

Unconfirmed
MINUTES OF THE
MENTAL HEALTH LEGISLATION COMMITTEE
HELD ON 3rd FEBURARY AT 09:30AM
MICROSOFT TEAMS

Present

Stephen Spill	Vice Chair (in the chair)
Maggie Berry	Independent Member
Jackie Davies	Independent Member
Dai Roberts	Service Director, Mental Health and Learning Disabilities

In Attendance

Penny Cram	Interim Mental Health Act Manager
Paul Stuart Davies	Assistant Director of Nursing
Georgia Pennells	Corporate Governance Administrator
Rhonwen Parry	Head of Psychology
Tanya Spriggs	Nurse Director, PCC Service Group (minute 08/22)

MINUTE		ACTION
01/22	WELCOME AND INTRODUCTIONS	
	Stephen Spill welcomed all to the meeting.	
02/22	APOLOGIES FOR ABSENCE	
	Apologies for absence were received from Gareth Howells, Interim Director of Nursing and Patient Experience and Inese Robotham, Chief Operating Officer.	
03/22	DECLARATIONS OF INTEREST	
	There were none.	
04/22	MINUTES OF THE PREVIOUS MEETING	
	The minutes of the meeting held on 4 th November 2021 were received and approved as a true and accurate record.	
05/22	MATTERS ARISING	
	<p>Maggie Berry advised that at a recent hospital manager's power of discharge meeting, it was highlighted that travel expenses and remuneration were owed to members – Maggie Berry wanted to note that the administration team must resolve this issue.</p> <p>Hazel Lloyd would link in with Penny Cram to look into resolving this issue.</p>	HL
06/22	ACTION LOG	
	The action log was received and noted .	

07/22	MENTAL HEALTH ACT 1983 MONITORING REPORT	
	<p>A report providing an update on performance against the Mental Health Act 1983 was received.</p> <p>In introducing the report, Dai Roberts highlighted the following points:</p> <ul style="list-style-type: none"> - The report presented the data for the period 1st October – 31st December 2021; - There had been use of back to back section 5(2) – two occurrences in Ward F where such action is not appropriate; - There were 3 admissions of Child and Adolescent Mental Health Services patients to Ward F with the length of stay being between 2-8 days; - Unfortunately there was a death of a detained patient, the patient was transferred from Cefn Coed to Morriston Hospital and the death has been reported to Health Inspectorate Wales; - During the quarter there were no visits from Health Inspectorate Wales to any of the facilities; - The audit report on the Mental Health Act was received and there were some amendments made to the report in terms of responding immediately to how the recommendations are made but further work will have to take place with Penny Cram and her team to look at how they can capture the relevant information and bring the report to the standard recommended; - Penny Cram's interim appointment has been extended to February 2022; - There were 13 exceptions to the act and 1 invalid detention and there were 3 issues where there was non-compliance with statutory duties i.e. the mental health act team did not receive scanned copies of correspondence which they should have if the act was carried out properly. <p>In discussing the report, the following points were raised:</p> <p>Jackie Davies highlighted the issue with the 5(2) and back-to-back 5(2) and noted it seems to be part of a bigger theme in terms of the general errors and the complacency in the use of the act. Jackie Davies wondered whether the use is the same individual, someone new or inexperience or poor practice in Ward F. Penny Cram answered that it is a mixture of all elements that Jackie Davies mentioned and not least the pressure in Ward F having become the single point of access and the staffing pressures that are currently on going. Penny Cram noted there has been an increase in section 5(2) and highlighted that the mental health commission has upheld previously that it is unlawful practice to use section 5(2) in that way. Jackie Davies touched on the pressures on Ward F and noted the other errors occurring such as paperwork going missing and the administration not receiving the correct documents meaning unlawful detentions occurring, in terms of a service Ward F is clearly under a lot of pressure, which needs to be looked at further. Penny Cram noted there has been a lack of knowledge identified, as there are many newly qualified nurses who haven't received the scrutiny and mental health act training because of covid-19. Penny Cram has spoken to the</p>	

