

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

| | |
|--|---|
| DYDDIAD Y CYFARFOD: DATE OF MEETING: | 01 December 2025 |
| TEITL YR ADRODDIAD: TITLE OF REPORT: | Mental Health Legislation Scrutiny – Mental Health Act Data Performance Report |
| CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR: | Mr Andrew Carruthers, Director of Operations |
| SWYDDOG ADRODD: REPORTING OFFICER: | Ruth Bourke, Mental Health Act Administration Lead |

Pwrpas yr Adroddiad (dewiswch fel yn addas)

Purpose of the Report (select as appropriate)

Er Sicrwydd/For Assurance

ADRODDIAD SCAA

SBAR REPORT

Sefyllfa / Situation

The purpose of the paper is to present to the Mental Health Legislation Committee the quarterly Mental Health Performance Report in relation to statutory mental health legislation in Wales including The Mental Health Act (1983), as amended.

The paper also includes assurance of other work carried out by the Mental Health and Learning Disabilities Directorate where related to mental health legislation.

Cefndir / Background

This Report provides assurance in respect of the work that has been undertaken by Mental Health and Learning Disabilities (MHLDD) Services during the quarter, that those functions of the Mental Health Act 1983 (the Act) which have delegated to officers and staff, are being carried out correctly; and that the wider operation of the 1983 Act in relation to the Local Health Board's area is operating properly.

The hospital managers must ensure that patients are detained only as the Act allows, that their treatment and care is fully compliant, and that patients are fully informed of, and are supported in exercising, their statutory rights. Hospital managers must also ensure that a patient's case is managed in line with other legislation which may have an impact, including the Human Rights Act 1998 and the Data Protection Act 1998.

The Terms of Reference of the Committee require the submission of a quarterly report to the Board to summarise the work of the Committee and identify how it has fulfilled the duties required of it. Regulations permit the Hywel Dda University Health Board to delegate functions to committees or sub-committees whose members need not be members of the Board. However, the Board retains the ultimate responsibility for the hospital managers' duties.

This report is prepared following the quarterly meeting of the Mental Health Legislation Scrutiny Group. The purpose of this Group is to allow senior managers and clinicians from Hywel Dda University Health Board, its partner agencies and other stakeholders to scrutinise the University Health Board's (UHB) performance, to highlight areas of good practice, and any areas of concern that must be brought to the Committee's attention.

A copy of the full report received to inform the MH Legislation Scrutiny Group is ATTACHED

Asesiad / Assessment

The MH Scrutiny Group received a report detailing various activities and trends relating to the Mental Health Act during the period July to September 2025. Particular attention was made to the following areas:-

- Acknowledgement of the significantly busy period resulting in an above average use of most areas of the Act. This would include Section 2, 135, 136 and Part III of the Act. Some consent to treatment provisions (Part IV of the Act), applications to the Mental Health Review Tribunal, Hospital Managers and applications for discharge by the nearest relative were also above average.
- In addition to the high number of detention orders to the health board it was further recognised and reported across the three counties there had been further experiences of Mental Health Act assessments which had not concluded due to expiring prior to a hospital bed becoming available. During this period use of out of area and private beds had to be accessed to facilitate some of these detentions. These numbers are not provided within the MHA Performance Report, as they do not come under the scope of Hywel Dda Hospital Management.
- Use of Section 136 has increased quite sharply since July 2025. There were 30 x Section 136's during April to June. During July to September there were 65 (with a record of a further 13 which had been deterred). It was reported that this trend remains currently.
- During the period of July to September 71% of all Section 136s were taken to an A&E setting. This causes a number of operational challenges and not least, patients are less likely to be informed of their statutory rights as a result. Due to the ongoing concerns raised a commitment was made by the Mental Health Management team to ensure that the health based mental health Section 136 suite would be made available as a priority from October.
-

Argymhelliad / Recommendation

Members are asked to note the content of the report for ASSURANCE on governance systems and processes of the Mental Health Act.

Amcanion: (rhaid cwblhau)

Objectives: (must be completed)

Committee ToR Reference:
Cyfeirnod Cylch Gorchwyl y Pwyllgor:

The purpose of the Mental Health Legislation Committee is to assure the Bord on the following:
2.1 Those functions of the Mental Health Act 1983, as amended, which have been delegated to officers and staff are being carried out correctly; and that the wider operation of the 1983 Act in relation to the UHB's area is operating properly.

Cyfeirnod Cofrestr Risg Datix a Sgôr
Cyfredol:
Datix Risk Register Reference and
Score:

Parthau Ansawdd:
Domains of Quality

Not Applicable
Choose an item.

| | |
|---|--|
| Quality and Engagement Act (sharepoint.com) | Choose an item. Choose an item. |
| Galluogwyr Ansawdd: Enablers of Quality: Quality and Engagement Act (sharepoint.com) | Not Applicable Choose an item. Choose an item. Choose an item. |
| Amcanion Strategol y BIP: UHB Strategic Objectives: | All Strategic Objectives are applicable Choose an item. Choose an item. Choose an item. |
| Amcanion Cynllunio Planning Objectives | Choose an item. Choose an item. Choose an item. Choose an item. |
| Amcanion Llesiant BIP: UHB Well-being Objectives: Hyperlink to HDdUHB Well-being Objectives Annual Report 2021-2022 | 10. Not Applicable Choose an item. Choose an item. Choose an item. |

| Gwybodaeth Ychwanegol: Further Information: | |
|---|--|
| Ar sail tystiolaeth: Evidence Base: | Agenda, papers and minutes of the Mental Health Legislation Scrutiny Group |
| Rhestr Termiau: Glossary of Terms: | |
| Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Deddfwriaeth Iechyd Meddwl: Parties / Committees consulted prior to Mental Health Legislation Committee: | Mental Health Legislation Scrutiny Group |

| Effaith: (rhaid cwblhau) Impact: (must be completed) | |
|---|----------------|
| Ariannol / Gwerth am Arian: Financial / Service: | Not applicable |
| Ansawdd / Gofal Claf: Quality / Patient Care: | |
| Gweithlu: Workforce: | - |

| | |
|--|---|
| Risg: Risk: | <p>Risk of non-compliance with the 1983 Act and with the Welsh Government's <i>Mental Health Act 1983 Code of Practice for Wales</i>; the <i>Mental Health (Wales) Measure 2010 Code of Practice</i>; and with the <i>Good Governance Practice Guide – Effective Board Committees (Supplementary Guidance) Guidance</i>.</p> <p>Safety of patients</p> <p>Assurance – use of statutory mechanisms</p> |
| Cyfreithiol: Legal: | <p>Above</p> |
| Enw Da: Reputational: | |
| Gyfrinachedd: Privacy: | <p>MHA performance report available on request.</p> |
| Cydraddoldeb: Equality: | |



**Report on the
on the use of
The Mental Health Act, 1983**

**1st July 2025 – 30th September 2025
(Quarter 2)**

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1.0 Introduction

The Mental Health Legislation Scrutiny Group's principal purpose is to ensure that the Mental Health Act 1983 and Mental Health (Wales) Measure 2010 are being carried out and operating properly within the health board and to report to the Mental Health Legislation Committee allowing for inadequacies and extraordinary activity to also be reported.

This report provides information relating to the use of the Mental Health Act 1983 (the Act) within the health board during Quarter 2, 2025/26.

To protect identity and comply with Information Governance any figures below five will not be disclosed upon submission to the Mental Health Legislation Committee.

A more detailed breakdown of the Act is as follows:

Mental Health Act, 1983 - Data Collection and Exception Reporting

2.0 Summary

Quarter 2, 2025/26 use of the Mental Health Act (MHA) has seen increased activity particularly in relation to Sections 2, 135, 136 and Part III detentions. Activity around Hospital Managers hearings, Mental Health Review Tribunals and some Consent to Treatment provisions were also higher than normal.

Use of Section 136's has increased significantly during this quarter with such high numbers not seen since 2021. A small number of individuals had several repeat Section 136's in close proximity. Due to the Section 136 suite not being in use over recent months the majority of cases (71%) were escorted to Emergency Departments. This caused a number of difficulties both operationally as well as in the data collection exercise. The provision of information to patients was also much reduced (43%) compared to when taken to a dedicated Section 136 suite (95%). A commitment to make the Section 136 suite available was made by the Mental Health Management team on 07th October 2025.

The use of the MHA within the general ward settings continues to gradually increase. During this quarter 9% of Section 2's were initially detained to a general hospital ward setting.

Activity relating to the Mental Health Review Tribunal and Hospital Managers has also been higher than average. Whilst demonstrating patients are ultimately aware of their statutory rights in relation to challenging their detention it does place additional demands on the service in providing reports, coordinating and attendance at hearings.

