

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

DYDDIAD Y CYFARFOD: DATE OF MEETING:	12 September 2022 12 Medi 2022
TEITL YR ADRODDIAD: TITLE OF REPORT:	The Power of Discharge Sub Committee Minutes
CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:	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)

The purpose of the paper is to present to the Mental Health Legislation Committee the minutes from the last Power of Discharge Sub Committee which was held on 2nd August 2022.

ADRODDIAD SCAA

SBAR REPORT

Sefyllfa / Situation

The Mental Health Legislation Committee to be assured that the work undertaken by the Power of Discharge Sub Committee during the quarter are carried out correctly.

Cefndir / Background

This Report provides in respect of the work that has been undertaken by the Power of Discharge Sub-Committee during the quarter, that those functions of the Mental Health Act 1983 (the Act), as amended 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 fully comply with it, and that the patients are fully informed of, and are supported in exercising, their statutory rights. Hospital managers must also ensure that a patient's case is dealt with in line with other legislation which may have an impact, including the Mental Capacity Act 2005, the Human Rights Act 1998 and the Data Protection Act 1998.

Asesiad / Assessment

A copy of the Hospital Managers Power of Discharge Sub Committee minutes dated 2nd August 2022:



020822 draft
minutes V1.doc

Argymhelliad / Recommendation

- All other information is for information only

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:	
Safon(au) Gofal ac Iechyd: Health and Care Standard(s):	Standards 1,6,7,8,10,12,14 and 15
Amcanion Strategol y BIP: UHB Strategic Objectives:	The Mental Health Legislation Committee provides an assurance to the Board of the organisation's compliance with primary legislation in Wales including the Mental Health Act (1983), with the 2007 amendments, and the Mental Health (Wales) Measure 2010
Amcanion Llesiant BIP: UHB Well-being Objectives: Hyperlink to HDdUHB Well-being Statement	

Gwybodaeth Ychwanegol: Further Information:	
Ar sail tystiolaeth: Evidence Base:	N/A
Rhestr Termau: Glossary of Terms:	Outlined in report
Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Ceisiadau Gofal Sylfaenol: Parties / Committees consulted prior to Mental Health Legislation Committee:	The Mental Health Legislation Scrutiny Group

Effaith: (rhaid cwblhau) Impact: (must be completed)	
Ariannol / Gwerth am Arian: Financial / Service:	Non-compliance with the Mental Health Act could result in legal proceedings being brought against the Health Board who is the detaining authority.
Ansawdd / Gofal Claf: Quality / Patient Care:	There is a patient representative on the Mental Health Legislation Committee

Gweithlu: Workforce:	NA
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> 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:	As outlined above
Enw Da: Reputational:	Mental Health Act media focus
Gyfrinachedd: Privacy:	As above
Cydraddoldeb: Equality:	N.A

COFNODION Y CYFARFOD
PWYLLGOR HOSPITAL MANAGERS POWER OF DISCHARGE SUB COMMITTEE
DRAFT MINUTES OF THE
HOSPITAL MANAGERS POWER OF DISCHARGE SUB COMMITTEE MEETING

Date and Time of Meeting:	Tuesday 2 nd August 2022 at 1.30pm
Venue:	MS Teams

Present:	<p>Associate Professor Chantal Patel, Independent Board Member (Chair to POD Sub-Committee)</p> <p>Mrs Judith Hardisty, Vice Chairman, HDUHB</p> <p>Professor John Gammon, Appeals Lay Member</p> <p>Mrs Jane Jeffs, Appeals Lay Member</p> <p>Mrs Lyn Maliphant, Appeals Lay Member</p> <p>Mr Phil Layton, Appeals Lay Member</p> <p>Professor Emeritus John Williams, Appeals Lay Member</p> <p>Mrs Angela Brown, Appeals Lay Member</p> <p>Mr Stephen Smedley, Appeals Lay Member</p> <p>Mr Mike Ponton, Appeals Lay Member</p> <p>Mr Owen Burt, Appeals Lay Member</p> <p>Mr Richard Griffith, Appeals Lay Member</p> <p>Mrs Terrill Chadwick, Appeals Lay Member</p>
In Attendance:	<p>Sarah Roberts, Mental Health Legislation Manager</p> <p>Ruth Bourke, Mental Health Act Administration Lead</p> <p>Natalie Williams, Mental Health Act Administrator</p> <p>Helena Christopher, Mental Health Act Administrator</p> <p>Natasha Fox, Chief Officer, Advocacy West Wales (AWW)</p> <p>Nia Williams, Independent Mental Health Advocate (AWW)</p> <p>Christoffer Lewis, Independent Mental Health Advocate (AWW) to be confirmed</p> <p>Aileen Flynn, Service Transformation and Partnership Manager</p>

