

Unconfirmed
MINUTES OF THE
MENTAL HEALTH LEGISLATION COMMITTEE
HELD ON 4th August AT 09:30AM
MICROSOFT TEAMS

Present	Stephen Spill Maggie Berry	Vice Chair (in the chair) Independent Member
In Attendance	Penny Cram Georgia Pennells Tanya Spriggs Hazel Lloyd Dermot Nolan Stephen Jones Paul Stuart Davies Nicola Edwards Alison Gallagher Rhian Lewis	Interim Mental Health Act Manager Corporate Governance Officer Nurse Director, PCC Service Group (minute 34/22) Acting Director of Corporate Governance Interim Associate Director, Mental Health and Learning Disabilities Nurse Director, Mental Health and Learning Disabilities Assistant Director of Nursing Head of Safeguarding (Minute 34/22) Head of Operations, Mental Health and Learning Disabilities Principal Auditor (Observing)

MINUTE		ACTION
28/22	WELCOME AND INTRODUCTIONS	
	Stephen Spill welcomed all to the meeting.	
29/22	APOLOGIES FOR ABSENCE	
	Apologies for absence were received from Jackie Davies, Independent Member, Gareth Howells, Director of Nursing and Patient Experience, Inese Robotham, Chief Operating Officer and Janet Williams, Service Director of Mental Health and Learning Disabilities. <u>It was noted that the Mental Health Legislation Committee was not quorate, Hazel Lloyd, Acting Director of Corporate Governance advised the committee could continue given there were no approvals.</u>	
30/22	DECLARATIONS OF INTEREST	
	There were none.	
31/22	MINUTES OF THE PREVIOUS MEETING	
	The minutes of the meeting held on 5 th May 2022 were received and approved as a true and accurate record.	
32/22	MATTERS ARISING	
	Attendance and arrangements for the Powers of Discharge panel In Jackie Davies' absence, Steve Spill provided the context that an issue	

	<p>had arisen from a sub-committee that quite often when the panel convene the relevant staff members have not attended to present the position. Penny Cram advised that there have been significant issues where local social services' authority staff care coordinators are not able to attend due to staff sickness and the team are experiencing difficulty with the number of postponements and adjournments.</p> <p>Dermot Nolan advised that Janet Williams is writing to the local authorities around compliance with care treatment plans and would include the issue around attendance at management hearings. Maggie Berry asked that Janet Williams includes the quality of the reports received to be included in the letter, as an alternative member can delegate for you providing the staff member receives a well written report.</p> <p><u>ACTION</u> – An update on attendance and arrangements for the Powers of Discharge panel to be provided within the Mental Health Act 1983 Monitoring Report at the November 2022 committee.</p>	PC
33/22	ACTION LOG	
	The action log was received and noted .	
34/22	WORK PROGRAMME	
	The committee work programme was received and noted .	
35/22	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, Penny Cram highlighted the following points:</p> <ul style="list-style-type: none"> - Civil sections reported numbers remained consistent, apart from section 5.2 which remain consistently high. Work has been commenced to explore reasons and issues such as availability of practitioners for assessments, conversion rate in terms of what happens to the patient after the section 5.2 comes to an end, delivery of training is ongoing to support the correct completion of paperwork; - A query was raised by digital intelligence in terms of whether all patients at Caswell Clinic were detained patients. This in turn has highlighted incidents whereby patients have been admitted informally to Caswell Clinic historically not recently, and whether or not this constitutes a deprivation of liberty due to the nature and environment of a medium secure unit. This type of situation has not occurred in recent years; - Pleased to see the use of section 136s is low and declining and the voluntary assessments are increasing, with lots of hard work undertaken by the local mental health police liaison officers in Swansea, Neath and Port Talbot; - In terms of governance and risk issues, the errors on paperwork continue to fall due to the programme of training in place and better communication with wards due to moving from the headquarters to Cefn Coed; - Unannounced director reviews as part of the quality assurance framework have commenced this has involved visiting wards to look 	

