



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

<b>DYDDIAD Y CYFARFOD: DATE OF MEETING:</b>	04 June 2026
<b>TEITL YR ADRODDIAD: TITLE OF REPORT:</b>	Mental Health Legislation Scrutiny – Mental Health Act Data Performance Report
<b>CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:</b>	Mr Andrew Carruthers, Chief Operating Officer
<b>SWYDDOG ADRODD: REPORTING OFFICER:</b>	Ms Ruth Bourke, Mental Health Act Administration Lead

**Pwrpas yr Adroddiad (dewiswch fel yn addas)**

**Purpose of the Report (select as appropriate)**

Er Sicrwydd/For Assurance

**ADRODDIAD SCAA**

**SBAR REPORT**

**Sefyllfa / Situation**

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

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

**Cefndir / Background**

This report provides assurance in respect of the work that has been undertaken by Mental Health and Learning Disabilities (MHLDD) Services during the last quarter of 2025/26, that those functions of the Mental Health Act 1983 (the Act) which have delegated to officers and staff, are being carried out correctly; and that the wider operation of the 1983 Act in relation to the Local Health Board's area is operating properly.

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

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

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

A copy of the full report received to inform the MH Legislation Scrutiny Group is attached as appendix 1 (with any numbers of less than 5 omitted for confidentiality purposes).

### Asesiad / Assessment

The MH Scrutiny Group received a report detailing various activities and trends relating to the Mental Health Act during the period 1<sup>st</sup> January 2026 to 31 March 2026. Attention was made to the following areas:-

- Acknowledgement that fluctuating activity in the various sections is normal, for instance the high use of Community Treatment Orders last quarter has been followed by very minimal use this quarter. Trend lines of the various sections of the Act are included within the full report and can be seen as relatively consistent.
- It was recognised that use of the Mental Health Act within the general hospital wards has increased over recent years, in particular, Section 5(2) and Section 2.
- Section 136 use has increased in activity once again. Reporting on S136 activity is challenging due to monitoring forms being completed inadequately. This can compromise the reliability and accuracy of the data recorded from them.
- Some discussion was held regarding activities of the Hospital Managers and Mental Health Review Tribunals (MHRT). Concerns continue to be noted regarding the default position held by the MHRT to hold all hearings remotely by Teams, even when patients found this difficult or wished for a hearing in person. The MHRT have advised face to face hearings would only be conducted in exceptional circumstances. Some operational issues from this process included nearest relatives and parties with lack of technology access / expertise gaining access to hearings.
- Some discussions were held around statistics in relation to ethnicity and sex ratio's. Future reporting will therefore provide a trend line relating to breakdowns of male / female detentions.

### Argymhelliad / Recommendation

- The Committee is asked to receive assurance on governance systems and processes of the Mental Health Act.

### **Amcanion: (rhaid cwblhau)**

#### **Objectives: (must be completed)**

Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	The purpose of the Mental Health Legislation Committee is to assure the Bord on the following: 2.1 Those functions of the Mental Health Act 1983, as amended, which have been delegated to officers and staff are being carried out correctly; and that the wider operation of the 1983 Act in relation to the UHB's area is operating properly.
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Not Applicable
Parthau Ansawdd: Domains of Quality <a href="#">Quality and Engagement Act (sharepoint.com)</a>	Not Applicable
Galluogwyr Ansawdd:	Not Applicable

Enablers of Quality: <a href="#">Quality and Engagement Act (sharepoint.com)</a>	
Amcanion Strategol y BIP: UHB Strategic Objectives:	All Strategic Objectives are applicable
Amcanion Cynllunio Planning Objectives	
Amcanion Llesiant BIP: UHB Well-being Objectives: <a href="#">Hyperlink to HDdUHB Well-being Objectives Annual Report 2021-2022</a>	10. Not Applicable

<b>Gwybodaeth Ychwanegol: Further Information:</b>	
Ar sail tystiolaeth: Evidence Base:	Agenda, papers and minutes of the Mental Health Legislation Scrutiny Group
Rhestr Termiau: Glossary of Terms:	Contained within the body of the report
Partion / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Deddfwriaeth Iechyd Meddwl: Parties / Committees consulted prior to Mental Health Legislation Committee:	Mental Health Legislation Scrutiny Group

<b>Effaith: (rhaid cwblhau) Impact: (must be completed)</b>	
<b>Ariannol / Gwerth am Arian: Financial / Service:</b>	Not applicable
<b>Ansawdd / Gofal Claf: Quality / Patient Care:</b>	Not applicable
<b>Gweithlu: Workforce:</b>	Not applicable
<b>Risg: Risk:</b>	<p>Risk of non-compliance with the 1983 Act and with the Welsh Government's <i>Mental Health Act 1983 Code of Practice for Wales</i>; the <i>Mental Health (Wales) Measure 2010 Code of Practice</i>; and with the <i>Good Governance Practice Guide – Effective Board Committees (Supplementary Guidance) Guidance</i>.</p> <p>Safety of patients</p> <p>Assurance – use of statutory mechanisms</p>

