

Unconfirmed
MINUTES OF THE
MENTAL HEALTH LEGISLATION COMMITTEE
HELD ON 6TH FEBRUARY 2020 AT 9.30AM
MILLENNIUM ROOM, SBU HEADQUARTERS

Present

Martyn Waygood	Interim Vice Chair (in the chair)
Jackie Davies	Independent Member
Gareth Howells	Director of Nursing and Patient Experience
Janet Williams	Interim Service Director, Mental Health and Learning Disabilities

In Attendance

Lynda Rogan	Mental Health Act Manager (Minute 09/20)
Claire Mulcahy	Corporate Governance Officer
Nicola Edwards	Head of Safeguarding (Minute 10/20 to 12/20)
Jodie Denniss	Safeguarding (Minute 10/20 to 11/20)
Tanya Spriggs	Interim Unit Nurse Director (Minute 12/20)

MINUTE		ACTION
01/20	WELCOME AND INTRODUCTIONS	
	Martyn Waygood welcomed all to the meeting.	
02/20	APOLOGIES FOR ABSENCE	
	Apologies for absence were received from Chris White, Chief Operating Officer and Director of Therapies and Health Science; Pam Wenger, Director of Corporate Governance; Maggie Berry, Independent Member and Dai Roberts, Service Director, Mental Health and Learning Disabilities.	
03/20	DECLARATIONS OF INTEREST	
	There were none.	
04/20	MINUTES OF THE PREVIOUS MEETING	
	The minutes of the meeting held on the 25 th November 2019 were received and approved as a true and accurate record. With regards to minute 63/19 <i>Powers of Discharge Committee Update</i> , Jackie Davies advised that the committee would be seeking a 3 rd Independent Member and a request would be sent out to all in due course. She also advised that Associate Hospital Managers had been requested to complete declaration of interest forms via email, this would also be followed up at the upcoming committee meeting on the 11 th February.	
05/20	MATTERS ARISING	
	There were none.	
06/20	ACTION LOG	

MINUTE		ACTION
	<p>The action log was received and noted with the following updates:</p> <p><u>Action Point 2</u></p> <p>Gareth Howells advised that he would follow this through. There needed to be clarity on what the requirements of the team looked like and how this could be funded.</p> <p><u>Action Point 5</u></p> <p>Janet Williams advised that Karen Williams from the IMCA Service attended the operational group in December and presented on increasing visibility of the IMCA service across the health board, the meeting was attended by Heads of Nursing across all units. She had also undertaken a series of visits on hospital wards and spoken with both staff and patients, literature had also been provided to the wards. The IMCA service would have representation at the operational groups going forward and would provide updates on progress. Martyn Waygood requested an update on progress at the next meeting.</p> <p><u>Action Point 6</u></p> <p>Janet Williams advised that this meeting has not yet taken place but assured she would pick this up in Dai Roberts' absence.</p> <p><u>Action Point 7</u></p> <p>Gareth Howells advised that the information from Legal and Risk had not been received and asked whether the committee could formally request this information. Martyn Waygood and Gareth Howells undertook to meet to draft a formal request for Legal and Risk.</p>	<p>JW</p> <p>JW</p> <p>MW/GH</p>
Resolved:	The report be noted .	
07/20	WORK PROGRAMME 2019/20	
	The work programme for 2019/20 was received and noted by the committee.	
08/20	MENTAL HEALTH LEGISLATION COMMITTEE SELF-ASSESSMENT	
	<p>An update on the Mental Health Legislation Committee Self-Assessment was received.</p> <p>In discussion the following points were raised;</p> <p>Gareth Howells commented that the completion of the self-assessment would inform discussion on the remit of the committee. Clarity was needed on this and this will in turn inform the work programme going forward. He queried whether impacts on patients and staff issues should be discussed in depth at this committee. Martyn Waygood replied we needed to be mindful of the effects on individuals in terms of non-compliance with the legislation. With this in mind he was content for these areas to be discussed within this committee as they were relevant. He added that in terms of the quality and safety issues, the Quality and Safety Committee was now</p>	

