



## PWYLLGOR DEDDFWRIAETH IECHYD MEDDWL MENTAL HEALTH LEGISLATION COMMITTEE

<b>DYDDIAD Y CYFARFOD: DATE OF MEETING:</b>	13 March 2023
<b>TEITL YR ADRODDIAD: TITLE OF REPORT:</b>	Mental Health Legislation Committee (MHLC) Self-Assessment Outcome Report 2021-22
<b>CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:</b>	Judith Hardisty, Mental Health Legislation Committee Chair Andrew Carruthers, Director of Operations Liz Carrol, Director of Mental Health, and LD
<b>SWYDDOG ADRODD: REPORTING OFFICER:</b>	Joanne Wilson, Director of Corporate Governance / Board Secretary Karen Richardson, Corporate & Partnership Governance Officer

### 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 this report is to present to the Mental Health Legislation Committee (MHLC) the outcome of the MHLC Self-Assessment 2021/22 process, and to consider whether this meets the expectations of the Committee.

##### Cefndir / Background

From 2020/21, a new approach to self-assessment was introduced to elicit greater feedback in order to shape and influence the agenda of MHLC going forward.

Members of MHLC completed a questionnaire to consider the Committee's effectiveness during the previous 12 months and, in addition to specific domain questions, comments were invited on any improvements for consideration to assist the Committee in drawing up its own plan for improvement. The recognition of what has worked well has been a helpful platform to move forward, and the greater focus on organisational risks to inform the agenda and work of the Committee will enable a further move towards providing a strategic outlook.

##### Asesiad / Assessment

Each question started with a statement, which set out 'what good looks like'. In response, Members described at least one example from the previous 12 months in which the Committee had been effective in this domain and shared at least one idea for improving the Committee's effectiveness in this domain over the coming year. The responses included a number of useful suggestions regarding ways in which the governance and operation of MHLC might be improved.

Following meetings with the MHLC Chair, the Board Secretary and the Director of Mental Health and LD, responses to any suggested improvements were agreed, with progress on any identified actions provided below.

**Question 1**

The purpose of the Mental Health Legislation Committee is to assure the Board on the 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.

- Those functions of the Mental Health Act (MHA) 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;
- The provisions of the Mental Health (MH) (Wales) Measure 2010 are implemented and exercised reasonably, fairly and lawfully;
- The UHB’s responsibilities as Hospital Managers are being discharged effectively and lawfully;
- The UHB is compliant with MHA 1983 Code of Practice for Wales;
- The Committee will also advise the Board of any areas of concern in relation to compliance with mental health legislation and agree issues to be escalated to the Board with recommendations for action.

*Please describe at least one example during the previous 12 months in which the Committee has been effective in this domain.*

**Responses:**

- **Improvements on the reporting of data via the Mental Health Legislation Scrutiny Group (MHLSG) and then to MHLC.**
- **The Committee has received regular reports from the Hospital Managers and addressed issues of concern such as the operation of the MHA Tribunals.**
- **There has been refined and improved reporting of the legislation activity.**
- **MHLSG reports evidence the more detailed work that is being undertaken around the Measure and the MHA.**
- **As part of its standing agenda arrangements the Committee ensures that it receives reports on the vast majority of the list above. Reports are always comprehensive, and time is allowed for questions.**

*Please share at least one idea for improving the Committee’s effectiveness in this domain over the coming year.*

Suggestions Made for Improvement	Response	Progress
Allowing more time for discussion and questions during the meeting.	The Chair will ensure that each agenda item receives adequate time for robust discussions to take place.	No update required.
In terms of assurance, is the Committee tenacious enough to rectify/ progress availability of certain professional roles e.g. Section 12 Doctors/AMHPs.	Referring to professional roles the Committee will ensure scrutiny around the impact of Section 12 Doctors/AMHPs. For assurance the medical	A business-as-usual approach will be adopted.