Governance:		Action
Agenda Item	Item	Action
HMPODSC (22) 1.10	Introductions and Apologies for Absence.	
	<p>Apologies for Absence were received from:</p> <p>Delyth Raynsford, Independent Board Member</p> <p>Maynard Davies, Independent Board Member</p> <p>Iwan Thomas, Independent Board Member</p> <p>Joan Palmer, Appeals Lay Member</p> <p>Sue Richards, Appeals Lay Member</p> <p>Carol Williams, Appeals Lay member</p> <p>Louise Howells, PODSC secretary</p>	
	<p>Presenter Chantal Patel introduced herself as new Chair and informed members of a number of changes to the sub-committee membership:-</p> <ul style="list-style-type: none"> - New panel member Professor Emeritus of Law, John Williams was introduced, currently undertaking observations at reviews. - Professor John Gammon now an attendee in the capacity of a 	

	<p>lay panel member.</p> <ul style="list-style-type: none"> - Mike Ponton will be leaving the role by November 2022 therefore this being his final meeting all members wished him well. 	
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HMPODSC (22) 1.11	Declarations of Interests	
	No declarations declared.	

Hospital Managers Power of Discharge Sub-Committee
Part 1
Sub Committee Business and Information

HMPODSC (22) 1.12	Minutes of Meeting Held on 5th April 2022	
	Members in attendance confirmed the minutes as an accurate record of the meeting.	

	Table of Actions and Matters Arising from the Minutes of the Meeting Held on 5th April 2022	
HMPODSC (22) 1.13	Table of Actions from last meeting held now all completed	

	HMPODSC Annual Report	
HMPODSC (22) 1.14	<p>Ruth Bourke presented the annual report based on the work conducted by this sub-committee during the last financial year, but acknowledged a typo in the heading therefore would recirculate amended version following meeting.</p> <p>Meetings were held on three occasions last year and were all held remotely. The Terms of Reference was updated during this period with the agreement that members would meet in person once every three years. It was therefore proposed that Decembers' meeting would be conducted in person with the additional facility to join remotely if preferred.</p> <p>The report included details of training sessions and the specific numbers of reviews undertaken by hospital managers.</p> <p>It was reported that one patient had been discharged following a renewals review. Mike Ponton questioned whether the figures could be challenged given the low ratio of hospital managers discharges however was assured by Sarah Roberts Legislation Manager that figures were proportionate and in keeping with other Health Boards across Wales.</p>	<p>RB</p> <p>LH</p>

	Discussion of Learning and Governance from panel hearings	
HMPODSC (22) 1.15	<u>Virtual vs Face to Face Reviews</u> Members reported that they continue to experience occasional technical difficulties at reviews and that there was now a need to	

	return to face to face hearings where it is appropriate. Ruth Bourke informed members that the Health Board appears to be the first in Wales to return to face to face hospital managers hearings and would continue to do so wherever patients specifically request it and when and where it is safe to do so. The hybrid approach to conducting hearings remotely/face to face was widely accepted by members.	
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Hospital Managers Appraisal Feedback		
HMPODSC (22) 1.16	<p>Ruth Bourke summarised the main themes that were highlighted as a result of the three yearly appraisals process which has been undertaken recently along with Sarah Roberts.</p> <ul style="list-style-type: none"> • Training to be included in Part II of meeting. • Mixing up of the three panel members – to ensure that panel members are not put with same members repeatedly • IT /technical issues • Attendance at meetings – some members found it difficult to commit to Tuesday afternoons when the meetings are always arranged. Action – to rotate future meetings between mornings and afternoons. 	LH

Received for information – Operation of Section 23 Mental Health Act 1983		
HMPODSC (22) 1.17	<p>Operation of S23 Mental Health Act 1983 Report on the use of the Mental Health Act 1983 –</p> <p>Ruth Bourke presented the reports and highlighted key areas including:-</p> <p>Report on the use of the Mental Health Act 1983 – 1st January 2022 – 31 March 2022</p> <p>This quarterly report fell between the three PODSC meetings and was emailed for information end of April 2022. Members were invited to make comments or raise any questions.</p> <p>1st April 2022 – 30th June 2022</p> <p>This report is based on activity during the above quarter with members invited to make comments or raise question.</p> <p>All members satisfied with the information provided with no points raised.</p>	

For Discussion		
	Update on Impact of Service Changes	
HMPODSC	Aileen Flynn was in attendance to present her report and update	

(22) 1.18

members on the single point of contact via 111 which was publicly launched locally as of 20th June 2022. It allows the public to call and have the option to speak with a mental health practitioner. The newly established service by the health board is the first of its kind in Wales. Members highly commended this service which is anticipated to become a 24/7 service as of end of September/early October. Members were keen to hear some statistics, for example that 75% of callers were unknown to MH services which demonstrates the need and potential for such a service. In addition in week one there had been 90 calls but more recently there were 150+ per week and with this mind members were very interested to hear how the service progresses.