The MHA team has continued to provide training across the health board and with key stakeholders and training has been provided to new Hospital Managers, police, doctors and nursing staff during this quarter.

Use of the different sections in the table below are shown in comparison to average numbers based over the previous 3 years.

| Section of MHA | Average use per Qtr | Qtr 4 activity | Notes |
|----------------|---------------------|----------------|---|
| 2 | 72 | 80 ↑ | Higher than average use of this section. |
| 3 | 38 | 41 ↑ | Similar to the previous quarter a period a slightly higher than average use of Section 3. |
| 4 | 3 | Under 5 | Use of Section 4 is quite infrequent and tends to fluctuate between 0 - 5 occasions per quarter. A low use of this section this quarter period. |
| 5(4) | 1 | 0 | Use of this section is relatively rare however will fluctuate in use between zero to as many as 6 |
| 5(2) | 19 | 14 ↓ | Lower than average use of this section of the Act. |
| 17A (CTO) | 6 | 6 | This is consistent with the quarterly average use of CTO's. |
| 135 | 3 | 5 ↑ | Use of this section of the Act has seen a marked increase over the past couple of years. |
| 136 | 44 | 65 ↑ | A sudden increase in the use of this section during this quarter period.. |
| Part III | 2 | 5 ↑ | Numbers of Part III patients are generally quite low however during this period there has been an increase in numbers of planned admissions. |

3.0 Findings and Information

3.1 Part II, MHA

3.1.1. Section 2 - Admission for Assessment

The use of Section 2 provides for someone to be detained in hospital for assessment and treatment of their mental disorder.

- Section 2 has been used on 80 occasions which is higher than the quarterly average based against the previous 12 quarters (July 2022 – June 2025) which is 72.
- Comparatively the last quarter period saw the lowest use within a quarter period in over 10 years.
- Its use within older adult services is proportionate to the average, that being 23 per quarter, during this period was used on 26 occasions.
- 68 of the 80 patients were admitted to hospital directly from the community. i.e. they were not already in hospital when they were detained, community settings can be a patient's home, care home or general hospital and can also include transfers from other hospitals outside of Hywel Dda UHB.
- There were 7 Section 2 detentions to general hospital ward settings. This equates to 9%.
- There were no uses of Section 2 to the CAMHS or Learning Disabilities service within Hywel Dda HB during this period.
- The times the detention orders were "received on behalf of the hospital managers" (not necessarily when the assessment was conducted) is as follows:
 - Monday to Friday 9am to 5pm: 24/80

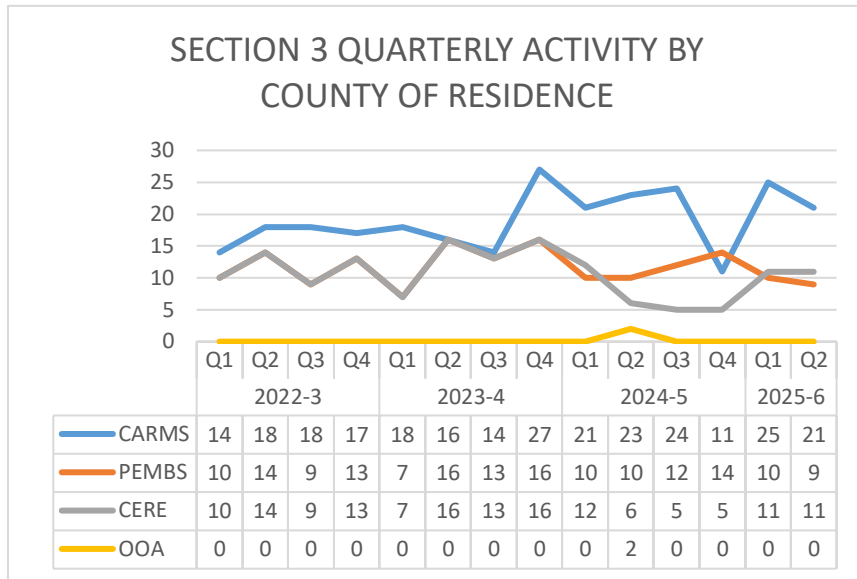
- Friday 05.01pm to Monday 08.59am: 22/80
- Weekday out of hours (5.01pm to 08.59am): 34/80
- 96% were of white British ethnicity which is relatively consistent with previous quarters other ethnicities were white European.

3.1.2. Section 3 - Admission for Treatment

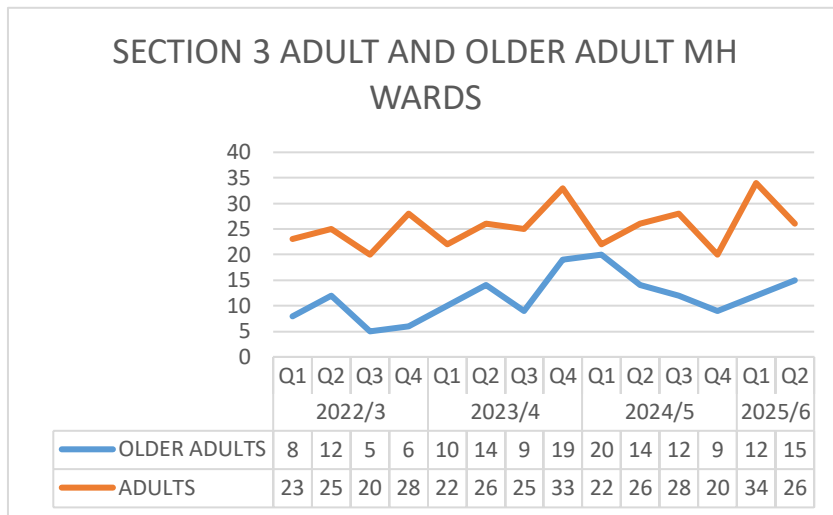
The use of Section 3 provides for someone to be detained in hospital for treatment of their mental disorder.

- Use of Section 3 occurred on 41 occasions which is an average use per quarter period (based across last 3 years) which is 38. A chart to show a breakdown of Section 3 use in the different services and counties can be found below.
- There were 9 direct admissions under this section, this would include transfers from other hospitals. The rest were changes in legal status e.g. from informal status. section 5(2) or section 2. 23 Section 3s were implemented following a Section 2 detention order.
- Of the 41 overall section 3s 26 were detained to adult inpatient wards and 15 to older adult wards.
- 45 Section 3s were discharged during this quarter with the following outcomes - 15 regraded to informal status (which could include DoLS authority), 23 were discharged from hospital. The remainder were transferred out to another hospital or placed in the community subject to a Community Treatment Orders.
- 100% were of white British ethnicity.

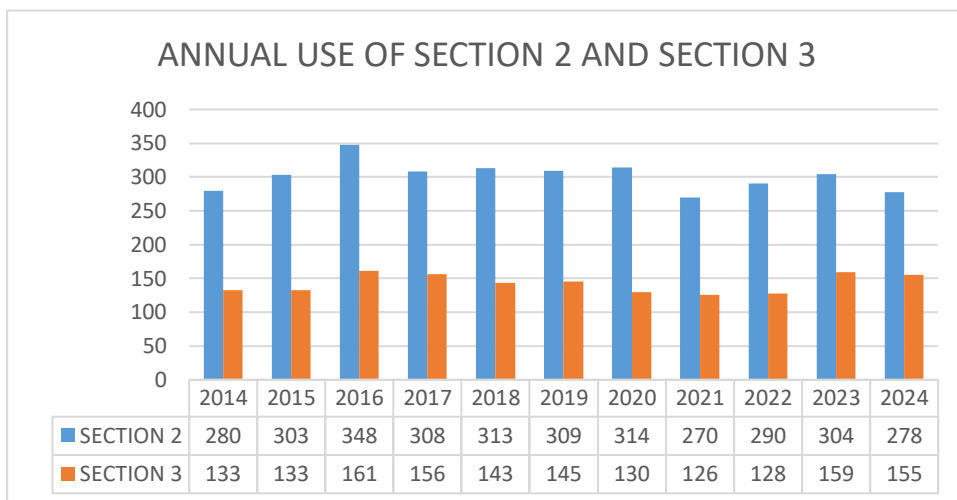
SECTION 3 QUARTERLY ACTIVITY BY COUNTY OVER 3 YEARS



SECTION 3 QUARTERLY ACTIVITY - OLDER AND ADULT INPATIENT BEDS (MH)



TOTAL USE OF SECTION 2 AND SECTION 3 OVER THE LAST 10 YEARS



3.1.3. Section 4 – Admission for Emergency

The use of Section 4 can be made on the basis of a single medical recommendation supported by the AMHP application and is used when the admission to hospital is urgent and would be unsafe to wait for a second medical recommendation for admission under section 2.

