



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

**1<sup>st</sup> April 2024 – 30<sup>th</sup> June 2024**

**(Quarter 1)**

## Contents

	Page
<b>1.0 Introduction</b>	<b>4</b>
<b>2.0 Summary</b>	<b>4</b>
<b>3.0 Findings and Information</b>	<b>5</b>
<b>3.1. Part II, Mental Health Act</b>	
<b>3.1.1. Section 2 – Admission for Assessment</b>	<b>5</b>
<b>3.1.2. Section 3 – Admission for Treatment</b>	<b>6</b>
<b>3.1.3. Section 4 – Admission for Emergency</b>	<b>8</b>
<b>3.1.4. Section 5 – Holding Powers</b>	<b>8</b>
<b>3.1.5. Trends and Service Specific Information relating to Part II, MHA</b>	<b>9</b>
<b>3.2. Use of Police Powers</b>	<b>11</b>
<b>3.2.1. Section 136 – Removal of Mentally Disordered Persons to a place of safety</b>	
<b>3.2.2. Section 135 – Warrant to Search and Remove Person</b>	<b>14</b>
<b>3.3. Community Treatment Order Activity</b>	<b>15</b>
<b>3.3.1 Section 17A – G – New Orders, Recalls and Revocations</b>	
<b>3.4. Part III, Mental Health Act</b>	<b>15</b>
<b>3.4.1 Patients Concerned in Criminal Proceedings or Under Sentence</b>	
<b>3.5. Errors</b>	<b>16</b>
<b>3.5.1. Section 15, Rectifiable errors</b>	<b>16</b>
<b>3.5.2. Section 15, Non-rectifiable errors</b>	
<b>3.5.3. Other Errors</b>	
<b>3.6. Code of Practice (MHA for Wales)</b>	<b>17</b>
<b>3.6.1. Locked Door Activity</b>	
<b>3.6.2. Exclusion of Visitors</b>	
<b>3.6.3. Withholding Postal Packets</b>	
<b>3.6.4. Information to Detained Patients and Nearest Relatives</b>	
<b>3.7. Part IV/IVA Act (Sections 57-64) Consent to Treatment and SOAD (Second Opinion Appointed Doctor) requests to Healthcare Inspectorate Wales</b>	<b>18</b>
<b>3.7.1. Certification for Treatment – Capacity and Consent</b>	<b>18</b>
<b>3.7.2. Certification for Treatment – Non capacious or non-consenting status</b>	
<b>3.7.3 Section 61, Review of Treatment</b>	<b>20</b>

<b>3.8.</b>	<b>Sections 23, 24, 20, 20A and 65-79 – Discharge from Detention</b>	<b>20</b>
<b>3.8.1.</b>	<b>Applications for Discharge to Hospital Managers</b>	
<b>3.8.2.</b>	<b>Renewals and Extensions to Sections</b>	
<b>3.8.3.</b>	<b>Applications for Discharge by Nearest Relatives</b>	
<b>3.8.4.</b>	<b>Hospital Managers Hearings</b>	
<b>3.8.5.</b>	<b>Applications, Referrals and Outcomes at Mental Health Review Tribunal</b>	
<b>3.8.6.</b>	<b>Comparative Information relating to Hospital Managers and Tribunals</b>	
<b>3.9.</b>	<b>Miscellaneous</b>	<b>22</b>
<b>3.9.1.</b>	<b>Policies</b>	
<b>3.9.2.</b>	<b>Training</b>	
<b>3.9.3.</b>	<b>Operational issues</b>	<b>23</b>
<b>3.9.4.</b>	<b>Section 117</b>	
<b>4.0.</b>	<b>Description of Sections</b>	<b>24</b>
<b>5.0.</b>	<b>Glossary of Terms</b>	<b>30</b>

## **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 is 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 1, 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**

Some areas of the Act during Quarter 1, 2024/25 have been relatively higher than average. In particular, the highest number of Section 135s was recorded within the Health Board (warrant to enter property). Under the policies heading it has been highlighted that the three yearly review of this procedure is due.

Section 136 was marginally higher than average however a small number of individuals were subject to more than one detention under this section during this period.

Issues of compliance with the inter-agency procedures of both Section 135 and Section 136 continue with a number of instances where monitoring forms were not provided for data recording.

During the last quarter the highest use of Section 3's were recorded across all services and areas. Activity this quarter returned to numbers much more in keeping with previous quarters. However, in the older adult MH ward settings where it has continued to increase for the second consecutive quarter.

MHA activity within the general hospital wards continues to remain higher than in previous years however MH assessments for Section 136 reduced this quarter to 30% of overall assessments as opposed to 53% during the last quarter.

Under Part IV of the Act which relates to treatment for mental disorders there has been a particularly high use of Section 62 emergency treatment. It was found that a number of instances of Section 62 treatments were provided as a result of SOAD requests being made after the three month rule for treatment had lapsed or that there was a delay in the SOAD certifying treatment.

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. During this period a number of new Hospital Manager appointments were made.

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 1 activity	Notes
2	72	73	Relatively average use of this section.
3	34	43 ↑	Similar to last quarter the number of Section 3's continues to be much higher than average
4	3	0 ↓	Average number as 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	19	An average use of this section
17A (CTO)	6	8	Average use of this section
135	3	9 ↑	Use of this section has been an increasing trend with this quarter having the most use of this section recorded.
136	50	56 ↑	A slightly higher than average use this section
Part III	3	Under 5	Average number of Part II patients during the quarter.