	<p>at mental health act paperwork and how it is stored and enacted upon.</p> <p>In discussing the report, the following points were raised:</p> <p>In relation to the section 5.2's Dermot Nolan added that the team are investing the section not only locally in Ward F but across the acute hospital centres.</p> <p>Maggie Berry queried where the report stated the interim mental health administration manager role has been extended to the end of August 2022, what would happen following August 2022. Dermot Nolan advised that the mental health administration manager role had been extended until December 2022 to allow time to recruit to a permanent post. The health board's investigation around staffing issues has concluded and the advert will go live imminently and an update on the appointment will be received in November 2022.</p> <p>Maggie Berry asked that all independents members to be invited to the powers of discharge meeting to allow for learning. Penny Cram agreed and requested a list of independent members. October 2022 will involve a specialist training day, and there will be a powers of discharge meeting in January 2023.</p>	
Resolved	<p>Committee members noted the Mental Health Act 1983 monitoring report.</p> <p><u>ACTION</u> - Penny Cram to include all independent members in the invite to the specialist training day in October 2022 and the powers of discharge meeting in January 2023.</p>	
36/22	<p>MENTAL CAPACITY ACT 2005 AND DEPRIVATION OF LIBERTY SAFEGUARDS MONITORING REPORT</p>	
	<p>Tanya Spriggs was 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 1 was received.</p> <p>In discussing the report, the following points were made;</p> <ul style="list-style-type: none"> - The health board have procured 250 best interest assessments (BIA), the performance by the company was slow in quarter one as a result, performance management meetings are in place with the external company to improve timescales for completion and have agreement over the number of assessments expected each month; - Approximately 65 referrals are received on a monthly basis. We have set the external provider a target of 35 assessments each month. On the basis of accrued assessments, this funding takes us through to December. The additional 30 cases per month will be undertaken by the newly appointed health board BIA and independent BIAs; - An additional £102,000 of Welsh Government funding has been awarded to the Health Board for 2022/23 to help manage the ongoing Deprivation of Liberty Safeguards (DoLS) breaches and provide additional training in preparation of LPS which predicted to be implemented between October 2023/April 2024; - A further opportunity to bid for £152,000 is to be submitted to Welsh Government by 1st August 2022 to support workforce development 	

plans and can be used to support, DoLS backlog work and advocacy and training.

Annual Monitoring Report 2020-21 – actions progressing as a result of the report;

- External company retained to support ongoing back log issues;
- Ongoing work to identify required workforce for LPS;
- Additional training for MCA/DoLS being provided to relevant professionals in anticipation for LPS;
- Learning from other Health Boards for the management of DOLs and their prep for LPS being considered.

In discussing the report the following points were raised:

Maggie Berry noted it was pleasing to see the number of referrals were coming down. Maggie Berry highlighted the concerns of the number of those not granted, and wondered if this was a training issue for those who made the referral. Tanya Spriggs agreed and when the trainers figures were looked at the numbers were very low, especially the DoLS applications were largely related to acute sites. Tanya Spriggs highlighted the training numbers reports are very low, there are also difficulties with significant gaps in the workforce across secondary care and a lot of reliance on agency staff.

Maggie Berry noted when patients aren't granted they are either discharged or had capacity, given they were completely different and wondered if the numbers could be separated in future reports. Tanya Spriggs would ask the team if the numbers could be reported separately.

Tanya Spriggs acknowledged that it goes back to timeliness and when all requests made have been urgent, and given the small team in place it had been very challenging to not breach as nearly all referrals made in the health board are classed as urgent. The wards know that they can contact the internal BIAs for assistance and this dialogue would be kept open. Tanya Spriggs noted that there has been less of a present from the DOLs team on the wards, in the past there has been deep dives with wards which were outliers and face to face training was then provided, however due to covid-19 this hasn't been carried out. There was a hope this would start back as the covid-19 numbers continue to reduce.

Paul Stuart Davies supported that it was a welcomed extension of the leading time of LPS as it will be needed to prepare. In the short term it would be helpful to get the consultation outcome back and what is needed as a way forward and a plan that can be addressed and put in place.

