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WALES

Bwrdd Iechyd Prifysgol  
Bae Abertawe  
Swansea Bay University  
Health Board



<b>Meeting Date</b>	<b>05 November 2020</b>	<b>Agenda Item</b>	<b>2.1</b>
<b>Report Title</b>	<b>Mental Health Act Activity Report</b>		
<b>Report Author</b>	Samantha Jones / Penny Cram- Mental Health Act Team		
<b>Report Sponsor</b>	David Roberts- Service Group Director		
<b>Presented by</b>	David Roberts Service Group Director		
<b>Freedom of Information</b>	Open		
<b>Purpose of the Report</b>	The purpose of the paper is to present to the Mental Health Legislative Committee the quarterly Mental Health Act activity report, in relation to Hospital Managers' scheme of delegated duties under the Mental Health Act 1983 and the functions, including section 23.		
<b>Key Issues</b>	<ul style="list-style-type: none"> <li>• Review of Quarter 3 activity under the Mental Health Act including errors &amp; any invalid detentions</li> <li>• Review of activity for Hospital Managers Hearings.</li> </ul>		
<b>Specific Action Required</b> <i>(please choose one only)</i>	<b>Information</b>	<b>Discussion</b>	<b>Assurance</b>
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Recommendations</b>	Members are asked to: <ul style="list-style-type: none"> <li>• <b>Receive this report</b></li> </ul>		

## Quarter 3 Mental Health Activity Report 2020/21

### 1. INTRODUCTION

The report provides assurance in respect of the work that has been undertaken by Mental Health and Learning Disabilities (MHL) Services 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.

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.

### 2. BACKGROUND

#### Mental Health Act 1983

An activity report, along with definitions of relevant sections of the Act is included below. This summarises key points of the use of the Act within SBU Health Board. Rates of detention under different sections of the Act typically fluctuate between each quarter; therefore, only significant points are highlighted.

#### 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)

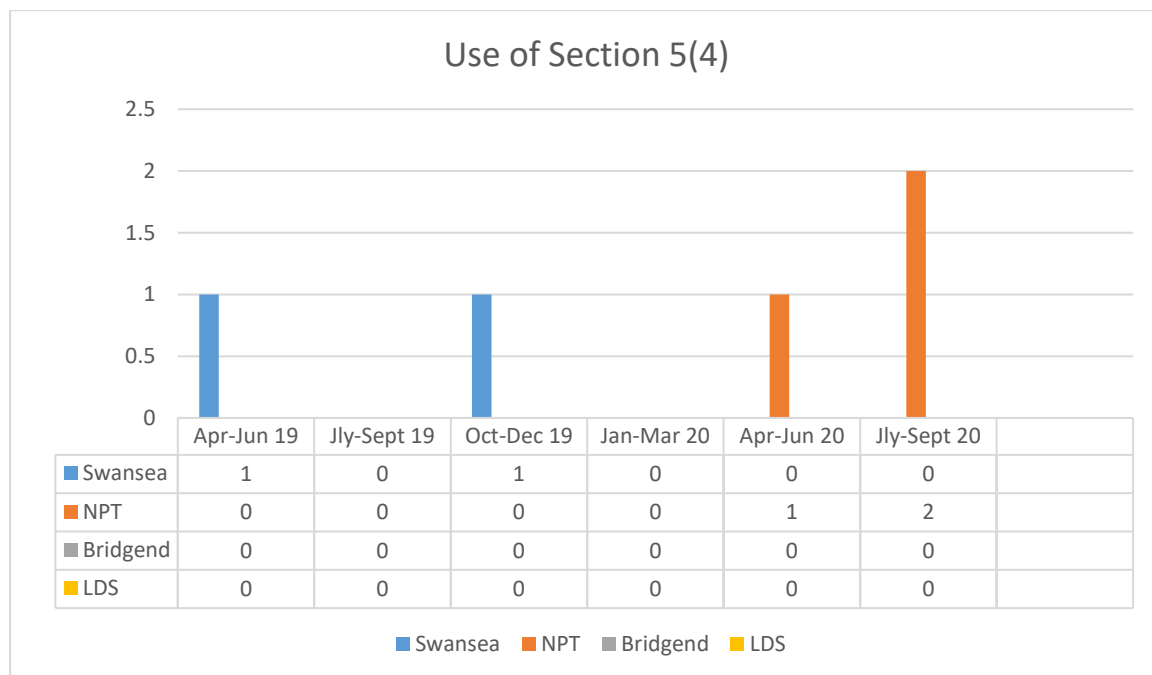
## Mental Health Act 1983 - Data Collection and Exception Reporting