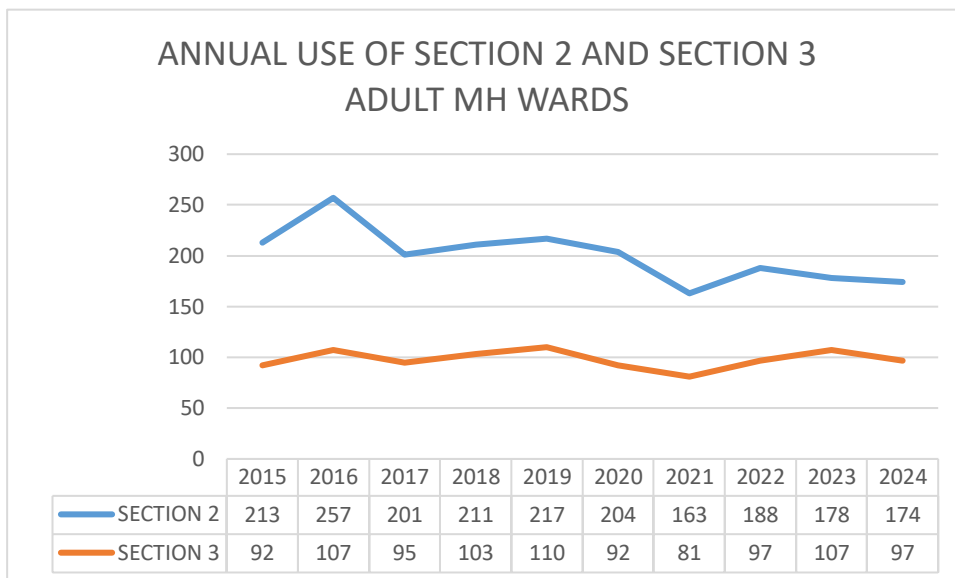
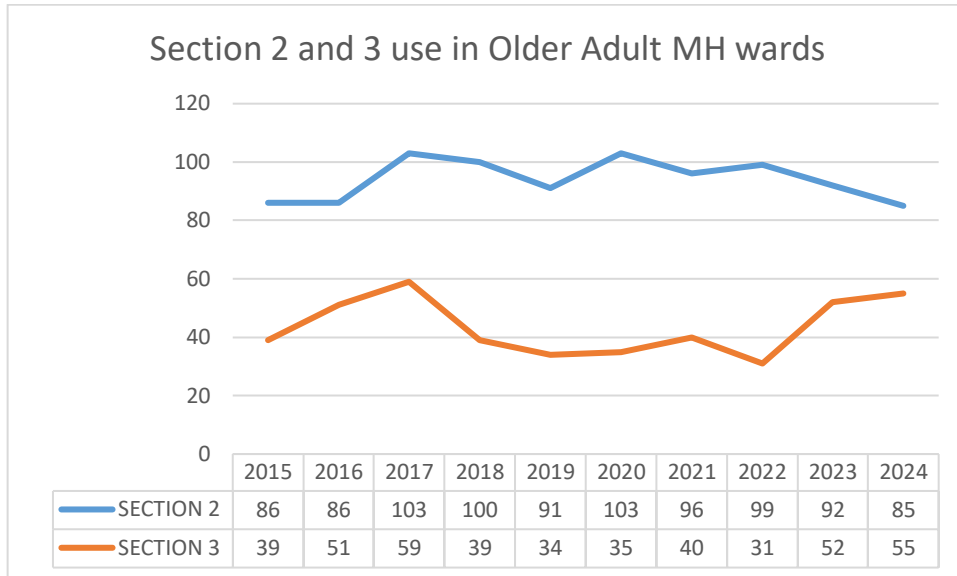
- On average it is used on three occasions per quarter. During this quarter it was used on less than 5 occasions under this section of the Act. This is significant decrease on the previous period.
- 100% were completed by a doctor that was not Section 12 approved.
- 100% were from the Pembrokeshire local authority and the emergency powers were used as a result of concerns about patient safety to self.
- 100% were regraded to Section 2 within 72 hours.
- Ethnicity – 100% white British, Gender - 0% male/ 100% female.

3.1.4. Section 5 – Holding Powers

Section 5(2) – used by Doctors in both mental health and general hospital settings to detain an in-patient for up to 72 hours to allow for a mental health act assessment to take place. Section 5(4) is used by mental health and learning disability nurses in mental health in-patient settings for up to 6 hours to allow for a further assessment to take place

- Use of the nurses holding power is rare and has not been used during this quarter.
- The doctors holding power was used on 14 occasions. This is considerably lower than the average use.
- Of the 14 Section 5(2)s 5 were used in adult MH acute wards.
- No under 18s were detained under Section 5(2) during this period.
- Section 5(2) may be used within general hospital wards. During this quarter it was used lawfully and appropriately on 5 occasions (36% of total Section 5(2) use). The outcomes of these holding powers were that all 40% were detained under a longer term section of the MHA. The remainder were regraded to voluntary or discharged.
- 36% of assessments were carried out within 24 hours.
- 57% were further detained under Section 2 or 3 (lower than previous quarter at 75%)
- Statistics:
 - 100% white British, 36% male, 64% female

3.1.5. Trends and Service Specific Information relating to Part II, MHA (Sections 2, 3, 4 and 5)

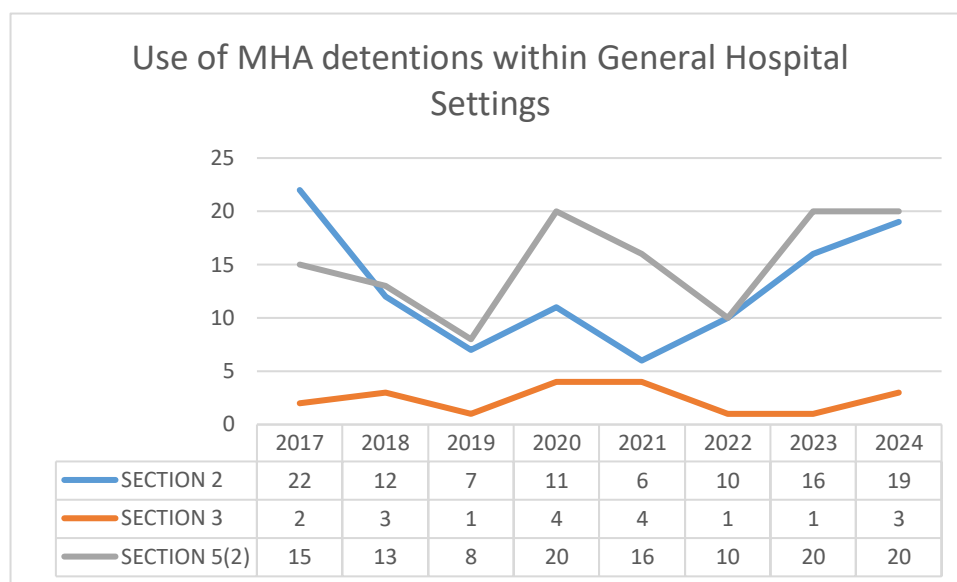


The table below demonstrates the % of which service both section 2 and section 3 were utilised. For example, it can be seen that in 2024 Quarter 1 56% of all section 2's were adult services with 10% of its use in the general hospital setting.

| % of Overall Activity | 2024/2025 | | | | 2025/2026 | |
|-----------------------|-----------|-------|-------|-------|-----------|-------|
| | QTR 1 | QTR 2 | QTR 3 | QTR 4 | QTR 1 | QTR 2 |
| SECTION 2 | % | % | % | % | % | % |
| Adult | 56 | 57 | 60 | 58 | 58 | 59 |
| Older Adult | 31 | 39 | 24 | 30 | 27 | 32 |
| General DGH | 10 | 1 | 7 | 8 | 13 | 9 |
| CAMHS | 3 | 3 | 7 | 3 | 2 | 0 |
| Learning Disabilities | 0 | 2 | 2 | 1 | 0 | 0 |
| SECTION 3 | | | | | | |

| | | | | | | |
|-----------------------|----|----|----|----|----|----|
| Adult | 51 | 63 | 68 | 67 | 74 | 63 |
| Older Adult | 47 | 35 | 29 | 30 | 26 | 37 |
| General DGH | 2 | 2 | 0 | 3 | 0 | 0 |
| CAMHS | 0 | 0 | 3 | 0 | 0 | 0 |
| Learning Disabilities | 0 | 0 | 0 | 0 | 0 | 0 |

