

**CONFIRMED MINUTES OF
MENTAL HEALTH AND CAPACITY LEGISLATION COMMITTEE
HELD ON 21 FEBRUARY 2020
NANT FAWR 1, GROUND FLOOR, WOODLANDS HOUSE, HEATH CF14 4TT**

Present:

Sara Moseley	SM	Interim Chair and Independent Member – Third Sector
Eileen Brandreth	EB	Independent Member – ICT
Michael Imperato	MI	Independent Member - Legal

In attendance:

Jeff Champney-Smith	JCS	Chair, Powers of Discharge sub-Committee
Steve Curry	SC	Chief Operating Officer
Nicola Foreman	NF	Director of Corporate Governance
Amanda Morgan	AM	Service User
Sunni Webb	SW	Mental Health Act Manager
Dr Stuart Walker	SW	Executive Medical Director

Secretariat:

Glynis Mulford	GM	Corporate Governance Officer
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Observers:

Simon McDonald		Deputy Mental Health Act Manager
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Apologies:

Julia Barrell	JB	Mental Capacity Act Manager
Akmal Hanuk	AH	Independent Member, Community
Robert Kidd	RK	Consultant Clinical and Forensic Psychologist
Scott McLean	SM	Director of Operations, Children & Women
Ian Wile	IW	Director of Operations, Mental Health

MHCL 20/02/001	WELCOME AND INTRODUCTIONS The Chair welcomed everyone to the meeting. In particular Michael Imperato, Independent Member – Legal who attended his first meeting.	ACTION
MHCL 20/02/002	APOLOGIES FOR ABSENCE Apologies for absence were noted.	
MHCL 20/02/003	DECLARATIONS OF INTEREST The Chair invited Committee members to declare any interests in relation to the items on the meeting agenda. The following declarations of interest were received and noted: <ul style="list-style-type: none"> Sara Moseley declared an interest in the meeting as the Director of Mind Cymru, the Chair of the Crisis Care Assurance Board and in relation to item 10.2 as a member of the Crisis Care Concordat and advisor of the Ministerial Advisory Board. 	

**MHCL
20/02/004**

MINUTES OF THE COMMITTEE HELD ON 22 OCTOBER 2019

The Committee reviewed the Minutes from the meeting held on 22 October 2019. Subject to the following amendments:

- **MHCL 19/10/016** - the wording of the minutes did not relate to the Hospital Managers Powers of Discharge minutes but should be under section 2 Mental Health Legislation Governance Group minutes.
- **MHCL 19/10/008** – Independent Member – ICT asked for the question marks in the paragraph to be put into statements.

The Committee resolved that:

- a) The Committee approved the minutes of the meeting held on 22 October 2019.

**MHCL
20/02/005**

ACTION LOG FOLLOWING THE LAST MEETING HELD ON 22 OCTOBER 2019

The Committee reviewed the action log and noted the following updates:

19/10/009 – Internal Audit Report – Deprivation of Liberty Safeguards (DoLS Report): The Executive Medical Director (EMD) was asked to confirm who the Executive Lead was for the Deprivation of Liberty Safeguards (DoLS) was. The Committee was informed that the CEO had asked the Executive Nurse Director (END) to incorporate DoLS/MCA into her portfolio, with her acting as the SRO which would extend into the Mental Capacity Act. It was explained that some components of the consenting policy could still sit with the EMD. It was also explained that the medical aspects relating to consent may be addressed at another Committee. The END had asked for an external review of our DOLS processes. Independent Member – ICT asked if the Committee could have sight of the External Review on DoLS.

19/10/012 – HIW Mental Health Act Report: This item would remain on the action log as estates were working through the concerns. This was an operational issue and would be reported through Management Executive meetings.

19/06/008 – Mental Capacity Act Monitoring Report: The EMD stated that the action was a much broader issue and concerned the whole of mandatory training. The annual leave and study leave policies, job planning and compliance for mandatory training form part of negotiations with LMC which were ongoing. The policy could not be unilaterally changed without going through due process. It was explained that clinicians found it difficult to access mandatory training on ESR.

