

AGENDA ITEM

3.1.1

MENTAL HEALTH ACT MONITORING COMMITTEE

(MENTAL HEALTH ACT OPERATIONAL GROUP REPORT)

Date of meeting

(03/11/2021)

FOI Status

Open/Public

If closed please indicate reason

Not Applicable - Public Report

Prepared by

(Robert Goodwin, Clinical Service Group Manager Bridgend ILG)

Presented by

(Robert Goodwin, Clinical Service Group Manager Bridgend ILG)

Approving Executive Sponsor

Julie Denley
Director of Primary Care, Community & Mental Health

Report purpose

FOR DISCUSSION / REVIEW

Engagement (internal/external) undertaken to date (including receipt/consideration at Committee/group)

Committee/Group/Individuals

Date

Outcome

(Insert Name)

(DD/MM/YYYY)

Choose an item.

ACRONYMS

MHA – Mental Health Act

AMHP – Approved Mental Health Practitioner

EDT – Emergency Team

SWP – South Wales Police

CAMHS – Child and Adolescent Mental Health Service

IMHA – Independent Mental Health Advocacy

1. SITUATION/BACKGROUND

- 1.1** The Operational Group has met on one occasion since the last meeting of the Mental Health Act Monitoring Committee which took place on 04 August 2021. The meeting on 15 October 2021 was well attended with representatives from across Adult Mental Health, the Mental Health Act team, Social Services and the South Wales Police.

2. SPECIFIC MATTERS FOR CONSIDERATION BY THIS MEETING (ASSESSMENT)

2.1 St John's Ambulance Cymru Mental Health Conveyance Pilot Scheme

The AMHP's within the Operational Group have helpfully been promoting the scheme across CTMUHB including Bridgend. Shane Mills from the National Collaborative Commissioning Unit has confirmed that a Welsh Government Scheme based on the service developed in the former Cwm Taf UHB has been rolled out across Wales. The full cost of the scheme which began in February 2021 will be met by the Welsh Government including the service provided for CTMUHB. Following evaluation of the pilot a decision will be made on possible future Welsh Government support for the scheme.

This is for

- Projected conveyance delays over 2hrs (daytime), 4hrs (night-time)
- Detained patients community ⇒ mental health facility
- Patient agreeing admission community ⇒ mental health facility
- S136 patient not detained after assessment ⇒ community
- S136 patient detained after assessment ⇒ mental health facility
- Transfer from mental health facility ⇒ mental health facility

What to do....

This is not for

- Patient not subject to a unreasonable delay
- Patients unwilling to travel
- Patient with challenging behaviour/ absconding risk
- Any patient the crew feel is not fit/safe to convey
- Discharges/transfers from general hospital
- Patients who can travel unaccompanied in a taxi

2.2 Application of the Mental Health Act for patients with a Learning Disability

The Operational Group was asked to review the use of the MHA in the 1st Quarter of 2021/22 for patients with a Learning Disability who were residents of the CTMUHB area. Four hospitals were identified as providing such services each of which was asked to provide a range of information. A total of 12 patients were detained in these 4 hospitals from our area in the 1st Quarter. 7 were subject to Section 3 with a single patient being detained under Section 2. Individual patients were also detained under Section 37, Section 37/41 and Section 47/49. Each of the hospitals used a particular audit tool and



no breaches of the Mental Health Act were recorded in the 1st Quarter.

Use of the Mental Health Act 01/04/21 – 30/06/21						
Hospital	Number of Patients	MHA Section	Number of Breaches	Audit Tool	Frequency of Audit	MHA Activity Report
Llanarth Court Hospital, Priory Group	2	S3x2	0	✓	Annually	✓
Hafod Y Wennol, SBUHB	3	S2x1 S3x2	0	✓	Quarterly	✓
Cefn Carnau, Elysium Healthcare	2	S37x1 S37/41x1	0	✓	Annually	✗
Pinetree Court, Ludlow Street Healthcare	5	S3x4 S47/49x1	0	✓	Quarterly	✗

The Operational Group agreed to repeat the audit for a six month period at the end of Quarter 4.

2.3 Reforming the Mental Health Act – Government response to consultation

Overall there had been an overwhelmingly positive response to the proposals. Respondents generally agreed with key proposals for change including changes to the detention criteria, replacing the Nearest Relative role with the Nominated Person role and considering A&E holding powers. The response acknowledged the particular considerations and sensitivities involved in caring for children and young people. It recognised that the reforms will need to fit with existing legislation that applies to children and young people. The response also acknowledges the complexities around the White Paper proposals to limit the scope to detain people with a Learning Disability and autistic people under the Act. The UK Government will continue to consider the best way to take forward this aspect of the reforms.

