



AGENDA ITEM

(INSERT NUMBER)

MENTAL HEALTH ACT MONITORING COMMITTEE

**ERRORS AND BREACHES OF THE APPLICATION OF THE MENTAL
HEALTH ACT 1983 (JULY-SEPT 2021)**

Date of meeting	3 rd November 2021
FOI Status	Open/Public
If closed please indicate reason	Not Applicable - Public Report
Prepared by	Mr Phil Lewis – Head of Mental Health Nursing Alison Thomas, Team Leader Mental Health act Office
Presented by	Mr Phil Lewis – Head of Mental Health Nursing
Approving Executive Sponsor	Executive Director of Primary, 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
Mental Health Act office staff		SUPPORTED

ACRONYMS

MHA	Mental Health Act
CTMUHB	Cwm Taf Morgannwg University Health Board
CAMHS	Child & Adolescent Mental Health Services



IHI	Institute of Healthcare Improvement
CTO	Community Treatment Order
RC	Responsible Clinician
CoPW	Code of Practice for Wales
AMHP	Approved Mental Health Professional

Summary

In Quarter 2, there were 35 minor errors on section papers which were all rectified within the fourteen day time limit as per S15 of the MHA. This compares with 33 in Q1, which represents an increase of 6.06%.

There were 2 fundamentally defective errors during Q2 in comparison to 4 in Q1, which represents a decrease of 50%.

- ❖ Invalid Section 2 – Improper use of Section 2.
- ❖ Invalid Section 5(2)

1. SITUATION/BACKGROUND

- 1.1 The purpose of this report is to present data regarding errors and breaches that occurred during the application of the Act and to highlight learning and actions taken to reduce occurrence. The report covers Adult, Older Persons and CAMHS managed by CTMUHB. Activity is regularly monitored in the MHA Operational Group.

Section 15 of the Act allows for the rectification of statutory detention documentation completed by Doctors and AMHPs within 14 days of admission to hospital. Within this report it is helpful to consider the categories of errors & breaches of the Act.

1.2 Rectifiable Errors

These are minor errors resulting from inaccurate recordings which can be rectified under Section 15 of the Act. Examples include incomplete addresses and misspelled names.

The application or medical recommendation, if found to be incorrect or defective, may, within that period, be amended by the person by whom it was signed. Upon such amendments being made the application or recommendation shall have effect and shall be deemed to have had effect as if it had been originally made.

1.3 Fundamentally Defective

These are errors which cannot be rectified under Section 15 and render the detention unlawful, therefore resulting in a breach of the Act. Examples include unsigned section papers, incorrect hospital details or the wrong form being used. Medical recommendations and applications that are not signed cannot be remedied under Section 15 and therefore render the detention invalid.

Administrative and medical scrutiny of section documentation is carried out by the MHA Office and medical staff approved under Section 12 of the Act to ensure compliance and to identify any amendments needed within the target time limit. The majority of errors recorded within this report are minor, relating to demographics, but all breaches are reported via Datix to enable monitoring and for training to be put in place as necessary.

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



2.1 The total number of **minor** errors across all services was 35 and these were all rectified within the time limit. This can be broken down further into detaining hospitals and wards.

	Angelton	POW		RGH						Ty Lliard	CYA
Sections	2	14	PICU	Admissions	21	22	PICU	Seren	St David's	Enfys	CYA
Section 2	2	3	1	2	1	1	8	4	1	1	0
Section 3	1	0	1	0	2	0	1	1	0	1	1
Section 4	0	0	0	0	0	0	0	0	0	0	0
Section 5(2)	1	1	0	0	0	0	0	0	0	0	0
Section 17F CTO Revocation)	0	0	0	0	0	0	0	0	0	0	0
Total	4	4	2	2	3	1	9	5	1	2	1