<b>Cyfreithiol: Legal:</b>	Above
<b>Enw Da: Reputational:</b>	Not applicable
<b>Gyfrinachedd: Privacy:</b>	MHA performance report available on request.
<b>Cydraddoldeb: Equality:</b>	Not applicable



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

**1 January 2026 – 31 March 2026  
(Quarter 4)**

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## 1.0 Introduction

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

This report provides information relating to the use of the Mental Health Act 1983 (the Act) within the health board during Quarter 4, 2025/26.

To protect identity and comply with Information Governance any figures below five will not be disclosed when provided to a public Board Committee.

A more detailed breakdown of the Act is as follows:

### Mental Health Act, 1983 - Data Collection and Exception Reporting

## 2.0 Summary

Quarter 4, 2025/6 saw relatively average activity in relation to the Mental Health Act (MHA). Exceptions to this were Section 2 use which was higher than average. During the last quarter there was an unusually high number of Community Treatment Orders and some suggestion to analyse reasons behind that. This quarter however numbers were incredibly low for this area of the Act demonstrating that fluctuations in activity is a normal occurrence.

Trends in MHA activity could be considered for Section 136 which has been increasing over approximately the last nine months.

The Mental Health Bill received Royal Assent during late 2025 making it law however as it is to be implemented in stages over several years, it does not affect any of the data during this reporting period.

Additional statistical data on activity of the Mental Health Act can be sourced from the Welsh Government website "*Mental Health Statistics:interactive dashboard*". This can be found at [Mental health statistics: interactive dashboard | GOV.WALES](#) and provides a range of mental health statistics from across Wales.

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

Section of MHA	Average use per Qtr	Qtr 4 activity	Notes
2	71	79 ↑	Higher use than average use of this section.
3	39	37 ↓	An average use of this section.
4	3	Less than 5	Use of Section 4 is quite infrequent and tends to fluctuate between 0 - 5 occasions per quarter.

5(4)	1	0	Use of this section is relatively rare however will fluctuate in use between zero to as many as 6
5(2)	19	22 ↑	Used slightly more than average during this quarter.
17A (CTO)	6	Less than 5 ↓	A low use this quarter which follows a much higher use during the last quarter period.
135	4	Less than 5 ↓	Use of this section of the Act is infrequent and has been exercised twice.
136	46	49 ↑	Use of this section has slightly risen over the past six months however this number is lower than last quarter.
Part III	2	Less than 5	Average number of Part III 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 79 occasions which is higher than the quarterly average based against the previous 12 quarters (January 23 – December 25) which is 71. Rates of detentions fluctuate each quarter. During the last quarter it was used on 68 occasions and the quarter prior to this was 80.
- Its was used on 21 occasions within older adult services which is the same as 2025, Q 3.
- Admissions under this section under CAMHS services was less than five and to general hospital wards was 11.
- 96% were of white British ethnicity which is relatively consistent with previous quarters other ethnicities included Asian/British Asian or White European.
- The graph below shows the usage across the three counties:

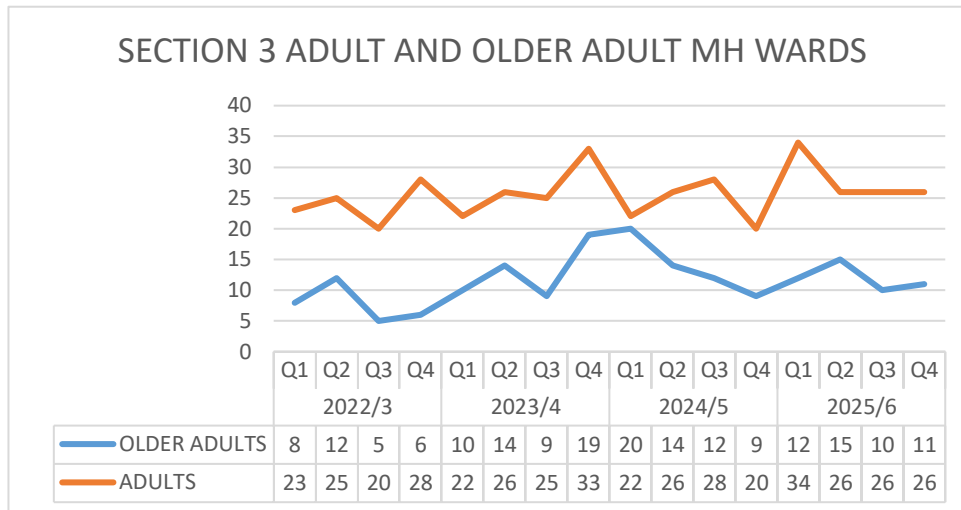
### **3.1.2. Section 3 - Admission for Treatment**