A fundamental change was required to solve the issue around training and was on the EMDs agenda. A meeting was being arranged with the team to review how it could be made more functional. The EMD stated

RW

	<p>that the action on the committee log was no longer relevant as the issue fell outside the organisation.</p> <p>The Chair noted that there was a discrepancy between medical staff and other staff relating to compliance. In response it was stated the figure was based on the ESR record but if people undertook MHA training in another way the data would not be recorded on ESR, therefore it was difficult to know the true compliance figure via this route. Training would be captured through the validation and appraisal process which was not centralised on ESR. It was explained that the figures were correct for training under ESR but not for training undertaken anywhere else.</p> <p>The Chair commented that the issue was that the Committee reviewed the figures consistently at each meeting and had expressed concern at the level of non-compliance. It would be helpful to be provided with a more composite view of the issues and to find a way of understanding the challenges. It was reiterated that there a systematic approach needed but that this would need Workforce and Organisational Development input to inform us how this could be taken forward and for the technology to be put in place.</p> <p>The Committee requested that the issues raised with training be reviewed at the Strategy and Delivery Committee and for any findings to be reported back to the Committee to provide assurance that the concerns were being dealt with.</p> <p>The Committee resolved that:</p> <p>a) The action log and verbal updates be noted</p>	<p>SW – Via the S&D Committee</p>
<p>MHCL 20/02/06</p> <p>MHCL 20/02/007</p>	<p>CHAIRS ACTION TAKEN SINCE LAST MEETING</p> <p>No Chair's action had been taken.</p> <p>PATIENT STORY</p> <p>Cardiff and Vale Action for Mental Health (CVAMH) were unable to attend the meeting. A YouTube link and story outline relating to a CAMHS user would be circulated to the Committee.</p> <p>There was wider discussion relating to Patient Stories. The Director of Corporate Governance (DCG) confirmed that she would be looking at a systematic approach to make the presentation of patient stories more robust across the Board and Committee meetings.</p> <p>The Chief Operating Officer asked for the story to be brought to a future meeting.</p> <p>The Chair asked Committee members to involve the Communications team so that the good news stories of service users could be shared within the Mental Health service.</p>	<p>GM</p> <p>GM</p>

MHCL 20/02/008	MENTAL CAPACITY ACT MONITORING REPORT Comments in next agenda item. The Committee resolved that: (a) The Committee noted the report.	
MHCL 20/02/009	INTERNAL AUDIT REPORT - DEPRIVATION OF LIBERTY SAFEGUARDS (DOLS) The Medical Director introduced the report and provided the committee with the following updates: <ul style="list-style-type: none">• The direction of travel had changed since the Internal Audit Report was published and now related to the Liberty Protection Standards (LPS) which are to be implemented this year. The LPS had not yet been published and the date for their implementation may be brought forward.• There was a hold on the internal audit recommendations as some of them would not be relevant after the publication of an impending Welsh Government paper. The LPS would supersede the DoLS internal audit recommendations.• The service may change within Cardiff and Vale local authorities. This would be assessed once the new standards were implemented.• LPS training would be undertaken in March and an agreement put in place with both authorities as part of the MCA and DoLS meeting that previously existed. A review of the multi-stakeholder service would be undertaken which was dependent on the content of the LPS.• The Vale of Glamorgan was responsible for coordinating the training and they had also assessed the DoLS work over the last year and found that the provision of DoLS was correct. The report would be available at the next meeting. The Committee resolved that: (a) The Committee noted the continuing arrangements for the DoLS service.	RW
MHCL 20/02/010	MENTAL HEALTH ACT MONITORING EXCEPTION REPORT The Mental Health Act Manager (MHAM) presented the report and was pleased to note that there had been no unlawful detentions since July 2018 but highlighted that the percentage of inpatients was high. The recruitment of Associate Hospital Managers was currently underway and the MHAM welcomed members of the Committee to join the Group. The following comments were made: <ul style="list-style-type: none">• The use of Section 136 remained an ongoing issue. This had been escalated to the Welsh Government legal team as it was important to establish when an assessment had started. Notwithstanding this the UHB had asked WG to take a view on this. The WG have confirmed that they would respond to the request.	

RW

- The work with the Crisis Care Concordat allowed the UHB to work with the police to better understand some of the issues as the police were wanting to disengage with patients at an earlier pathway.
- Some Health Boards had a different practice and the process undertaken in this Organisation was explained.
- The local concordat group would be chaired by the Director of Operations, Mental Health from March 2020. This group fed into the National Group.
- The Chair confirmed that she would put the item on the agenda for the National Group.