### 3.0 Findings and Information

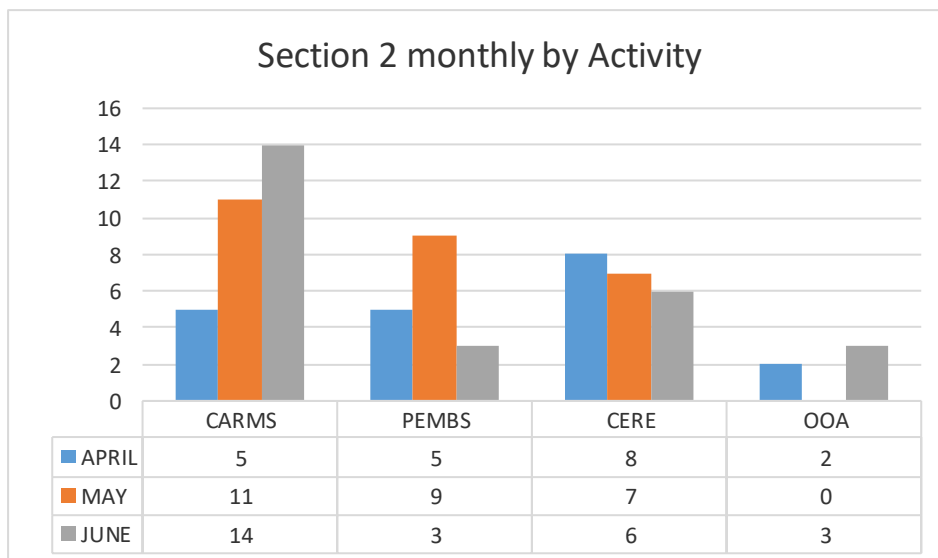
#### 3.1 Part II, MHA

##### 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.

- Use of Section 2 during this quarter has been 73 which is standard compared with the average use based against the previous 12 quarters (April 2021 – March 2024) which is 72.
- Its use within older adult services has decreased from the last quarter when used on 27 occasions to 22 occasions this quarter. The average number being 24.

- 56 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 were 7 x Section 2 detentions to the general hospital ward settings.
- There were less than 5 uses of Section 2 under the CAMHS service and 0 from 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: 22/73
  - Friday 05.01pm to Monday 08.59am: 29/73
  - Weekday out of hours (5.01pm to 08.59am): 22/73
- 97% were of white British ethnicity which is consistent with previous quarters.
- The graph below show the usage across the three counties:



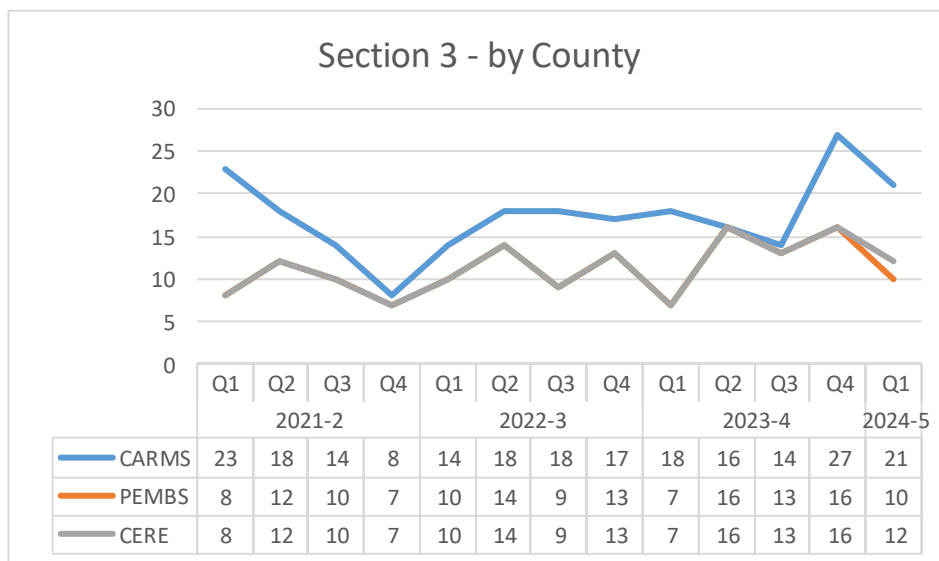
### 3.1.2. Section 3 - Admission for Treatment

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

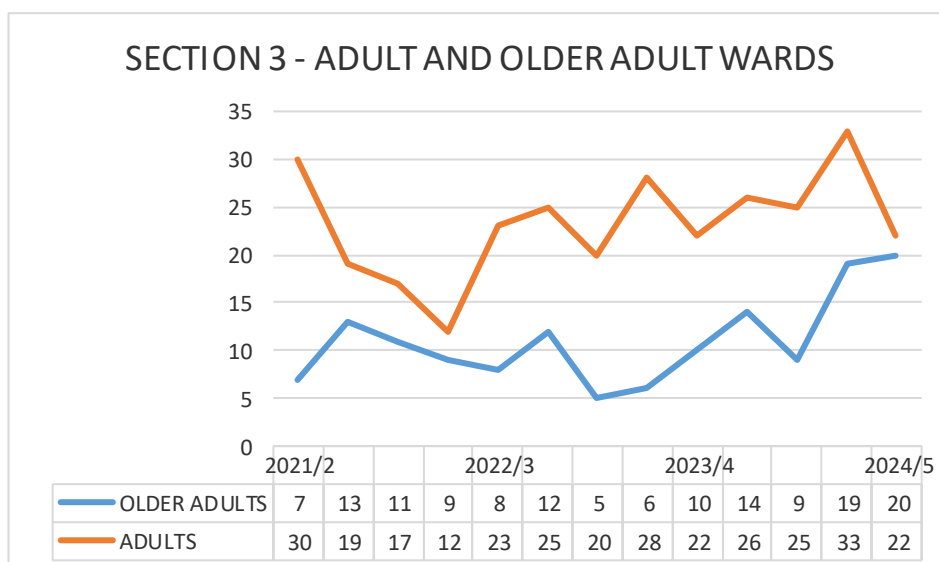
- Use of Section 3 occurred on 43 occasions which remains substantially higher than the quarterly average (based across last 3 years) which is 34. However it is lower than the last quarter which saw the highest single use in a quarter for at least a period of 10 years when used on 53 occasions. A chart to show a comparative breakdown of Section 3 use in the different services and counties can be found below.
- Of the 43 instances 38 were changes in a legal status e.g. from informal or section 2. There were 5 direct admissions under this section, this would include transfers from other hospitals.

