

**Unconfirmed**  
**MINUTES OF THE**  
**MENTAL HEALTH LEGISLATION COMMITTEE**  
**HELD ON 4<sup>th</sup> FEBRUARY 2021 AT 9.30AM**  
**SBUHB HEADQUARTERS/MICROSOFT TEAMS**

<b>Present</b>	Stephen Spill Martyn Waygood Jackie Davies Maggie Berry Christine Williams Dai Roberts	Vice Chair (in the chair) Independent Member Independent Member Independent Member Interim Director of Nursing and Patient Experience Service Director, Mental Health and Learning Disabilities
<b>In Attendance</b>	Pam Wenger Penny Cram Rhonwen Parry Claire Mulcahy Tanya Spriggs  Nicola Edwards Stephen Jones	Director of Corporate Governance Interim Mental Health Act Manager Head of Psychology and Therapies Corporate Governance Manager Unit Nurse Director, Primary Care and Community (Minute 9/21) Head of Safeguarding (Minute 9/21) Unit Nurse Director, Mental Health and Learning Disabilities (Minute 11/21)

MINUTE		ACTION
01/21	<b>WELCOME AND INTRODUCTIONS</b>	
	Stephen Spill welcomed all to the meeting and introduced himself as the Vice Chair of the health board and the new Chair of the Mental Health Legislation Committee.	
02/21	<b>APOLOGIES FOR ABSENCE</b>	
	Apologies for absence were received from Chris White, Chief Operating Officer, Director of Therapies and Health Science and Director of Primary Care and Mental Health	
03/21	<b>DECLARATIONS OF INTEREST</b>	
	There were none.	
04/21	<b>MINUTES OF THE PREVIOUS MEETING</b>	
	The minutes of the meeting held on 5 <sup>th</sup> November 2020 were <b>received</b> and <b>approved</b> as a true and accurate record.	
05/21	<b>MATTERS ARISING</b>	
	(i) 40/20 Action Log Maggie Berry queried whether the Associate Hospital Managers had received the IT equipment. Penny Cram advised that they had not but	

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	there was working ongoing with regards how many would be required. She undertook to follow this up and provide Maggie Berry with an update.	PC
<b>Resolved</b>	<ul style="list-style-type: none"> <li>- Penny Cram to enquire about IT equipment for the Associate Hospital Managers and provide Maggie Berry with an update;</li> </ul>	PC
<b>06/21</b>	<b>ACTION LOG</b>	
	<p>The action log was <b>received</b>.</p> <p>(i) <u>Action Point 1</u></p> <p>Christine Williams advised that a model was being reviewed, due to COVID-19 this had been on hold but it was anticipated for this model to be progressed by April 2021.</p>	CWilliams
<b>Resolved:</b>	<ul style="list-style-type: none"> <li>- Update on the position of best interest assessors be provided at the meeting in May 2021;</li> <li>- The action log be <b>noted</b>.</li> </ul>	CWilliams
<b>07/21</b>	<b>WORK PROGRAMME 2020/21</b>	
	<p>The work programme for 2019/20 was <b>received</b> and <b>noted</b>.</p> <p>Pam Wenger advised the work-programme reflected the year of 2020-21. There were a number of changes to governance arrangements due COVID-19 and some committees had been postponed. She advised that work-programmes would be worked through with the Chief Executive and lead executives to ensure committees have coverage of the key priorities for the coming year.</p> <p>The committee self-assessments had been postponed but would be picked up in the new financial year.</p>	
<b>08/21</b>	<b>MENTAL HEALTH ACT 1983 MONITORING REPORT</b>	
	<p>A report providing an update on performance against the Mental Health Act 1983 was <b>received</b>.</p> <p>In introducing the report, Dai Roberts highlighted the following points:</p> <ul style="list-style-type: none"> <li>- The report presented the data for the period 1st October 2020 to 31<sup>st</sup> December 2020 together with comparison data for the previous 12-month period;</li> <li>- During the reporting period there had been 23 exceptions and no invalid detentions identified by the Mental Health Act (MHA) Department;</li> <li>- There were 3 admissions to Ward F at Neath Port Talbot Hospital those aged under 18 and work was underway to with Welsh Government colleagues to address the capacity issues for patients under the Child and Adolescents Mental Health Services (CAMHS)</li> <li>- Due to COVID-19 restrictions, Healthcare Inspectorate Wales had not undertaken any site visits but have introduced quality</li> </ul>	

