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WALES

Bwrdd Iechyd Prifysgol  
Caerdydd a'r Fro  
Cardiff and Vale  
University Health Board

# **Annual Report of Mental Health, Capacity and Legislation Committee 2020/21**

## 1.0 INTRODUCTION

In accordance with best practice and good governance, the Mental Health, Capacity and Legislation Committee produces an Annual Report to the Board setting out how the Committee has met its Terms of Reference during the financial year.

## 2.0 MEMBERSHIP

The Committee membership is a minimum of four Independent Members. During the financial year 2020/21 the Committee comprised four Independent Members. In addition to the Membership, the meetings are also attended by the Chief Operating Officer (Executive Lead for the Committee) and the Director of Corporate Governance. The Chair of the Board is not a Member of the Committee but attends at least annually after agreement with the Committee Chair. Other Executive Directors are required to attend on an ad hoc basis.

## 3.0 MEETINGS AND ATTENDANCE

The Committee met three times during the period 1 April 2020 to 31 March 2021. This is in line with its Terms of Reference. The Mental Health, Capacity and Legislation Committee achieved an attendance rate of 100% (80% is considered to be an acceptable attendance rate) during the period 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021 as set out below:

	21.07.20	20.10.20	19.01.21	Attendance
Eileen Brandreth	✓	✓	✓	100%
Akmal Hanuk	✓	✓	✓	100%
Michael Imperato	✓	✓	✓	100%
Sara Moseley	✓	✓	✓	100%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

## 4.0 TERMS OF REFERENCE

The Terms of Reference were reviewed and approved by the Committee on 19<sup>th</sup> January 2021 and are to be approved by the Board on 25 March 2021.

## 5.0 WORK UNDERTAKEN

During the financial year 2020/21 the Mental Health, Capacity and Legislation Committee reviewed the following key items at its meetings:

### **PRIVATE MENTAL HEALTH, CAPACITY AND LEGISLATION COMMITTEE**

There were no private meetings held during the reporting year of 2019/20.

## **PUBLIC MENTAL HEALTH, CAPACITY AND LEGISLATION COMMITTEE – SET AGENDA ITEMS**

**April 2020 - March 2021**

### **PATIENT STORY**

The Patient Stories presented are as below:

1. In October 2020 a service user shared the story of their experiences using the Mental Health Services.
2. For January 2021 – **Patient Story information to be added following January 19<sup>th</sup> Meeting.**

### **MENTAL CAPACITY ACT**

At each meeting the Committee was provided with updates on the Mental Capacity Act 2005 (MCA) which has been in force for over 12 years and covers people aged 16 years and over. It was amended to include the Deprivation of Liberty Safeguards (DoLS), which came into force in April 2009.

Members of the Committee were also informed of the work undertaken by the Independent Mental Capacity Advocate (IMCA) highlighting the number of referrals made and areas of concern / service issues. The IMCA Procedure had been slightly revised which was approved by the Vulnerable Adult risk management working group.

- **Deprivation of Liberty Safeguards (DoLS)**

Updates were also provided on the Deprivation of Liberty Safeguards (DoLS) in regard to compliance. The Cardiff and the Vale DOLS / MCA team operate the Supervisory Body responsibilities of the Deprivation of Liberty Safeguards on behalf of Cardiff & Vale UHB, Cardiff City Council and the Vale of Glamorgan Council, through a Partnership Management Board consisting of senior representatives of each Supervisory Body.

At the October 2020 meeting the Committee was provided with updates on new legislation that will see Liberty Protection Safeguards replace DoLS with effect from April 2022.

### **MENTAL HEALTH ACT**

- **Mental Health Act Monitoring Report**

The report, which was shared at each meeting, provided the Committee with further information relating to wider issues of the Mental Health Act. Any exceptions highlighted in the Mental Health Act Monitoring report were intended to raise the Committee's awareness of matters relating to the functions of hospital managers and give assurance that the care and treatment of patients detained by Cardiff and Vale University Health Board and those subject to a community treatment order are only as the Act allows. In July 2020 the Committee was provided with an update on the number of people detained. The figures had risen slightly due to the ongoing COVID-19 pandemic

- **Child and Adolescent Mental Health Service**

In October 2020 the Committee was advised of care and treatment plan trends which incorporated the pressures of the COVID-19 pandemic and were provided with assurance on the parts of the Mental Health Measure applicable to children and young people (those aged <18). A report provided further assurance that compliance against 28 day referral to assessment had been achieved and sustained since May. In August, the service achieved its compliance target for the first time in 16 months and the position was sustained in September. The service continues to monitor their capacity for the delivery of interventions.