- Of the 43 overall section 3s 22 were detained to adult inpatient wards and 20 to older adult wards, the remaining to other areas within Hywel Dda hospital settings.
- 42 Section 3s were discharged during this quarter with the following outcomes - 13 regraded to informal status (which could include DoLS authority), 21 were discharged from hospital, 1 transfer out to another hospital and 7 placed in the community subject to a Community Treatment Orders.
- 100% were of white British ethnicity.

**SECTION 3 QUARTERLY ACTIVITY BY COUNTY OVER 3 YEARS**

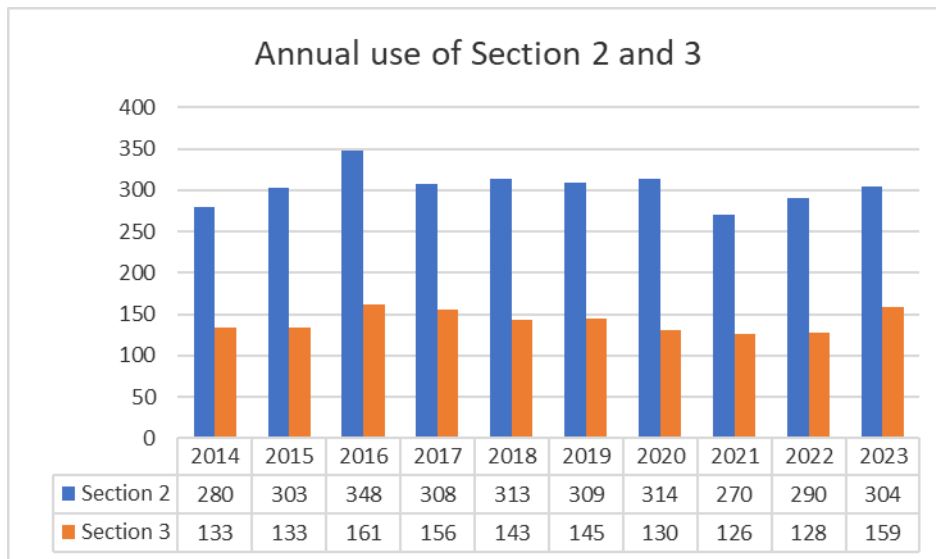


**SECTION 3 QUARTERLY ACTIVITY - OLDER AND ADULT INPATIENT BEDS (MH)**



**TOTAL OF SECTION 2 AND SECTION 3 OVER THE LAST DECADE**

**USE**



### 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 however it has not been utilised by professionals during this quarter in order to detain a person in an emergency.

### 3.1.4. Section 5 – Holding Powers

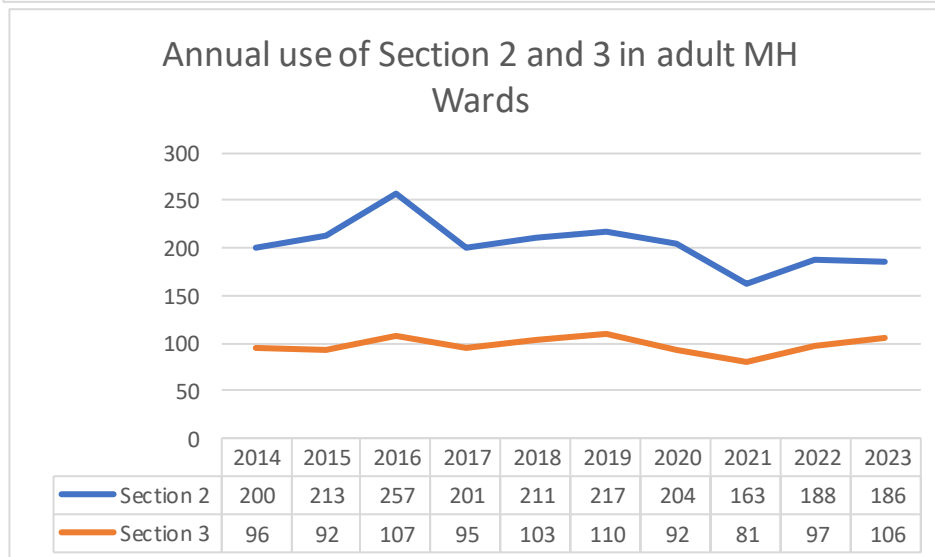
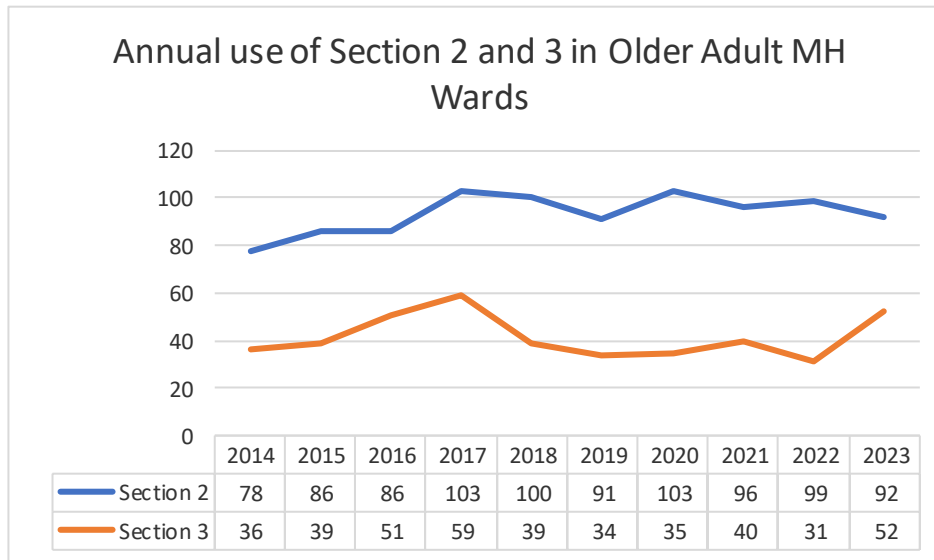
Section 5(2) – used by Doctors in both mental health and general hospital settings to detain an in-patient for up to 72 hours to allow for a mental health act assessment to take place.