Use of the Act within the General Hospital settings over the last 8 years



| No of Detentions to the General Hospital Wards (by Quarter) | | | | | |
|---|-----------------|-----------------|------------------|------------------|------------------|
| | July–Sept 24 | Oct – Dec 24 | Jan- March 25 | Apr – June 25 | July- Sept 25 |
| Section 2 | (1-5) | (1-5) | 6 | 7 | 7 |
| Section 3 | (1-5) | 0 | (1-5) | 0 | 0 |
| Section 5(2) | (1-5) | (1-5) | 7 | 5 | 5 |

Legal Status of Patients:

The table below is a snapshot the legal status's broken down as a % in each ward as of 30th September 2025

| Ward | MHA includes home leave pts | DoLS | Informal | Home leave |
|------------|-----------------------------|--|----------|------------|
| Bryngofal | 86% | 0% | 14% | 14% |
| Bryngolau | 47% | 47% - authorised DoLS (33% standard, 13% urgent) | 6% | 0% |
| St Caradog | 80% | 0% - authorised DoLS | 20% | 7% |
| St Nons | 64% | 21% - authorised DoLS (standard) | 15% | 7% |
| Morlais | 83% | 0% | 17% | 17% |
| Enlli | 38% | 24% - authorised DoLS | 38% | 0% |

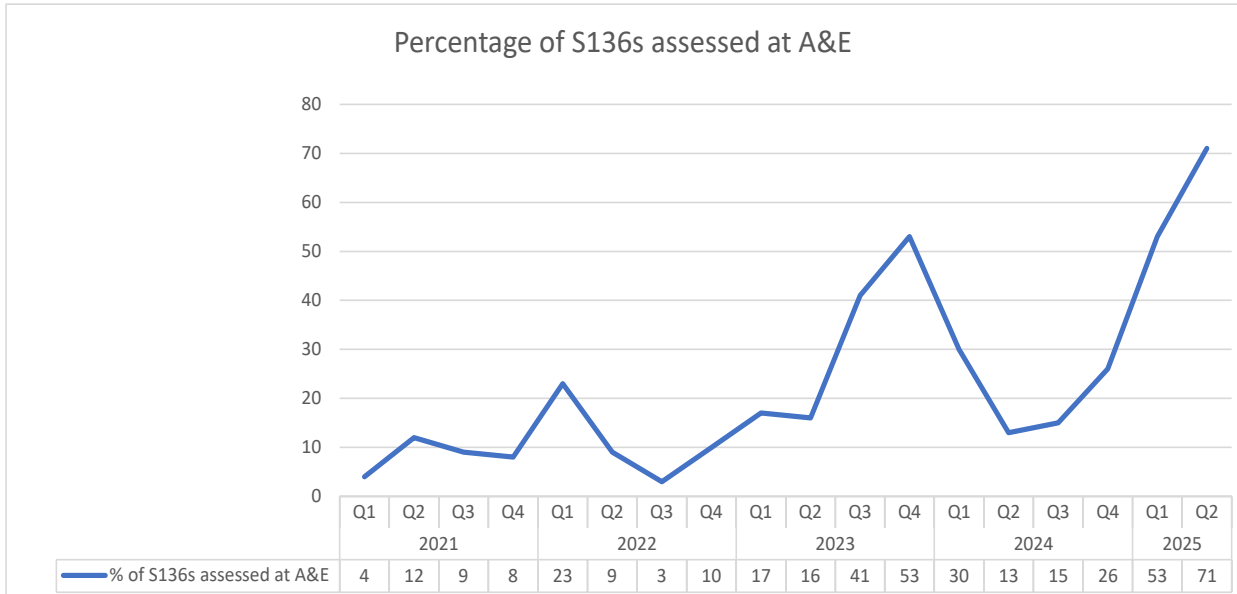
| | | | | |
|------------|------|----|-----|-----|
| Low Secure | 100% | 0% | 0% | 13% |
| PICU | 86% | 0% | 14% | 0% |

3.2. Use of Police Powers Sections 135 & Section 136

3.2.1. Section 136 – Removal of Mentally Disordered Persons to a place of Safety

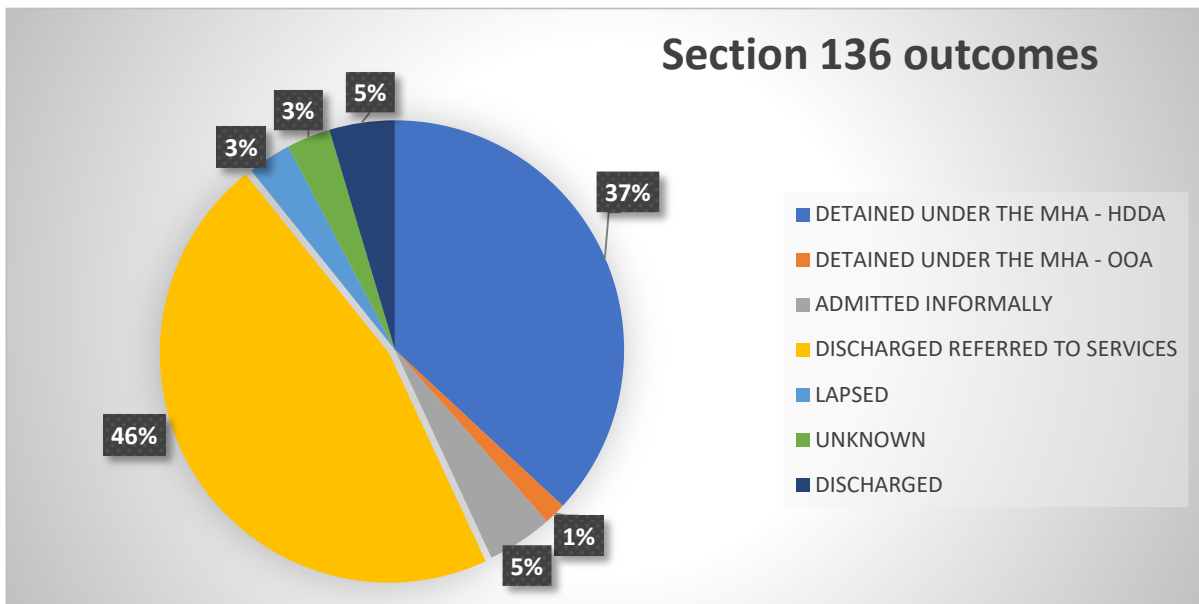
The powers of section 136 provide authority for a police officer who finds a person who appears to be suffering from mental disorder, in a place to which the public has access, to remove him to a place of safety if the person:

- This quarter has seen an increase in the use of Section 136 with numbers not observed since 2021. There were a total of 65 reported Section 136's.
- 56 different individuals were placed on S136. A small number of individuals having undergone multiple detentions in close proximity e.g. within a 24 or 48 hour period. Of these individuals, it was found that 22% had been allocated a care co-ordinator and 33% had a care and treatment plan detailing a strategy for managing crisis.
- The places of safety used for the MH assessment were as follows:-
 - 15 to Bryngofal
 - Under 5 to Morlais
 - 46 to A&E
 - Withybush Hospital – 17
 - Glangwili Hospital – 23
 - Bronglais Hospital - 6
- Of the 46 taken to an A&E department of assessment a further 4 cases were taken to A&E as a first place of safety before being transferred to a second place of safety.
- Of the 46 occasions A&E was used as a place of safety 17 were due to clinical need. The Section 136 suite / health based place of safety was not available for a large proportion of this period which is why A&E settings were used on an exceptionally high number of occasions. A commitment to make the Section 136 suite available was made by the Mental Health Management team on 07th October 2025.
- Custody was not used as a place of safety.
- Difficulties continue with obtaining accurate data. It is often challenging to obtain copies of the monitoring forms once assessments have been completed. Inaccuracies and disputes over the start times, dates, consultations and outcomes of the assessment are regularly reported.
- The table below shows the % of overall S136s that were assessed in A&E settings as opposed to a health-based place of safety.