<p>Also, when there are trends around section 4 usage for instance.</p>	<p>recruitment position is on the Directorate Risk Register, which is managed at service level. However, if escalated, this will be reported to the Committee.</p> <p>In relation to section 4 usage, the MHSG receives regular updates, with operational teams overseeing any trends identified.</p>	
<p>Critical of the degree of compliance achieved by MHLC and MHLSG in respect of their ToRs. As a Representative Carer, does the Committee consider the evidence in respect of the aspects of ToR that deal with Codes of Practice specifically as part of the mandated task, not merely advice ( that point was addressed in MHA CoP 2016). Specifically (but not exclusively) the requirements in Chapter No.1 that address Safety, Effective and Efficient Care, Timely action, and Education/Training of all staff involved. The matter needs to be resolved either by an amendment of ToR or by the provision of the appropriate evidence (which may not need to be considered at every meeting, if there is an agreed quantity of appropriate evidence considered in the relevant year.).</p>	<p>The Board has agreed the MHLC ToRs in order to provide Board assurance on the MHA, MH measures and the codes of practice.</p> <p>These are reviewed by the Board on an annual basis.</p>	<p>No update required.</p>
<p>The Scrutiny Group is a well-motivated Group that is well led, but circumstances have prioritised their time use away from the full discharge of the requirements that have been carefully set out in the ToR. The MHLC considers the advice received from MHLSG, or not if it is not received: as indicated above I have commented at both Committee and Group level on this matter of non-compliance, with different responses, but there</p>	<p>The Board has agreed the MHLC ToRs in order to provide Board assurance on the MHA, MH measures and the codes of practice.</p>	<p>No update required.</p>

has only been a slow change, usually invigorated by an adverse audit from an external authority.

**Question 2**

The Committee works **strategically**. This means it aligns its work with the Health Board’s overarching strategic priorities and delivery plans. It commissions work in support of those priorities in line with the Mental Health legislation, providing the Board with the assurance necessary to have confidence in its ability to deliver.

*Please describe at least one example during the previous 12 months in which the Committee has been effective in this domain.*

**Responses:**

- **Ensuring information on the proposed new MH Legislation forms part of the work of the Board.**
- **The scrutiny of CAMHS in respect of legislation has aligned with the considerations at the Quality, Safety and Experience Committee (QSEC).**
- **The Committee monitors the safe and effective use of legislation.**
- **The Chair enables the meeting to make those links to wider Health Board priorities.**

*Please share at least one idea for improving the Committee’s effectiveness in this domain over the coming year.*

<b>Suggestions Made for Improvement</b>	<b>Response</b>	<b>Progress</b>
Ensuring the relevant sections of the Together for Mental Health Delivery Plan in relation to legislation are connected to the work and reporting of the Board.	This is already taking place with updates on progress presented to the Transforming Mental Health / LD PMO Group.	A business-as-usual approach will be adopted.
Deep dive into a service in the context of the Act and Measure.	The Committee could request MHLSG review how services are enacting the act and measures and report back any areas of concern.	A business-as-usual approach will be adopted.
Maybe Committee members could have a development session looking in more detail at the strategic priorities and how they interface.	<p>For assurance regular reports on strategic priorities are presented to Board, where Independent Members (IMs) have the opportunity to contribute.</p> <p>For clarity, for all Board Level Committee’s IMs are the only Committee Members, other attendees are listed as “In-Attendance Members”.</p>	No update required.

### **Question 3**

The Committee works **systemically**. This means it works effectively with the Board, other Board Committees, its sub-committees and other relevant parts of the organisation's governance and assurance system, in order to ensure that we spot connections and themes which have an impact on Mental Health services in accordance with the legislation. It guards against silo working. It gives balanced and meaningful 'air time' to the full range of the Health Board's service portfolio.

*Please describe at least one example during the previous 12 months in which the Committee has been effective in this domain.*

#### **Responses:**

- **Improved joint working and report with the MHLSG.**
- **The absence of an effective Mental Health (MH) system which will be addressed when the MH Patient Administration System (PAS) is fully operational makes it difficult to look across from the perspective of compliance with legislation to the spot all connections and themes.**
- **The Committee does allow for the stakeholders who deliver in line with legislation to meet to review how effectively they are achieving this in collaboration with one another.**
- **The Committee has a number of sub groups where it can consider connections and themes.**

*Please share at least one idea for improving the Committee's effectiveness in this domain over the coming year.*

