



**AGENDA ITEM**

2.5

**MENTAL HEALTH ACT MONITORING COMMITTEE**

**ACTIONS AND LEARNING ARISING FROM FUNDAMENTAL BREACHES OF THE MENTAL HEALTH ACT REPORTED QUARTER 2 2020-21**

|                                         |                                                                                                      |
|-----------------------------------------|------------------------------------------------------------------------------------------------------|
| <b>Date of meeting</b>                  | 05/05/2021                                                                                           |
| <b>FOI Status</b>                       | Open/Public                                                                                          |
| <b>If closed please indicate reason</b> | Choose an item.                                                                                      |
| <b>Prepared by</b>                      | Mr Phil Lewis – Head of Mental Health Nursing<br>Alison Thomas, Team Leader Mental Health act Office |
| <b>Presented by</b>                     | Mr Phil Lewis – Head of Mental Health Nursing                                                        |
| <b>Approving Executive Sponsor</b>      | Executive Director of Primary, Community & Mental Health                                             |
| <b>Report purpose</b>                   | FOR NOTING                                                                                           |

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

| <b>Committee/Group/Individuals</b> | <b>Date</b> | <b>Outcome</b> |
|------------------------------------|-------------|----------------|
| 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 the quarter 2 report to the Mental Health Act Committee there were three fundamental Breaches of the Act reported. Consequently the committee requested a report on the actions and learning from the breaches in order to assure the UHB that the learning has happened to prevent re-occurrence of these breaches.

### 1. SITUATION/BACKGROUND

1.1 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.

- 1.4 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.
- 1.5 During quarter 2 there were 3 fundamental breaches of the Act
- 1.6 The first incident was a Section 2 application which constituted a professional conflict of interest as both medical applications were from Doctors within the same team.
- 1.7 The second incident related to a detention on a medical ward. The detaining Doctor accessed the required paperwork over the internet and erroneously completed the English version rendering the section invalid.
- 1.8 The third breach applied to the same patient, who was detained on a general ward who did not have proper receipt of papers resulting in the invalid detention.

## **2 SPECIFIC MATTERS FOR CONSIDERATION BY THIS MEETING (ASSESSMENT)**

- 2.1 Action was taken to ensure that learning from these breaches took place and was shared.
- 2.2 With regards to the first issue, this was highlighted to the Clinical Director, who supervisors all the Responsible Clinicians in RGH to remind them of the process and ensuring awareness of conflicts of interest where 2 Doctors from the same hospital complete medical recommendations.
- 2.3 All AMHP's were reminded that second medical recommendations must be from a Section 12 Doctor who is not working in the same hospital as the person making the initial recommendation. In these case they must



utilise a second recommendation from a section 12 approved Doctor from another hospital.

- 2.4 The issue was put on the agenda for the Senior Medical Council for further sharing and discussion.
- 2.5 With regard to the second breach where the English version of the forms were downloaded from the internet on a general ward, the Doctor was contacted and the issue was discussed directly with him.
- 2.6 The Welsh version of the forms are now on the UHB intranet to ensure that the correct forms are accessed. This has been communicated through the ILG Directors.
- 2.7 The third breach involved receipt and scrutiny of statutory documentation on a general ward at Princess of Wales Hospital
- 2.8 Immediate contact was made with the ward team and ward manager to discuss the error and the implications
- 2.9 Further to this the RC and AMHP who were involved in the detention were contacted to stress the importance of informing the Mental Health Act Team of detentions across non mental health wards
- 2.10 A briefing paper has been distributed to ILG Directors which describes the receipt and scrutiny process for detentions. This also establishes who in line with the scheme of delegation Policy is authorised to accept the statutory documentation especially out of hours. Finally the Mental Health Act Team has provided all wards with a receipt and scrutiny checklist.

### **3 KEY RISKS/MATTERS FOR ESCALATION TO BOARD/COMMITTEE**

- 3.1 The availability of the Welsh forms on the intranet is a critical factor in reducing errors of this nature and will be closely monitored by the operational group. If there are delays these will need to be escalated for action.
- 3.2 Patterns in this area will be monitored as there is a risk of further invalid detentions if improvement is not made.



## 4 IMPACT ASSESSMENT

|                                                                                                                                                   |                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| <b>Quality/Safety/Patient Experience implications</b>                                                                                             | There are no specific quality and safety implications related to the activity outlined in this report.       |
| <b>Related Health and Care standard(s)</b>                                                                                                        | Governance, Leadership and Accountability<br>If more than one Healthcare Standard applies please list below: |
| <b>Equality Impact Assessment (EIA) completed - Please note EIAs are required for <u>all</u> new, changed or withdrawn policies and services.</b> | No<br>Not Required                                                                                           |
| <b>Legal implications / impact</b>                                                                                                                | There are no specific legal implications related to the activity outlined in this report.                    |
| <b>Resource (Capital/Revenue £/Workforce) implications / Impact</b>                                                                               | There is no direct impact on resources as a result of the activity outlined in this report.                  |
| <b>Link to Strategic Well-being Objectives</b>                                                                                                    | Work with communities and partners to reduce inequality, promote well-being and prevent ill-health           |

## 5 RECOMMENDATION

5.1 The MHA Monitoring Committee is asked to:

- **DISCUSS** the report
- **NOTE** the actions



GIG  
CYMRU  
NHS  
WALES

Bwrdd Iechyd Prifysgol  
Cwm Taf Morgannwg  
University Health Board