PWYLLGOR DEDDFWRIAETH IECHYD MEDDWL
MENTAL HEALTH LEGISLATION COMMITTEE

DYDDIAD Y CYFARFOD: **DATE OF MEETING:**	02 December 2024
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:**	Sarah Roberts, Mental Health Act Administration Lead

Pwrpas yr Adroddiad (dewiswch fel yn addas) **Purpose of the Report** (select as appropriate)
Er Gwybodaeth/For Information

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 (MHLD) 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 has been submitted as appendix 1.

Asesiad / Assessment

The MH Scrutiny group received the above embedded report and paid particular attention to the following:

- General activity and detentions under the Act during this period were lower than average however it was presented that use of the Act can fluctuate between periods and sometimes quite significantly.
- Lowest recorded use of Section 136 in a quarter period for over a decade - however the proposal that there was any changing trend was overruled as the most up to date data currently would not support this.
- The percentage of overall S136s assessed in an A&E settings has also reduced considerably during this period.
- During this period a deep dive exercise was conducted by the Chair of the MH Scrutiny Group relating to cases under Section 136 brought into A&E settings for assessment. The Scrutiny Group Chair will continue to monitor this area routinely.
- A number of specific operational issues were discussed within the group with actions agreed to take matters forward to the relevant parties and forums involved.

Argymhelliad / Recommendation

For discussion

Amcanion: (rhaid cwblhau) **Objectives: (must be completed)**	
Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Not aplicable
Safon(au) Gofal ac Iechyd: Health and Care Standard(s):	Governance, Leadership and Accountability 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 2018-2019	1. Improve population health through prevention and early intervention 2. Support people to live active, happy and healthy lives Improve efficiency and quality of services through collaboration with people, communities and partners

Gwybodaeth Ychwanegol: Further Information:	
Ar sail tystiolaeth: Evidence Base:	Agendas, papers and minutes of the Mental Health Legislation Scrutiny Group
Rhestr Termau: 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:	MH Legislation Scrutiny Group

Effaith: (rhaid cwblhau) Impact: (must be completed)	
Ariannol / Gwerth am Arian: Financial / Service:	Not applicable
Ansawdd / Gofal Claf: Quality / Patient Care:	SBAR template in use for all relevant papers and reports.
Gweithlu: Workforce:	Not applicable
Risg: Risk:	Risk of non-compliance with the 1983 Act and with the Welsh Government's *Mental Health Act 1983 Code of Practice for Wales*; the *Mental Health (Wales) Measure 2010 Code of Practice;* and with the *Good Governance Practice Guide – Effective Board Committees (Supplementary Guidance) Guidance*. Safety of patients Assurance – use of statutory mechanisms
Cyfreithiol: Legal:	As above

Enw Da: **Reputational:**	Not applicble
Gyfrinachedd: **Privacy:**	Not applicable
Cydraddoldeb: **Equality:**	Not applicable

Bwrdd Iechyd Prifysgol
Hywel Dda
University Health Board

Report on the

on the use of

The Mental Health Act, 1983

1st July 2024 – 30th September 2024

(Quarter 2)

Contents

1.0 Introduction

The Mental Health Legislation Scrutiny Group's principle 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 Hywel Dda University Board during Quarter 2, 2024/25.

In order to protect identity and comply with Information Governance any figures below 5 will not be disclosed.

A more detailed breakdown of the Act is as follows:

Mental Health Act, 1983 - Data Collection and Exception Reporting

2.0 Summary

Quarter 2, 2024/25 Mental Health Act activity has seen a combination of trends. Section 2 use, tribunal applications and consent certificates for treatment have all been lower than average whereas use of Section 3 and Section 5(2) have been higher.

One area in particular has stood out, that being the numbers of Section 136 was found to be the lowest quarterly use in the last decade. Again a small number of individuals were subject to more than one detention under this section during this period and in addition 16% resided outside Hywel Dda catchment areas. The percentage of overall S136s assessed in an A&E setting also reduced considerably during this period.

The MHA management team have continued to provide training in the health board and with key stakeholders. Work has been undertaken on a number of policies as required by the Code of Practice.

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 2 activity	Notes
2	71	65 ↓	Lower than average use of this section.
3	35	41 ↑	Slightly higher than the average use but a reduction on the previous two quarter periods.
4	3	Under 5	Consistent with average use per quarter. Use of Section 4 is quite infrequent and tends to fluctuate between 0 - 5 occasions per quarter
5(4)	1	Under 5	Use of this section of the Act is relatively rare however will fluctuate in use between zero to as many as 6
5(2)	20	24 ↑	A slightly higher than average use of this section

17A (CTO)	6	6	Average use of this section
135	3	Under 5	Use of this section of the Act is relatively rare and has been used an average number of occasions.
136	48	31 ↓	A much lower than average use this section and lowest quarterly number in a decade.
Part III	3	Under 5	Average number of Part II patients during the quarter.