<b>Suggestions Made for Improvement</b>	<b>Response</b>	<b>Progress</b>
Need to improve connections with the Local Mental Health Partnership Board. There are times when issues discussed at the MHLC such as Care and Treatment Co-ordination would be equally relevant to the Local Mental Health Partnership Board and the two committees could have joint action plans on this and other area of common interest and action.	Due to nature of the Committee and the Local Mental Health Partnership Board, from a governance perspective this may not be appropriate; however, any areas of interest could be disseminated with other Committees and Groups of the Board.  The Mental Health Partnership Board reports to the Regional Partnership Board.	A business-as-usual approach will be adopted.
Using MHPAS to scrutinise performance against the legislation and measures.	Once fully operational MHPAS will provide activity against the legislation and measures for scrutiny at MHLC.	Reports will be forward planned onto the MHLC workplan.
Is the Committee sufficiently appraised of the effectiveness of arrangements with other parts of the Health system e.g. unscheduled care at MIU/A&E.	Given that the purpose of the Committee is to assure the Board on MH legislative matters, this is outside of its remit.	A business-as-usual approach will be adopted.

Some partners are not represented/ unable to be represented in this regard.	However, for assurance QSEC receives regular updates on these areas.	
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**Question 4**

The Committee works **intelligently**. This means it draws on a diverse range of reliable data (both quantitative and qualitative) provided through both the Mental Health Legislation Scrutiny Group and the quarterly Mental Health Performance Report, to triangulate information and reveal themes or patterns in regard to. It uses a dashboard of key quality indicators to inform improvement. This relies on accurate interpretation of the data, which requires skill from both the providers and readers of the data.

*Please describe at least one example during the previous 12 months in which the Committee has been effective in this domain.*

**Responses:**

- **Ensuring the information from the Police and Local Authority alongside health data has improved and this has proved very helpful and informative.**
- **Examining the trends in relation to detention.**
- **The MHSB undertakes more of this function and feeds back the analysis and findings in its report to the Committee.**
- **The Committee receive comprehensive reports on activity/trends.**

*Please share at least one idea for improving the Committee’s effectiveness in this domain over the coming year.*

<b>Suggestions Made for Improvement</b>	<b>Response</b>	<b>Progress</b>
Need to improve the reporting of equality data and review this to look at equality impacts of Mental Health legislation (if any). Need to improve the quality data as well as quantitative, so lived experience and carer feedback as part of the quantitative data reports. The lived experience behind the data.	This has already taken place with a discussion at MHLC in December 2022 on ethnicity.	Regular updates will be forward planned on to the MHLC workplan.
The MHPAS will enable this to be done more effectively as the current reporting is quarterly.	Once fully operational MHPAS will provide activity against the legislation and measures for scrutiny at MHLC.	Reports will be forward planned on to the MHLC workplan.
Is there an over reliance on the quantitative data and maybe because of time constraints insufficient scrutiny of the quality of care and compliance for instance with relevant codes.	This will be taken forward by the MHLSG.	A business-as-usual approach will be adopted.

**Question 5**

The Committee facilitates **learning**. This means it works openly and honestly, encouraging contributions from attendees which are a fair and reasonable reflection of the realities faced across all Mental Health services. The Chair sets the leadership tone and is supported by other Independent Members and the Executives to hold this learning space. The style is one of high support/high challenge.

*Please describe at least one example during the previous 12 months in which the Committee has been effective in this domain.*

**Responses:**

- **Committing to work to continuing to understand the full picture of the legislation impact and experience and enabling a diverse range of people to comment on and ask questions during the meeting.**
- **Enabling a face-to-face meeting option also in the last 6 months to enable those who struggle with the video meetings to fully participate.**
- **The discussions about the role of the MHSG has enabled effective assurance being provided to the Committee. The quality of reports has improved following feedback from the Committee to Executive Directors and senior managers.**
- **There is learning that takes place within the Committee from all statutory agencies who have responsibilities in the compliance of the legislation as well as those with lived experience and carers.**
- **The Committee is well chaired and there is good attendance along with engagement from Independent Members.**
- **The Chair welcomes not only agenda items from all partners as well as Independent Members and encourages all parties to share their perspectives and challenge as appropriate.**

*Please share at least one idea for improving the Committee’s effectiveness in this domain over the coming year.*

<b>Suggestions Made for Improvement</b>	<b>Response</b>	<b>Progress</b>
Holding a co-productive workshop style meeting with one theme which is of interest to the MHLC to enable more in depth discussions, and this will enable the solutions to be identified to recurring issues that keep coming back to the Board.	This is outside of the scope of the Committee’s ToRs, however, could be a taken forward by the Local Mental Health Partnership Board.	No update required.
Maybe a call for items from organisations external to the Health Board?	In accordance with the ToRs, this is already taking place as the Committee regularly receives Healthcare Inspectorate Wales (HIW) MHA Inspection, Delivery Unit and external scrutiny body reports.	A business-as-usual approach will be adopted.