	<p>manager on Ward F and an immediate session has been arranged to cover the scrutiny and mental health act training. A second training session has been arranged in March to target the 8 members of staff starting late February.</p> <p>Dai Roberts noted there were no excuses for not abiding by the law but Ward F has been under immense pressure with being the single point of admission. The ward is carrying the weight of the more complex and acute patients and alongside this, the ward has been created to limit coronavirus outbreaks and as a result the ward is on its third outbreak since October 2021. This has put enormous pressure on the ward, the system and staff members and maybe this is the context as the standards of the ward has dropped by a few percent. Stephen Jones reiterated Dai Roberts' comments and in addition noted that there had been a change of ward manager in Ward F.</p> <p>Paul Stuart Davies echoed Stephen Jones and Dai Roberts' comments and described the comments as a unique set of circumstances. For Paul Stuart Davies the focus is around the recovery trajectory, the safeguarding that is in place, this is where the improvement trajectories are, and the delivery of that and how the team monitors that is key. Paul Stuart Davies congratulated mental health and learning disabilities services for their abilities and expertise to adapt and work well to develop their skills during covid-10 should be commended.</p> <p>Maggie Berry asked if it was possible for the committee to see what the errors are as a percentage of the whole, so the committee can see what good things are happening on ward F when looking at what the errors have occurred.</p> <p>Penny Cram raised in the hospital managers powers of discharge committee the change of police powers and the significant impact on the number of section 136s. Jackie Davies asked Penny Cram to elaborate further. Penny Cram noted that more recently the work alongside the police on the street and in the triage room has been excellent resulting in an increase of communication so and a decrease in detentions under section 136. There are more voluntary attendances and assessments.</p> <p>Regarding the invalid detention, Steve Spill queried whether the detention was invalid in the sense of being badly managed from an administration perspective, not that it was wrong that the person was wrongly detained. The process which followed was to inform the person they were wrongly detained, and what was the risk of litigation against the health board. Penny Cram informed that on this occasion the ward lost the signed copy of the 'amp report'. Dai Roberts noted that the risks are reputational and there would not be a financial risk.</p>	
Resolved	<p>The committee noted the Mental Health Act Monitoring Report.</p> <ul style="list-style-type: none"> - To put into context what the errors are as a percentage of the whole, so the committee can see the positive performance on Ward F as well as what errors have occurred. 	DR
08/22	MENTAL CAPACITY ACT 2005 AND DEPRIVATION OF LIBERTY SAFEGUARDS MONITORING REPORT	

Tanya Spriggs was welcomed to the meeting.

A report providing an update on the Mental Capacity Act (MCA) and Deprivation of Liberty Safeguards (DoLS) position for Quarter 1 was **received**.

In introducing the report, Tanya Spriggs highlighted the following points;

- In Q3 there were 224 referrals received, of those a total of 12 were assessed by the only dedicated Best Interest Assessor (BIA), one Internal staff member who has completed BIA assessments (not primary role) completed 5 assessments. Total number granted 4;
- The cumulative number of discharges from 1st April to 31st December 2021 equates to 719, (this figure includes discharges, death, further assessments required, reviews of conditions those subject to a DoLS which may result in a breach of time scales, patients not meeting DoLS criteria therefore DoLS applications not applicable;
- The number of breaches have risen again (106 in Q1, 109 in Q2 and 125 in Q3), most breaches are due to a continuing lack of BIA Assessors – both internal and external. From mid April the 2 internal BIA assessors have been accessing the acute sites, after appropriate risk assessments were undertaken prior to visiting the wards;
- To help address the backlog of assessments, manage the DoLS Team and assist in the implementation of LPS, the current substantive BIA (band 6) has been re-banded as DoLS Team Leader (band 7) effective from 11th October 2021. To address the back log of DoLS assessments and the current demand, a number of options are being explored utilising the funding from Welsh Government.

In discussion, the following points were made;

Paul Stuart Davies noted that a corporate lead for Liberty Protection Safeguards had been appointed and has been getting herself established with the baseline assessment for the health board and linking in from a national perspective. Paul Stuart Davies sought the chair's opinion to bring to the next committee a separate status regarding the health board's readiness and implications surrounding Liberty Protection Safeguards (LPS). As Tanya Spriggs previously mentioned there has been money received from Welsh Government this year and the team are investing all they can in this financial year by way of training and opportunities for staff. Originally recruitment was made on the basis of LPS was due to come in April 2022 but Paul Stuart Davies informed that this would not be the case, and this would more likely be the autumn however, confirmation has not been received. Paul Stuart Davies noted the extra time and opportunity in some way helpful.

