved Mental Health Professional (AMHP) report was not present in four patient records. Non-compliance with chapter 14.87 of the Code.

- New section 17 leave generated by the responsible clinician had not been forwarded to the Mental Health Act Department for processing.

Cefn Coed Hospital (20/12/2019)

The statutory detention documents of fifteen patients on Gwelfor Ward were reviewed. We also reviewed the governance processes and audited the compliance with the Code of Practice and Mental Health Act 1983.

Our scrutiny of statutory documents saw omissions in practice, these were:

- Section 17 leave authorization forms that no longer authorised treatment were not clearly marked to indicate to staff that they were no longer valid, this was the case with copies held on the ward. Non-compliance with chapter 27.17 of the Code.
- Consent to treatment certificates that no longer authorised treatment were not clearly marked to indicate to staff that they were no longer valid; this was the case with the copies held on the ward. Non-compliance with chapter 25.87 of the Code.
- New section 17 leave generated by the responsible clinician had not been forwarded to the Mental Health Act Department for processing.

Ysbryd Y Coed, Cefn Coed Hospital revisited (20/12/2019)

The statutory detention documents of five patients on Onnen Ward were reviewed. We also reviewed the governance processes and audited the compliance with the Code of Practice and Mental Health Act 1983.

Our scrutiny of statutory documents observed omissions in practice:

- Section 17 leave authorization forms that no longer authorized treatment were not clearly marked to indicate to staff that they were no longer valid, this was the case with copies held on the ward. Non-compliance with chapter 27.17 of the Code.
- New section 17 leave generated by the responsible clinician had not been forwarded to the Mental Health Act Department for processing.
- One new section 17 leave form had been not been forwarded to the Mental Health Act Department and had been misfiled in the notes of another patient.

Conclusions

- There remains a high level of non-compliance with the Code of Practice with regard to cancelling old treatment certificates and leave forms in the patient notes.

Recommendations

- Where ward clerks/receptionists are in situ, training needs to be provided on the compilation of the health record and provided with training and instruction on how to use the Mental Health Act Department Virtual Drive.
- Computer software needs to be upgraded to Operations System 10 and Microsoft Office 16 on the wards.

Actions

- Regular audit of wards to be conducted by Mental Health Act Managers to provide assurances that the compliance with the Code of Practice are completed and monitored.
- Guidance and training provided to ward clerks/receptionists on the compilation of Mental Health Act documents required in the patient's health record.

- Guidance provided to ward clerks on the accessing information from the Mental Health Act Virtual Drive.

By Whom

- Health Records Administration Managers to instruct staff on the compilation of the health record and culling process.
- Mental Health Act Managers to provide guidance and training on the Act and its Code of Practice, including the use of the Mental Health Act Virtual Drive.

Receipt & Scrutiny of Mental Health Act Documentation**Training Sessions****1 October – 31 December 2019**

Date	Venue	Time	Number Attending	Comments
08.11.2019	Hafod Y Wennol	1.30 – 3.30 pm	8	7 attended