The data below summarises some of the key points of the use of the Mental Health Act (1983) during the quarter, together with comparison data for the previous 12-month period:

### Detention under Section 5 – Holding Powers

Section 5(4) is used by mental health and learning disability nurses in mental health in-patient settings for up to 6 hours to allow for a further assessment to take place.

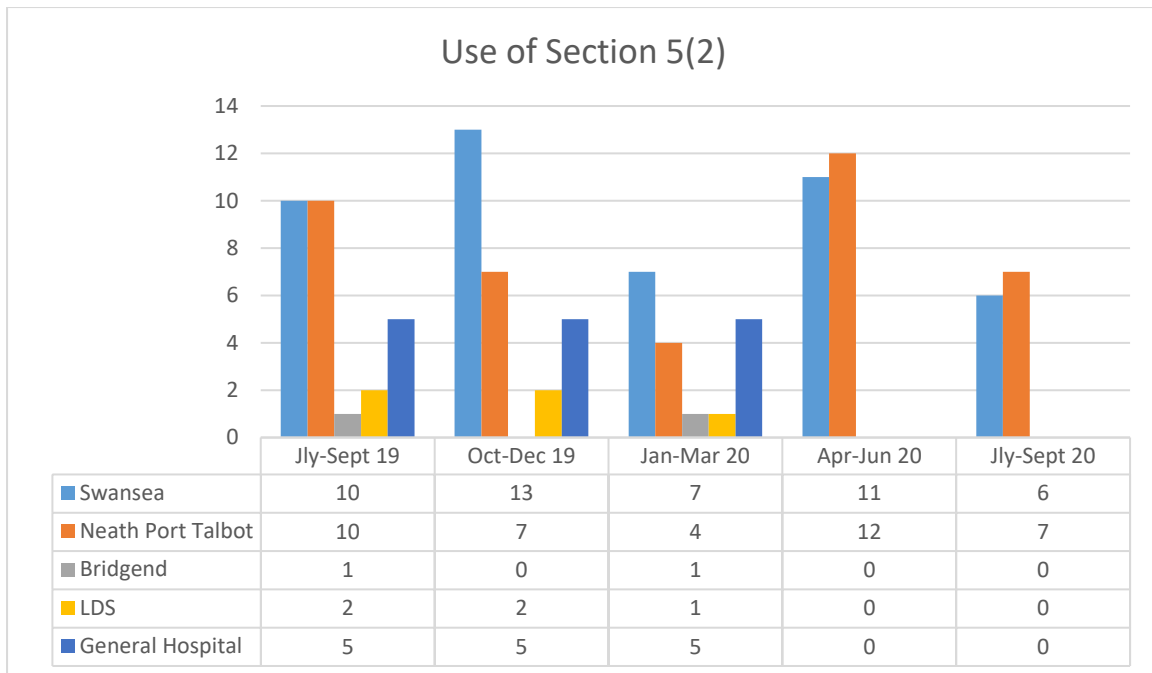
Section 5(4) was used on 2 occasions.



*The graph above shows comparison date for the previous 12 months*

Section 5(2) is used by Doctors in both mental health and general hospital settings to detain an in-patient for up to 72 hours to allow for a mental health act assessment to take place.