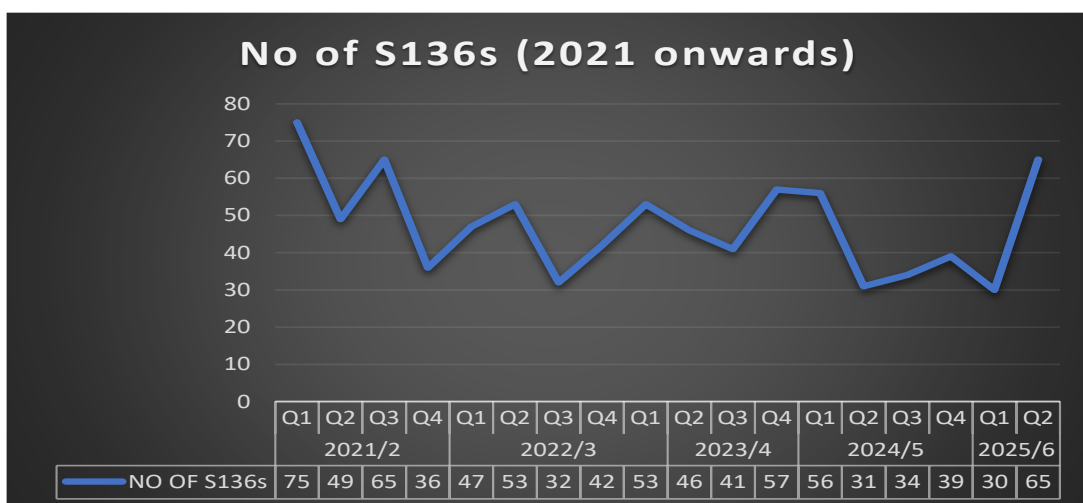


- Morlais Ward is a place of safety for the purpose of assessing under 18's subject to S136. It was not used as a place of safety during this quarter.
- There were less than 5 under 18s detained on Section 136 with handcuffs used in 25% of cases during the detention period.
- In total it is recorded within the monitoring forms that some form of restraint was used on 35 occasions (54%) which is lower than usual, for example, the last quarter it was 73% and the previous quarters was 64%.
- The duty to inform patients of their statutory rights was evidenced in 38 out of 65 cases overall which is 58% of all cases. Where A&E was used for S136 assessment this dropped to 43% of all cases whereas in allocated suites (Bryngofal and Morlais) it was 95%.
- Prior to exercising a Section 136 detention the officer should consult a health professional. This occurred in 47 out of the 65 detentions (72%). Of the 18 where no consultation occurred it is reported that 7 were as a result of an emergency and 1 because the officer could not make contact with services. Of the remainder the data was missing/not provided. The data shows that 80% of consultations were made with an AMHP however this was found to be inaccurate and in all cases it was a nurse with who officers had consulted.
- There is a report under the Out of Hours service that has a record of diverted S136s. There are at least 13 references to Section 136 being avoided as a result of the consultation process.
- 55 of the 65 resided within Hywel Dda catchment area.

Outcomes of the assessments as follows:



- It is unusual for Section 136 to lapse without an outcome. However, during this period a number of Section 136s lapsed after 24 hours. Reasons reported were due to the person not having been medically optimised for an assessment of their mental health and in another case the person was not assessed but no details were provided.
- Where the outcome of the assessment did not result in detention under the MHA – 21 of 40 utilised 2 doctors for the assessment.
- 57/65 assessments took over 4 hours and 1 Section 136 was extended.
- Ethnicity statistics –
 - 98% White British
 - 58% Female 42% Male



3.2.2. Section 135 – Warrant to search and remove person

Section 135 empowers a magistrate to authorise a police constable to remove a person lawfully from private premises to a place of safety.

Section 135 is split into two categories as follows:

- Section 135(1) warrant applied for by an AMHP (the local authority) if reasonable cause to suspect that a person is suffering from a mental disorder.
- Section 135(2) warrant by any constable or other person authorised (*will generally be health professional*) to remove someone already liable to be detained and remove them to a place they are meant to be.

- Both Section 135(1) and 135(2) were used during this period resulting in its use on 5 occasions in total.
- It is not known exactly how many warrants are applied for but get refused by court or alternatively granted but then not executed under this section.
- Executed Section 135's were split across all three local authorities local authorities.
- 100% of assessments resulted in further detention under the Act.

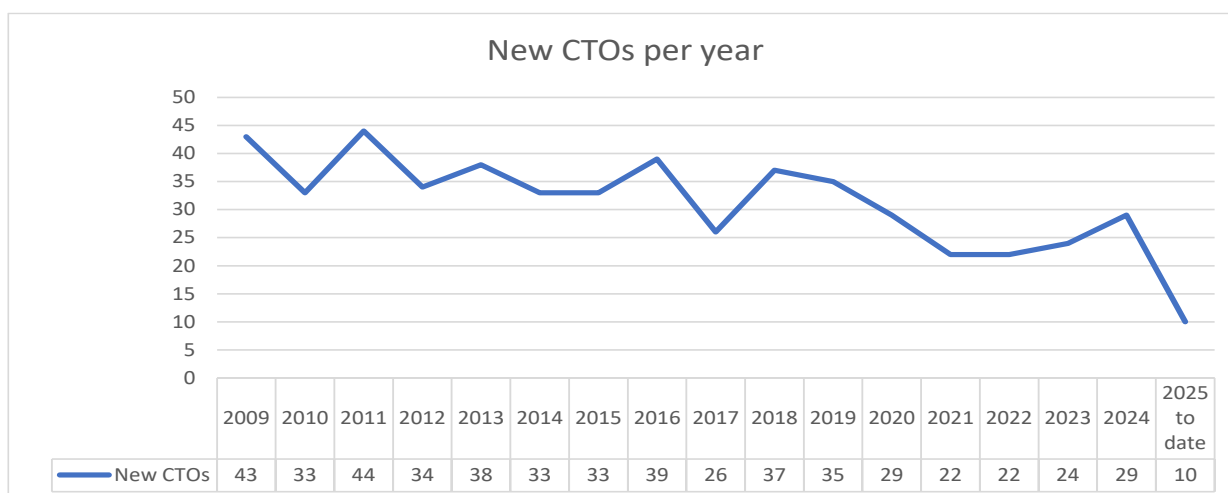
3.3. Section 17A - G, Community Treatment Orders

3.3.1. Community Treatment Order Activity

There were 26 Community Treatment Orders in place as at 30th September 2025.

| County | Number of CTO's | Ethnicity |
|-----------------|-----------------|---|
| Carmarthenshire | 10 | White British – 100% |
| Ceredigion | Under 5 | White British – 100% |
| Pembrokeshire | 12 | White British – 92% Other ethnicities – 8% |

- There were 6 new CTO's for the quarter.
- Less than 5 recalls during this quarter.
- Less than 5 were discharged by the Responsible Clinicians



3.4 Part III

3.4.1. Patients Concerned in Criminal Proceedings or Under Sentence

Part III of the MHA deals with the circumstances in which patients may be admitted to or detained in hospital on the order of a court or by transfers from prisons.

- Use of this area of the Act is minimal within the Health Board. During this quarter it was used on 5 occasions.
- Unrestricted patients can be made subject to Community Treatment Orders however no new CTO for Part III patients were made.
- No restricted patients were discharged by the MHRTfW during this period.
- There was an unrestricted patient discharge.
- As of the 30th September 2025 the total number of Part III patients are split into the following – 71% restricted; 24% unrestricted; 5% CTOs.

3.5 Errors

3.5.1. Section 15 - Rectifiable Errors

Section 15, MHA allows corrections to be carried out within the statutory time limits (14 days).

- 91 statutory documents were medically scrutinised
- At least 48 rectifiable errors were discovered on medical recommendations, applications for admission and receiving of detention papers. Amendments can be made within 14 days under Section 15 of the Act and this process is carried out by the MHA administration team liaising with the professionals involved.
- Common errors made by doctors on medical recommendations included middle names missing, spelling errors with names and addresses, incorrect dates, not deleting whether they are Section 12 approved or not providing sufficient reasons where indicated.
- Common errors, by AMHPs, on applications included missing middle names, deletions not undertaken or completing unrequired information, incorrect nearest relative names and address and not completing reasons why doctors used did not have a previous acquaintance with the patient.
- Common errors by nurses upon receiving detention papers have included missing details regarding the section number, middle name, time and date of section. Also completing they are receiving a second medical recommendation in relation to a Section 4 when this is not the case.
- A short powerpoint training presentation on scrutiny of section papers has been uploaded onto the MHA administration sharepoint page in order for professionals to access.

3.5.2. Section 15 - Non-Rectifiable Errors

Where the error is so severe that the error cannot be rectified under Section 15 the appropriate action is taken.

- There were no un-rectifiable errors made during this current quarter.

3.5.3. Other errors

Section 15 relates only to detentions under Section 2, 3 and 4 of the MHA. Errors under this heading of the report relate to other areas of the MHA including Section 5, Community Treatment Orders and Consent. Appropriate action is taken with relevant teams.

- HO12s are completed by a doctor for the purposes of Section 5(2).
 - A small number of Section 5(2)s submitted are not received by an officer authorised to do so.
 - A small number have been submitted with insufficient reasoning for the detention and/or no reference to any mental disorder.
- Consent – authority to treat under the Act may only be completed by a SOAD or Approved Clinician.
 - A small number of certificates were submitted by a person not authorised to do so.