Maggie Berry highlighted that the LPS risk register score is low considering the amount of risks associated with the health board. Hazel Lloyd noted she recently met with Gareth Howells, Director of Nursing and Patient Experience and it had been agreed to update the risk register score.

Steve Spill queried whether the funding that had applied for would be enough to meet the demands of the DOLs work, Tanya Spriggs advised that from the mapping that has taken place and noting the numbers are coming down which is positive actions from the external company, the funding would enable the health board to extend the capacity of the external provider which would free up the two internal BIAs to support the face to face training. The fact that the external company has been commissioned until December 2022 the funding should be sufficient.

	<p>Paul Stuart Davies added that the mixture of the LPS and DOLs shouldn't be separated, given the link and the transition around where the organisation needs to go. Paul Stuart Davies highlighted that the baseline of people in post in SBUHB is different to other neighbouring organisations with the level of previous investment. Therefore the health board was already in a pressed position in relation to how the health board deal with the current here and now and where the health board should be in the future. Paul Stuart Davies envisages the Welsh Government funding should be used to improve reducing in the backlog position to zero, to deal with the here and now within the timeframes which are legally required for when the transition takes place for the new systems, ways of working and supervisory bodies.</p> <p>The next step will be to take a report to management board on 10th August 2022.</p> <p>Hazel Lloyd supported Paul Stuart Davies' comments and noted that if the funding was received that would be great news, however recruiting and training the workforce will be a greater issue.</p>	
Resolved;	<p>Committee members noted the performance data for Quarter 1 – April to June 2022 together with cumulative information for year to-date.</p> <p>Committee members noted that there is a further delay on the implementation date for LPS. Suggested proposed time scale is likely to be Oct 2023/April 2024. LPS Code of Practice and Guidance has been disseminated for a 16-week consultation period (17th March 2022 until 14th July 2022).</p> <p>Committee members noted the work relating to the DoLS backlog utilising funds from Welsh Government</p> <p>Committee members noted that further Welsh Government funding to manage the DoLS backlog and DoLS/MCA Training is to be made available. Proposals for this funding are to be submitted by 1st August 2022.</p> <p><u>ACTION</u> –Tanya Spriggs to ask the team if the numbers referring to 'discharged or had capacity' could be reported separately in the Mental Health Capacity Act 2005 and deprivation of liberty safeguard report moving forward.</p>	
37/22	<p>HEALTH BOARDS IMPLICATIONS AND PREPAREDNESS SURROUNDING LIBERTY PROTECTION SAFEGUARDS</p>	
	<p>A report detailing the health board implications and preparedness surrounding liberty protection safeguards was received.</p> <p>In presenting the report Paul Stuart Davies highlighted the following points:</p> <ul style="list-style-type: none"> - The siting of the supervisory body and DoLS processes is yet to be decided with discussions planned in the next 2 weeks. Management Board is to be updated at the next Quality Management Board in August of the current work being undertaken and any outstanding risks; - Work has begun with the Corporate Governance team to identify how we manage processes and timescales relating to Court of protection referrals. Issues of concern are requests for Section 49 reviews (reviews required by the court) and the quality of baseline 	