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 19 occasions during this quarter which is consistent with the quarterly average of 20.
- Of the 19, 8 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 6 occasions. The outcomes of these holding powers were that patients were split between further detained under the Act or regraded to voluntary status.
- 84% of assessments were carried out within 48 hours.

- 74% were further detained under Section 2 or 3 (consistent with previous quarter at 74%)
- Statistics:
  - 100% white British, 42% male, 58% female.

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



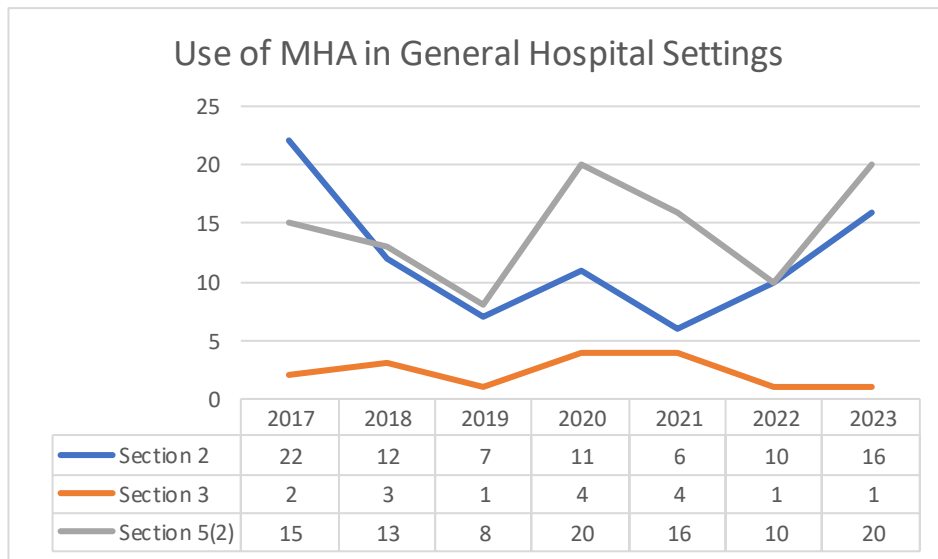
The table below demonstrates the % of which service both section 2 and section 3 were utilised. For example, it can be seen that in 2023 Quarter 4 57% of all section 2's were adult services with only 1% of its use in the general hospital setting.

% of Overall Activity	2023/2024				2024/2025
	QTR 1	QTR 2	QTR 3	QTR 4	QTR 1
<b>SECTION 2</b>	%	%	%	%	%
Adult	68	62	48	57	56

Older Adult	25	29	38	39	31
General DGH	5	6	6	1	10
CAMHS	2	1	7	3	3
Learning Disabilities	0	1	1	0	0
<b>SECTION 3</b>					
Adult	69	65	74	62	51
Older Adult	31	35	26	36	47
General DGH	0	0	0	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 has increased and during this quarter is responsible for almost 50% of the overall use of section 3's within the Health Board (this compares to only 31% for the same period last year). There has also been an increase during this quarter of the proportion of the Section 2s that were admitted to the General District Hospitals.

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



Nos of Detentions to the General Hospital Wards					
	Apr-June 23	July-Sept 23	Oct-Dec 23	Jan-Mar 24	Apr-June 24
Section 2	(1-5)	6	6	(1-5)	7
Section 3	0	0	0	(1-5)	(1-5)
Section 5(2)	(1-5)	11	(1-5)	(1-5)	7

**Legal Status of Patients:**

The table below is a snapshot the legal status's broken down as a % in each ward as of 30<sup>th</sup> June 2024

Ward	MHA includes home leave	DoLS	Informal	Home leave
------	-------------------------	------	----------	------------

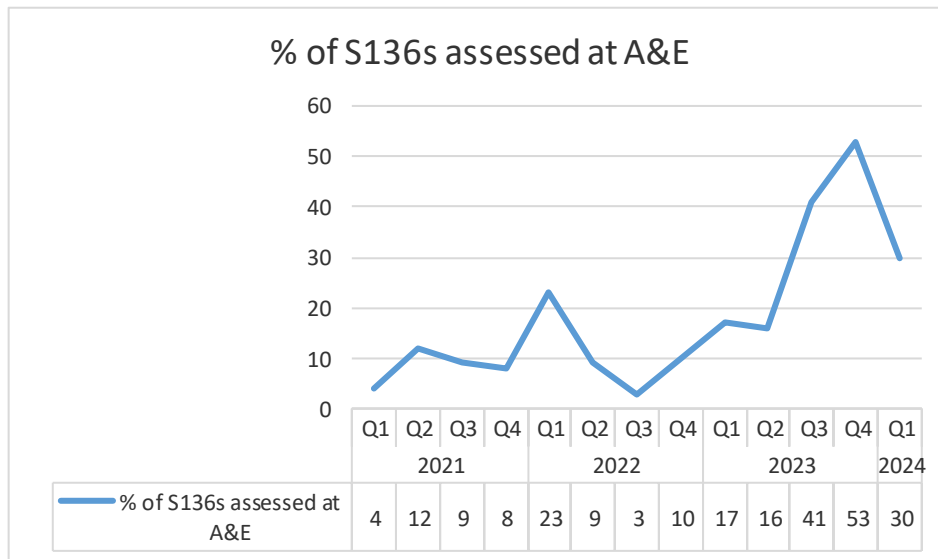
	pts			
Bryngofal	76%	0 %	24%	0%
Bryngolau	76%	12% - authorised DoLS 6% - Informal with a DoLS request – awaiting assessment	6%	12%
St Caradog	61%	0%	39%	11%
St Nons	62%	30% - authorised DoLS	8%	0%
Morlais	100%	0%	0%	0%
Enlli	56%	11% - authorised DoLS 11% - informal with a DoLS request – awaiting assessment	22%	0%
Low Secure	100%	0%	0%	20%
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