The UK Government intends to draw on feedback as they take forward advanced choice documents and the role of the Tribunal in challenging treatment to ensure that these proposals have the desired impact. There was very limited support for the proposal to change the interface between the Mental Health Act and the Mental Capacity Act in the context of detention. It is not intended to take forward the reform of this interface as set out in the White Paper. The UK Government will continue to work on a Bill to reform the Act taking into consideration the valuable feedback and helping to

identify any significant revenue consequences. The response identifies that legislative reform is only part of the solution to meet the aims set out in the White Paper. The Mental Health and Social Care workforce must be prepared for the change.

2.4 Mental Health Advocacy Report

There was no Mental Health Advocacy Report presented at the Operational Group. A systems failure had prevented generation of the information. Work was progressing on the Service User Feedback Audit for patients subject to a Care and Treatment Order.

2.5 24 Month Review of Section 4 of the Mental Health Act

In the previous meeting of the Operational Group we considered a two year review on the use of Section 4 of the Mental Health Act. This section could be used in an emergency where there is just one Section 12 approved doctor available. During the period 01/04/19 to 31/01/21 this section was used on 11 occasions in Merthyr Cynon, 7 occasions in RTE and on 1 occasion in Bridgend. The group considered further information on the timing of these reviews which seemed randomly distributed during the week between Monday and Friday. During each day there was a clustering of activity between 3.00 p.m. and 8.00 p.m. This pattern of activity seemed to reflect the difficulty in securing Section 12 approved doctor assessment time during the week when medical staff were focused on planned care activities. It was also suggested that travel times between MC and the Royal Glamorgan Hospital made attendance for assessment more challenging.

2.6 Code of Practice Conflict of Interest Regulations

During the discussion on Section 4 above it was suggested that the use of Section 12 approved doctors within the Health Board was constrained by a misunderstanding around the conflict of interest provisions within Chapter 39 of The Code of Practice. This states in Section 39.1 that:

Conflicts of interest may arise which prevent an approved mental health professional (AMHP) from making the application for a patient's detention or guardianship, and a doctor from making a recommendation supporting the application.

In terms of 'professional conflict' the regulations state that when considering a patient, an assessor will have a potential conflict of interest for professional reasons if:

- *The assessor works under the direction of, or is employed by, one of the other assessors considering the patient.*
- *The assessor is a member of a team organised to work together for clinical purposes on a routine basis of which the other two assessors are also members.*

It is understood that consultant colleagues may be misinterpreting this guidance as excluding a second medical opinion from a Psychiatrist who is also employed within the Health Board's Mental Health Service. Section 39.14 of the Code also states that 'the regulations do not prevent an AMHP making an application or a registered medical practitioner giving a medical recommendation if there would otherwise be delay involving serious risk to health or safety of the patient or others'.

Members of the Mental Health Act team and AMPs within the Operational Group requested that this issue be raised again with senior medical colleagues within the Mental Health Service.

2.7 24 Month Review of Section 5(4) of the Mental Health Act

In the previous Operational Group meeting the members reviewed the use of the nurses holding power for the period 01/04/19 - 31/03/21. During this period Section 5(4) was used on 2 occasions for Bridgend residents, 13 for Merthyr Cynon and 21 for RTE. Further information on the timing of each detention has been provided. This shows a general distribution throughout the 7 day week with most activity occurring between 8.00 a.m. and 7.00 p.m. each day. The group were aware of a possible link between the high use of Section 5(4) and reduced use of Section 2 and Section 3. The recently published MHA Benchmarking Report could be examined to compare use of the Act in our services with other Health Boards across Wales. The Senior Nurse within the Mental Health Clinical Service Group of RTE ILG has selected 10 recent cases from the Royal Glamorgan Hospital and has requested that each be reviewed to identify the following details:

- Age
- Gender
- Reason for admission
- Last medical review before Section 5(4)
- Reason for use of holding power
- Outcome
- Total duration of admission (days)

The information obtained from a review of each detention will be considered in early November and presented at the next meeting of the Operational Group.