3.6. Code of Practice for Wales

An annual report on the use of restrictive practice policies should be received and considered by the health board. This should include aggregated data. (CoP pg262)

3.6.1. Locked Door Activity (Chapter 26 CoP for Wales)

The Code of Practice provides guidance around the use of locked doors and recommends that a policy should be developed at an organisational level but may be adapted for specific locations. The policy should be considered as part of ward/unit management system.

The Health Board operates a locked door policy across all services however expects staff to ensure patients are aware of their rights, reasons for the locked door and options for access and exit are made clear to both patients and visitors.

Adherence to the “Locked Door and Associated Safeguards for Mental Health and Learning Disability Wards Policy” (321) is provided via the Mental Health’s Ward Management Forum.

3.6.2. Exclusion of Visitors (Chapter 11, COP for Wales)

The Code of Practice states that Hospital Managers should regularly monitor the exclusion from the hospital of visitors to detained patients. “Any decision to exclude a visitor should be fully documented and available for independent scrutiny by HIW”. Ward managers within the mental health services report any instances of exclusion of visitors to the MHA office. During this reporting period there were no reports of visitors excluded.

3.6.3. Withholding of postal packets (Sec 134 MHA)

Patients should have access to any correspondence they receive and send and their privacy respected. However, Section 134, MHA provides authority and withholding of a detained patient’s outgoing and incoming mail. The procedure to be adopted is included in The Mental Health (Hospital, Guardianship, Community Treatment and Consent to

Treatment) (Wales) Regulations 2008 where it provides occurrences should be reported upon.

There has not been any post withheld during this reporting period.

3.6.4. Information to Detained Patients and Nearest Relatives

The MHA team monitor and contact wards and departments to help ensure all patients detained under the MHA are provided with information relating to the rights of detention.

Most patients are provided with rights during the first 72 hours of detention however there are occasions whereby this is not possible, for example due to a temporary loss of capacity to retain the information or that the risks are deemed too high to staff to do this safely.

3.7. Part IV / IVA Act (Sections 57 – 64) Consent to Treatment and SOAD (Second Opinion Appointed Doctor) requests to Healthcare Inspectorate Wales.

3.7.1. Certification for Treatment – Capacity and Consenting Status

During this quarter there have been 18 new treatment authorisation documents completed for consenting to treatment instances: -

14 x C02 – to certify person has capacity and consents to treatment (detained patients)

3 x C08 – as above (CTOs)

Under 5 x CO4 – as above for the treatment of ECT

This compares with 11 new certificates issued during the last quarter and 27 the quarter before.

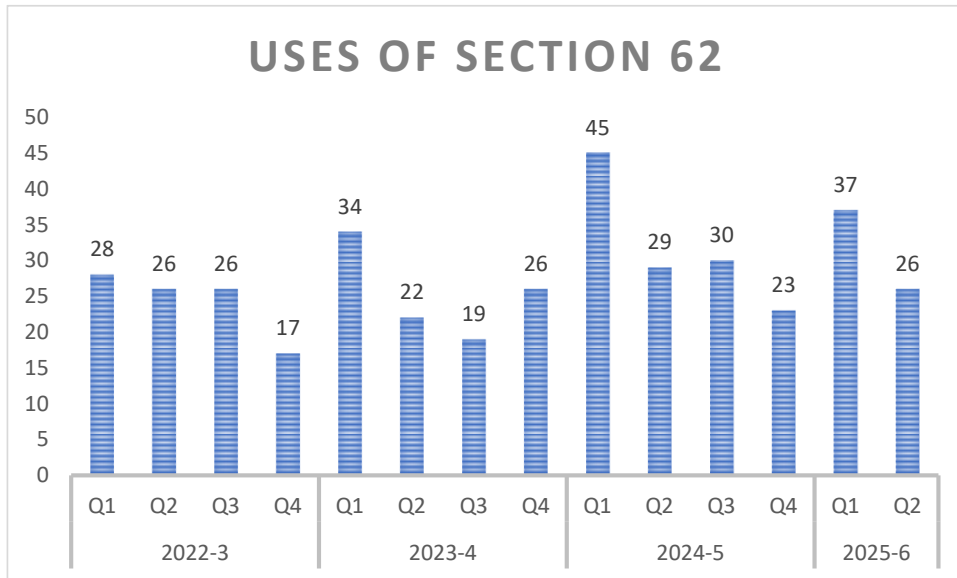
3.7.2. Certification for Treatment – Non capacious or non-consenting status

When a detained patient requires authority for treatment to proceed but does not have the capacity to consent or refuses to consent then a Second Opinion Appointed Doctor must certify the treatment. SOADS are allocated through HIW.

- 16 SOAD requests were made (34 last quarter period) and the following certificates were completed:
 - 13 CO3s (detained patients)
 - 5 CO7s (CTOs)
 - Less than 5 CO6s (ECT)
 - Under 5 certificates pending carried forward to current quarter period
- Average waiting time for a SOAD (medication for inpatients) was 10 days (previous quarter was 9).
- Of the 19 certificates issued by a SOAD 8 patients were seen in person with the remaining 11 reviews conducted remotely before issuing the relevant certificate to authorise treatment. HIW advised that this ratio is likely to remain.
- There were less than 5 authority certificates for Electro-convulsive therapy (ECT). The average wait for a SOAD to certify treatment for ECT was 4 days (decrease from 11 days last quarter).
- Longest waiting time for a certificate was 22 days. The delays on these occasions were as a result of the SOAD being unable to make contact with the Responsible Clinician. HIW have their own key performance indicators, however they are set

from the point they allocate a doctor to the issuing of the certificate as opposed from when the SOAD request is made to the certificate being issued.

- Section 62 and 64 (emergency) treatment allows for lawful and short-term administration of treatment in the absence of a SOAD certificate. Use of this emergency treatment during this quarter was higher than average as can be seen from the line chart below showing its use over per quarter over the past 3 years. It was used on 37 occasions.



- Reasons for its use is as follows:
 - For purposes of authorising ECT occasions - no SOAD requests had been made at the point of these treatments.
 - On 10 occasions to authorise medication because three month rule (or one month for CTO's) had expired or the previous certificate had an expiry date and the SOAD had not yet authorised treatment.
 - On 7 occasions there was a change of medication or Responsible Clinician.
 - On the other occasions it was due to change in legal status (CTO revoked) or the patient had changed their consent status.

Use of emergency Section 62 treatment could be reduced with more prompt SOAD requests or certificate being provided by the SOADs. There were 7 occasions during the last quarter when SOADs were requested by Responsible Clinicians within 3 days of the three month rule expiring.

3.7.3. Section 61, Review of Treatment

When a section is renewed under Section 15 or a Community Treatment Order is extended the Responsible Clinician is required to review the treatment and progress for patients that have been subject to a SOAD certificate during the previous period of detention. A report is sent to Healthcare Inspectorate Wales on each case (HIW1).

There were 14 records made during this quarter under Section 61 which is slightly more than the previous quarter.

3.8. Sections 23, 24, 20/20A and 65-79 MHA – Discharge from Detention

3.8.1. Applications for Discharge to Hospital Managers

There has been a further increase again this quarter with 15 applications for discharge made to the hospital managers . This is the highest number of applications in a quarter period since Qtr 1, 2019 and more in keeping with the numbers seen pre-covid years. Of the 15 applications 7 hearings were conducted.

All applicants appealing their detention are given the choice to request whether they want a face to face or remote type hearing. Of the 15 applications made 11 requested a face to face hearing.

3.8.2. Application for Discharge by Nearest Relative

There were under 5 applications for discharge made by a nearest relative during this quarter.

3.8.3. Hospital Managers Hearings

In total (all hearing types) the Hospital Managers held 27 reviews during this quarter and a further 6 were cancelled within 24 hours of its schedule due to either patient withdrawing an application or the detention order ending. Of the 26 cases patients were present in 17 reviews and of those 15 had an IMHA and/or had a solicitor present. The others advocated themselves independently. Of the 9 where patients did not attend some had an IMHA, solicitor or relative present at the review.

No applications were made for a Welsh hearing. Translation services were not required.

