

**PWYLLGOR DEDDFWRIAETH IECHYD MEDDWL  
MENTAL HEALTH LEGISLATION COMMITTEE**

<b>DYDDIAD Y CYFARFOD: DATE OF MEETING:</b>	03 March 2026
<b>TEITL YR ADRODDIAD: TITLE OF REPORT:</b>	Mental Health Act Update
<b>CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:</b>	Andrew Carruthers, Chief Operating Officer
<b>SWYDDOG ADRODD: REPORTING OFFICER:</b>	Sarah Roberts, Mental Health Legislation Manager

**Pwrpas yr Adroddiad (dewiswch fel yn addas)**

**Purpose of the Report (select as appropriate)**

Er Gwybodaeth/For Information

**ADRODDIAD SCAA**

**SBAR REPORT**

**Sefyllfa / Situation**

As part of the annual review of the Terms of Reference for the Mental Health Scrutiny Group (MHSG) it was agreed that an update report on the review of the Mental Health Act would be provided on a regular basis to both MHSG and the Mental Health Legislation Committee (MHLC) as it progresses.

**Cefndir / Background**

Following an independent review of the Mental Health Act which commenced in 2017 the Government published a draft Mental Health Act Bill in 2022. Following its passage through Parliament the Mental Health Act review gained Royal Assent on 18 December 2025.

**Asesiad / Assessment**

Additional requirements came into force on 18 February 2026:

- Section (S) 30(2) (Periods for tribunal applications - Deprivation of Liberty (DoL) Conditionally Discharged (CD) patients)
- S32 (References: restricted patients subject to deprivation of liberty conditions)
- S35 (Conditional discharge subject to deprivation of liberty conditions)
- S36(1) and (3)(b) (Transfers of prisoners and others to hospital: conditions - S48 transfer grounds)
- S38 (Transfer directions for persons detained in youth detention accommodation)

None of the initial provisions will have any impact on our Mental Health services, as there are no restricted patients who are subject to deprivation of liberty conditions within the Health Board's hospitals.

The remainder of provisions will come into force on dates to be set out in regulations.

There will be significant workforce, infrastructure and system flow implications. The timeline for implementation is expected to be up to 10 years with a staggered rollout commencing in 2027/28. This timeline is subject to change as new Codes of Practices for England and Wales need to be drafted and consulted upon which will be the first stage in the process.

### **Mental Health Review Tribunal for Wales (MHRTW) Membership Bill**

The Welsh Government published the Mental Health Review Tribunal for Wales Membership Bill on 5 January 2026.

[Written Statement: Draft of Mental Health Review Tribunal for Wales \(Membership\) Bill \(5 January 2026\) | GOV.WALES](#)

If passed, this will correct a technical issue concerning the qualification of Medical Members of the MHRTW.

It was an issue brought to the Tribunal Presidents attention following their recent appointment and on which legal advice was sought. That advice confirmed that legislation introduced by Westminster Government in 2008 did not cover Wales, only England, in defining Medical Members of the Tribunal as not requiring a current licence to practice.

The Health Board has been advised that this does not affect the validity of patient's past decisions; but the matter should be clarified as soon as possible by Senedd legislation aligning Wales with the position in England. In the meantime, those Medical Members without a current licence to practice are not sitting on MHRTW Tribunal panels. This is expected to be a short-term restriction.

The Bill was introduced at the Senedd on 13 January 2026 and is currently at post Stage 4. It is expected that the draft Legislation will be passed in the next couple of weeks.

### **MHRT HEARINGS**

The MHRT took the decision to move to MS Teams hearings with immediate effect in December 2025 without any consultation. They will only hold face to face hearings in exceptional circumstances. Since then, the Health Board has one MHRT hearing adjourned due to the patient requesting a face-to-face hearing.

### **SECTION 117 REVIEW**

NHS performance and Improvement are currently undertaking a desktop review of Section 117 arrangements across Wales (Appendix 1). They are looking at policies, monitoring, training and any best practice. They met with Community Mental Health Team managers on 27 January 2026 to discuss practice in their areas. They will also meet with other relevant members of mental health services whilst undertaking their review. Their report will be provided when all Health Boards have been reviewed.

### **Argymhelliad / Recommendation**

- The Committee is asked to **NOTE** the content of the Mental Health Act Update Report.

**Amcanion: (rhaid cwblhau)**  
**Objectives: (must be completed)**

Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	3.8 Identified matters of risk relating to compliance with mental health legislation are being appropriately mitigated;
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Not Applicable
Parthau Ansawdd: Domains of Quality <a href="#">Quality and Engagement Act (sharepoint.com)</a>	7. All apply
Galluogwyr Ansawdd: Enablers of Quality: <a href="#">Quality and Engagement Act (sharepoint.com)</a>	6. All Apply
Amcanion Strategol y BIP: UHB Strategic Objectives:	All Strategic Objectives are applicable
Amcanion Cynllunio Planning Objectives	5 Mental health and CAHMS
Amcanion Llesiant BIP: UHB Well-being Objectives: <a href="#">Hyperlink to HDdUHB Well-being Objectives Annual Report 2021-2022</a>	10. Not Applicable

### Gwybodaeth Ychwanegol: Further Information:

Ar sail tystiolaeth: Evidence Base:	The content of this policy is developed utilising expert advice, with reference to legislation and guidance documentation.
Rhestr Termiau: Glossary of Terms:	Contained within the body of the policy
Partion / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Deddfwriaeth lechyd Meddwl: Parties / Committees consulted prior to Mental Health Legislation Committee:	MH Scrutiny Group

### Effaith: (rhaid cwblhau) Impact: (must be completed)

Ariannol / Gwerth am Arian: Financial / Service:	Not applicable
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<b>Ansawdd / Gofal Claf: Quality / Patient Care:</b>	To support patients seeking advocacy support under the Independent Mental Health Advocacy service
<b>Gweithlu: Workforce:</b>	Direct legal responsibilities for staff associated with use of Mental Health Act
<b>Risg: Risk:</b>	The Health Board must have an up to date and accurate written policies to avoid risk
<b>Cyfreithiol: Legal:</b>	Mental Health Act 1983 Mental Health (Wales) Measure 2010
<b>Enw Da: Reputational:</b>	Not applicable
<b>Gyfrinachedd: Privacy:</b>	Not applicable
<b>Cydraddoldeb: Equality:</b>	Equality Impact Assessments undertaken in collaboration with Senior Equality and Diversity Officer.