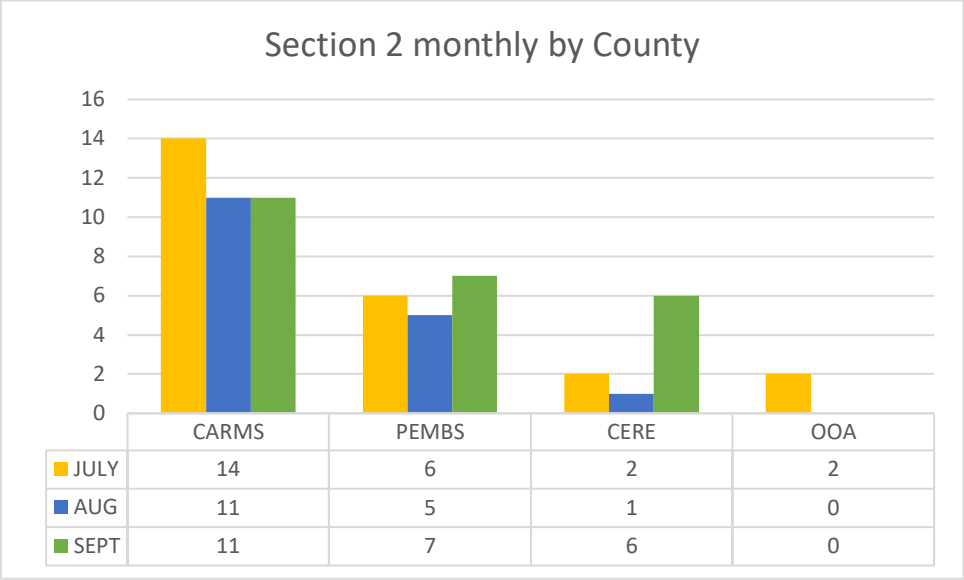
3.0 Findings and Information

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 65 occasions which is lower than the quarterly average based against the previous 12 quarters (July 2021 – June 2024) which is 71. It is the lowest use since the same quarterly period in 2021/2.
- However its use within older adult services has increased from the last quarter when used on 23 occasions to 24 occasions this quarter. The average use of Section 2 in older adults being 24.
- 46 of the 65 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 patients home, care home or general hospital and can also include transfers from other hospitals outside of Hywel Dda UHB.
- There was less than 5 Section 2 detentions to the general hospital ward settings.
- There were less than 5 uses of Section 2 in both the CAMHS service and the Learning Disabilities service.
- 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: 28/65
    - Friday 05.01pm to Monday 08.59am: 20/65
    - Weekday out of hours (5.01pm to 08.59am): 17/65
- 98% were of white British ethnicity which is consistent with previous quarters**.**
- The graph below show the usage across the three counties:

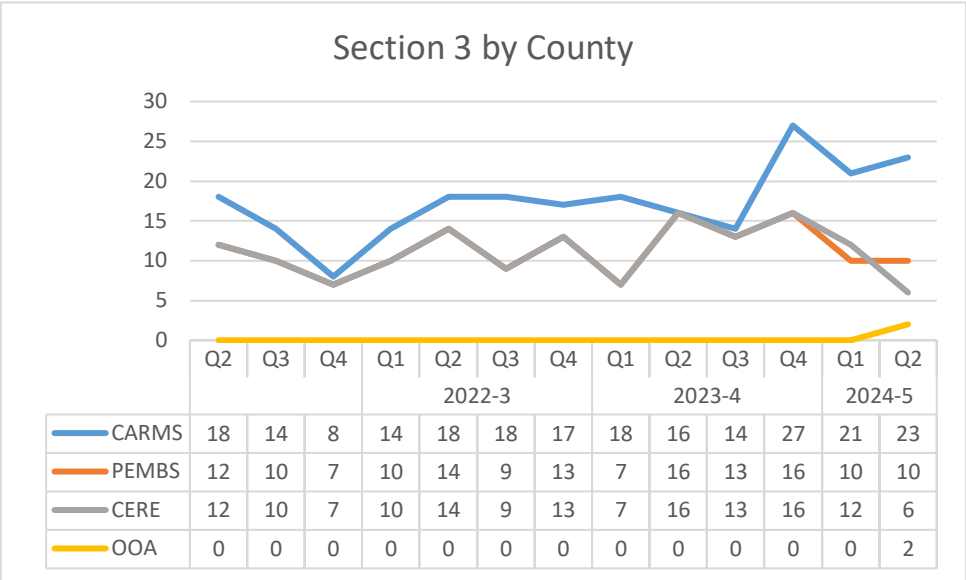


3.1.2. Section 3 - Admission for Treatment

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

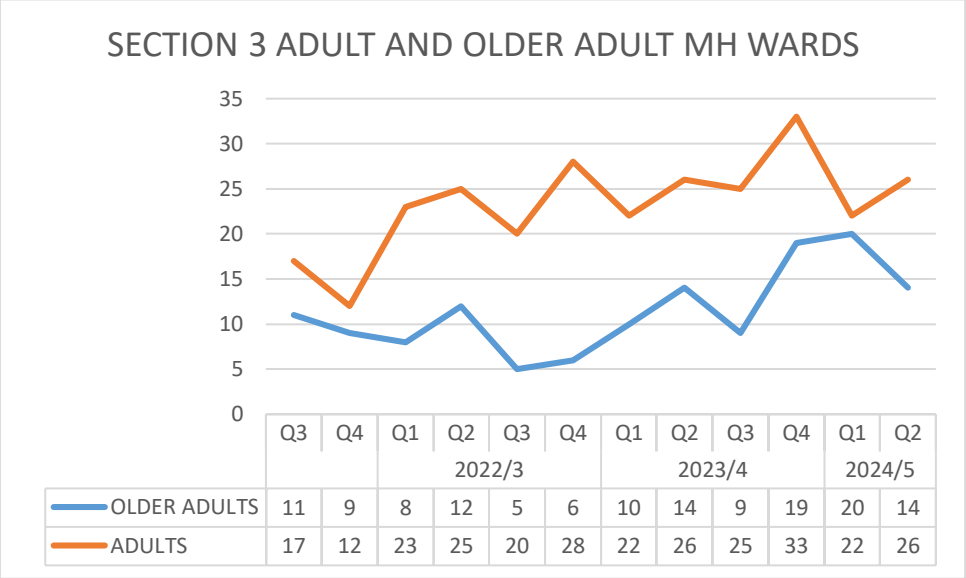
- Use of Section 3 occurred on 41 occasions which remains higher than the quarterly average (based across last 3 years) which is 35. However it is lower than the previous two quarter numbers of 42 and 53. A chart to show a breakdown of Section 3 use in the different services and counties can be found below.
- Of the 41 instances 34 were changes in a legal status e.g. from informal or section 2. There were 7 direct admissions under this section, this would include transfers from other hospitals.
- Of the 41 overall section 3s 26 were detained to adult inpatient wards and 14 to older adult wards, the remaining to other areas within Hywel Dda hospital settings.
- 45 Section 3s were discharged during this quarter with the following outcomes - 19 regraded to informal status (which could include DoLS authority), 21 were discharged from hospital, 1 transfer out to another hospital and 4 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