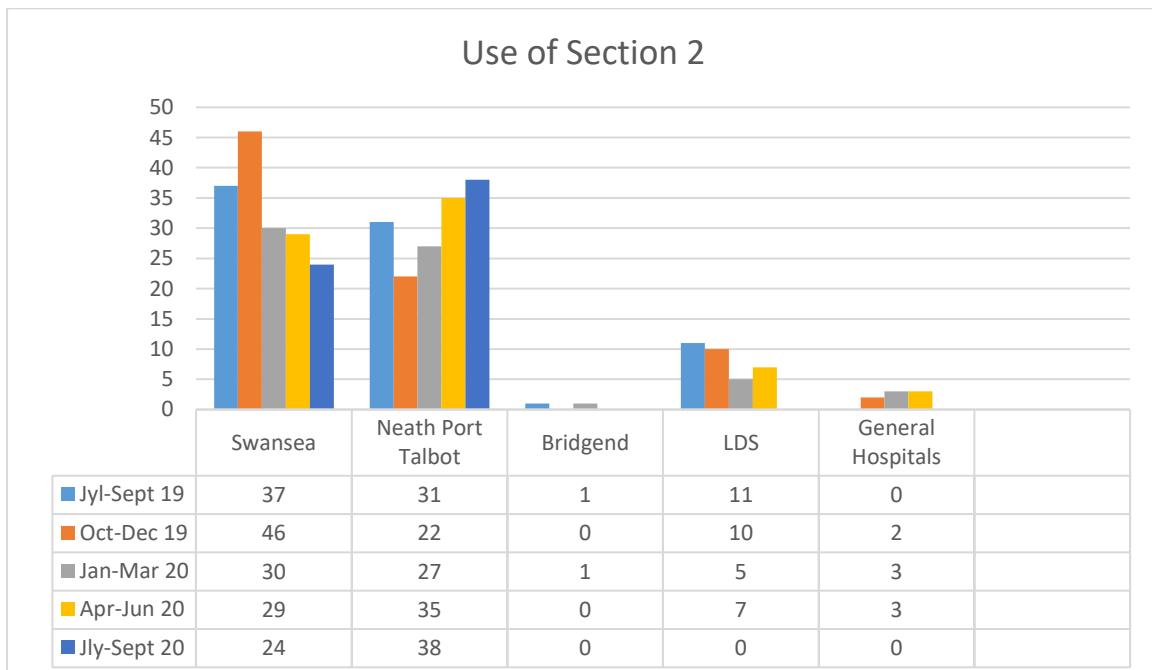
Section 5(2) was used on 13 occasions.



## Section 2 – Admission for Assessment

This section authorises the compulsory admission of a patient to hospital for assessment (or for assessment followed by medical treatment), for mental disorder, for up to 28 days.

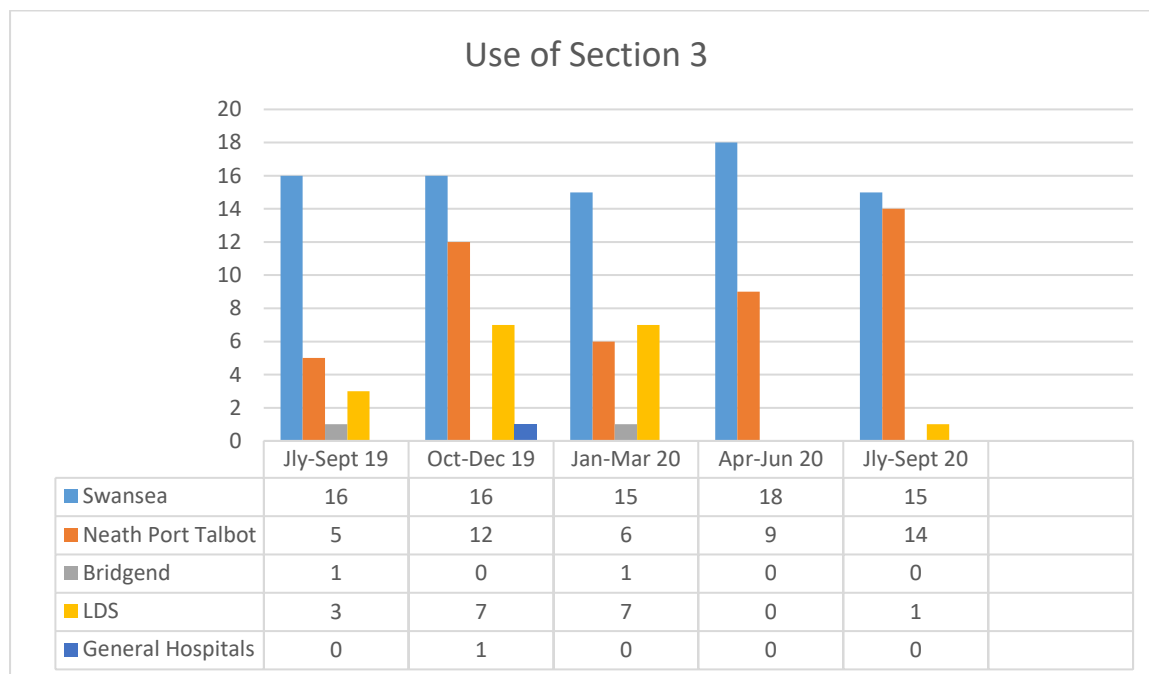
Section 2 was used on 62 occasions.