**Question 6**

The Committee champions **continuous improvement**. This means it uses an improvement mindset, as well as methodologies, which enable it to lead and oversee a clear journey of improvement in respect of the 'Mental Health Transformation Programme'

*Please describe at least one example during the previous 12 months in which the Committee has been effective in this domain.*

**Responses:**

- **Work around understanding the issues and outcomes in relation to Section 136 of the MH Act.**
- **The MH Transformation programme is not scrutinised by the Committee as the moment, this is reported elsewhere. However, all new services will be subject to the MHA and measures and therefore performance scrutinised by the Committee.**
- **Improvement of experience and how we report in a meaningful way is promoted through the discussion that takes place at the Committee.**
- **The Chair encourages a continuous improvement mindset, however not sure how the Committee can secure that.**

*Please share at least one idea for improving the Committee's effectiveness in this domain over the coming year.*

<b>Suggestions Made for Improvement</b>	<b>Response</b>	<b>Progress</b>
Holding a co-productive workshop style meeting with a focus on one theme which is of interest to the MHLAC to enable more in depth discussions, and this will enable the solutions to be identified to recurring issues that keep coming back to the Board.	This is outside of the scope of the Committee's ToRs, however, could be a taken forward by the Local Mental Health Partnership Board.	No update required.
The Chair to work with Director of Ops to consider the reporting of the transformation programme and with the Board secretary regarding the terms of reference.	This is outside of the scope of the Committee's ToRs.	No update required.
Perhaps for a period of time shining a light on areas of practice that need to improve or alternatively showcasing practice where that can happen.	The MHLSG already undertakes this and will report their findings to MHLAC.	A business-as-usual approach will be adopted.

**Question 7**

The Committee works **proactively**. This means it is organised in its workplan, sensitive to the dynamic environment in which the Health Board operates, and searching in its enquiries. It is curious, and willing to pursue demanding issues in the interests of excellent patient care. It uses the organisation's risk management processes effectively to scrutinise risks relating to compliance with Mental Health legislation and ensure that longstanding risks and issues do not become normalised or tolerated beyond the Board's risk appetite.

*Please describe at least one example during the previous 12 months in which the Committee has been effective in this domain.*



**Responses:**

- **The Committee has allowed time and space under any other business for members to bring up issues and topics not already on the agenda. This is helpful for such a Committee that brings together a diverse range of Stakeholders.**
- **There is now a standing agenda item of Risk to ensure that any corporate or operational risks related to the remit of the Committee are scrutinised.**
- **The Committee does have a work plan which is presented to each meeting.**
- **The Committee does evidence a workplan and also has an action log to address issues over time so that they do not get lost to the system.**

*Please share at least one idea for improving the Committee's effectiveness in this domain over the coming year.*

<b>Suggestions Made for Improvement</b>	<b>Response</b>	<b>Progress</b>
Allow more time in meetings for discussions and continuous encourage questioning and curious culture at the meetings, rather than a defensive and closed positions to external members (external to the Health Board).	The Chair of the Committee will ensure all Members have equal opportunity to ask questions during the meeting.	No response required.
Whether Wales Risk Registers are required of Health Boards but there are clearly times when parts of the "system" cannot effectively function due to resource issues.	The Risk Register is a standing agenda item for MHLC. When risks relating to Mental Health Legislation are included, these will be scrutinised by the Committee.	A business-as-usual approach will be adopted.

**Question8**

Are there any domains of effective assurance which you think are not covered above? What are they?

**Responses**

- **The relevant Codes of Practice are often sighted by some parties to the meeting, however not sure that the Committee does delve much into these or how easy it would be to do this.**

For that missing domain/s.....

*Please share at least one idea for improving the Committee's effectiveness in this domain over the coming year.*

<b>Suggestions Made for Improvement</b>	<b>Response</b>	<b>Progress</b>
Not sure where the information sits in relation to Out of County placements, but this is an area where people are often at their most vulnerable placed out of	This is monitored by the MHLD Quality & Safety Assurance & Improvement Group.	A business-as-usual approach will be adopted.