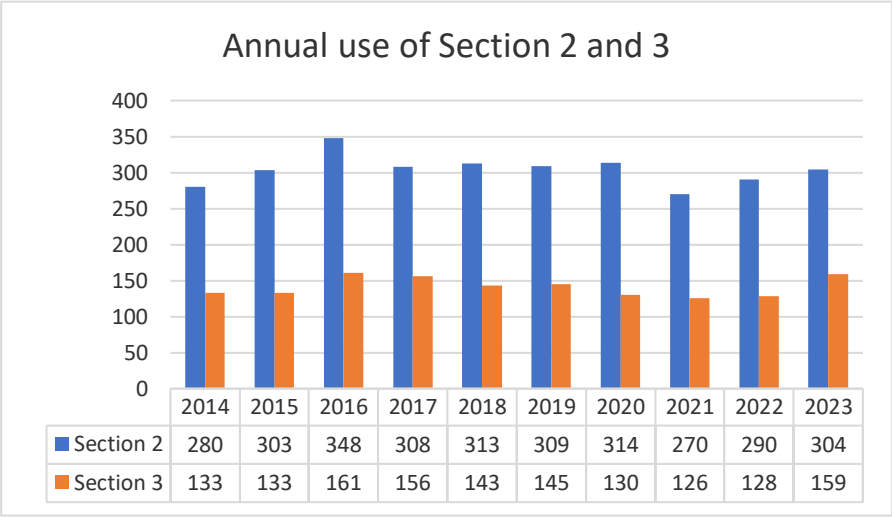
	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
				2022-3				2023-4				2024-5	
CARMS	18	14	8	14	18	18	17	18	16	14	27	21	23
PEMBS	12	10	7	10	14	9	13	7	16	13	16	10	10
CERE	12	10	7	10	14	9	13	7	16	13	16	12	6
OOA	0	0	0	0	0	0	0	0	0	0	0	0	2

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



	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
			2022/3				2023/4				2024/5	
OLDER ADULTS	11	9	8	12	5	6	10	14	9	19	20	14
ADULTS	17	12	23	25	20	28	22	26	25	33	22	26

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



	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Section 2	280	303	348	308	313	309	314	270	290	304
Section 3	133	133	161	156	143	145	130	126	128	159

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.

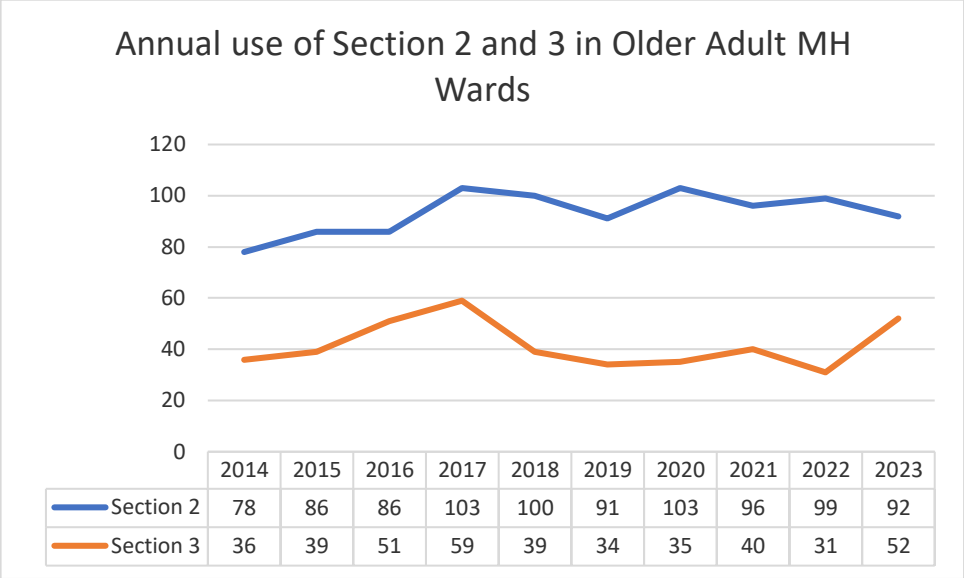
- On average it is used on three occasions per quarter. During this quarter it was used on less than five occasions within Pembrokeshire all of which were to older adult wards.
- 0% were completed by a S12 approved doctor.
- Reasons for using Section 4 during this period were due to the circumstances of the assessment whereby patients had presented to either A&E or GPs who were able to make a single recommendation. Any delay in obtaining a second medical recommendation would result in an imminent risk of deterioration to the patient health or risk to others.
- 50% Section 4s were converted to section 2 within 48 hours of admission to hospital.
- Ethnicity – 100% white British, Gender - 50% female.

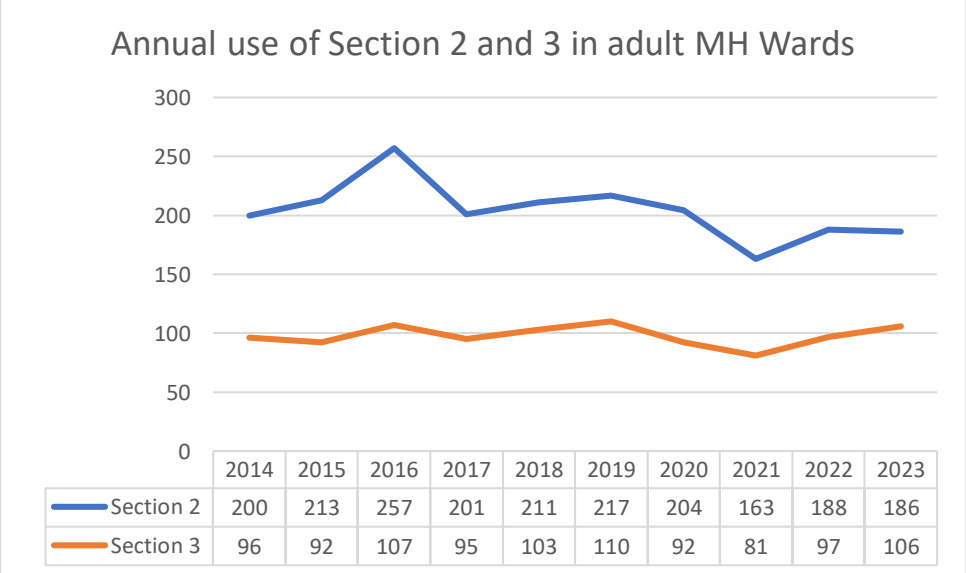
3.1.4. Section 5 – Holding Powers

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 been used on less than five occasions during this quarter.
- The doctors holding power was used on 24 occasions during this quarter which is higher than the quarterly average of 20.
- Of the 24, 15 were used in adult MH acute wards. The rest were split between older adult MH wards, general ward settings and CAMHS inpatient beds.
- Detentions under Section 5(2) during this period for under 18s were less than 5.
- A holding power under Section 5(2) may be used within general hospital wards. During this quarter it was used lawfully and appropriately on 5 occasions. The outcomes of these holding powers were that patients were split between further detained under the Act or regraded to voluntary status.
- 100% of assessments were carried out within 48 hours.
- 75% were further detained under Section 2 or 3 (consistent with previous quarter at 74%)
- Statistics:
    - 96% white British, 25% male, 75% female.