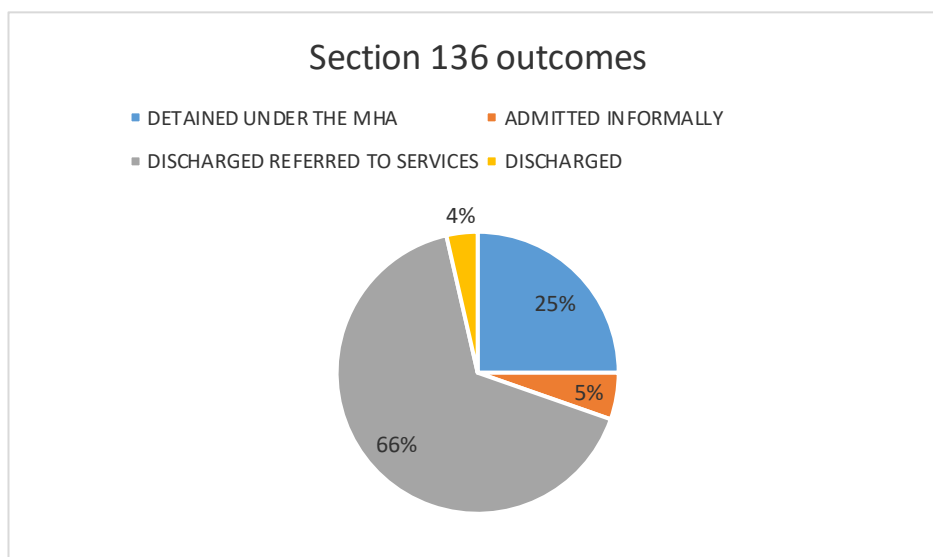
The powers of section 136 provide authority for a police officer who finds a person who appears to be suffering from mental disorder, in a place to which the public has access, to remove him to a place of safety if the person:

- Use of Section 136 is slightly higher than the quarterly average having been used on 56 occasions.
- 42 different individuals were placed on S136 during this quarter – 8 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:-
  - 30 to Bryngofal
  - 3 to PICU
  - 6 to Morlais
  - 17 to A&E
    - Withybush Hospital – 3
    - Prince Philip MIU – 6
    - Glangwili Hospital – 5
    - Bronglais Hospital - 3
- The use of A&E departments as places of safety has continued to remain high during this quarter. In addition to the 17 cases listed above it was also used a further 13 times as the 1<sup>st</sup> place of safety before the persons were transferred to a MH health place of safety.
- Of the 30 occasions A&E was used as a place of safety records show this was due to a clinical need on 15 occasions.
- 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.

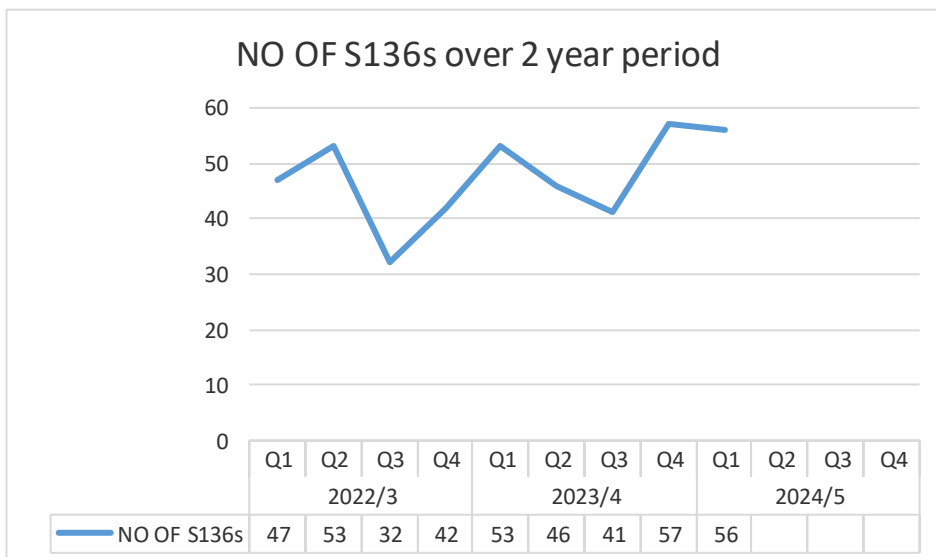


- Morlais Ward is a place of safety for the purpose of assessing under 18's subject to S136. It has not been used as a place of safety for an over 18s during this quarter.
- Custody was not used as a place of safety during this quarter however there are some cases where a S136 had been exercised at a police station before removing the person to a health based place of safety for assessment.
- There were 6 under 18s detained under S136 during this quarter. It is reported that handcuffs were used on less than 5 of those occasions.
- In total it is recorded within the monitoring forms that some form of restraint were used on 37 occasions (66%) which is consistent with the last quarter.
- The location of where S136 was applied was recorded as the following:
  - 30 x public place
  - 1 x police station
  - 6 x general hospital
  - 3 x home address \*must be outside the property
- Consultation is recorded as having occurred in 41 out of the 56 occasions (73%) which is an improvement on the last two quarter periods. All except one case this was with a nurse in line with the locally agreed inter-agency procedure.
- Common issues encountered with provision of data on the use of this area of the Act:
  - Monitoring forms not always routinely completed and submitted -one occasion form not completed / not located therefore only minimal data captured. On at least another 5 occasions no outcome was recorded on the monitoring forms and MHA Administrators obtained the information from other sources.
  - Monitoring forms difficult to track down for several days – at least one occasion during this quarter AMHP has taken monitoring form home in order to submit several days later.