2.8 The use of Remote Assessments for CTO Extensions

At the time of the last meeting there were three remote assessments outstanding which had not yet been reviewed on a 'face to face' basis. These reviews have now been completed to ensure that all remote CTO extensions undertaken during the pandemic have now been reviewed on a 'face to face' basis.

2.9 Update on AMHP Cover for the Royal Glamorgan Hospital

The Operational Group was asked for some further feedback from RCT County Borough Council about their decision to terminate the pilot scheme on 08 July 2021 which deployed a hospital based AMHP on site at RGH. Fran Hall the local Social Work Manager for the team confirmed that whilst an onsite AMHP had been able to provide accessible advice and support to hospital teams, the nature of their assessment responsibilities often resulted in them working beyond their normal 5.00 p.m. working day. Following review it was considered that the existing CMHT based assessment arrangements offered greater flexibility and were more sustainable from a financial perspective.

2.10 Mental Health Act Activity Quarter 2

The Operational Group noted the single use of Section 4 Emergency Powers for a patient in the Merthyr Area and the single use of the Nurses' Holding Power Section 5(4) in the Royal Glamorgan Hospital. Sickness and vacancies within the Older Peoples Service in RTE had caused some delay in the allocation of the Responsible Clinician. This was a legal responsibility of the Health Board.

The group discussed the ongoing concerns about the application of the Act in CAMHS in particular the scrutiny of documentation and communication between the RC and the MHA team. The group discussed the lapse of a Section 2 and a recent challenge from the local authority in relation to the detention of a young person detained in Merthyr Police Station. It was agreed that a meeting would be held with the Clinical Director and Service Group Manager for CAMHS together with the Chair of the Operational Group, Head of the MHA team and AMHP representatives from Bridgend and Merthyr.

The group considered the increase in the number of rectifiable errors and the MHA team agreed to recirculate a checklist designed to help with the scrutiny of Section papers. The group considered the training initiatives deployed by the MHA team and in particular the development of the local *Sharepoint* site. It was noted that the Mental Health Act Monitoring Group would be receiving a separate paper on the Quarter 2 MHA activity.

2.11 Information Systems to support the Mental Health Act

The Operational Group considered the lack of a single system for recording Mental Health Act activity. Whilst the acute wards in RGH currently use 'Care Partner' (FACE), Older Peoples Services, CAMHS and all of the Bridgend wards rely on paper based electronic clinical record systems. This makes the maintenance of up to date records more challenging and increases the amount of time needed to prepare the MHA activity reports. The Welsh Community Care Information System (WCCIS) will provide both an electronic clinical record and MHA module and is to be rolled out in Mental Health. A Program Board had recently been established and was considering the priorities. The local Adult Community Mental Health Teams had been identified as the first priority for roll out followed by acute inpatient areas. It had been proposed that the Mental Health Act team should also be one of the first services to adopt the new system. A demonstration of the MHA module which has been piloted in Aneurin Bevan UHB has been requested.

2.12 Mental Health Act Audit Plan Review

The MHA team has completed an audit of the statutory documentation of patients detained in hospital. Compliance was higher for services with electronic clinical records rather than those which relied on paper based systems. There are no MHA specific electronic systems to capture activity. HIW had provided guidance on the way in which MHA paperwork should be filed. A new self-audit checklist has been introduced into Ward 14, POWH to keep this under review. Further spot check audits by the MHA team are planned.

2.13 Operational Policies

The Community Treatment Policy was agreed at the meeting of the Operational Group. The Draft Section 132 and 133 Patient's Rights Procedure was discussed and adaptation agreed to ensure automatic referral to the IMHA for incapacitated patients at the point of detention. The allocation of Responsible Clinician Policy was discussed and to be amended to include legal guidelines and

reference to Chapter 36 of The Code of Practice for Wales which states 'Every patient must have an allocated Responsible Clinician.'

The MHA team have applied the Health Board's Risk Assessment Tool to each of the policy listed in the table below. Those highlighted in red have been identified as the priority for review.