### Section 3 – Admission for Treatment

This section provides for the compulsory admission of a patient to hospital for treatment for mental disorder. The detention can last for an initial period of six months.

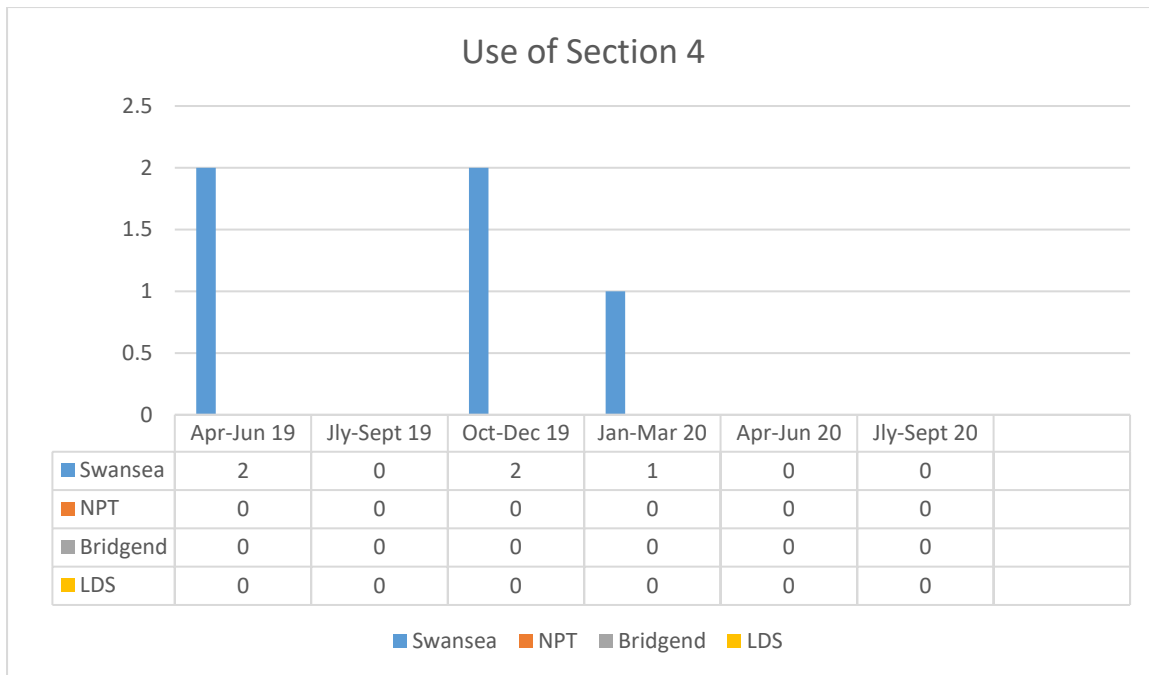
Section 3 was used on 30 occasions.



### Section 4 – Emergency Admission for Assessment

The use of section 4 of the Mental Health Act 1983 is to enable an admission for assessment to take place in cases of urgent necessity. It should only be used to avoid an unacceptable delay and as such is infrequently used and specifically examined by Mental Health Act Managers when this is the case.

Section 4 was not used during the quarter.



*The graph above shows comparison data from the last 12 months*

### **Section 17A – Community Treatment Order**

This section provides a framework to treat, and safely manage certain eligible patients who have been detained in hospital for treatment, in the community, whilst still being subject to powers under the Act.

There are currently 5 new Community Treatment Orders in place as at 30 September 2020.

One CTO was allowed to lapse in July 2020. The RC was away from his post due to a family bereavement, and no arrangements were made either for his cover, or for the patient’s CTO to be reviewed / renewed / discharged by another RC.

### **Police powers to remove a person to a place of safety under Section 135 & 136**

This section empowers a constable to remove a person from a public place to a place of safety if it is considered the person is suffering from mental disorder and is in immediate need of care or control.