	<p>assessments, documentation and the management of complex cases. There is scope to improve the scrutiny and support available within the Health Board, before we commission legal services;</p> <ul style="list-style-type: none"> - The Health Board has been contacted to begin work on an all Wales Independent Mental Capacity Advocacy (IMCA) contract. This will form the basis for IMCA services across Wales with the opportunities for local providers to bid to provide IMCA services for defined geographic regions (a similar model to IMHA provision). It is anticipated that this new contract will come into place in 2024. <p>In discussing the report the following points were raised:</p> <p>Maggie Berry acknowledged that the work involved is far greater change than just the new legislation. The change for the workforce involved in the new management structure and new processes would add to the risk to the organisation and it would be a difficult period of time for the workforce. Paul Stuart Davies assured Maggie Berry that wherever the work sits corporately the clear line of sight would be articulated. Maggie Berry asked if there were plans to increase the IMCA services' that were mentioned in the report, Paul Stuart Davies advised the status quo was maintained in previous years, however it had been acknowledged that it should represent what the health boards needs will be for the future.</p> <p>Steve Spill highlighted that given the concerns and risks involved with the implementation of LPS the work would continue to be monitored at the quality and safety committee.</p>	
Resolved:	<p>Committee members noted the update of the implications and preparedness surrounding liberty protection safeguards.</p> <p>Committee members noted that a task and finish group will be set-up from September 2022 an update from the task and finish group will be brought to the November 2022.</p>	
38/22	MENTAL HEALTH ACT MONITORING REPORT	
	<p>The Mental Health Act Monitoring report was received.</p> <p>In introducing the report the following points were raised:</p> <p>Part 1 - Local Primary Mental Health Support Services</p> <ul style="list-style-type: none"> - Assessments - SBUHB met the target (80%) for the twelve months excluding CAMHS data. Including CAMHS we met the target eight of the twelve months. All Wales data in May ranged from under 18 (23.1% to 95.9%, SBU 23.1 %), over 18 (62.3% to 98.1%, 98.1 SBU %); - Interventions – SBU met the target (80%) for the twelve months excluding CAMHS data. Including CAMHS we met the target nine of the twelve months. All Wales data in May ranged from under 18 (21.7% to 95.5%, SBU 50.9%), over 18 (14% to 99.4%, SBU 97.4%); - The health board have a regular commissioning meeting with CAMHS to review the performance data, and the health board have asked for an external review of the CAMHS service. The review is due to be finalised at the end of August. <p>Part 2 Mental Health Measure Care and Treatment Plans (CTP)</p> <ul style="list-style-type: none"> - SBU did not meet the target for the past twelve months, the 	

	<p>percentage has increased in the last three months and reached 88.5% at end of May (Target 90%). All Wales data in May ranged from (79.8% to 88.9%), SBU 88.5%;</p> <ul style="list-style-type: none"> - Part 2 CTP compliance remains a risk and although on an upward trajectory further support and direct intervention is required to attain the 90% target. An analysis of the data for the area of most concern, the Adult CMHTs in Swansea, shows that in Area 1 & 2 health are above target: 93.44% & 95.08% respectively. Area 3 for health is 83.16%. The position is being negatively impacted by local authority performance; for Area 1, 2 & 3 the figures are 80.56%, 73.94% & 70.97%. <p>In discussing the report the following points were raised:</p> <p>Steve Spill queried the reference to independent mental health advocates and whether they were any different to independent mental health capacity advocates and could they be the same. Dermot Nolan advised that in certain organisations they are the same, in other organisations they are separate across two organisations.</p> <p>In relation to the local authority non-performance, Steve Spill queried if they were local authority social work teams and aside from writing letters what authority do the health board have over the team. Dermot Nolan noted that the teams are integrated meaning they are social workers within the health board community mental health team comprising of an integrated health manager and a local authority manager in both teams. The teams are subject to the mental health measure and have a statutory duty to ensure the CTPs are carried out and the health board continues to remind them. The service group's view was to escalate to the service director level and ask for a clear implementation plan around improvement.</p>	
Resolved:	<p>Committee members noted the levels of compliance to Welsh Government access targets with regard to the Mental Health Measure (Wales) 2010 which offer no concerns regarding overall compliance with the legislation.</p> <p>Committee members noted that steps have been taken to mitigate the anticipated increase in demand and restrictions due to social distancing requirements to maintain compliance.</p>	
39/22	ANY OTHER BUSINESS	
	<p>Maggie Berry queried whether the recruitment process had been completed to replace the Head of Psychology and Therapies, Mental Health and LD Service Delivery Unit. Dermot Nolan was pleased to confirm that the recruitment process was successful and an appointment had been made.</p>	
40/22	DATE OF THE NEXT MEETING	
	The next meeting would take place on Thursday, 3rd November 2022.	