REF NUMBER	TITLE	LEAD PERSON	PROGRESS
MH04	Community Treatment Policy	Alison Thomas	Agreed 15/10/2021
MH09	Hospital Managers Operational Procedure	Alison Thomas	Agreed 09/07/2021
MH12	Section 17 leave policy	Jeremy Burgwyn	Agreed 09/07/2021
MH28	Hospital Managers Scheme of Delegation	Alison Thomas	Agreed 09/07/2021
MH17	Section 132&133 patient's rights procedure	Jeremy Burgwyn	Discussed in meeting 15/10/2021
MHA117	Section 117 Policy	Jeremy Burgwyn	Working group established
New	Allocation of Responsible Clinician	Alison Thomas	Discussed in meeting 15/10/2021
MH03	Section 136	Jeremy Burgwyn	Discussed in meeting 15/10/2021. Police to circulate national policy
MH02	Section 135(1) Section 135(2)	Jeremy Burgwyn	Discussed in meeting 15/10/2021. Police to circulate national policy
MH16	IMHA Procedure	Alison Thomas	For review Lapsed 18/07/2021
MH29	Applying to become an Approved Clinician	Alison Thomas	For review Lapsed 18/07/2021
MH19	Section 19 transfer procedure	Alison Thomas	Priority for review Lapsed 15/11/2019
MH06	Section 5 (4)	Alison Thomas	Priority for review Lapsed 08/11/2020
MH07	Section 5 (2)	Alison Thomas	Priority for review Lapsed 18/07/2021
MH08	Consent to Treatment Sec 58 and Sec 58a	Alison Thomas	Priority for review Lapsed 14/10/2017

AGREED
 FOR REVIEW
 FOR PRIORITY REVIEW



2.14 Operational Group Work Program

The group considered a proposed work plan including the following items:-

Activity	Progress	Timescale
Service user feedback	Advocacy Support Cymru to report back to the Operational Group on their audit of patients subject to a CTO	January 2022
Audit	Audit program to be considered at the next meeting of the Operational Group	January 2022
Policy Work	Timetable to be agreed for review of prioritised Operational Policies	January 2022
Training Program	This is to be drawn together into a single document for monitoring and feedback purposes	January 2022
Conveyance of patients to hospital	St John's Ambulance pilot scheme to be promoted within CTMUHB by the local AMHPs	January 2022
MHA Activity	Focused meeting to be convened with CAMHS to discuss improvement plan	January 2022

3. KEY RISKS/MATTERS FOR ESCALATION TO BOARD/COMMITTEE

3.1 Waiting Times to Convey Patients to Hospital following Assessment

The St John's Ambulance Service Conveyance Scheme for patients with Mental Health problems has been extended to cover the whole of Wales. This pilot scheme which began in February 2021 is to be fully funded by the Welsh Government. The information leaflet prepared by this organisation is to be circulated to all AMHP's in the Health Board area.

3.2 Allocation of Responsible Clinicians for patients detained under the MHA

The Health Board is required to allocate an RC to all detained patients. Because of staff sickness and vacancies there have been some delays in notifying the MHA team about the allocation of individual RC's. This may be related in part to a misinterpretation of Section 39 of The Code of Practice relating to 'conflicts of interest'. Issue to be raised again with Medical Leads.

3.3 Use of Nurses Holding Powers, Section 5(4) at the Royal Glamorgan Hospital

High use of this Section by nursing staff in the Royal Glamorgan Hospital compares with a relatively low level of patient detentions using Section 2 and Section 3. A targeted review of 10 occasions when Section 5(4) was used in the previous 12 months is being undertaken.

3.4 Specific Concerns around the use of the MHA within CAMHS

A focused meeting is to be convened between the Chair of the Operational Group and representatives of the Mental Health Act team and AMHP service with the CAMHS Clinical Service Group to develop an improvement plan.

4. IMPACT ASSESSMENT

Quality/Safety/Patient Experience implications	There are no specific quality and safety implications related to the activity outlined in this report.
Related Health and Care standard(s)	Safe Care If more than one Healthcare Standard applies please list below:
Equality Impact Assessment (EIA) completed - Please note EIAs are required for <u>all</u> new, changed or withdrawn policies and services.	No (Include further detail below) If yes, please provide a hyperlink to the location of the completed EIA or who it would be available from in the box below. If no, please provide reasons why an EIA was not considered to be required in the box below. The MHA Operational Group meets bi-monthly to review the application of the Act across CTMUEB
Legal implications / impact	There are no specific legal implications related to the activity outlined in this report.
Resource (Capital/Revenue £/Workforce) implications / Impact	There is no direct impact on resources as a result of the activity outlined in this report.



Link to Strategic Goals	Improving Care
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5. RECOMMENDATION

- 5.1** The committee is asked to **NOTE** the work of the MHA Operational Group and mitigation arrangements put in place to manage key risks