- 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.
- 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 13 cases listed during the period of Quarter 1 (compared to 5 in previous). Records suggest that instead the majority were taken to A&E on informal basis.
- 54 of the 56 resided within Hywel Dda catchment area.
- Outcomes of the assessments as follows:



- During the last period 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 – 29 of 42 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 43 out of 56 cases overall. Within the A&E settings on 7 out of the 17 occasions.
- 48 assessments took over 4 hours. One assessment was extended.
- Ethnicity statistics –
  - 98% White British
  - 66% Female 34% 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 9 in total which is the highest number of Section 135 ever recorded.
- The inter-agency Section 135 procedure provides the monitoring form to be completed where this section is applied. During this quarter a monitoring form was submitted on 4 out of 9 occasions.
- The duty to inform patients of their statutory rights was evidenced in 0 occasions.
- Places of safety used to carry out the mental health assessments included St Caradog, Enlli, PICU, Bryngofal and A&E Bronglais Hospital.
- All three counties of Carmarthenshire, Pembrokeshire and Ceredigion where the patients resided had applied Section 135 warrants during this period.
- 7 of the 9 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.

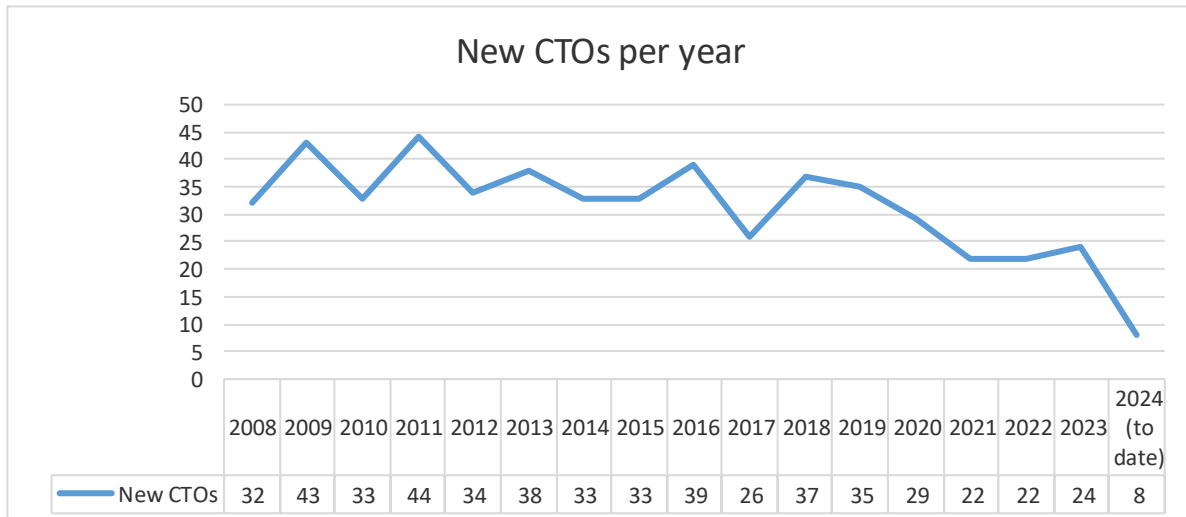
### 3.3. Section 17A - G, Community Treatment Orders

### 3.3.1. Community Treatment Order Activity

There were 32 Community Treatment Orders in place as at 30<sup>th</sup> June 2024.

County	Number of CTO's	Ethnicity
Carmarthenshire	12	White British – 92% Not stated on WPAS – 8%
Ceredigion	7	White British – 71% Other ethnicities – 14% Not stated on WPAS – 14%
Pembrokeshire	13	White British – 77% Other ethnicities – 15% Not stated on WPAS – 8%

- 8 new CTO's for the quarter.
- There were 2 recalls during this quarter.
- 8 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 30<sup>th</sup> June 2024 the total number of Part III patients are split into the following – 56% restricted; 31% unrestricted; 13% 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).

- 116 statutory documents were medically scrutinised
- 41 rectifiable errors were made on medical documents.
- Common errors included not deleting areas of papers where prompted; middle names missing and spelling mistakes.
- There were 25 errors recorded on HO14s by the nursing staff receiving papers on behalf of the Hospital Managers (an increase since the last quarter). 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 14 rectifiable errors relating to application made by the AMHP, again a slight increase.
- 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 unlawful and/or non-rectifiable. These errors included an application pre-dating the medical recommendations and medical recommendations having been completed by two doctors from the same clinical team.

#### **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 19 Section 5(2)s submitted during this quarter 10 had errors. These errors included insufficient / missing information and /or incorrect patient information.
- There was an additional 2 Section 5(2) holding powers not accepted on behalf of the Hospital Managers. One one occasion the doctor had not signed or dated the required form. On another occasion the wrong form (HO14) was completed in order to detain a person under this section of the Act which does not comply with the Welsh Regulations.
- There were several instances where the Consent to Treatment certificates had not been duly completed at the time a person received treatment under the Act.

Section 15	Jul – Sept 23	Oct – Dec 23	Jan- Mar 24	Apr – June 24
Detention Papers	125	105	129	116
Rectifiable Errors	55	47	55	41
Non Rectifiable Errors	Under 5	0	Under 5	Under 5

### **3.6. Code of Practice (Mental Health Act)**

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

The Locked Door and Associated Safeguards for Mental Health and Learning Disability Wards Policy. This policy provides information relating to the service management system as required by the Code of Practice. The Code provides clear guidance on locked doors. The professional in charge of a clinical area is responsible for the care and safety of patients and staff and have the authority to lock the doors of the clinical area if that can be justified as an acceptable measure to protect patients or others. In such circumstances they should keep a record of the action.

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.