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





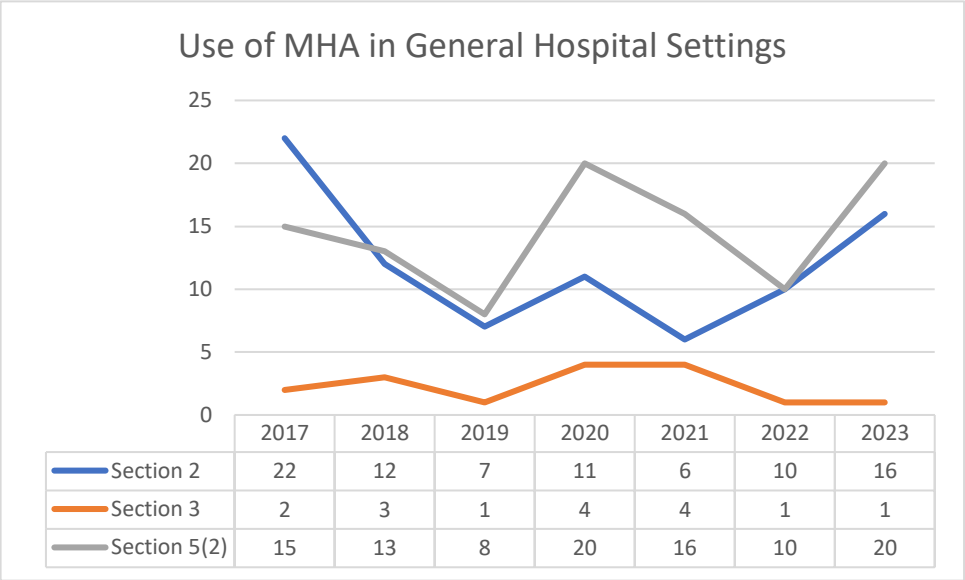
The table below demonstrates the % of which service both section 2 and section 3 were utilised. For example, it can be seen that in 2023 Quarter 4 57% of all section 2's were adult services with only 1% of its use in the general hospital setting.

% of Overall Activity	2023/2024			2024/2025	
	QTR 2	**QTR 3**	**QTR 4**	**QTR 1**	**QTR 2**
SECTION 2	**%**	**%**	**%**	**%**	**%**
Adult	62	48	57	56	58
Older Adult	29	38	39	31	37
General DGH	6	6	1	10	0
CAMHS	1	7	3	3	3
Learning Disabilities	1	1	0	0	2
SECTION 3					
Adult	65	74	62	51	63
Older Adult	35	26	36	47	35

General DGH	0	0	2	2	2
CAMHS	0	0	0	0	0
Learning Disabilities	0	0	0	0	0

The above table shows the ratio's in terms as a percentage tend to remain pretty consistent with small fluctuations now and again. However the proportions within the older adult services of Section 3 last quarter was abnormally higher however this quarter has returned to normal %s. Section 2s admitted to the General District Hospital has also reduced this quarter.

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



No of Detentions to the General Hospital Wards					
	July-Sept 23	Oct-Dec 23	Jan-Mar 24	Apr-June 24	July–Sept 24
Section 2	6	6	(1-5)	7	(1-5)
Section 3	0	0	(1-5)	(1-5)	(1-5)
Section 5(2)	11	(1-5)	(1-5)	7	(1-5)

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 2024

Ward	MHA includes home leave pts	DoLS	Informal	Home leave
Bryngofal	75%	0 %	25%	15%
Bryngolau	50%	14% - authorised DoLS 29% - Informal with a DoLS request – awaiting assessment	7%	0%
St Caradog	86%	0%	14%	0%
St Nons	67%	13% - authorised DoLS 7% - Informal with a DoLS request – awaiting assesment	13%	0%

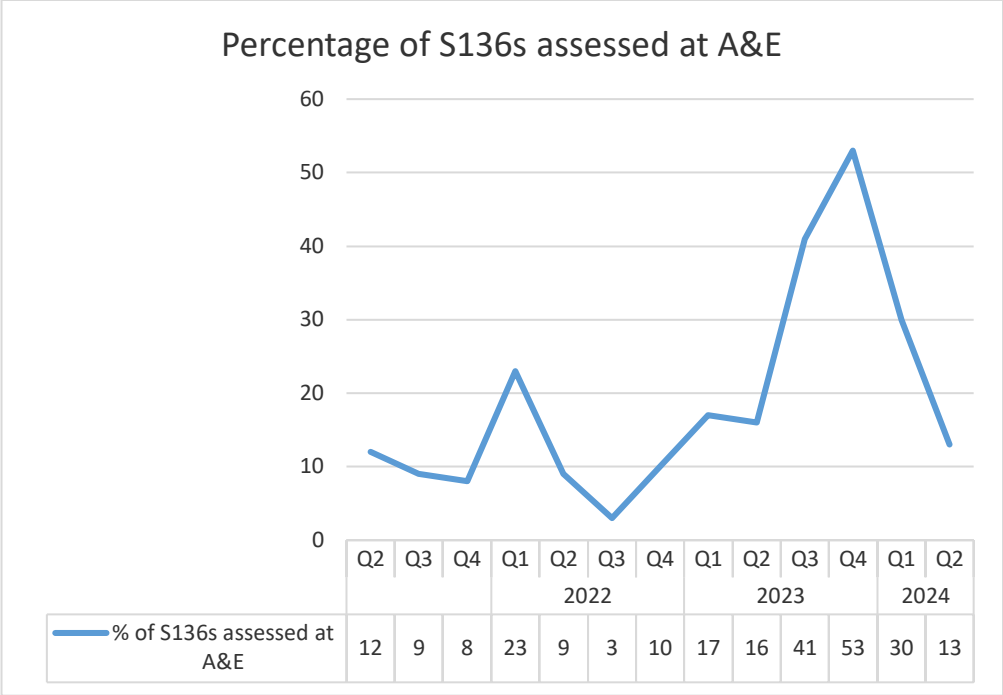
Morlais	78%	0%	22%	0%
Enlli	80%	10% - authorised DoLS	10%	0%
Low Secure	100%	0%	0%	7%
PICU	100%	0%	0%	0%