Section 136 was enacted on 57 occasions during the quarter.

Section 135 was enacted on 3 occasions during the quarter.

### **Deaths of detained patients**

There were 0 deaths during the quarter.

### **Application for Discharge to Hospital Managers and Mental Health Review Tribunal**

*See graphs at Appendix 2 for data*

## **Healthcare Inspectorate Wales (HIW) Visits to Mental Health & Learning Disabilities Units**

Due to COVID 19 restrictions, HIW are not undertaking site visits at present. Instead they have introduced quality checks which entail the submission of written evidence, and an interview with the Ward Manager using Microsoft Teams.

A Tier 1 Quality check was undertaken on Newton Ward in Caswell Clinic on 25<sup>th</sup> August 2020. The review focussed on the ward's preparedness for and response to COVID 19, and was largely positive with two areas of improvement identified:

- The addition of an appendix on COVID 19 to the patient information leaflet
- Low compliance with fire training for ward staff

An improvement plan has been submitted to HIW covering these issues which has been accepted.

### **3. GOVERNANCE AND RISK ISSUES**

#### **Scrutiny of Documents**

Section 15 of the Act provides for certain admission documents, which are found to be incorrect or defective, to be rectified within fourteen days of the patient's admission. Rectification or correction is mainly concerned with inaccurate recording, and it cannot be used to enable a fundamentally defective application to be retrospectively validated.

#### **Data Collection and Exception Reporting**

Any exceptions highlighted in the Mental Health Act activity report are intended to raise 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.

#### **Detention without authority or Invalid Detentions**

There were thirty-seven exceptions for this period, and no invalid detentions identified by the Mental Health Act Department. There were no breaches to the Mental Health Act for in-patients admitted to Swansea Bay UHB who are under the age of 18.

*Please see the graphs at Appendix 1 for exception data*

### **4. RECOMMENDATION**

The Board is asked to note the report.