The Chair asked for comments and questions:

- The Chair raised a query relating to patients under Section 136 who were assessed and discharged. She asked whether they were followed up or signposted to other services. The (MHAM) confirmed that the information was not in the report but that the data could be built into future reports.
- The Chair asked why there had been an increase in patients eligible for section 117. The MHAM advised that the increase was linked to admissions under the Eligible Section for 117. The chart for November showed an increase for Section 117 and Section 3. The data reflected this as once patients were admitted they would be added to the 117 register for aftercare.
- Independent Member – ICT asked for Mental Health Compliance data for specialist CAMHS to be documented in a CAMHS specific report and asked for the date to be separated from the adult figures.
- The COO confirmed that he would speak with the Independent Member – ICT outside the meeting to provide a children's section in the report. .

SW

The Committee resolved that:

the report be noted and support given approach adopted

SC / EB

**MHCL
20/02/011**

**SECTION 135/136 PARTNERSHIP ARRANGEMENTS: POLICE
MENTAL HEALTH CRISIS CONCORDAT - UPDATE**

The COO introduced the report and highlighted the following system wide requirements and the MH Crisis Concordat which was relaunched in 2019.

It was reported that relations and discussions had improved. The Director of Operations, Mental Health would be chairing the group from March 2020. The paper set out what the group would be covering, highlighted the gaps and what was needed going forward. The local group would report to the national group and work would be undertaken by the third sector and Local Authority. The group would feedback to the Committee how this was progressing.

The Chair asked for comments and questions:

The Chair explained that the Concordat was created by Welsh Government and was a partnership across agencies. The Concordat was launched in 2015 and the driving force behind the Concordat was to prevent a crisis from happening in the first instance, to provide support for those in crisis and maintain a multiagency focussed approach which included the police. With the new local leadership there would be an opportunity to reset the focus to the true purpose of the original agenda. The Chair would liaise with the Director of Operations, Mental Health to express her concerns. The Chair highlighted the work that was happening in other Health Boards which the Concordat could link in with.

The Committee resolved that:

- a) The Committee noted and commented on the proposed actions.

SM/IW

**MHCL
20/02/012**

MENTAL HEALTH MEASURE MONITORING REPORT

The Chief Operating Officer presented the report. The following comments were made:

- Referrals had been rising over the last year and a reduction in numbers had been seen for mental health assessments. It was noted that the Primary Care Liaison Services were influencing the figures as numbers had fallen from 1300 to 800
- This reduction would permit the Clinical Board to ascertain the right size for the service going forward. The staff in place allowed for variation and to stay ahead of the measure.
- The measure, which was combined for adults and children, fell off in January. The CAMHS contribution showed the activity levels were not great enough to influence the overall measure compliance because of the adult numbers. As the activity in CAMHS increased its influence was greater.
- The current position for Part 1a was over 90% compliant. Part 1b was 100% compliant. Part 2, which centred around the Care and Treatment Plan work within the Delivery Unit had decreased to 70%. It was explained that this work related to investment on a RAMP model. The measure had risen from 70% to 85% in February and would be compliant at 90% in March. Both Part 3 and 4 were compliant.

The Chair invited comments and questions:

- The Chair commented that early intervention showed a major effect on compliance.
- If compliance could be made sustainable it would provide the ability to focus on the quality of care.
- In terms of future patient stories, it would be good to understand how the joint working was being undertaken.
- The COO was encouraged with the working between agencies in signposting patients to the right place.

The Committee resolved that:

**MHCL
20/02/013**

a) The report be noted.

MENTAL HEALTH MEASURE MONITORING REPORT - CAMHS

The Chief Operating Officer introduced the report and highlighted the following:

- In terms of the measures the Health Board had been non-compliant since 2019 and had drifted in and out of compliance over the period. The new approach focussed on capacity to meet demand and this also worked upstream into societal and community levels.
- It was expected that the UHB would be 50% compliant for Part 1 by mid-February and the latest figures suggested we were over 50% compliant and that this figure could increase to over 80% compliance by the end of February/March. This work was also aligned to the care and treatment plan.
- An update from the teams would be brought to the Board and Committee with the first phase of the plan.
- After the first phase of work it the plan would centre on sustainability of the service and begin to look at quality. Other work would continue to integrate the services that had been repatriated and other projects linked to the Welsh Government Delivery Unit Development.
- The Committee was asked to recognise the progress that had been made and also that the team were on a journey and were moving in the right direction.