County and away from family and local care team.		
The review of information and data in relation to suicide where people are being supported by Mental Health Services as a voluntary patient or subject to the Mental Health Act?	This is monitored by the MHL D Quality & Safety Assurance & Improvement Group. Any lessons learnt will take place at service level and reports would be presented to the MHL D Quality & Safety Assurance & Improvement Group	A business-as-usual approach will be adopted.
Data on the number of people being supported by Low Secure, Medium and High Secure Mental Health Services and whether this is being provided in County or out of County (and gender, ages, equality data).	Individuals detained under the legislation are already reported to the Committee. Further once MHPAS is fully operational activity against the legislation and measures will be provided for scrutiny at MHLC.	A business-as-usual approach will be adopted.
Maybe having a think as to how we are covering off the relevant Codes of Practice in the meeting.	These are reviewed as part of the review of the MHLC work plan.	A business-as-usual approach will be adopted.

### Extraordinary Question only relating to COVID-19

The Committee has sought to play a proactive role in the COVID-19 response, specifically in terms of assurance around the continued compliance with Mental Health legislation and implications arising from it. It has made a range of adjustments to reflect the rapidly changing circumstances that the Health Board has faced. In your view:

*Please describe at least one example during the previous 12 months in which the Committee has been effective in this domain.*

What went well?

- **The Committee continued to meet and engage with members.**
- **The Committee continued to meet despite perhaps one or two meetings being stood down when the pandemic first started. Otherwise, the meetings continued which I believe is a sign of the recognition of the importance of the Committee and the work that it seeks to do.**
- **Not sure in terms of the Committee's function how much coverage of this issue there has been.**

Even better if...?

- **The Committee enabled more time for questions and discussions.**

What learning points should we take with us post-COVID-19?

Suggestions Made for Improvement	Response	Progress
Importance of offering hybrid meeting options, including face to face. Importance of sustaining and building trusting positive working relationships by setting time aside for this and investing in this (as important as getting through an agenda). Focus on keeping an open and questioning culture and valuing the diversity of the membership to enable a true quality improvement and assurance approach.	In recognition that face-to-face meetings enable richer discussions, Members will be invited to attend in person. However, the option to join virtually will remain.	No response required.

**Argymhelliad / Recommendation**

The Mental Health Legislation Committee is requested to receive assurance that all actions from the MHLC Self-Assessment 2021/22 have been progressed within the agreed timescales.

<b>Amcanion: (rhaid cwblhau) Objectives: (must be completed)</b>	
Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	10.4 The Board Secretary, on behalf of the Board, shall oversee a process of regular and rigorous self assessment and evaluation of the Committee's performance and operation, including that of any sub-committees established.
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	N/A
Safon(au) Gofal ac Iechyd: Health and Care Standard(s):	Governance, Leadership and Accountability
Amcanion Strategol y BIP: UHB Strategic Objectives:	Not Applicable
Amcanion Cynllunio Planning Objectives	Not Applicable

Amcanion Llesiant BIP: UHB Well-being Objectives: <a href="#">Hyperlink to HDdUHB Well-being Objectives Annual Report 2018-2019</a>	10. Not Applicable
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<b>Gwybodaeth Ychwanegol: Further Information:</b>	
Ar sail tystiolaeth: Evidence Base:	MHLC Self-Assessment Questionnaire MHLC Terms of Reference
Rhestr Termiau: Glossary of Terms:	Included within the body of the report
Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Deddfwriaeth Iechyd Meddwl: Parties / Committees consulted prior to Mental Health Legislation Committee:	Chair of MHLC Director of Mental Health, and LD Director of Corporate Governance / Board Secretary

<b>Effaith: (rhaid cwblhau) Impact: (must be completed)</b>	
<b>Ariannol / Gwerth am Arian: Financial / Service:</b>	Not Applicable
<b>Ansawdd / Gofal Claf: Quality / Patient Care:</b>	Not Applicable
<b>Gweithlu: Workforce:</b>	Not Applicable
<b>Risg: Risk:</b>	Not Applicable
<b>Cyfreithiol: Legal:</b>	Not Applicable
<b>Enw Da: Reputational:</b>	Not Applicable
<b>Gyfrinachedd: Privacy:</b>	Not Applicable
<b>Cydraddoldeb: Equality:</b>	Not Applicable