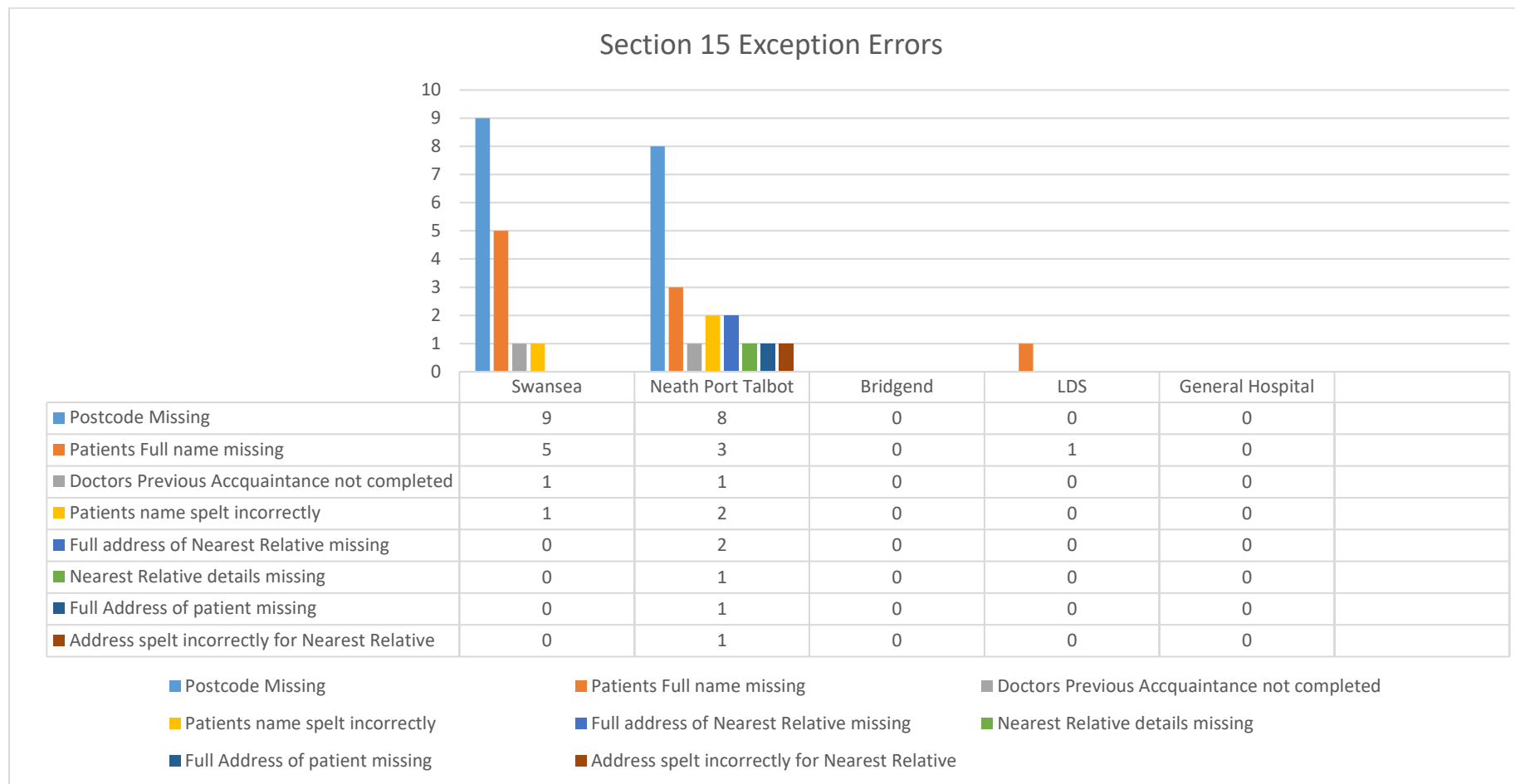
<b>Governance and Assurance</b>		
<b>Link to Enabling Objectives</b> <i>(please choose)</i>	<b>Supporting better health and wellbeing by actively promoting and empowering people to live well in resilient communities</b>	
	Partnerships for Improving Health and Wellbeing	<input checked="" type="checkbox"/>
	Co-Production and Health Literacy	<input type="checkbox"/>
	Digitally Enabled Health and Wellbeing	<input type="checkbox"/>
	<b>Deliver better care through excellent health and care services achieving the outcomes that matter most to people</b>	
	Best Value Outcomes and High Quality Care	<input checked="" type="checkbox"/>
	Partnerships for Care	<input type="checkbox"/>
	Excellent Staff	<input type="checkbox"/>
	Digitally Enabled Care	<input type="checkbox"/>
	Outstanding Research, Innovation, Education and Learning	<input type="checkbox"/>
<b>Health and Care Standards</b>		
<i>(please choose)</i>	Staying Healthy	<input type="checkbox"/>
	Safe Care	<input checked="" type="checkbox"/>
	Effective Care	<input type="checkbox"/>
	Dignified Care	<input checked="" type="checkbox"/>
	Timely Care	<input type="checkbox"/>
	Individual Care	<input checked="" type="checkbox"/>
	Staff and Resources	<input type="checkbox"/>
<b>Quality, Safety and Patient Experience</b>		
<p>The report provides assurance in respect of the work that has been undertaken by Mental Health and Learning Disabilities (MHL) Services 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.</p>		
<b>Financial Implications</b>		
<b>Legal Implications (including equality and diversity assessment)</b>		
Mental Health Act 1983		
<b>Staffing Implications</b>		



**Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)**

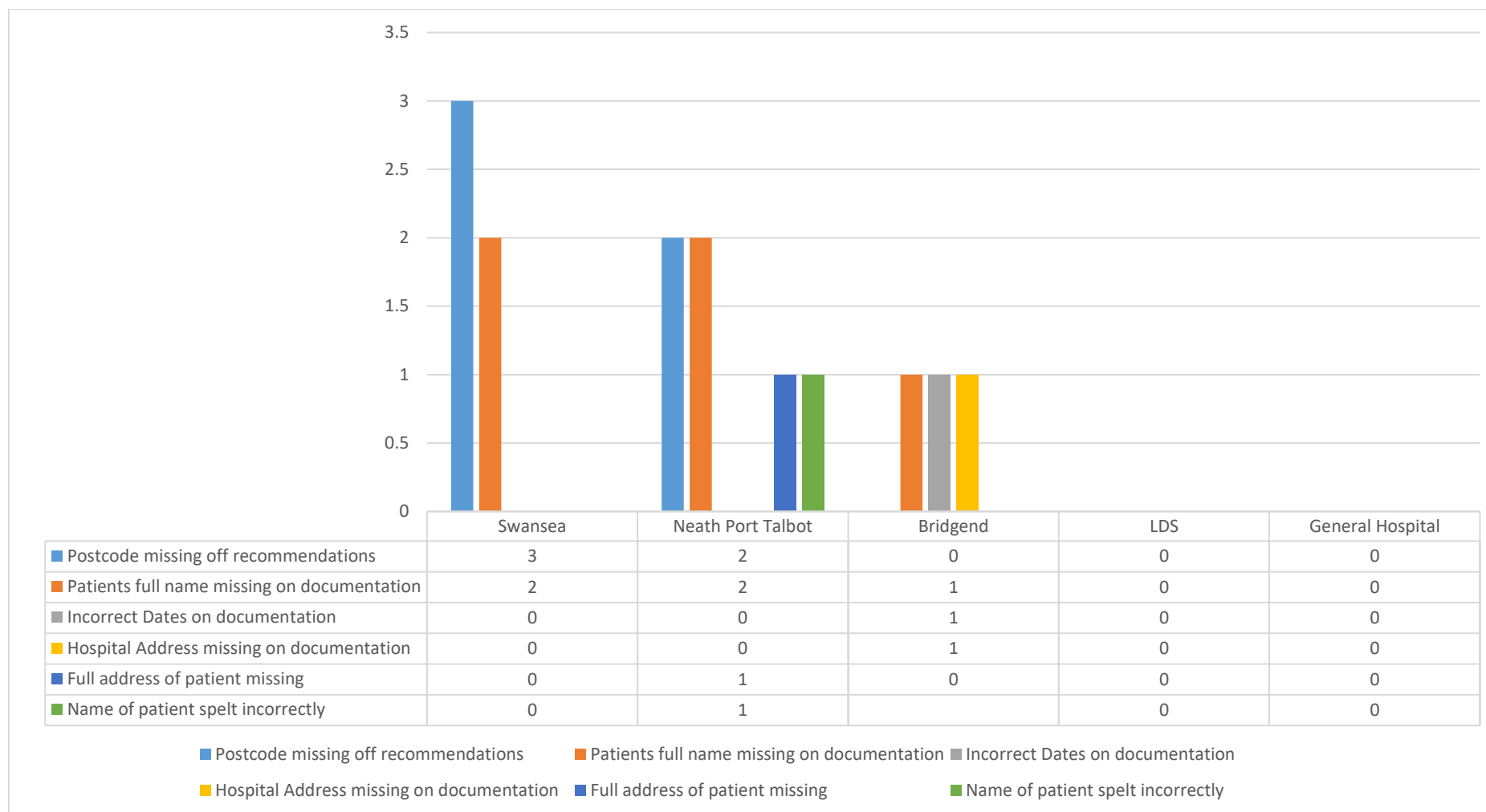
<b>Report History</b>	<p>The Mental Health Act Activity report is produced on a quarterly basis to inform both the MH Legislative Committee, and the Hospital Managers Power of Discharge Committee.</p> <p>The most recent Power of Discharge Committee was held on Friday 18<sup>th</sup> September 2020.</p>
<b>Appendices</b>	<p>Appendix 1: Graphs showing rectifiable and non-rectifiable errors under Section 15 of the Act.</p> <p>Appendix 2: Graphs showing activity relating the Mental Health Review Tribunals and Hospital Managers Hearings</p>

Exceptions and non-rectifiable errors on Mental Health Act statutory documents for the period 1 July – 30 September 2020