#### **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”. There has been reported exclusions during this quarter (between 0-5) and in addition one ward only permitted essential visiting due to a COVID outbreak on the ward. In such instances the Code of Practice and local policy requirements have been adhered to.

#### **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. Anything withheld should be reported and monitored. There are no reports during this quarter of any postal documents being withheld.

#### **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 30 new treatment authorisation documents completed for consenting to treatment instances:-

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

8 x C08 – as above (CTOs)

3 x CO4 – as above for the treatment of ECT

This compares with 23 new certificates issued during the last quarter.

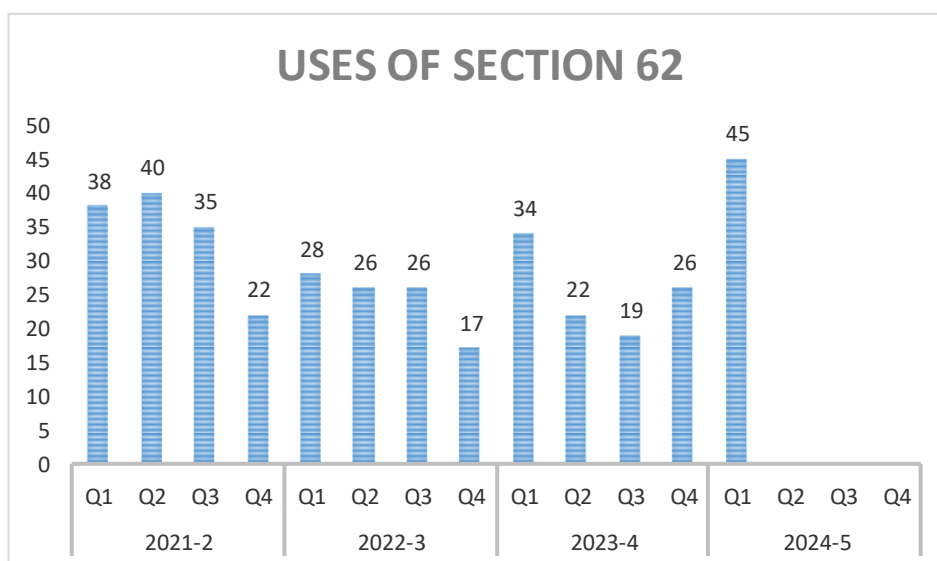
One CO2 certificate during this period were completed by a SOAD

#### **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.

- 31 SOAD requests were made (26 in Qtr 4, 2023, 27 in Qtr 3, 2023) and the following certificates were completed:
  - 19 CO3s (detained patients)
  - 1 CO2 (detained patient) – met capacity and consent status upon assessment by SOAD
  - 0 CO7s (CTOs)
  - 7 CO6s (ECT)
- Average waiting time for a SOAD (medication for inpatients) was 12 days (consistent with last quarter).
- Of the 27 certificates issued by a SOAD 5 patients were seen in person with the remaining 22 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 7 authority for Electro-convulsive therapy (ECT) during this quarter. The average wait for a SOAD to certify treatment for ECT was 8 days.
- Longest waiting time for a certificate was 24 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 particularly high as can be seen from the line chart below showing its use over per quarter over the past 3 years. It was used on 45 occasions.



- Reasons for its use is as follows:
  - On 20 occasions to authorise ECT where a SOAD had been requested but not yet authorised treatment.
  - On 11 occasions to authorise medication because three month rule had expired and the SOAD had not yet authorised treatment.
  - On 5 occasions the patient changed their decision to consent to treatment.
  - On 4 occasions there was a change of medication.
  - On 2 occasions there was a change in Responsible Clinician.

Use of emergency Section 62 treatment could be reduced with more prompt SOAD requests or certificate being provided by the SOADs. There were 10 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 11 records made during this quarter under Section 61 which is very slightly 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 6 applications for discharge made to the hospital managers during this quarter compared to 5 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 14 applications made. Of the 6 applications, 2 hearings did not take place due to having a MHRT arranged within a 7 day period, 4 hearings were arranged however 2 were discharged by the Responsible Clinician prior to the hearing. 2 hearings were held resulting in 0 discharges.

All applicants appealing their detention are given the choice to request whether they want a face to face or remote type hearing. All applications for discharge by the patient were conducted in person.

#### **3.8.2. Renewals/ Extensions of Sections**

The hospital managers heard 17 renewals compared to 16 in the previous quarter. This is very much in keeping with last year when 16 renewals were considered for the same period. The Code of Practice states renewal hearings should be held before the section expiry date. One review did not meet this target due to the Doctors unavailability due to the doctors strike.

#### **3.8.3. Application for Discharge by Nearest Relative**

For the third 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 19 reviews during this quarter. Of the 19 cases patients were present in 7 reviews, 3 of which were supported by an IMHA, 2 were represented by a solicitor and 2 attended advocating themselves with no additional support. Of the 12 where patients did not attend 6 had either an IMHA or solicitor present at the review.

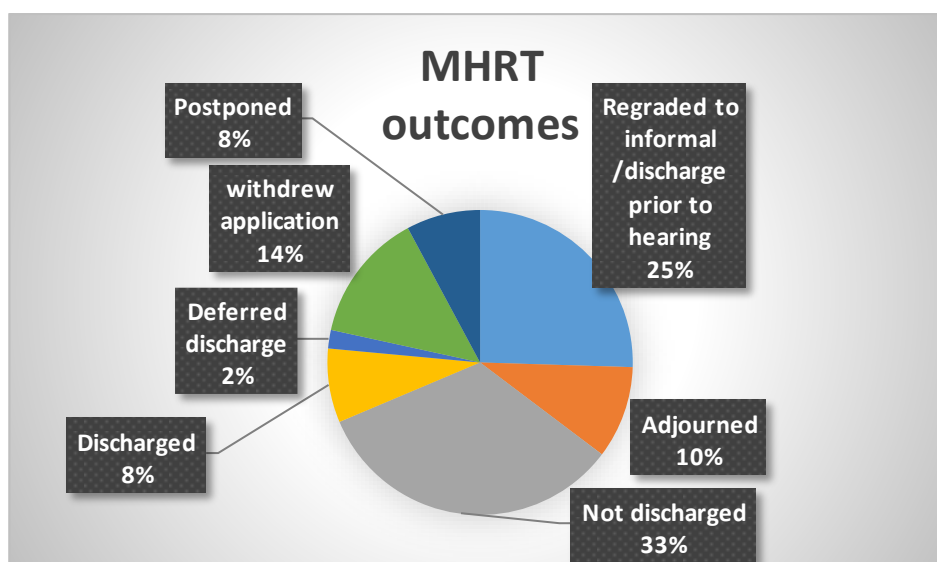
No applications were made for a Welsh hearing. No use of translation services were requested.