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	<p>checks via Microsoft Teams, there had been no quality checks undertaken during this quarter;</p> <ul style="list-style-type: none"> <li>- There were no deaths of detained patients during this quarter.</li> </ul> <p>In discussing the report, the following points were raised:</p> <p>Maggie Berry referred to the three under eighteen admissions and queried whether they had overlapped. Dai Roberts replied that he did not believe this was the case. He referred to Ty Llidiard where there had been some issues within the facility which had constrained the capacity available for the under eighteen patients. He advised that the health board were liaising with Cwm Taf to address the issues and ensure the patients receive the care they need.</p> <p>Maggie Berry stressed the importance of keeping a close eye on all mental health metrics during the pandemic. Dai Roberts concurred adding that metrics were monitored on all- Wales level and via Welsh Government. He commented that the system was now at pre COVID-19 levels but once 'normality' returned, significant support would be required in all aspects of the mental health service.</p> <p>Maggie Berry compared the four Section 135 Warrants executed during the quarter to previous quarters where numbers stood at zero. Penny Cram surmised that this linked to the pandemic and social isolation but undertook to follow up with South Wales Police to establish the reason for this increase. She advised that the number of voluntary assessments had increased and this was a positive result of the good partnership working South Wales Police and the triage system.</p> <p>Martyn Waygood queried the reason for the fluctuation in the figures for Section 136 during the most recent quarters, Penny Cram replied that this was an error in the data set but numbers were consistent to previous with approximately forty in each quarter.</p> <p>In reference to the non-rectifiable errors, Martyn Waygood recognised that there had been an improvement in performance but highlighted that these were still occurring. Penny Cram informed the majority of these were related to minor errors in documentation but there had been an overall reduction with the new system in place. There was now an education programme in place with training scheduled for February and March 2021. She advised that there would be a focus on the general wards where the number of non-rectifiable errors were higher.</p> <p>In relation to the prison transfer sections, Jackie Davies queried whether a close eye was being kept on the patient's date of release. Penny Cram confirmed this was the case and although this was a challenge, the team worked closely with the Ministry of Justice case workers.</p> <p>Stephen Spill made reference to the note within the report regarding commending staff on their hard work and undertook to draft an email for circulation to staff on behalf of the committee.</p>	<p><b>PC</b></p> <p><b>SS</b></p>

MINUTE		ACTION
<b>Resolved</b>	<ul style="list-style-type: none"> <li>- Penny Cram to follow up with South Wales Police to establish the reason for the increase in Section 35 warrants for the quarter;</li> <li>- Stephen Spill to draft an email for circulation to staff on behalf of the committee;</li> <li>- The report be <b>noted</b>.</li> </ul>	<p><b>PC</b></p> <p><b>SS</b></p>
<b>09/21</b>	<b>MENTAL CAPACITY ACT 2005 AND DEPRIVATION OF LIBERTY SAFEGUARDS MONITORING REPORT</b>	
	<p>Tanya Spriggs and Nicola Edwards were welcomed to the meeting.</p> <p>A report providing an update on the Mental Capacity Act (MCA) and Deprivation of Liberty Safeguards (DoLS) position for Quarter 3 was <b>received</b>.</p> <p>In introducing the report, Tanya Spriggs and Nicola Edwards highlighted the following points;</p> <ul style="list-style-type: none"> <li>- In quarter 3, there were 174 referrals received, of those 24 were assessed by the 2 dedicated BIAs, the internal (not primary role) BIA's did not complete any assessments and the external BIAs assessed 22 resulting in 47 being granted;</li> <li>- The internal (not primary role) BIA's have not completed any assessments and work was underway to strengthen this arrangement and the development of a business case was in process;</li> <li>- The external BIA's assessed 39 of which 28 were granted, with 0 awaiting completion for the period Oct to Dec 2020 and 10 not granted as patients were either discharged/not a deprivation or died;</li> <li>- The cumulative number of discharges from 1<sup>st</sup> April to 31<sup>st</sup> December 2020 equates to 433, which includes 140 for Qtr 3</li> <li>- Although the number of breaches had reduced, most breaches were due to the continuing lack of BIA Assessors and COVID-19 restrictions.</li> <li>- There had been a funding bid submission to Welsh for £15k which had been approved. This funding would contribute to overtime for staff and external BIA assessors to address breaches;</li> <li>- There were twenty-three Court of Protection Cases being managed by Legal &amp; Risk Services on behalf of the Health Board;</li> <li>- Safeguarding training had been suspended in March 2020 in response to COVID-19. Since July 2020, virtual MCA training sessions have continued. A webinar had been delivered by Swansea University;</li> <li>- The Independent Mental Capacity Advocate service (IMCA) reported a consistent level of referrals despite the pandemic, and have acknowledged that the complexity of the cases is</li> </ul>	