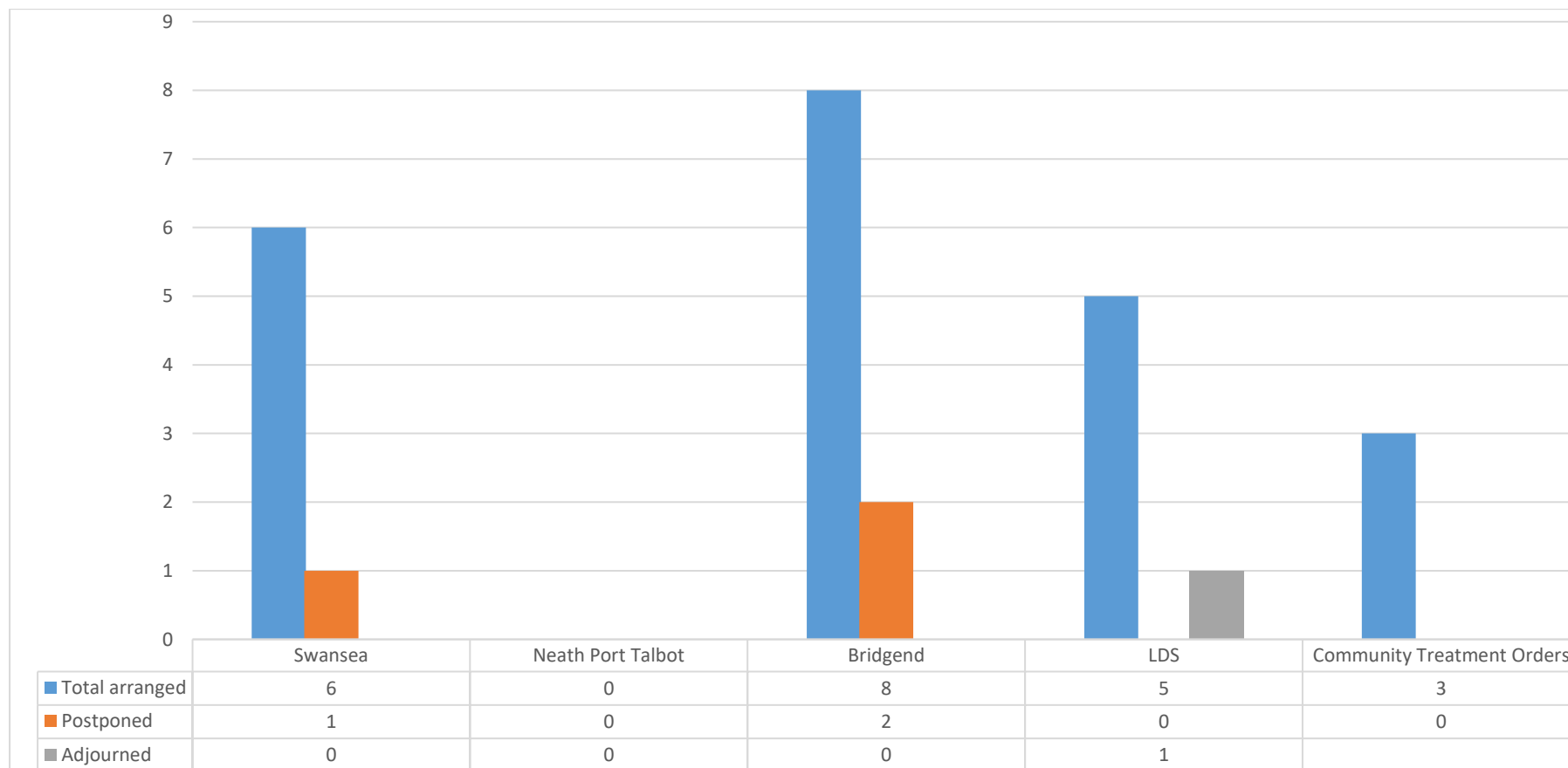
**This graph shows exceptions that can be rectified under Section 115 of the Mental Health Act, on Mental Health Statutory Documents for the period 1 July – 30 September 2020**

### Non-rectifiable errors under Section 15 of the ACT



**This graph shows non rectifiable errors on Mental Health Statutory Documents for the period 1 July – 30 September 2020**

Hospital Managers Appeals - Postponements and Adjudgments



### Reasons for Hospital Managers Postponed/Adjourned 1 July 2020 – 30 September 2020

Postponed/Adjourned	Type of hearing	Date/time	Reason for postponement/adjournment	Outcome
Postponed	Renewal of Detention	28/07/2020 10.00am	Responsible Clinician on sick leave	Not Discharged
Postponed	Renewal of detention	28/07/2020 10.30am	Responsible Clinician on sick leave	Not Discharged
Adjourned	Renewal of detention	01/07/2020	Care & Treatment Plan was to be updated by Social Worker	Not Discharged

### Mental Health Review Tribunal – Hearing Outcomes