In terms of the best interest assessors noting that the breaches have risen again, Jackie Davies raised whether the health board's model is working and whether the health board should review the model of training nurses to come in ad-hoc or whether a permanent team is required. Tanya Spriggs noted the team has moved away from looking at internal staff to undertake BIAs some time ago, and the focus has been on external BIAs and staff doing BIAs in own time and out of hours and there has been

	<p>some success with this albeit small numbers. Due to a vacancy there was a gap in quarter three because there was only one internal BIA however, this vacancy has been filled going into quarter four. Tanya Spriggs is keen to see how the external company delivers and this is something to consider as a health board going forward, certainly until the new legislative frame of LPS is in place.</p> <p>Rhonwen Parry commented that the training requirements moving forward for the new LPS issues will be significant for all staff because of the expectations of practioners and clinicians to be involved early in the process. Whilst this will be an improving situation for patients, the health board needs to be 'ahead of the game'.</p> <p>Maggie Berry wondered if there was any medically fit discharged patients sitting in beds waiting for the process of a Best Interest Assessment. Tanya Spriggs confirmed there are people sat in beds waiting for a Best Interest Assessment but they are not the Best Interest Assessment relating to DoLS it is very specific around the legislation that there will be other patients waiting for best interest decisions and they are usually an MDT discussion around the right place for that person who doesn't have capacity. Paul Stuart Davies reassured Maggie Berry that none of the health boards across Wales have said they can make these changes without investment because of the additional demands that it places on health boards to deliver this.</p> <p>Jackie Davies noted the compliance section of the report recognising the need for assessments is far greater in the ward areas where the ward manager has taken the mental health capacity act training and has an interest, and therefore wondered if the training should be mandatory for the ward managers.</p>	
Resolved;	<ul style="list-style-type: none"> - The committee noted the performance data for Quarter 3 – October to December 2021 together with cumulative information for year to-date (Appendix 1). - The committee noted that further LPS guidance has been delayed. Welsh Government have advised that the implementation date of April 2022 will not take place. No new date has been suggested. Code of Practice and guidance is to be disseminated for consultation spring 2022. - The committee noted that additional funding to address the DoLS backlog and to meet training needs for mental capacity and Best Interest Assessor training has been agreed by Welsh Government (appendix 2). - The committee noted the introduction of Team Leader for DoLS to help address the backlog of assessments, manage the DoLS Team and assist in the implementation of LPS, effective from 11th October 2021. - The Corporate Lead for Liberty Protection Safeguards to be invited to the May Committee to present a separate status regarding the health board's readiness and implications surrounding Liberty Protection Safeguards. 	SS/GP

09/22	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, Dai Roberts highlighted the following points:</p> <ul style="list-style-type: none"> - Regarding Part One (assessments) - Swansea Bay Health Board services' have been consistently well above target for the whole period. Other than for one month, the CAHMS performance has been below target and the composite figures have been above target and this compares favourably with the rest of Wales; - Part Two of the measure the health board has had its own issues since the summer, which continued in December. The team have put some corrective action in January and the reported numbers are rising, issues have been seen where the care coordinators are not responding to requests to update care treatment plans. Dai Roberts plans to escalate this to the social services' directors over the next week or so; - Part Three and Four – Compliance has been 100% in both areas for the periods concerned. <p>In discussing the report, the following points were raised:</p> <p>Penny Cram commented on the lack of response from the care coordinator, recent conversations have been held with principal officer and team leader in Neath Port Talbot and Swansea social services. As the team are also struggling to submit care treatment plans in readiness for tribunals and hospital manager hearings and route cause is sickness absence, especially in Swansea council all teams are struggling due to unprecedented sickness due to covid-19.</p> <p>Steve Spill made reference in the report to Cwm Taff University Health Board changing the way CAHMS statistics had been expressed, Steve Spill wondered if that meant the statistics were worse than reported in the past. Dai Roberts confirmed this is the correct interpretation.</p>	
Resolved:	The Mental Health Measure 2010 Monitoring report was noted .	
10/22	POWERS OF DISCHARGE TERMS OF REFERENCE	
	<p>A verbal update on the Powers of Discharge Committee was received.</p> <p>Hazel Lloyd highlighted the following points.</p> <ul style="list-style-type: none"> - The report sets out the revised changes to the Hospital Managers Powers of Discharge Terms of Reference, there were no significant changes and the report is presented for approval. <p>In discussing the Terms of Reference the following points were raised:</p> <p>Jackie Davies asked whether the terms of reference should make reference to the policy for hospital managers scheme of delegation. Hazel Lloyd allowed this inclusion.</p> <p>There was a discussion surrounding the hospital managers powers of discharge committee meeting – Steve Spill noted that he has not taken part in the meeting and would be keen to attend. Jackie Davies informed the committee that at present only herself and Maggie Berry attend the</p>	