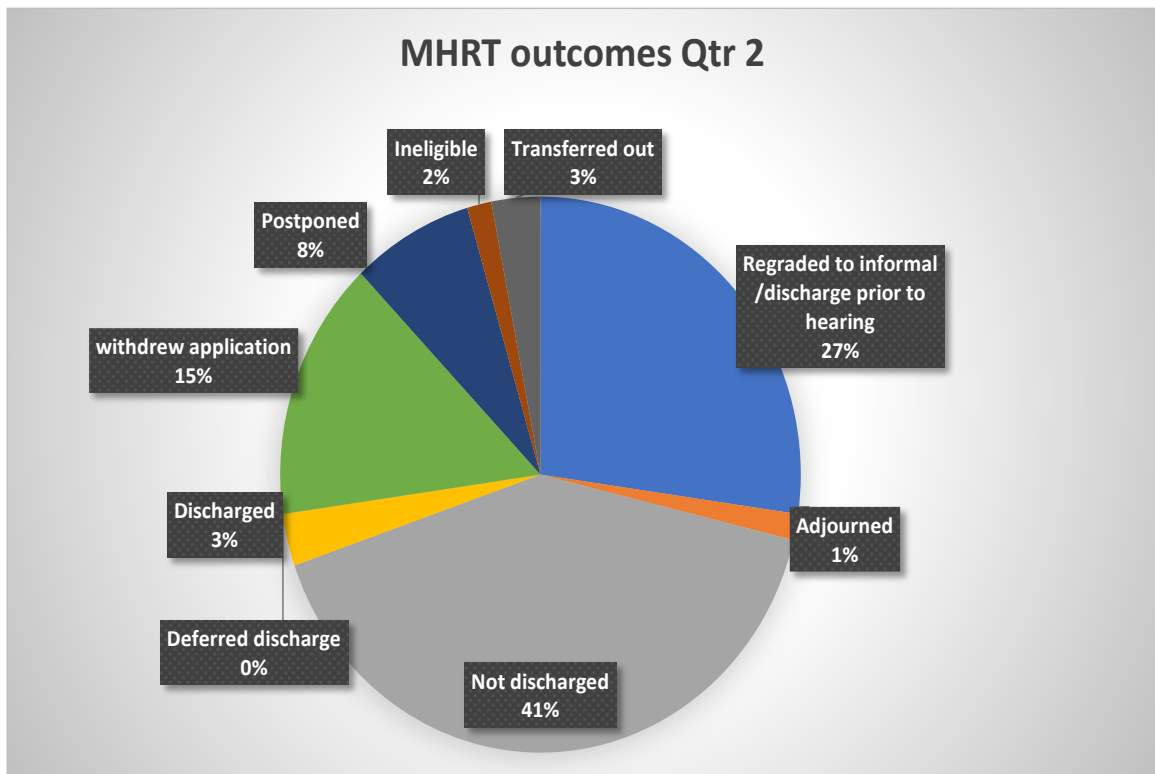
3.8.4. Applications, Referrals and Outcomes at the Mental Health Review Tribunal

There has been 71 applications/referrals to the Mental Health Review Tribunal (MHRTfW) during this quarter with 30 hearings conducted. The MHRTfW office offer the option of face to face or remote reviews based upon patient choice. Of the 30 hearings 17 occurred in person, 12 via MS Teams and 1 via telephone.

There has been under 5 discharges ordered by the MHRT during this quarter period.

No applications were made for a Welsh hearing. No use of translation services were required.

The outcomes of the arranged tribunals during this quarter can be seen below:



3.8.5. Comparative Information relating to Hospital Managers and Tribunals processes

In order to determine whether activity deviates from the norm current quarterly activity can be found in the table below compared against average activity based over the previous 3 years.

| Activity | Average per Qtr 2018/19 | Average per Qtr | Qtr 2 activity | Notes |
|---------------------------------------|-------------------------|-----------------|----------------|--|
| Applications to the Hospital Managers | 14 | 6 | 15 | This is the first quarter where applications have returned to numbers above 10. |
| Renewals / Extension reviews | - | 16 | 17 | Every renewal of section / extension of CTO must have a hospital manager review. |
| Applications by nearest relative | Less than 5 | Less than 5 | Less than 5 | Figures are generally low |
| Applications/referrals to MHRTfW | 44 | 50 | 71 | Increased number of applications to the Tribunal this quarter period |
| MHRT hearings held | - | 25 | 30 | Increased number of hearings held. |

3.9. Miscellaneous

3.9.1. Policies

Policies referred to within the Code of Practice are “Owned by” the Mental Health Written Control Documents Group and are “Approved by” the Mental Health Legislation Committee (MHLC).

During this quarter policies were reviewed as followed:

(395) Section 136 MHA Mentally Disordered Persons found in public places – *extension of review period granted for 12 months to allow for legislation changes to 24.03.2026*

(688) Section 117 Aftercare Procedure Mental Health Act 1983 – *approved by Mental Health Legislation Committee 02.09.2025.*

3.9.2. Training

The Mental Health Act Team continues to provide training to services and partner Agencies on the use and processes in performing the functions of the Act. During Quarter 1- the following sessions have been provided either face to face or via MS Teams

| Date | Group | Topic |
|----------|-----------------------------|---|
| 12.08.25 | New doctors induction | MHA overview |
| 04.09.25 | Dyfed Powys Police trainees | Section 135/6 |
| 09.25 | Hospital Managers induction | MHA overview – particularly Section 23 of the Act |
| 08.09.25 | PICU Nursing team | MHA general update on processes |

Ward management teams often report difficulties in ability to release staff for training purposes therefore pre-recorded powerpoint training presentations are being prepared and uploaded to the MHA Administration Sharepoint page – readily and easily accessible to all staff across Hywel Dda sites. Topics so far include *Section 136* and *Section 5(2)* and recently added “*Receipt and Scrutiny of Statutory Papers*”. Further presentations to be developed and should be available in due course.

3.9.3. Operational

Lasting Power of Attorneys

The MHA department are required to notify the MHRTfW about any Powers of Attorneys/Deputies. This is in addition to any other responsibilities to Attorneys and Deputies as outlined in Code of Practice (Chapter 7). No details of LPA’s have been provided for detained patients during this quarter to the MHA administration team.

CAMHS ASSESSMENTS

There has been a number of areas where the MHA has been utilised within this service during the last quarter - Section 136, Section 2 and Section 4 detentions have all been used. Where a CAMHS assessment is undertaken a specialist doctor in this field should make themselves available.

DATIX REPORTING

All incidents relating to breaches within the MHA are reported upon internally via the DATIX system by the MHA Administrator and reporting it to MHA Administration Lead.

3.9.4. Section 117 Aftercare

A centralised Section 117 register to serve both Health Board and the Local Authority is currently under review.

During this quarter there were 13 new S117 applicable persons were detained to the health board under the Act. The total figure may be slightly more than that if persons within the area have been detained outside of the health board.

In addition to the above there were a further 9 persons detained under a qualifying section of the Act but who were already on the Section 117 register.

During this quarter we have been notified of 26 who have been removed from the centralised register either through a formal discharge or when deceased.

The centralised register is under development within the MHA department currently. At the present time it shows that there are 1218 persons eligible for Section 117 aftercare within the health board.

4.0. Description of Sections

Longer Term Sections (medication can be given)

Section 2 Admission for assessment – up to 28 days

Mental Health Act assessment undertaken by 2 registered medical practitioners, where practicable by one who knows the patient. One must be Section 12(2) approved. An Approved Mental Health Professional (AMHP) must also assess, preferably at the same time as at least one registered medical practitioner.

Criteria needs to be met -

a) is suffering from mental disorder of a nature or degree which warrants the detention of the patient in a hospital for assessment (or for assessment followed by medical treatment) for at least a limited period; and

b) ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons

2 x medical recommendations (HO4), 1 x application from AMHP (HO2)

Section 3 Admission of treatment – up to 6 months, renewable for 6 months, 12 monthly thereafter

Mental health act assessment undertaken by 2 registered medical practitioners, where practicable by one who knows the patient. One must be Section 12(2) approved. An Approved Mental Health Professional (AMHP) must also assess, preferably at the same time as at least one registered medical practitioner.

Criteria needs to be met -

a) is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in hospital; and

b) it is necessary for the health and safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless he is detained under this section; and

c) appropriate medical treatment is available for him.

2 x medical recommendations (HO8), 1 x application from AMHP (HO6)

Short Term Sections (medication cannot be given)

Section 4 Admission for emergency – up to 72 hours

mental health act assessment undertaken by a registered medical practitioner, where practicable by one who knows the patient

An Approved Mental Health Professional (AMHP) must also assess the patient – ideally at the same time

Criteria needs to be met -

“it is of urgent necessity for the patient to be admitted and detained under section 2” and that compliance with the provisions relating to application under that section “would involve undesirable delay”

1 x medical recommendation, (HO11) 1 x application from AMHP (HO10)

Section 5(2) Approved Clinician Holding Power – up to 72 hours

mental health act assessment undertaken by a registered medical practitioner.
Criteria is - *that an application for compulsory detention “ought to be made”.*

1 x Form HO12

Section 5(4) Nurses Holding Power – up to 6 hours

Criteria is: if it appears to a nurse of the ‘prescribed class’ firstly that “...*the patient is suffering from mental disorder to such a degree that it is necessary for his health and safety or for the protection of others for him to be immediately restrained from leaving the hospital*”. Secondly the nurse must believe that “...*it is not practicable to secure the immediate attendance of a practitioner or clinician for the purposes of furnishing a report under subsection (2)...*” In other words, the doctor or approved clinician (or their deputy) cannot attend in time to provide a report under section 5(2).