In addition Aileen informed members of a professional line which is to be introduced as of Monday 8th August allowing partner agencies to contact professionals to discuss escalating MH issues.

IMHA Report March to June 2022

HMPODSC
(20) 1.19

Members received the report provided by Natasha Fox, Advocacy West Wales for information.

Natasha referenced some main points from the report:-

- Team changes – new staff member undertaking induction in Ceredigion
- MHA Reform in relation to the future provision of remote IMHA services which at a recent meeting with the Department of Health and Social Care (as it relates to England in the main) has been overwhelmingly rejected by IMHA service providers.
- MHRTfW reviews remaining remote with no plans to return to face to face and the disappointment expressed on behalf of the patient group.

Jane Jeffs congratulated Advocacy West Wales on the recent reappointment of the IMHA contract with the Health Board.

Members supported the frustrations reported in relation to the MHRTfW refusal to conduct face to face reviews of detained patients to the point where it was suggested whether patients or legal representatives were likely to bring in legal challenges. It was reported that the English tribunal service are now beginning to trial face to face hearings again. All members asked this matter to be kept high on the agenda and to continue to ask the MHRTfW to consider moving from remote hearings back to face to face recognising this important safeguard for patients.

Judith Hardisty provided a background to the correspondence between Health Boards and the MHRTfW which had initially been challenging the move from telephone to video hearings. Judith reported that WG were unable to influence in any way due to the

	tribunal service being a judiciary body therefore the situation remains but will be discussed again at the All Wales Chairs meeting due to take place next week. Judith Hardisty agreed to keep the sub-committee members updated on any developments or communications.	
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For Information		
Minutes Mental Health Legislation Committee 13th June 2022		
HMPODSC (22) 1.20	<p>Members received for information:-</p> <ul style="list-style-type: none"> • Minutes of Mental Health Legislation Committee dated 13th June 2022 • Response from President MHRTfW received 24.05.22 in response to All Wales Chairs letter relating to the hearings continuing via telephones / without observers. 	

Any Other Business		
HMPODSC (22) 1.21	<p><u>Review of Part III (restricted) patients by Hospital Managers</u></p> <p>Ruth Bourke advised members that she has been approached by a Consultant Psychiatrist recently suggesting whether hospital managers should have a review of sort for restricted patients detained under Part III of the Mental Health Act. The Consultant, a keen advocate for this group of patients considers that it may be discriminatory them not having a review in any way when this group can potentially be in hospital for years at a time.</p> <p>The group heard and discussed at length the advantages and benefits to holding such reviews as well as the disadvantages, not least that there is no right to discharge such patients.</p> <p>Members discussed the implications to services and to the role of hospital managers.</p> <p>Richard Griffith updated members of case law in relation to this area of the Act and reasons why it might be appropriate to review patients but also acknowledging the decision would ultimately lie with Independent Members which was supported by Judith Hardisty. It was agreed that should the request wish to be formally be presented to the MH Legislation Committee this be done so in the form of presenting a written paper via Medical Staffing or Directorate. Ruth to feedback to Consultant Psychiatrist.</p>	RB

Hospital Managers Power of Discharge Sub-Committee
Part II
Sub-Committee Training

Further Training Requirements		
HMPODSC (22) 2.3	Hospital Managers Conference Feedback Members reported the conference to be both interesting and helpful.	
Discussion of Training Needs		
HMPODSC (22) 2.4	<p>Training needs discussed with the following subject areas agreed to built into workplan /schedule of meetings:-</p> <p>IT skills (members to forward specific needs) Chairing face to face / mutual change of experiences Consent to Treatment Part III patients Equality and Diversity Confidentiality</p> <p>Any further suggestions to be submitted to sub-committee secretary.</p>	LH All
Date and Time of Next Meeting		
HMPODSC (22) 3.2	Members noted the Chairs unavailability for December's meeting. The new date will be rearranged and circulated shortly.	LH