

**CONFIRMED MINUTES OF THE  
MENTAL HEALTH AND CAPACITY LEGISLATION COMMITTEE  
(MHCLC)  
HELD AT 10.00 AM ON TUESDAY 29 NOVEMBER 2016  
CORPORATE MEETING ROOM, HEADQUARTERS, UHW**

**Present:**

**Prof Marcus Longley**

Martyn Waygood

Margaret McLaughlin

Eileen Brandreth

**MHCLC Chair and Vice Chair, Cardiff and Vale UHB**

Independent Member and MHCLC Vice Chair

Independent Member – Third Sector

Independent Member – Information, Communication and Technology

**In attendance:**

Dr Catrin Simpson

Dr Grace Kelly

Dr Graham Shortland

Ian Wile

Sunni Webb

Jane Hancock (part)

Dr Jenny Hunt

Julia Barrell

Kay Jeynes

Steve Curry

Lucy Phelps

Amanda Morgan

MCA Champion, Community Child Health

MCA Champion, Dentistry Board

Medical Director

Director of Operations, Mental Health

Mental Health Act Manager

Service User Representative

Clinical Psychologist

Mental Capacity Act Manager

Director of Nursing, PCIC

Acting Chief Operating Officer

Service User Representative

Service User Representative

**Apologies**

Alice Casey

Dr Annie Proctor

Jayne Tottle

Peter Welsh

Dr Richard Evans

Andy Cole

Chief Operating Officer (Lead Executive)

Clinical Board Director, Mental Health

Clinical Board Nurse

Director of Corporate Governance

Clinical Board Director, Medicine

Operational Manager, Mental Health, Vale of Glamorgan  
Social Services

Steve Lewis

Director, Advocacy Support Cymru

John Owen

Chair, Hospital Managers Power of Discharge  
Sub-Committee

**Secretariat:**

Helen Bricknell

**MHCLC 16/061 WELCOME AND INTRODUCTIONS**

The Chair welcomed everyone to the meeting.

**MHCLC 16/062 APOLOGIES FOR ABSENCE**

Apologies for absence were noted.

## **MHCLC 16/063      DECLARATIONS OF INTEREST**

The Chair invited Members to declare any interests in the proceedings on the agenda. None were declared.

## **MHCLC 16/064      MINUTES OF THE PREVIOUS MEETING OF THE MENTAL HEALTH AND CAPACITY LEGISLATION COMMITTEE HELD ON 10 MAY 2016**

The minutes were **RECEIVED** and **CONFIRMED** as a true and accurate record following the comment from Ian Wile to be agreed - **COMPLETE**

## **MHCLC 16/065      ACTION LOG REVIEW**

The Committee **RECEIVED** and **NOTED** the Action Log. The following points were highlighted:

1. **MHCLC 15/065 Issues Related to Learning Disabilities** – The Chair commented that this action is COMPLETE
2. **MHCLC 16/046 MCA Clinical Board Reports** – Has been picked up in Performance Reviews – COMPLETE
3. **MHCLC 16/052 Transfer to Hafan y Coed** – The logistical problems surrounding tobacco on Hafan Y Coed -to bring back at later date
4. **MHCLC 16/026 &16/043 Internal Audit Report (DoLS)** – To bring back
5. **MHCLC 16/027 DoLS Monitoring Report** – Brought to November meeting – COMPLETE
6. **MHCLC 16/050 MHA Exception Report** – To bring back when all data gathered around

## **MHCLC 16/066      ANY OTHER URGENT BUSINESS**

There was no other urgent business.

## **MHCLC 16/067      PATIENT STORY – MENTAL HEALTH MEASURE**

There was no Patient Story.

## **MHCLC 16/068      MENTAL CAPACITY ACT CLINICAL BOARD PRESENTATIONS**

### **1. Community Child Health**

Dr Catrin Simpson presented the position in Community Child Health as the Mental Capacity Act (MCA) Champion. She advised that ongoing training was provided to staff and the target is to reach 80% of Community Child Health staff trained by January 2018. The E Learning module will be rolled out to staff who are unavailable to attend MCA training.

The monthly Quality and Safety meetings report on all usage of the MCA, no audit has been undertaken from the Community Child Health Directorate. An audit will be undertaken during 2017 with the Audit Clinical Lead, however no clinical incidents in Child Health had been reported.