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	<p>a monthly meeting therefore key areas within mental health would be discussed more frequently at that meeting.</p> <p>Martyn Waygood requested that completed self-assessments are returned to the Corporate Governance Team by the 28th February 2020.</p>	All
09/20	MENTAL HEALTH ACT MONITORING REPORT 1983	
	<p>A report providing an update on performance against the Mental Health Act 1983 was received.</p> <p>In introducing the report, Lynda Rogan highlighted the following points:</p> <ul style="list-style-type: none"> - During the reporting period, there had been eight exceptions and two invalid detentions identified by the Mental Health Act (MHA) Department; - One invalid detention occurred within Caswell Clinic and detention without authority occurred over a period of 6 months; - There were no breaches of the Mental Health Act for in-patients admitted to Swansea Bay UHB who are under the age of 18; - Four under 18 year olds were admitted to Ward F, Neath Port Talbot Hospital on an informal basis; - During the period, there had been five postponed or adjourned Hospital Managers' panels; <p>In discussing the report, the following points were raised:</p> <p>With regards to the invalid detention which took place at Caswell Clinic, Lynda Rogan informed that the detention without authority had taken place for a period of 6 months and it had occurred due to a clinician error. This had been picked up by the MHA team following an extensive audit.</p> <p>Following the action requested at the previous committee, where a failsafe was required to be put in place, Lynda Rogan advised that the team were now carrying out a check process of the legal documentation in all areas. The team were now looking through hundreds of legal and historical documents. There was now a process of monthly audits and the team had been undertaking training sessions for qualified staff on the receipt and scrutiny of documentation across the health board. This would provide another level of scrutiny within the process.</p> <p>Discussion ensued surrounding the ownership of the documentation and whether this would be the responsibility of the lead clinician. Jan Williams advised it would, but it was also the responsibility of the bed managers who provided liaison to the ward and clinician with the help of the MHA team. She added that a message needed to be cascaded out to the units that in these circumstances, the MHA team need to be contacted as soon as possible where they could provide</p>	

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	<p>advocacy and expertise on legalities. Martyn Waygood commended the MHA team for the work being done to prevent these errors, stating that more work was needed further 'up stream' in this area.</p> <p>Lynda Rogan advised that due to resource issues within the team, the amount of time on wards carrying out training had been limited, a rolling training programme was not currently sustainable. There was a recruitment process underway but this had been very slow. She advised that changes within the legislation would now require a higher staff grade level and this was being worked through. Martyn Waygood requested that a 'check and balance' of team resources was carried out and this was to be discussed as an agenda item at the next meeting. He also added that he would refer the matter into the Workforce and OD Committee with regards to the length of time of recruitment process.</p> <p>Martyn Waygood referenced a point within <i>Appendix 1</i> of the report concerning non-rectifiable errors under section 15 of the Act where the person responsible was an officer of the court. He queried who would be held accountable for this error. This was a serious issue of where a person's human rights were breached and there was a need to get the process right throughout the system. The message needs to be disseminated to all areas, this was potentially damaging to the health board's reputation. Gareth Howells concurred and stated that when there are breaches of the law then there needs to be consequences.</p> <p>Janet Williams commented that an escalation process was required within the wards and that this should be done via ward managers through staff PADRs and ward level checks on compliance. She stated that locally there was no ownership and there should be. She offered a possible solution in that the escalation challenges could be raised via the MHLN unit's Quality and Safety Group where there was attendance of unit Heads of Nursing. Gareth Howells concurred and added that there needed to be a process of check and balance on the wards and also a lead person within the site team from an accountability perspective. Gareth Howells and Janet Williams undertook to meet to form an action plan on how to address this.</p> <p>Lynda Rogan left the meeting.</p>	<p>JW/LR</p> <p>MW</p> <p>GH/JW</p>
Resolved	<ul style="list-style-type: none"> - A 'check and balance' of the resource requirement for the Mental Health Act's Team to be carried out and this to be an agenda item for the next meeting. - The issue of the length of time of recruitment process be referred into the Workforce and OD Committee. - Gareth Howells and Janet Williams to meet to form an action plan in terms of the escalation process within the units. - The report be noted. 	<p>JW/LR</p> <p>MW</p> <p>GH</p>
10/20	MENTAL CAPACITY ACT 2005 MONITORING REPORT	
	Jodie Denniss was welcomed to the meeting.	