During this period a number 6 new Hospital Managers have been inducted to the Health Board.

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

There has been 57 applications/referrals to the Mental Health Review Tribunal (MHRTfW) during this quarter with 27 hearings conducted. The MHRTfW office have now introduced the option of face to face or remote reviews based upon patient choice. Of the 27 hearings 24 occurred in person and 3 via MS Teams.

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



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.

### 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	Qtr 1 activity	Notes
Applications to the Hospital Managers	6	6	Applications to hospital managers generally remain lower than pre-covid years. This quarter's activity is average to post-covid years.
Renewals / Extension reviews	18	17	Every renewal of section / extension of CTO must have a hospital manager review.
Applications by nearest relative	Less than 5	0	Figures are generally low

Applications/referrals to MHRTfW		48	57	A relatively high number of applications during this period.
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:

(731) Section 17 Leave of Absence – *Approved at MHLC June 2024.*

(321) Locked Door and Associated Safeguards – *Under review (extended to 22.07.2024)*

Prompts for reviews have been received from the Policy Coordinator for:

(741) Patient Rights procedure – *review by date 30 October 2024*

(743) Section 135 – Warrant to Search and Remove Patients – *review by date 04 January 2025*

#### 3.9.2. Training

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

Date	Group	Topic
04.04.24 09.05.24	Nursing Staff (A&E, MIU)	Section 136's to general hospital sites
17.04.24 24.04.24	Preceptorship nurses in MH service	Introduction to the MHA and the role of the Qualified Nurse
24.04.24	Nursing staff	MHA generic to specific area of PICU
01.05.24	Administrators	Administrators in Mental Health guide to the MHA
30.04.24 16.05.24 26.06.24	Hospital Managers	MHA – new Hospital Managers induction, training and responsibilities
27.06	Police (Dyfed Powys)	Section 135 and S136, MHA

In addition a pre-recorded training presentation on Section 136, 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 high 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**

### **Longer Term Sections (medication can be given)**

#### **Section 2 Admission for assessment – up to 28 days**

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

Criteria needs to be met -

- a) is suffering from mental disorder of a nature or degree which warrants the detention of the patient in a hospital for assessment (or for assessment followed by medical treatment) for at least a limited period; and*
- b) ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons*

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

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

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

Criteria needs to be met -

- a) is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in hospital; and*
- b) it is necessary for the health and safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless he is detained under this section; and*
- c) appropriate medical treatment is available for him.*

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

**Short Term Sections (medication cannot be given)**

**Section 4 Admission for emergency – up to 72 hours**

mental health act assessment undertaken by a registered medical practitioner, where practicable by one who knows the patient  
An Approved Mental Health Professional (AMHP) must also assess the patient – ideally at the same time

Criteria needs to be met -

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

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

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

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

1 x Form HO12

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

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

1 x Form HO13

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

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

Criteria is:

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

Form CP1

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

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

Form CP5

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

Criteria needs to meet the same as Section 3 -

- a) is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in hospital; and*
- b) it is necessary for the health and safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless he is detained under this section; and*
- c) Appropriate medical treatment is available for him*

Revocation requires the written agreement of an AMHP. Form CP7

**Places of Safety Sections (medication cannot be given)**

## **Section 135 Warrant to search and remove**

### **Section 135(1) – warrant to enter and remove**

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

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

Criteria is:

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

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

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

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

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

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

## **Section 136 Place of Safety – up to 24 hours**

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

Criteria is:

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

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

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

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

(a) *...there is reason to suspect that the accused person is suffering from mental disorder; and*

**(b) ...it would be impracticable for a report on his mental condition to be made if he were remanded on bail**

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

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

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

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

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

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

*is suffering from mental disorder and that either –*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Allows the Secretary of State for Justice to order the transfer to hospital of a prisoner who is not sentenced but in urgent need of treatment. The Secretary of

State must be satisfied (from the reports of two doctors, one of whom must be section 12(2) approved) that the patient:

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

The section only applies to:

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

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

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

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

## 5.0. GLOSSARY OF TERMS

Term	Description	Explanation/Link
MHA	Mental Health Act 1983	<a href="http://www.legislation.gov.uk/ukpga/1983/20/contents">http://www.legislation.gov.uk/ukpga/1983/20/contents</a>
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.

<b>MHRT</b>	<b>Mental Health Review Tribunal</b>	<b>A judicial body that has the power to discharge patients from detention, supervised community treatment, guardianship and conditional discharge.</b>
<b>Hospital Managers</b>		<b>Independent individuals who carry out functions on behalf of the Board.</b>
<b>Recall</b>		<b>Where it is necessary for a CTO patient to be recalled into hospital.</b>
<b>Revocation</b>		<b>Patients for whom a CTO has been rescinded following recall.</b>
<b>Application</b>		<b>Request from a patient for the MHRT to consider discharge from section.</b>
<b>Referral</b>		<b>Hospital managers request the MHRT to consider a patients detention.</b>
<b>AMHP</b>	<b>Approved Mental Health Professional</b>	<b>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.</b>