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	<p>made more difficult by the circumstances surrounding the pandemic;</p> <ul style="list-style-type: none"> <li>- Their process had been adapted and contact was now provided via phone or video conferencing services to compliment face-to-face meetings.</li> </ul> <p>In discussion the report, the following points were raised;</p> <p>Martyn Waygood referred to the issue of lack of BIA's, stating this had been an issue for some time and it did leave the health board open to challenge from a legal perspective. He questioned whether this issue should be highlighted to Board as this was risk. Pam Wenger advised that a board briefing would need to take place and within this would be covered off.</p> <p>Christine Williams made reference to the lack of capacity with BIA's, stating that the Board does need to be sighted on the issue. A briefing for Board would be helpful in terms of the legislation and to ensure the risk is flagged and within the corporate risk register. This has been continually escalated and previous models have not worked. Further discussion was needed with Executive Team in terms of a sustainable model and these would take place in quarter four. She assured members that this issue has been under review and there was a need to acknowledge the pressures of the pandemic at the moment.</p> <p>With regards to the Court of Protection cases, Martyn Waygood commented that the committee had requested a breakdown of themes and trends. Pam Wenger undertook to pick up with the legal team in readiness for next meeting. She advised that as health board does not have a central function, each respective unit is required to go through legal and risk for these cases. She advised a solution was being looked into in terms of court of protection cases, with the possibility to invest in full mechanism within the health board. Nicola Edwards added that it historically it had been problematic to redeem the information from legal and risk but this would be provided and reported back in quarter 4.</p> <p>With regards to the MCA training levels, Maggie Berry queried whether there was any way to boost levels within the Morriston Unit as there had been some historical issues there. Nicola Edwards advised that training continues to take place but with the busyness of the site due to the pandemic, there was the difficulty for staff to be released. She provided assurance that within the Safeguarding Plan for next year was an arrangement for ward audits to take place in relation to MCA, DoLS and complaints and action plans would developed for each ward.</p>	
<b>Resolved</b>	The report be <b>noted</b> .	
<b>10/21</b>	<b>MENTAL HEALTH MEASURE 2010 MONITORING REPORT</b>	
	A report providing an update on performance against the Mental Health (Wales) Measure 2010 (1 <sup>st</sup> December 2019 to 30 <sup>th</sup> November 2020) was <b>received</b> .	

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	<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) for over 18's, compliance stood at 98% of assessments taking place within the 28-day referral period. For under 18's compliance stood at 41.2%. The target for both is 80%;</li> <li>- For Part 1b (interventions), 100% of interventions started within the 28 days following an assessment by LPMHSS;</li> <li>- Part 2, which relates to care and treatment plans (CTPs), most recent data showed that 91.2% 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>- Parts 3 and 4 of the measure (relating to self-referral and advocacy) were met throughout the period;</li> </ul> <p>In discussing the report, the following points were raised;</p> <p>Dai Roberts informed members of the how Welsh Government had commended the performance of the health board in these measures. Rhonwen Parry added that the health board had been recognised by Welsh Government as one of the few services across Wales to establish virtual 1:1 and group therapy very early on. She commended the health board's IT teams for work for their work in the set up. She advised that health board would continue with the blended approach to therapy.</p> <p>Martyn Waygood commented that it was pleasing that performance has been sustained but referred to the figures for CAMHs and queried how there was only 41% performance for assessments in November 2020 and performance interventions stood at 100%. Dai Roberts undertook to check the discrepancy with the health board's lead and circulate response to members.</p>	DR
<b>Resolved:</b>	<ul style="list-style-type: none"> <li>- Dai Roberts to check discrepancy on the CAMHS figures with the health board's lead and circulate response to members.</li> <li>- The report be <b>noted</b>.</li> </ul>	DR
<b>11/21</b>	<b>CARE AND TREATMENT PLANNING UPDATE</b>	
	<p>Stephen Jones was welcomed to the meeting.</p> <p>A report on progress following the review on Care and Treatment Planning was <b>received</b>.</p> <p>In introducing the report, Stephen Jones highlighted the following points;</p> <ul style="list-style-type: none"> <li>- The report provided updates on the progress within the separate action plans; <i>Neath Port Talbot Mental Health, Swansea Adult Mental Health, Learning Disability Health Teams</i>;</li> <li>- There were 3 recommendations made for Swansea Locality , these had all been achieved;</li> </ul>	