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:

- Use of Section 136 is considerably lower than the quarterly average having been used on 31 occasions. This is the lowest quarterly use in the last decade.
- 26 different individuals were placed on S136 during this quarter – 3 individuals were placed under S136 on more than one occasion during this period.
- The places of safety used for the MH assessment were as follows:-
  - 23 to Bryngofal
  - 3 to Morlais
  - 1 to Custody
  - 4 to A&E
  - Withybush Hospital – 2
  - Prince Philip MIU – 2
- The use of A&E departments as places of safety has significantly reduced this quarter. In addition to the 4 cases listed above it was also used a further 9 times as the 1st place of safety before the persons were transferred to a MH health place of safety.
- Of the 13 occasions A&E was used as a place of safety 10 records show this was due to a clinical need.
- There has been no report of the designated mental health place of safety for admissions being closed for any period during this reporting quarter.
- The table below shows the % of overall S136s that were assessed in an A&E setting as opposed to a health based place of safety.

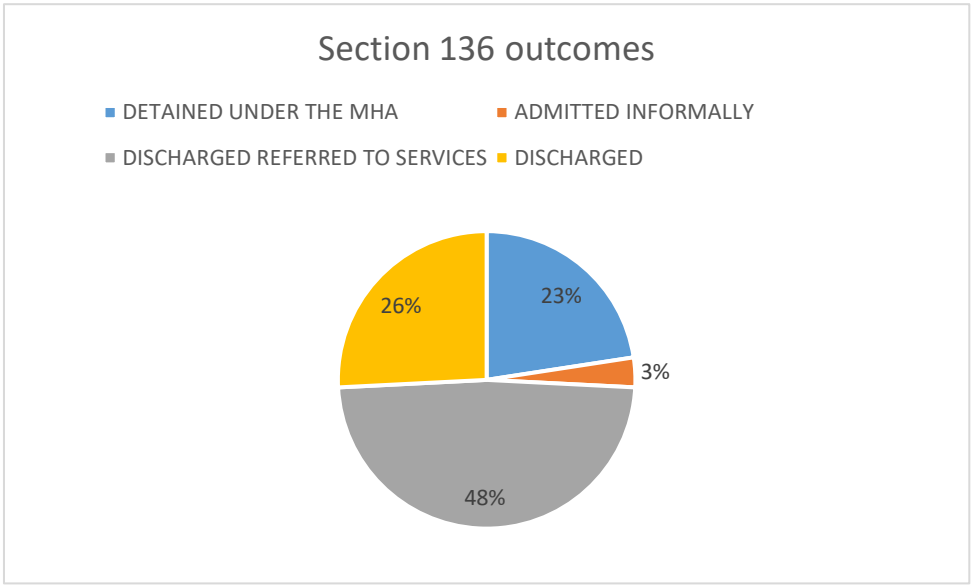


- Morlais Ward is a place of safety for the purpose of assessing under 18's subject to S136. It has not been used as a place of safety for an over 18s during this quarter.
- Custody has been used as a place of safety for assessment during this quarter. Custody will only be used for adults in exceptional cases.
- There were less than 5 under 18s detained under S136 during this quarter. It is reported that handcuffs were used during these detentions.
- In total it is recorded within the monitoring forms that some form of restraint were used on 14 occasions (45%) which is considerably lower than the last quarter which was 66%.
- The location of where S136 was applied was recorded as the following:
  - 27 x public place
  - 2 x police station
  - 2 x general hospital
- Consultation is recorded as having occurred in 22 out of the 31 occasions (71%) which is consistent with the previous quarter. All consultations during this period was with a nurse.
- Common issues encountered with provision of data on the use of this area of the Act:
  - Monitoring forms not completed and submitted, therefore only minimal data captured.
  - Missing information on monitoring forms including date and times of arrival at first places of safety.
  - Incorrect patient information (dates of births)
  - Blank data on forms including surrounding circumstances and police officer details.
  - No outcome recorded on the monitoring forms therefore MHA Administrators obtained the information from other sources.
  - Consultation details on monitoring forms are disputed by named professionals on the form or consultation will be recorded as having occurred after the S136 had already been applied.

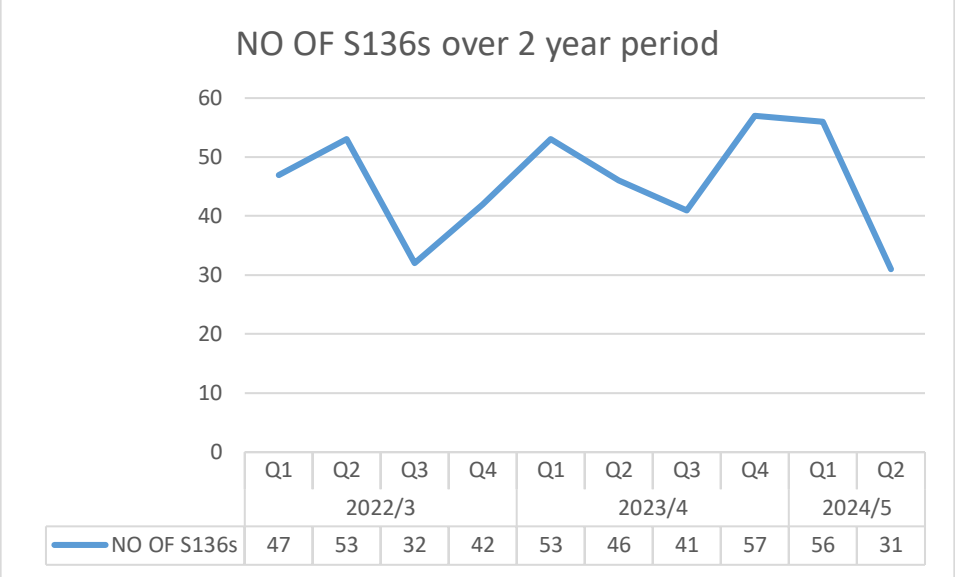
- Dates as well as times on the monitoring form are inaccurately recorded or not recorded at all making it difficult to provide data accurately.
- Location of where the encounter occurred recorded as the home address therefore requiring further information from police officers and professionals.