1 x Form HO13

Community Treatment Order and related sections (medication can be given)

Section 17A Community Treatment Orders – up to 6 months, renewable for 6 months (17A+) 12 monthly thereafter (17A ++)

Criteria is:
the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment;
it is necessary for his health and safety or for the protection of other persons that he should receive such treatment;
subject to his being liable to be recalled ... such treatment can be provided without his continuing to be detained in a hospital;
it is necessary that the responsible clinician should be able to exercise the power under section 17E (1) below to recall the patient to hospital;
appropriate medical treatment is available for him

Form CP1

Section 17E Recall of a CTO. Duration is up to 72 hours, which starts once the patient has been admitted to the hospital.

Criteria is: *a change of mental state or increase in risk.*

Form CP5

Section 17F Revocation of a CTO patient who has been recalled to hospital – the section is the re-introduction of the Section 3 or Section 37 (depending on what section they were on previous to the CTO) - up to 6 months, renewable for 6 months, 12 monthly thereafter

Criteria needs to meet the same as Section 3 -

a) is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in hospital; and

- b) it is necessary for the health and safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless he is detained under this section; and*
- c) Appropriate medical treatment is available for him*

Revocation requires the written agreement of an AMHP. Form CP7

Places of Safety Sections (medication cannot be given)

Section 135 Warrant to search and remove

Section 135(1) – warrant to enter and remove

Section 135(1) empowers a magistrate to authorize a police constable to remove a person lawfully from private premises to a place of safety.

A warrant may be issued if, on having information on oath from an approved mental health professional (AMHP), it appears to the magistrate that there is reasonable cause to suspect that a person believed to be suffering from mental disorder is:

Criteria is:

has been, or is being, ill-treated, neglected or kept otherwise than under proper control, in any place within the jurisdiction of the justice, or being unable to care for himself, is living alone in any such place

Section 135(2) – warrant to enter and take or retake

Section 135(2) concerns the taking into custody of patients who are unlawfully absent.

A magistrate can issue a warrant to take or retake the patient if it appears, on information on oath by any constable or any “*other person authorised by or under this Act... to take...or retake a patient who is liable under this Act*”, that:

There is reasonable cause to believe that the patient is to be found on premises within the jurisdiction of the justice; and

That admission to the premises has been refused or that a refusal of such admission is apprehended

Section 136 Place of Safety – up to 24 hours

The powers of section 136 provide authority for a police officer who finds a person who appears to be suffering from mental disorder, in a place to which the public has access, to remove him to a place of safety if the person:

Criteria is:

Appears to be suffering from mental disorder and to be in immediate need for care or control, the constable may, if he thinks necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety...

Part 3 - Sections in relation to Patients concerned with criminal proceedings or under sentence

Section 35 Remand to hospital for report on accused’s mental condition – for up to 28 days but can be extended to a maximum of 12 weeks (medication cannot be given)

An approved clinician (at the hospital) is required to provide a report to the court. The court must be satisfied (on the written or oral evidence of any doctor) that:

- (a) *...there is reason to suspect that the accused person is suffering from mental disorder; and*
- (b) *...it would be impracticable for a report on his mental condition to be made if he were remanded on bail*

Section 36 Remand of accused person to hospital – up to 28 days but duration will be set by the Court – maximum of 12 weeks (*medication can be given*)

The Section 36 is to allow a Crown Court to remand an accused person to hospital for the purposes of treatment. The court must be satisfied (on the written or oral evidence of two doctors, one of whom must be section 12(2) approved) that the patient:

- (a) *...is suffering from mental disorder of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment; and*
- (b) *appropriate medical treatment is available for him*

Section 37 Hospital Order or Guardianship Order - up to 6 months, renewable for 6 months, 12 monthly thereafter (*medication can be given*)

Section 37 enables a Crown Court or a magistrates' court to order a person to be detained in hospital for treatment (or make a person subject to guardianship) when otherwise they may have imposed a prison sentence. The "hospital order" or a "guardianship order" is given as an alternative to imprisonment, a fine, or probation if appropriate.

The court must be satisfied (on the written or oral evidence of two doctors, one of whom must be section 12(2) approved) that the patient:

is suffering from mental disorder and that either –

- (i) *the mental disorder from which the offender is suffering is of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment and appropriate medical treatment is available for him; or*
- (ii) *in the case of an offender who has attained the age of 16 years, the mental disorder is of a nature or degree which warrants his reception into guardianship...;and*

...the court is of the opinion, having regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to all other available methods of dealing with him, that the most suitable method of disposing of the case is by means of an order under [section 37]

Section 37/41 Hospital Order with Restrictions – made with no time limit (*medication can be given*)

A Crown Court may, if necessary for the protection of public from serious harm, place restrictions onto a hospital order at the time of making the order under section 37.

The restrictions, Section 41, sets out that the Court must have regard to "*...the nature of the offence, the antecedents of the offender and the risk of his committing further offences if set at large...*" and if it is necessary "*for the protection of the public from serious harm...*" the Court can order that the patient is subject to the special restrictions of the section.

An order made under section 41 is known as “a restriction order”, and is commonly referred to as “section 37/41” or a “hospital order with restrictions”.

In addition to the requirements for making an order under section 37, the Court must receive oral evidence from at least one of the registered medical practitioners who gave evidence under section 37.

Section 38 Interim Hospital Order – up to 12 weeks, but duration set by the Court – maximum 12 months (*medication can be given*)

To allow a court to send a person who has been convicted but not yet sentenced to hospital, to assess the person’s response to medical treatment. The court must be satisfied (on the written or oral evidence of two doctors, one of whom must be section 12(2) approved) that the patient:

- (a) *...is suffering from mental disorder; and*
- (b) *that there is reason to suppose that the mental disorder from which the offender is suffering is such that it may be appropriate for a hospital order to made in his case,*

the court may, before making a hospital order or dealing with him in some other way, make an order (...referred to as “an interim hospital order”) authorising his admission to ... hospital...

**Section 47 } Transfer of sentenced prisoners (including with restrictions) -
Section 47/49} (*medication can be given*)**

Allows the Secretary of State for Justice to order the transfer to hospital of a sentenced prisoner following conviction. The Secretary of State must be satisfied (from the reports of two doctors, one of whom must be section 12(2) approved) that the patient:

- (a) *... is suffering from mental disorder; and*
- (b) *that the mental disorder from which that person is suffering is of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment; and*
- (c) *that appropriate medical treatment is available for him*

The Secretary of State must have “...regard to the public interest and all the circumstances...”

A direction made under section 47 is known as a ‘transfer direction’. A transfer direction may be accompanied by the special restrictions of section 41, by virtue of section 49. Such a direction is known as a “restriction direction” and is commonly referred to as ‘section 47/49’ or a ‘transfer and restriction direction’

Duration - the transfer direction (including a restricted section 47) ends at the earliest date of release (EDR). At this time the patient, unless discharged by the responsible clinician, will be treated as though a hospital order had been made (and is referred to as a ‘notional section 37’).

**Section 48 }Transfer of other prisoners (including with restrictions) for urgent
Section 48/49 }treatment**

Allows the Secretary of State for Justice to order the transfer to hospital of a prisoner who is not sentenced but in urgent need of treatment. The Secretary of State must be satisfied (from the reports of two doctors, one of whom must be section 12(2) approved) that the patient:

... is suffering from mental disorder of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment; and he is in urgent need of such treatment; and appropriate medical treatment is available for him

The section only applies to:

- persons detained in a prison, not being a person serving a sentence of imprisonment or persons falling within the following groups
- persons remanded in custody by a magistrates' court;
- civil prisoners, that is to say, persons committed by a court to prison for a limited term, who are not persons falling to be dealt with under section 47;
- persons detained under the Immigration Act 1971 or under section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State).

It is known as a 'transfer direction'. A transfer direction may be accompanied by the special restrictions of section 41, by virtue of section 49. Such a direction is known as a "restriction direction" and is commonly referred to as 'section 48/49' or a 'transfer and restriction direction'. A restriction direction must be given in respect of

- persons detained in a prison, not being a person serving a sentence of imprisonment
- persons remanded in custody by a magistrates' court;

Duration - the period of detention is variable and can continue to the time of sentence; the Secretary of State can also issue a warrant to return the person to prison at any time before the Court disposes of the case.