	meetings and Penny Cram is in the process of arranging training to Independent Members. The committee were in agreement that greater awareness is needed for the hospital managers scheme of delegation meeting.	
Resolved;	<ul style="list-style-type: none"> - The report was noted and The Powers of Discharge Terms of Reference were approved. - Hazel Lloyd to ensure reference is made to the policy for hospital managers scheme of delegation. 	HL
11/22	ACTION PLANS FROM THE CARE AND TREATMENT PLANS AUDIT	
	<p>The Care and Treatment Plans Audit was received.</p> <p>Stephen Jones highlighted the following points:</p> <ul style="list-style-type: none"> - It was agreed through the Mental Health Legislation Committee that the report would be reported through the Quality and Safety Committee within the service group and up to Quality and Safety Governance Group which will go to full committee if it required. This was not noted in the report but Stephen Jones assured the committee this is done on a monthly basis; - The body of the report highlights delays through covid-19, the service are currently dealing with 5 outbreaks which has impacted on staff and staff absence therefore to be able to gain traction has become problematic; - Previously it was agreed to do an annual cycle of audit based of the new regime created within the service – the team failed to this during Autumn 2021 again this was due to covid-19 and there is an aim to get the re-audit done as quickly as possible; - The action plans within the individual divisions have been progressed; - It has been more prevalent in recent months is the thresh hold in the scoring within the individual divisions – if a person is looking at the report and one aspect is not achieved then it is being marked as amber rather than green. This was not necessarily a negative as it meant the team are looking for efficiencies and setting the 'bar high'. - Stephen Jones highlighted that care coordination is not held by the health board entirely so some challenges will need to be mitigated in terms of quality as we are dependent on local authority staff to invest in this also; - In terms of the individual reports some of the delays are around training – the learning and development team has been under pressure over the past few months with staff movement but hopefully this should ease due to recruitment; - In terms of the complexities of managing CTPs as forensic services into this, as a regional service their links are the 6 South Wales local authority areas and the respective health boards 	

	<p>within those areas where the CTPs tend to be owned because they are imbedded in the home areas of the individual rather than the forensic service itself. This is a legacy issue and how it's been managed from the inception from the mental health measure in 2021 – Stephen Jones has raised this during a recent performance review with the forensic team as it is something that needs to be considered and the patient needs to be kept at the centre of this, this challenge has been placed on the forensic unit.</p> <p>In discussing the report, the following points were raised:</p> <p>Jackie Davies gave credit to the two people who conducted the original audit. In terms of the risk assessments and risk management plans where the target for achievement is April 2021 and wondered why there was such a delay. Stephen Jones clarified that the framework which the service group currently use is 'worn' and there have been challenges around the implementation due to the lack of trainers and several staff members have moved on into new roles and therefore were unable to fulfil their duties in providing the training. This has been raised through the learning and development committee and it has been recognised as an issue.</p>	
Resolved:	<ul style="list-style-type: none"> - The committee received and approved the contents of this report - The committee received and approved the action plans - The committee agreed the re-audit delay and planned schedule for 2022 	
12/22	ANY OTHER BUSINESS	
	<p>Jackie Davies noted that the group have lost a number of associate hospital managers due to ill health. Jackie Davies highlighted that it is getting more difficult to carry out. The plan is to train board members to share the workload and ordinarily new hospital managers would be recruited, however with the review of the mental health act impending the role may become obsolete.</p> <p>As it was Dai Roberts' last committee before retirement, members thanked Dai Roberts for all his hard work and efforts as director of Mental Health and Learning Disabilities.</p>	
13/22	DATE OF THE NEXT MEETING	
	The next meeting would take place on Thursday 5th May 2022.	