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	<p>A report providing an update on performance against the Mental Capacity Act 2005 was received.</p> <p>In introducing the report, Jodie Denniss highlighted the following points:</p> <ul style="list-style-type: none"> - During the period 1st October to 31st December 2019, the IMCA service, received 22 instructions for an Independent Mental Capacity Advocate (IMCA) from the health board; - For the period the majority of the instructions of IMCA's were for support in making decisions regarding the Long term move of accommodation; - There had been no recent updates from Welsh Government with regards to the Liberty Protection Safeguards (LPS) as there had been some delays due to Brexit but the team were still working towards the target date for implementation of the (LPS) in October 2020; - Mental Capacity Act level 3 training attendances were improving and this related to the visibility of the best interest assessors and raising awareness; - Data on the health board's Court of Protection cases had not yet been received from Legal and Risk; <p>In discussing the report, the following points were raised;</p> <p>With regards to the Court of Protection cases, members felt it was unacceptable that the data from Legal and Risk was not received despite several requests. Martyn Waygood commented that it was the responsibility of the health board to have a grip on these cases and there appears to be no support from Legal and Risk. Janet Williams advised that the processes were not satisfactory and she had come across difficulties in this area within the mental health and learning disabilities unit also. Nicola Edwards added that there was a meeting underway to discuss the resources within the health board's own legal function. She commented that there was a need to identify who takes ownership in this area. Gareth Howells requested that this issue was escalated further and undertook to meet with Janet Williams and Nicola Edwards to discuss a way forward.</p> <p>Jackie Davies made reference to best interest assessments and advised that these were not recorded at the unit level. Members concurred that this was not acceptable and that more assurance was needed in this area. Gareth Howells undertook to make a formal request to units via the safeguarding committee.</p>	<p>GH/JW/NE</p> <p>GH</p>
Resolved	<ul style="list-style-type: none"> - Gareth Howells to meet with Janet Williams and Nicola Edwards to discuss a way forward with regards to the issue of Legal and Risk. - Gareth Howells to make a request via the safeguarding committee for best interest assessment to be recorded at unit level. 	<p>GH/NE/JW</p> <p>GH</p>

MINUTE		ACTION
	- The report be noted	
11/20	WALES SAFEGUARDING PROCEDURES 2019	
	A report on the Wales Safeguarding Procedures 2019 was received and noted .	
12/20	SAFEGUARDING TRAINING NEEDS ANALYSIS	
	<p>A report providing an update on the Safeguarding Training Needs Analysis was received.</p> <p>In introducing the report, Nicola Edwards highlighted the following points:</p> <ul style="list-style-type: none"> - A Safeguarding training needs analysis was requested by the committee in May 2019 and this was carried out by the Corporate Safeguarding Team in order to assess the training requirements for staff; - Key issues included the poor number of returns completed, despite the number of requests/reminders sent, an extension of the submission date and a second request via the Safeguarding Committee. - Further requests for information were carried out during December 2019 and the issue of poor number of returns still remained; <p>In discussing the report the following points were raised;</p> <p>Martyn Waygood queried where the responsibility would sit in terms of lack of returns. Nicola Edwards advised it would be with the units themselves, the requests were sent from the Safeguarding Team to Unit Nursing Directors and then were disseminated down through the units. A detailed breakdown of what had been received to date was sent for clarity but returns were still not at the level needed.</p> <p>Martyn Waygood queried, for areas of low returns, whether a letter was needed from this committee stating that the co-operation was expected.</p> <p>Gareth Howells advised that as this was a Statutory and Mandatory training issue, it should be the role of the Workforce and OD Committee to take this forward and that a paper would be presented at the committee on the 20th February.</p> <p>Martyn Waygood made reference to the attached NHS Wales Safeguarding Framework, highlighting that it states that level 2 training was not mandatory but was expected of staff. Nicola Edwards added that most health boards in Wales have level 2 as a mandatory requirement and that SBUHB was an outlier in that respect. Gareth Howells further added that the health board mandatory requirement for safeguarding was at level 1, level 2 compliance was a requirement within the NHS framework but not mandated. He stated that it would be difficult to hold units to account for non-compliance if the health board only requires a level 1</p>	