Issues have been raised around the use of the Independent Mental Capacity Act Advisory Services (IMCA) and 16-17 year olds and the input needed when there is no identified carer to support in the Best Interest decision making, training will address the awareness of this.

The Committee **NOTED** the reports and the action that would be taken in support and **AGREED** to review the effectiveness of these presentations when all Clinical Boards had been heard.

### **Action – Professor Marcus Longley**

**ACTION:** To monitor the training of the MCA module and the implementation within the Board – Dr Sian Moynihan/Dr C Simpson

### **2. Dentistry**

Dr Grace Kelly, Mental Capacity Act Champion presented a challenging infrastructure for the Clinical Board and how the Mental Capacity Act and Best Interest Decisions are used. The majority of Best Interest decisions are carried out in Oral surgery and special care dentistry in relation to sedation and General Anesthesia. No Mental Capacity Act Audits undertaken will be planned.

Dental Clinical Directors have the responsibility for staff training and identifying the level of training. Not all staff will apply their training knowledge

of the MCA in undertaking Mental Capacity Assessments. There have been no clinical incidents or issues reported for the Dental Clinical Board.

In summary:

- To increase the Mental Capacity Act training within the Clinical Board and to monitor by profession who is being trained and who is using the MCA within the workplace.
- How frequently training is required
- Identify the working knowledge of MCA within staff
- Audit the knowledge and implications of the MCA
- Incident reporting around MCA and MCA reporting issues to report to monthly Quality and Safety meetings.

A case study of a patient with Learning Disabilities and ASD with limited cooperation for an exam was discussed and explained. The patient initially in a foster care setting but currently in an adult placement (paid)  
The Multidisciplinary Teams, Professional Bodies (Consultant, SpR Dentistry, Social Worker, Foster family, IMCA)  
Referral to IMCA services required as foster family is paid carer, treatment needed is deemed “serious medical treatment”  
Capacity Assessment/ Best Interest Decision carried out

The chair opened up to questions and comments

All doctors can revalidate through MARS, whilst Dentists have to revalidate through the appraisal system. Training and development needs to be strengthened through the Clinical Boards and Organisation on maturing the learning systems for the MCA and moving forward.  
Discussions around Mental Capacity Act are carried out with patients but recorded on personal folders only as discussions not assessments.  
Within the Dentistry Clinical Board many know of the MCA but it is the implementation that needs to strengthen.

The Committee **NOTED** the reports and the action that would be taken in support and **AGREED** to review the effectiveness of these presentations when all Clinical Boards had been heard.

**Action – Professor Marcus Longley**

## **MHCLC 16/069      MENTAL CAPACITY ACT (MCA) UPDATED CAMHS REPORT**

Dr Jenny Hunt presented the updated report with the limited assurance on reporting the legislative measures for children and young people. As Deprivation of Liberty differs in those age groups of under 16's, 16-17 year

olds and those children “looked after”. Children under 16 can be deemed competent for consenting but if they choose not to and it is against their best interests then a court order can be obtained to decide what is within their best interest.

Due to the complexities of Mental Capacity Act and Deprivation of Liberty it was agreed that Dr Hunt, Ian Wile and Sunni Webb will collate figures to assure on how the Mental Health Act assessments within Cardiff and Vale University Health Board are undertaken on under 18 year olds are carried out and reported.

The Committee **NOTED** the report.

**Action:** Ian Wile/ Sunni Webb/ Dr J Hunt to collate more figures around the use of MCA

### **MHCLC 16/070      ISSUES RELATED TO LEARNING DISABILITIES**

The Director of Nursing for PCIC presented the report outlining what constitutes a deprivation of liberty within a community learning disability setting and Article 5 of the European Convention on Human Rights.

The Chair opened up to comments:

- It was noted that there is a delay with the DoLS applications being completed in hospital setting within Cardiff and Vale and the Vale Council, the risks involved and the lack of funding for section 12 payments.
- Additional Best Interest resources have been depleted and awaiting for further funding on DoLS assessments.
- Primary care for patients in Care Homes and death under a DoLS, the implications surrounding this
- The funds needed to clear 1200-1300 DoLS assessments and decisions needed at high level meeting.

In summary the financial costs to clear the backlog need to be addressed and alternative ways for section 12 monies to be used in line with Best Interest Assessors, this deems to be problematic and must be re addressed. The risk registers should reflect these governance issues.