- There is a report under the Out of Hours service that has a record of diverted S136s. There are 4 cases listed during the period of Quarter 2 (compared to 13 in previous). Records suggest that instead the majority were taken to A&E on informal basis.
- 26 of the 31 resided within Hywel Dda catchment area.
- During this period a deep dive exercise was conducted by the Chair of the MH Scrutiny Group relating to cases under Section 136 brought into A&E settings for assessment. The Scrutiny Group Chair will continue to monitor this area routinely.

Outcomes of the assessments as follows:



- A Section 136 pathway has been issued across the service to assist in a more consistent approach to assessments (the majority copied from the inter-agency procedure).
- Where the outcome of the assessment did not result in detention under the MHA – 18 of 24 utilised 2 doctors for the assessment with a number of them being both Section 12 approved doctors.
- The duty to inform patients of their statutory rights was evidenced in 26 out of 31 cases overall. Within the A&E settings on 9 out of the 13 occasions.
- 29 assessments took over 4 hours. No assessments were extended.
- Ethnicity statistics –
  - 100% White British
  - 39% Female 62% Male



3.2.2. Section 135 – Warrant to search and remove person

Section 135 empowers a magistrate to authorize 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.

- Figures collated include both Section 135(1) and Section 135(2). During this period there were less than 5 which is lower than the previous quarter when used 9 times in total. This quarter period was more in keeping with average numbers.
- Carmarthenshire and Ceredigion where the patients resided had applied Section 135 warrants during this period.
- 50% of assessments resulted in further detention under the Act.
- It is not known how many warrants are applied for but get refused by court or alternatively granted but then not executed under this section.

3.3. Section 17A - G, Community Treatment Orders

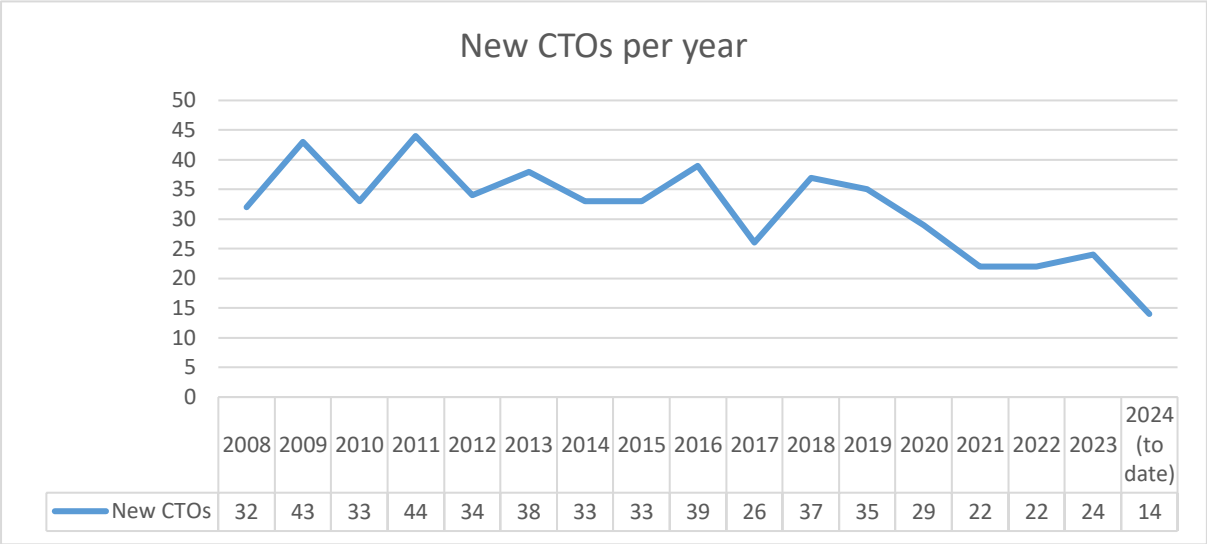
3.3.1. Community Treatment Order Activity

There were 29 Community Treatment Orders in place as at 30th September 2024.

County	Number of CTO's	Ethnicity
Carmarthenshire	13	White British – 100%
Ceredigion	5	White British – 60% Other ethnicities – 40%
Pembrokeshire	13	White British – 85%

		Other ethnicities – 15%

- 6 new CTO's for the quarter.
- There were 6 recalls during this quarter.
- 3 CTO's were discharged by the Responsible Clinicians
- Since introduced into the Act in 2007 the popularity of Community Treatment Orders by clinicians appears to have reduced over recent years however seems to have stabilised over the past 3 years.



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 to admit a patient on less than five occasions
- Unrestricted patients can be made subject to Community Treatment Orders however 0-5 new CTO for Part III patients were made during this quarter.
- 0-5 restricted patients were discharged by the MHRTfW during this period.
- There were no unrestricted patient discharges.
- As of the 30th September 2024 the total number of Part III patients are split into the following – 63% restricted; 13% unrestricted; 24% 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).

- 109 statutory documents were medically scrutinised

- 64 rectifiable errors were made on medical documents.
- Common errors included not deleting areas of papers where prompted; names and/or addresses missing, spelling mistakes and not dating forms.
- There were 22 errors recorded on HO14s by the nursing staff receiving papers on behalf of the Hospital Managers. There were also a number of occasions where detention papers were submitted to the MHA office which had not been received and the MHA administration team undertook this task on behalf of the hospital managers.
- There were 18 rectifiable errors relating to application made by the AMHP.
- The number of rectifiable errors made are consistent with the previous quarter.
- All other rectifiable errors related to medical recommendations.
- A more detailed breakdown of these rectifiable errors have been provided to team managers for future learning.