## **MENTAL HEALTH MEASURE**

- **Mental Health Monitoring Report**

The UHB Mental Health Measure performance is reported to and monitored by the Welsh Government on a monthly basis, with reports back to the UHB Performance Monitoring Committee.

The Mental Health (Wales) Measure 2010 (the Measure), is a National Assembly for Wales law that has similar legal status to an Act of Parliament. The Measure introduced a number of important changes to the assessment and treatment of people with mental health problems in Wales. Parts 1 to 4 of the Measure set the main legislative requirements relating to Mental Health service provision and are supported by subordinate legislation and guidance. Parts 1 to 4 of the measures relate as follows:

- Part 1a – 28 day referral to assessment compliance target of 80%
- Part 1b – 28 day assessment to intervention compliance target of 80%
- Part 2 – Care and Treatment Planning Within Secondary Mental Health Services
- Part 3 - Right to request an assessment by self –referral
- Part 4 – Advocacy – standard to have access to an IMHA within 5 working days

The committee was also presented with a report on the parts of the mental health measure application to children and young people under the age of 18.

- **Care and Treatment Plans**

Part 2 of the Mental Health (Wales) Measure 2010 (the Measure) places a statutory duty on Local Mental Health Partners to ensure that all patients who are accepted into secondary mental health services have a written care and treatment plan (CTP) that is developed and overseen by an appointed care coordinator.

In January 2021 the Committee was presented with an update report for the Mental Health Measure Monitoring Reporting including Care and Treatment Plans.

An update was provided at each meeting outlining issues, concerns and solutions.

- **Policies / Procedures**

1 policy and 2 procedures were approved by the Committee as follows:

1. July 2020 - Joint Section 117, Mental Health Act, 1983, Policy and Procedure
2. October 2020 - The Independent Mental Capacity Advocacy procedure

3. October 2020 - The Lasting Power of Attorney (LPA) and Court Appointed Deputy (CAD) procedure

- **Committee Governance**

Reports submitted to the Committee for review and approval:

1. Committee Self-Assessment: an overview of the findings arising from the self-assessment
2. Committee Annual Report 2020/21
3. Committee Terms of Reference
4. Committee work plan

Also presented to the Committee were the minutes from the:

1. Hospital Managers Power of Discharge Minutes
2. Mental Health Legislation and Governance Group Minutes
3. Annual Review of Comments Raised by Members of Power of Discharge

## **DEVELOPMENT SESSIONS**

During 2020/21, the Mental Health Capacity Legislation Committee hosted three training and development sessions.

The purpose of these sessions was to train committee members and increase their understanding of the legislation that the Committee would be scrutinising. It was agreed and it was agreed by members that training would be given to new members to the committee as and when required.

2<sup>nd</sup> September 2020

- At the September 2020 Development Session an Introduction to the Mental Health Act 1980 presentation was shared.

2<sup>nd</sup> December 2020

- At the December 2020 Development Session presentations were shared on the Mental Capacity Act 2005 (including Deprivation of Liberty Safeguarding procedures) and the Mental Health (Wales) Measure 2010.

13<sup>th</sup> January 2021

- At the January 2021 Development Session the committee's Terms of Reference, its primary role and function were reviewed alongside the role of patient involvement in the committee moving forward.

## **6.0 REPORTING RESPONSIBILITIES**

The Committee has reported to the Board after each of the Mental Health, Capacity and Legislation Committee meetings by presenting a summary report of the key discussion items at the Mental Health, Capacity and Legislation Committee. The report is presented by the Chair of the Mental Health, Capacity and Legislation Committee.

## **7.0 OPINION**

The Committee is of the opinion that the draft Mental Health, Capacity and Legislation Committee Report 2020/21 is consistent with its role as set out within the Terms of Reference and that there are no matters that the Committee is aware of at this time that have not been disclosed appropriately.

**SARA MOSELEY**

**Interim Committee Chair**