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	<p>compliance. The decision needs to be made as to whether the health board makes level 2 mandatory for all staff. He stated that this would need to go via the Workforce and OD Committee for taking forward and there would need to be scope, costing and a plan in place. Jackie Davies requested that this committee makes a recommendation to the Workforce and OD Committee for level 2 to be mandatory. Martyn Waygood concurred and undertook to make this recommendation. He also requested this was discussed outside committee in order to seek advice from the Director of Corporate Governance on the matter. He undertook to meet with Gareth Howells and Pam Wenger to take this forward.</p> <p>With regards to returns on compliance figures, Nicola Edwards informed that level 1 and level 2 are done via the e-learning tool on ESR and relatively easy to monitor. Whereas level 3 was a bespoke training course and therefore more difficult to capture compliance figures. Nicola Edwards further added that it needed to be borne in mind there would be a big drop in compliance if the level 2 was made mandatory. Gareth Howells added that a training needs analysis would need to be undertaken for level 3 in order to take a view on which staff required this level of training.</p>	<p>MW</p> <p>GH//MW</p>
Resolved	<ul style="list-style-type: none"> - On behalf of the committee, Martyn Waygood to make the recommendation to the Workforce and OD Committee for level 2 safeguarding training to be mandatory. - Martyn Waygood to meet with Gareth Howells and Pam Wenger outside of the committee to discuss the matter of making level 2 safeguarding training mandatory. 	<p>MW</p> <p>MW/GH</p>
13/20	DEPRIVATION OF LIBERTY SAFEGUARDS UPDATE REPORT	
	<p>A report providing an update on the Quarter 3 position in relation to the Deprivation of Liberty Safeguards was received.</p> <p>Tanya Spriggs was welcomed to the meeting and in introducing the report she highlighted the following points;</p> <ul style="list-style-type: none"> - For quarter 3 the activity figures were; 206 referrals received, internal BIA's completed 70 assessments, of those, 56 were completed by the 2 dedicated BIAs and external BIAs completed 68; - Six more internal staff had been trained to carry out BIA assessments but the issue of release from their posts to carry out the assessments still remained. - The new legislation was due to come into force in October 2020 and an impact review was required to ensure the Health Board was able to comply with its legal requirements under Liberty Protection Safeguards (LPS); <p>In discussing the report, the following points were raised:</p> <p>Martyn Waygood asked about the progress being made on the move</p>	

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	<p>towards the new model, Tanya Spriggs replied that they were waiting for the legislation changes as this was going to increase the remit of the team. The new legislation requirements would put a strain on resources and currently DoLS has a relatively low budget.</p> <p>Martyn Waygood made reference to the table under item 4 of the report, which highlighted the clear difference in DoLS team resources compared to another health board. Martyn Waygood said with the onset of the new legislation, the health board needs to be clear on what capacity was needed.</p> <p>Gareth Howells informed that there would be a regroup in terms of the Mental Health Act, Mental Capacity Act and DoLS due to the new legislation and there would be a focus on what additional capacity was needed to comply with the requirements of the legislation. Once this was established there would be a bid to the Investments and Benefits Group and a referral to the Workforce and OD Committee for support.</p> <p>Tanya Spriggs further commented that having more dedicated BIAs would be the ideal way forward. She referred to the high standard of work undertaken by them, stating that they had undertaken over 20 audits across the health board, establishing key themes for improvement. They had also been targeting areas where there have been no returns in terms of identifying patients for DoLS assessments. Martyn Waygood commented that this was impressive and the work undertaken by the team was of a high standard.</p>	
Resolved	The report be noted .	
14/20	MENTAL HEALTH MEASURE 2010 MONITORING REPORT	
	<p>A report providing an update on performance against the Mental Health (Wales) Measure 2010 was received.</p> <p>In introducing the report, Janet Williams highlighted the following points:</p> <ul style="list-style-type: none"> - For Part 1a, which related to access to local primary mental health services (LPMHSS) there was improvement in compliance with 92.2% of assessments taking place within the 28 day referral period; the target is 80% - For Part 1b (interventions), 92.2% of intervention started within the 28 days following an assessment by LPMHSS - Part 2, which relates to care and treatment plans (CTPs), 91.7% 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; - Parts 3 and 4 of the measure (relating to self-referral and advocacy) were met throughout the period; 	
Resolved:	The report be noted .	
15/20	CARE AND TREATMENT PLANNING UPDATE	

MINUTE		ACTION
	<p>A verbal update on the actions following the review on Care and Treatment Planning was received.</p> <p>Janet Williams advised that the main focus in this area was the quality of the care and treatment plans (CTPs). Within the delivery unit there was a work stream underway to look at the quality. All Units had an action plan to work towards with a focus on 3 key areas; service user engagement, carer involvement and risk assessments. This was an ongoing process of improvement and there were ongoing audits to ensure compliance. She advised that this was being monitored via the MHL D Quality and Safety Group.</p>	
Resolved	The report be noted .	
15/20	ANY OTHER BUSINESS	
	There was none.	
16/20	DATE OF THE NEXT MEETING	
	The next meeting would take place on Thursday, 7th May 2020 .	