SC

Chair's comments and questions:

Independent member - ICT asked how much of the funding was locked in as 'at risk'. The Chief Operating Office stated that some of the funding had come from the Mental Health Transformation fund and that the last monies received made a provision and requirement for CAMHS. The funding was recurrent and the services being added would be embedded into the service. Another suggestion for funds was to provide a digital solution but this was exceptionally expensive. This would be accomplished through external providers as the Health Board was unable to provide the service.

The COO confirmed that the Digital Strategy included provisions to empower patients to take control of their own access and care such and included programme's such as 'Patient Knows Best'. There was wider discussion on why CAMHS patients needed access through a digital platform.

The Chair asked what was being addressed to support and safeguard the children that were waiting. The COO said that 80% of children would have access within two weeks. The trajectory was to have an assessment and intervention within this period and from April both would be in balance.

Independent Member – Legal confirmed that he was impressed that the Director of Operations, Children and Women plotted week by week his delivery plan to meet the demand and took assurance from this.

The Chair stated the team was to be commended as they had undertaken a phenomenal piece of work.

The Committee resolved that:

- a) The report be noted and to recognise that progress had been made

**MHCL
20/02/014**

CARE AND TREATMENT PLANS UPDATE REPORT

The Chief Operating Officer confirmed that the report placed emphasis on training and looked at the audit on the care and treatment plans and how they could be improved. This had been sense checked and delivered by the Delivery Unit Team.

The Chair commented that the report was true to the spirit of why care and treatment plans were put in place and that this would be reflected as part of teams learning and review.

In terms of compliance for care and treatment plans in place, the overall measure was at 70%. In February this would be 85% and the trajectory for the March position was that progress would increase to 90%.

The move towards quality would be the next stage of the teams' plans and progress.. It was highlighted that the views of service users would be key to assess the impact and quality of the care and treatment plans. There would be a need to triangulate on a number of things to improve on the quality of the plans. This would be more nuanced and a number of indicators would be in place to see that improvements were being made.

The Chair asked if it was known what the general attitude was towards the care and treatment plans being part of the therapeutic process. The Chair of the Powers of Discharge Sub Committee considered that recording was the issue and the availability of the patient record was not as good as it could be. It was recognised that for young people there was still a way to go. Making the plans live documents was a work in progress. There was wider discussion on the challenges of the care and treatment plan.

The Committee resolved that:

- a) The report be noted.

**MHCL
20/02/015**

POLICIES

1. Department of Liaison Psychiatry Operational Policy

Members considered the policy to be operational and therefore should have been dealt with locally. The DCG confirmed that there would be a review of the 'Policy for Policies' in future but that for now, the policy being submitted to the Committee was in line with the process.

The Committee resolved that:

- a) Department of Liaison Psychiatry Operational Policy be approved.
- b) the full publication of the Department of Liaison Psychiatry Operational Policy in accordance with the UHB publication scheme be approved.

2. Approval of Review of Receipt of Applications for Detention Under the Mental Health Act 1983 Policy

Members were informed that slight amendments had been made in line with requirements.

The Committee resolved that:

- a) the Approval of Review of Receipt of Applications for Detention Under the Mental Health Act 1983 Policy be approved.
- b) the full publication of Approval of Review of Receipt of Applications for Detention Under the Mental Health Act 1983 Policy in accordance with the UHB publication scheme be approved.

3. Restraint in the Care Management of Adults with Impaired Mental Capacity

As this policy related to adults there was wider discussion on a policy for under 16s and the CAMHS boundaries. Members were informed that many of the questions asked would not come to this Committee as it was outside its remit.

Independent Member – ICT asked if there was any Welsh guidance for restraining children.

In regard to governance arrangements, Members were informed that the specialist service for CAMHS sat with WHSSC. Work had been undertaken with our neighbouring Health Boards and meetings had taken place with Cwm Taf where tier 4 arrangements were discussed. The COO confirmed that assurances could be provided through these aspects and that he would bring back to the next meeting the discussions undertaken regarding CAMHS.