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 0-5 detentions during this current quarter that were deemed to be non-rectifiable. These errors included an application being pre-dated and medical recommendations dated with more than 5 days between examinations.

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).
    - HO12s – Of the 25 Section 5(2)s submitted during this quarter 8 had errors. These errors included insufficient / missing information and /or incorrect patient information.
    - There was an additional Section 5(2) holding powers not accepted on behalf of the Hospital Managers as the patient had not been admitted prior to the implementation of the holding power.

Section 15	Oct – Dec 23	Jan- Mar 24	Apr – June 24	July- Sept 24
Detention Papers	105	129	116	109
Rectifiable Errors	47	55	41	59
Non Rectifiable Errors	0	Under 5	Under 5	Under 5

3.6. Code of Practice (Mental Health Act)

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 reported that there have not been any exclusion of visitors during this reporting period.

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.

All except one inpatient ward reported that there has not been any post withheld during this reporting period. However on Morlais ward it has been reported outgoing post has been withheld during this period.

3.6.4. Information to Detained Patients and Nearest Relatives

The MHA 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.

The majority of 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.

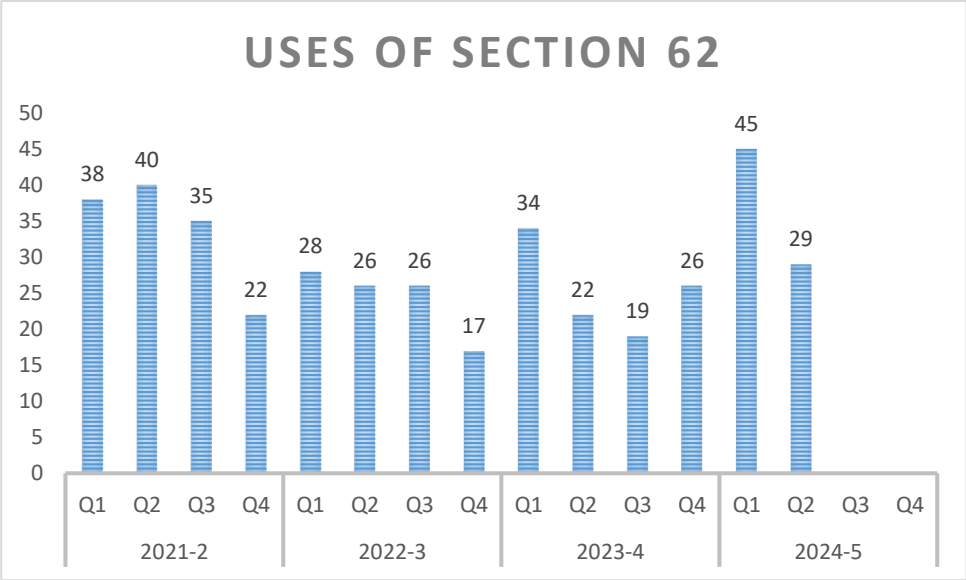
3.7.1. Certification for Treatment – Capacity and Consenting Status

During this quarter there have been 12 new treatment authorisation documents completed for consenting to treatment instances:-
6 x C02 – to certify person has capacity and consents to treatment (detained patients)
2 x C08 – as above (CTOs)
4 x CO4 – as above for the treatment of ECT
This compares with 30 new certificates issued during the last quarter.

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.

- 24 SOAD requests were made (31 in Qtr 1, 26 in Qtr 4, 2023, 27 in Qtr 3, 2023) and the following certificates were completed:
  - 18 CO3s (detained patients)
  - 3 CO7s (CTOs)
  - 3 CO6s (ECT)
- Average waiting time for a SOAD (medication for inpatients) was 10 days (reduced from 12 days last quarter).
- Of the 24 certificates issued by a SOAD 12 patients were seen in person with the remaining 12 reviews conducted remotely by a SOAD 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) during this quarter. The average wait for a SOAD to certify treatment for ECT was 4 days.
- Longest waiting time for a certificate was 5 days. HIW set KPI 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 Section 62 emergency treatment during this quarter was relatively 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 29 occasions.



- Reasons for its use is as follows:
  - On 6 occasions to authorise ECT where a SOAD had been requested but not yet authorised treatment.
  - On 9 occasions to authorise medication because three month rule had expired and the SOAD had not yet authorised treatment.
  - On 6 occasions the patient changed their decision to consent to treatment.
  - On 6 occasions there was a change of medication.

- On the other occasions it was due to change in legal status (CTO revoked).

Use of emergency Section 62 treatment could be reduced with more prompt SOAD requests or certificate being provided by the SOADs. There were 4 occasions during the last quarter when SOADs were requested by Responsible Clinicians within 3 days of the three month rule expiring or after the date had already expired.

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 19 records made during this quarter under Section 61 which is very higher than normal.

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

3.8.1. Applications for Discharge to Hospital Managers

There have been 5 applications for discharge made to the hospital managers during this quarter compared to 6 in the same quarter last year indicating that applications continue to remain low despite returning to face to face reviews. During the same quarter in 2018 there were 11 applications made. Of the 5 applications, 3 hearings did not take place due to having a MHRT arranged within a 7 day period, 2 hearings were arranged however 1 applicant withdrew and the other was postponed and due to take place in Quarter 3.

All applicants appealing their detention are given the choice to request whether they want a face to face or remote type hearing.

3.8.2. Renewals/ Extensions of Sections

The hospital managers heard 18 renewals compared to 17 in the previous quarter. This is slightly higher than the same quarter last year when 14 renewals were considered for the same period. The Code of Practice states renewal hearings should be held before the section expiry date. All renewals met this target.

3.8.3. Application for Discharge by Nearest Relative

For the fourth consecutive quarter there has been no applications for discharge by the nearest relative.

3.8.4. Hospital Managers Hearings

In total (all hearing types) the Hospital Managers held 18 reviews during this quarter. Of the 18 cases patients were present in 9 reviews, 7 of which were supported by an IMHA, 1 represented by a solicitor and 1 advocated themselves with no additional support. Of the 9 where patients did not attend 5 had either an IMHA, solicitor or relative present at the review.