2.2 The table below provides a more detailed breakdown of the type of error

Rectifiable Errors		Angelton	POW		RGH						Ty Lliard	CYA	
Responsible for Error	Forms	2	14	PICU	Admissions	21	22	PICU	Seren	St David's	Enfys	CYA	Total
AMHP	HO2	2	3	1	2	1	1	7	3	0	0	0	20
AMHP	HO6	0	0	0	0	0	0	1	0	0	1	0	2
Doctor	HO3	0	0	0	0	0	0	0	0	0	0	0	0
Doctor	HO4	1	0	0	3	1	0	1	0	0	0	0	6
Doctor	HO8	1	0	1	0	1	0	0	0	0	0	0	3
Doctor	CP7	0	0	0	0	0	0	0	0	0	0	0	0
Doctor or Nurse	HO12	1	1	0	0	0	0	0	0	0	0	0	2
Nurse	HO14	1	1	0	2	1	1	5	1	1	3	1	17
Other UHB	TC1	0	1	0	0	0	0	0	0	0	0	0	1
	Total	6	6	2	7	4	2	14	4	1	4	1	51

*** Some detentions contain multiple errors on the section papers**

2.3 The breakdown of errors will assist the MHA team in identifying areas of concern, which will highlight the priority areas for MHA training

2.4 The overall aim is to reduce the number of minor errors from being made and eliminate any fundamental breaches of the Act.

2.5 The total number of fundamentally **defective** errors across all services in Quarter 2 was 2 in comparison to 4 in Quarter 1. This is broken down below into hospitals and wards.

Fundamental Errors	POW		RGH
Sections	14	PICU	9
Section 2	0	1	0
Section 5(2)	0	0	1
Total	0	1	1

Invalid Section 2 – Improper use of Section 2.

2.6 The patient was subject to detention under Section 2 of the MHA, from 31/08/2021 to 27/09/2021. A MHA assessment was set up on the day that their Section 2 was due to expire. Following the completion of medical recommendations by the RC and Section 12(2) doctor, the AMHP submitted an application for another Section 2.

2.7 The MHA Office were sent a copy of the new Section 2 paperwork without a HO14 receipt being completed stating that the Section 2 had been extended. The MHA Office sent an email to the patient's RC and the AMHP explaining that consecutive use of Section 2 is unlawful and that the previous Section 2 had now lapsed.

2.8 The AMHP stated that they thought that they could not detain on Section 3 if they had not been able to contact the nearest relative, which is why they detained on a consecutive Section 2.

2.9 The MHA Office provided guidance on the use of Section 3 and pointed the AMHP in the direction of Chapter 14 of the Code of Practice for Wales 2016, which highlights circumstances where consultation with the nearest relative does not have to take place for detention under Section 3 i.e. impracticable or involve unnecessary delay.

2.10 The MHA Office advised the RC to formally discharge the patient under Section 23 as per Section 6 (3) of the MHA. If the patient warrants further detention, they would need to be assessed for detention under Section 3 for treatment for their mental disorder.

2.11 Invalid Section 5(2) – HO12 not timed and not receipted by ward staff.

2.12 The patient was detained on at RGH in July 2021 under the doctor's holding power of Section 5(2). As the Form HO12 was not timed by the Doctor nor receipted by the ward staff, the start time of the 72 hour assessment period could not be calculated. There was no entry recorded in the health record of when the Section 5(2) commenced and the doctor was not on shift to confirm the time.

2.13 The MHA team contacted the MH liaison team to inform them that the Section was invalid. The team wrote a letter to the patient informing them that the S5(2) was invalid and that they were now in hospital on an informal basis.

2.14 A member of the liaison team hand delivered the letter to the patient and informed them orally.

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

- 3.1 The number of minor errors rose by 6.06% from 33 to 35. The MHA team continue to stress the importance of the completion of the basic scrutiny checklists, to capture any rectifiable mistakes at source.
- 3.2 Due to the fundamental error on the District general Hospital Ward, the MHA team are in the process of updating the MHA SharePoint page so that it includes all relevant paperwork and guidance. The MHA team will also facilitate a Health Board wide push via IT and SharePoint to raise awareness of the MHA SharePoint page.
- 3.3 The MHA team to distribute guidance posters on the use of the Doctors' holding powers under Section 5(2) to all wards whilst the SharePoint page is being developed.
- 3.4 As discussed in previous meetings we have been awaiting benchmarking data from Cardiff and the Vale. This has been delayed previously due to recruitment. Data has been received but under scrutiny needed some clarity and therefore at the time of writing the report we are awaiting an amended version

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)	Governance, Leadership and Accountability 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.
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

RECOMMENDATION

The Committee is asked to **NOTE** the report.