The EMD would ask The Mental Capacity Act Manager what the arrangements were for under 16s in regard to parental responsibility and how to differentiate between children and adults regarding restraint.

JB

SC

SW/JB

	<p>The DCG confirmed that a session on these issues would be discussed at the next Board Development day.</p> <p>The Chair summarised that clarity was being sought on the following issues:</p> <ul style="list-style-type: none"> - ; - whether there was Welsh Government guidance on mental health restraint for under 16s, - parental responsibility arrangements for under 16's, - an update on discussions with Cwm Taf University Health Board in relation to CAMHS and a review of how WHSSC provides the Health Board with assurance regarding its governance arrangements. <p>The Committee resolved that:</p> <ul style="list-style-type: none"> a) Restraint in the Care Management of Adults with Impaired Mental Capacity Policy be approved. b) the full publication of the Restraint in the Care Management of Adults with Impaired Mental Capacity in accordance with the UHB publication scheme be approved. 	
MHCL 20/02/016	<p>COMMITTEE ANNUAL REPORT 2019/20</p> <p>The Director of Corporate Governance presented the report to the Committee and confirmed that the report provided assurance that the work undertaken during the year 2019/20 reflected the requirements set out in the Committee's Terms of Reference.</p> <p>The Committee resolved that:</p> <ul style="list-style-type: none"> a) the draft Annual Report 2019/20 of the Mental Health and Capacity Legislation Committee was reviewed; and b) the Annual Report be recommended to the Board for approval. 	
MHCL 20/02/017	<p>COMMITTEE TERMS OF REFERENCE</p> <p>The Director of Corporate Governance introduced the Terms of Reference. There was wider discussion in relation to the purpose and role of the Committee and it was noted that further changes would be required. It was agreed that members would review the ToRs and feed comments back to the DCG. A date would be circulated by the DCG with the deadline for comments to be received.</p> <p>The Committee resolved that:</p> <ul style="list-style-type: none"> a) the Terms of Reference 2020-21 was reviewed; b) the Terms of Reference 2020-21 be circulated to Members for further consultation and revision c) the Terms of Reference be recommended to the Board for approval at the July meeting. 	NF
MHCL	COMMITTEE WORKPLAN	

20/02/018	<p>Due to the above discussion on the Terms of Reference, it was agreed the workplan be approved subject to realignment with changes made to the Terms of Reference.</p> <p>The Committee resolved that:</p> <ul style="list-style-type: none"> (a) the Workplan 2020-21 be approved subject to further review and aligned to the revised ToR (b) the Workplan be recommended for approval to the Board for use until July 2020. 	JB
MHCL 20/02/019	<p>HOSPITAL MANAGERS POWER OF DISCHARGE</p> <p>The Committee resolved that:</p> <ul style="list-style-type: none"> a) The minutes of the Hospital Managers Power of Discharged be approved. 	
MHCL 20/02/020	<p>MENTAL HEALTH LEGISLATION AND GOVERNANCE GROUP MINUTES</p> <p>The Committee resolved that:</p> <ul style="list-style-type: none"> a) The minutes of the Mental Health Legislation and Governance Group be approved. 	
MHCL 20/02/021	<p>MENTAL HEALTH LEGISLATION RELATED ISSUES – TOGETHER FOR MENTAL HEALTH DELIVERY PLAN</p> <p>The COO informed the Committee that the report addressed what relevance the plan might have on legislation for Committee purposes and that the consultation looked at whether other individuals could undertake primary mental health assessments. The plan had been considered but not a full review had not concluded.</p> <p>The Committee resolved that:</p> <ul style="list-style-type: none"> a) The report be noted 	
MHCL 20/02/022	<p>ANY OTHER URGENT BUSINESS</p> <p>In regard to previous discussion on agenda item 20/02/015 - Restraint in the Care Management of Adults with Impaired Mental Capacity, the EMD confirmed that there was no Welsh Guidance on the restraint of patients under the age of 16 and the policy was based on the Mental Capacity Act and the associated code of practice. COMPLETED</p> <p>With regards to parental responsibility for those under 16, the Mental Capacity Act Manager would bring a more detailed summary back to the next meeting.</p>	

**MHCL
20/02/023**

DATE OF THE NEXT COMMITTEE MEETING:

Tuesday, 21 July 2020, 1.00pm Woodlands House, Heath, Cardiff CF14 4TT