The Committee **NOTED** the written report

**Action: Ensure Risk Registers are completed to reflect the risks – Kay Jeynes**

## **MHCLC 16/071      UPDATED DoLS REPORT**

The Committee received and noted the report from the Operations Manager the Chair opened up to questions and discussions.

The Best Interest Assessments are currently a year behind due to lack of funding and not meeting the timescales, however for urgent referrals these are being adhered to.

- Dr Jenny Hunt has pointed out whether that “police cells” are being used as a place of safety.
- There will be All Wales benchmarking in May 2017
- Positive comments regarding the use of Advocacy Support Cymru

## **MHCLC 16/072      MENTAL HEALTH ACT ACTIVITY REPORT**

The Director of Operations, Mental Health, Mr Ian Wile presented the report and advised there were no exceptions to the report.

Mr Wile was also discussing data collection at an all Wales level where 5 of the 7 Health Boards were represented. The definition for invalid detentions and details for a core data set were agreed in order to benchmark performance. It was also possible that the data set could include the use of advocacy support. Directors of Primary Care were supporting this work.

It was agreed that Cardiff and Vale Health Board would collect data and compare with other Health Boards across Wales around the numbers on invalid detentions and use of Section 5. The information can be put forward and discussed at the Vice Chairs meeting with these comparisons from the Health Boards in Wales.

The Committee **NOTED** the report

## **MHCLC 16/073      MENTAL HEALTH MEASURE (all ages)**

The Director of Operations, Mental Health, Mr Ian Wile gave an oral update on the quantity of referrals, twice as many within the Adult Mental Health services and not being able to reach the Tier 1 targets for 28 days. The Health Board are meeting the set targets and have commenced the re-modeling around GP Surgeries. Compliance has reached over 90% in November, with Parts 2, 3 and 4 of the Measure reaching 100% within the last quarter. The Director of Operations has stated that there have been mild to moderate problems surrounding Mental Health problems.

The Chair opened up to questions and discussion:

- Dr Jenny Hunt spoke about the referrals being somewhat 9 weeks on the waiting lists and they have significantly reduced to 6 weeks wait. There have been no clinical incidents or high risks to report. Low numbers of 16-17 year olds have been assessed by the Adults team, safeguarding measures have been adhered to under this legislation.
- Independent member, Mrs Eileen Brandreth remarked how impressed she is presently, with the Health Board and secondary Mental Health services, the third sector for out of hours are encouraging direct referrals and the promotion of “Well Being Clinics” thus allowing the steering of these groups to run effectively.

The Committee **NOTED** the report.

#### **MHCLC 16/074 SERVICE CHANGES – IMPACT ON LEGISLATION**

The Director of Operations had nothing further to add to the report. The Mental Health Act Services Manager explained that there will be Benchmarking workshops in January. The Code of Practice has 6 new chapters and updates for staff and Hospital Managers will be available if required to contact the Mental Health Act Manager.

Mental Capacity Act will be rolled out as part of Mandatory Training, starting in March 2017.

The Committee **NOTED** the update.

#### **MHCLC 16/075 MENTAL HEALTH ACT 1983: CODE OF PRACTICE FOR WALES**

The Mental Health Act Manager, Ms Sunni Webb advised that there are six new chapters to the Code of Practice and updates on the Guiding Principles. If anyone would like training or further guidance on the Code of Practice then please contact the Mental Health Act Manager. There are slides on the Intranet for internal staff.

The Committee **NOTED** the oral update

#### **MHCLC 16/076 GOVERNANCE REMIT AND FREQUENCY**

The Committee had no further questions or comments and the report was **NOTED**.

## **PART 2 REPORTS FOR INFORMATION**

### **MHCLC 16/077      HOSPITAL MANAGERS POWER OF DISCHARGE SUBCOMMITTEE MINUTES**

The Director of Operations, Mental Health, Mr Ian Wile reported that there were no incidents to report.

The Committee had no further questions or comments and the report was **NOTED.**

### **MHCLC 16/078      REVIEW OF THE MEETING**

**The Chair mentioned that “All Wales Benchmarking” will be brought back in 2017 for further discussion**

### **MHCLC 16/079      DATE OF NEXT MEETING**

The next meeting would be held at 10am on Tuesday 9 May 2017 in the Corporate Meeting Room, Headquarters, University Hospital of Wales (UHW).