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

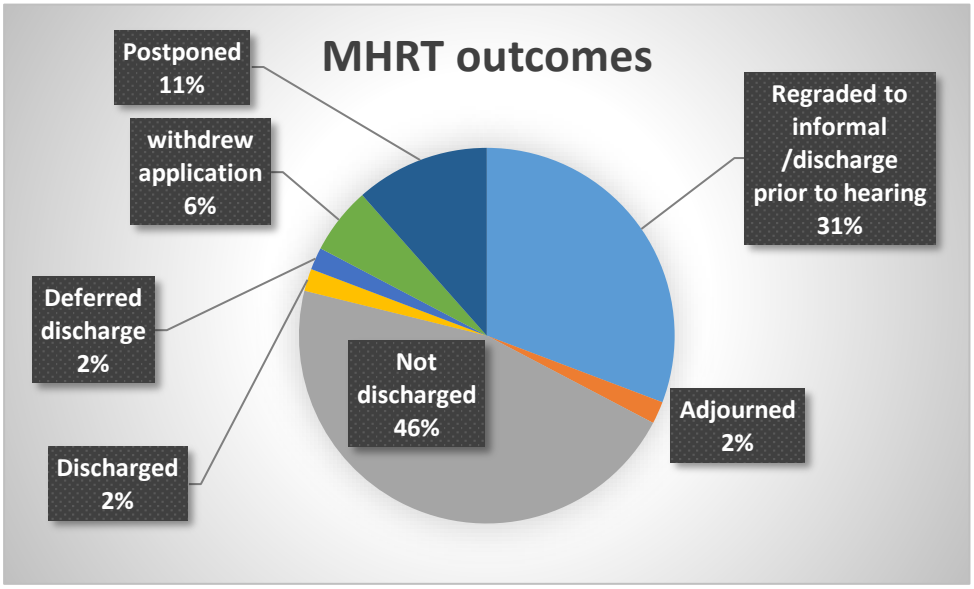
3.8.5. Applications, Referrals and Outcomes at the Mental Health Review Tribunal

There has been 46 applications/referrals to the Mental Health Review Tribunal (MHRTfW) during this quarter with 26 hearings conducted. The MHRTfW office have now introduced the option of face to face or remote reviews based upon patient choice. Of the 26 hearings 18 occurred in person and 7 via MS Teams.

The tribunal ordered the discharge of less than five detained patients during this period.

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

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



3.8.6. 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	5	Applications to hospital managers generally remain lower than pre-covid years.
Renewals / Extension reviews		18	18	Every renewal of section / extension of CTO must have a hospital manager review.

Applications by nearest relative	Less than 5	Less than 5	0	Figures are generally low
Applications/referrals to MHRTfW	44	47	46	Average number of applications
MHRT hearings held		25	27	Consistent with the average 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 the following policies were reviewed:
(321) Locked Door and Associated Safeguards – *Under review (extended to 30.09.2024)*
(741) Patient Rights procedure – *review by date 30 October 2024 – under review*
(743) Section 135 – Warrant to Search and Remove Patients – *review by date 04 January 2025 – under review*

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 2 the following sessions have been provided either face to face or via MS Teams

Date	Group	Topic
02.07.24	CATT team	MHA Overview, Childrens Act
08.08.24	St Nons Ward	MHA generic to specific area older adult inpatient group
14.08.24	Junior doctors in mental health services induction	2024 September intake of junior doctors arranged via post-grad centre
17.09.24	Administrators – ward clerks, secretaries and CMHT	Administrators in Mental Health guide to the MHA and paperwork

In addition a pre-recorded training presentation on both Section 136 and Section 5(2), MHA (particularly suitable for general hospital sites) has been uploaded to the MHA Administration Sharepoint page - readily and easily accessible to all staff across the Hywel Dda sites. 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

A relatively average use of some areas of the MHA within this service during the last quarter (Section 136). Section 5(2) and Section 2 detentions were also used during this period. 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.

4.0. Description of Sections

<u>Longer Term Sections</u> (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)

<u>Short Term Sections</u> (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

<u>Community Treatment Order and related sections</u> (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 before the Court disposes of the case.

5.0. GLOSSARY OF TERMS

Term	Description	Explanation/Link
MHA	Mental Health Act 1983	http://www.legislation.gov.uk/ukpga/1983/20/contents
Sections		Parts of the Mental Health Act 1983 which allow particular types of detention.
PICU	Psychiatric Intensive Care Unit	Severely ill patients who pose a risk in the short term.
CAMHS	Child and Adolescent Mental Health Services	Core age up to 18 years.
Part 2 of the Act	Part 2 of the Mental Health Act 1983	Deals with detention, guardianship, and supervised community treatment for civil (i.e. non-offender) patients.
Part 3 of the Act	Part 3 of the Mental Health Act 1983	Deals with mentally disordered offenders and defendants in criminal proceedings.
HIW	Healthcare Inspectorate Wales	Independent body which is responsible for monitoring the operation of the Act.
Secondary Care		Psychiatric inpatient or community mental health team input for adults.
SOAD	Second Opinion Appointed Doctor	Independent doctor employed by HIW who approves particular forms of medical treatment for a patient.
CTO	Community Treatment Order	Patients can be discharged from detention in hospital under the Act but remain subject to the Act in the community.
Formal admission		Patients admitted to hospital who are detained.
Exception Reporting		Section 5(2) over 60 hours; Hospital Managers' Hearings heard after one month.
MHRT	Mental Health Review Tribunal	A judicial body that has the power to discharge patients from detention, supervised community treatment,

		guardianship and conditional discharge.
Hospital Managers		**Independent individuals who carry out functions on behalf of the Board.**
Recall		**Where it is necessary for a CTO patient to be recalled into hospital.**
Revocation		**Patients for whom a CTO has been rescinded following recall.**
Application		**Request from a patient for the MHRT to consider discharge from section.**
Referral		**Hospital managers request the MHRT to consider a patients detention.**
AMHP	**Approved Mental Health Professional**	**Professional with training in the use of the Act, Approved by a local social services authority to carry out a number of functions under the Act.**