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	<ul style="list-style-type: none"> <li>- There were 6 recommendations made for the Neath port Talbot locality, 2 had been achieved, 4 partially achieved;</li> <li>- There were 6 recommendations made for learning disabilities of which 3 had been achieved and 3 partially achieved;</li> <li>- There was now a more robust framework in place for monitoring and audit, with systems being developed to ensure that quality is continually assessed at the frontline;</li> <li>- An audit approach has been adopted within the MH and LD Service Group to monitor CTP compliance against the standards and the data arising from this will be fed back to future committees;</li> <li>- Training compliance continues to be monitored in respect of the availability of trainers and the adaptation of training modules for virtual delivery;</li> <li>- The outstanding issues regarding risk assessment were being addressed nationally led by Welsh Government through the Chief Nursing Officer's office;</li> </ul> <p>In discussion, the following points were made;</p> <p>Maggie Berry made reference to actions that were partially achieved and queried the timeframes for completion. Stephen Jones replied that there were some that related to process issues. He assured that those related to risk assessments would be picked through the all-Wales work. Those in relation to quality of CTP's would be picked up through the ongoing audit, with the aim to develop new action plans from the findings. He added that there would be a new set of data in September.</p> <p>Martyn Waygood commented that this was comprehensive report and queried whether this was received via Quality and Safety Assurance Group. Christine Williams replied that it could be included as part of an exception report the group and can be embedded within.</p>	
<b>Resolved</b>	<ul style="list-style-type: none"> <li>- The progress made &amp; receive assurance that work continues to address the actions still for completion was <b>noted</b>;</li> <li>- The newly implemented clinical audit programme of work which will form the basis of future feedback through this report was <b>endorsed</b>;</li> </ul>	
<b>12/21</b>	<b>ANY OTHER BUSINESS</b>	
	<p>(i) <u>High Court Judgement</u></p> <p>Penny Cram advised that a high Court Judgement took place on the 22<sup>nd</sup> January 2021, which related to remote Mental Health Act assessments. At the start of the pandemic these had been deemed appropriate. However the recent judgement stated that assessments in person were critical and remote assessments can no longer take place. A briefing has been sent out to all relevant parties.</p> <p>Martyn Waygood queried whether this referred to assessments only and not hearings. Penny Cram advised it was just assessments at the</p>	

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	<p>moment and there was a question as to whether assessments that had already taken place remotely were legal and were waiting on the conclusion on this.</p> <p>(ii) <u>Review of Mental Health Act</u></p> <p>Penny Cram advised that the review of the Mental Health Act was ongoing, the White Paper had been published and was out for consultation until the 31<sup>st</sup> April 2021. The review includes that of key areas including; care and treatment plans, care treatment orders, the interface with the Mental Capacity Act and the abolishment of the Associate Hospital Managers.</p> <p>Pam Wenger advised that as affect key ways of working, the health board would need to respond from an organisational perspective.</p> <p>Stephen Spill queried when this would become legislation, Penny Cram replied that this was uncertain.</p>	
<b>Resolved</b>	<ul style="list-style-type: none"> <li>- Penny Cram undertook to circulate the White Paper for the Mental Health Act review and the briefing in relation to the High Court Judgement.</li> </ul>	<b>PC</b>
<b>13/21</b>	<b>DATE OF THE NEXT MEETING</b>	
	The next meeting would take place on <b>Thursday, 6<sup>th</sup> May 2021</b>	