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

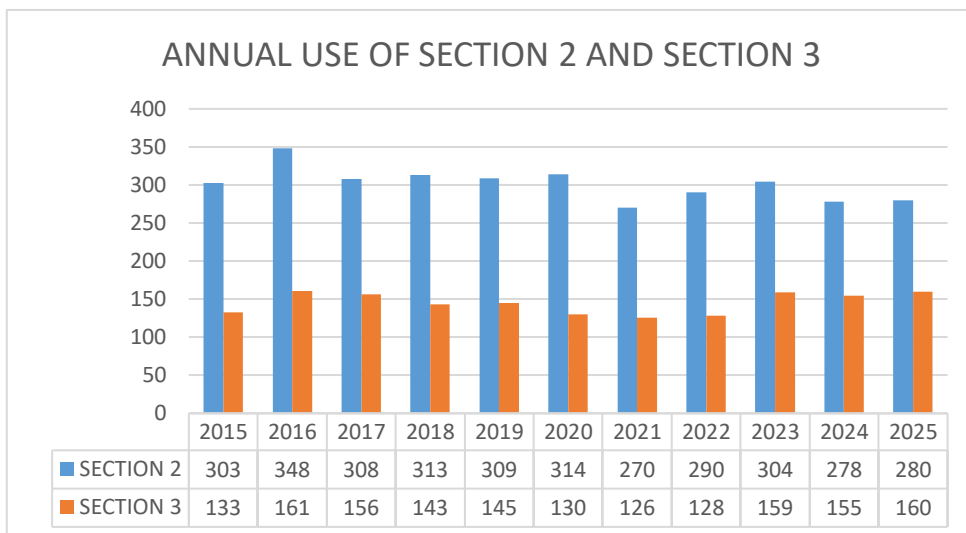
- Use of Section 3 occurred on 37 occasions which is consistent with the previous quarter (36) A chart to show a breakdown of Section 3 use in the different services and counties can be found below.
- Of the 37 overall section 3s 26 were detained to adult inpatient wards and 11 to older adult wards.
- 32 Section 3s were discharged during this quarter with the following outcomes – 11 regraded to informal status (which could include DoLS authority), 17 were discharged from hospital, less than 5 transfer out to another hospital and less than 5 regraded to a restriction order and less than 5 placed in the community subject to a Community Treatment Order.
- 97% were of white British ethnicity.

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

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



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



### 3.1.3. Section 4 – Admission for Emergency

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

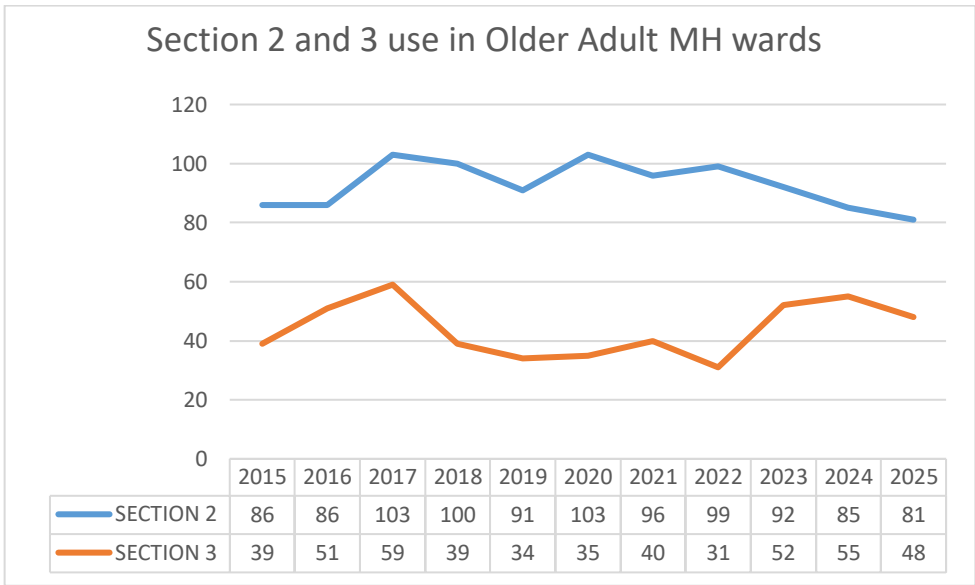
- On average it is used on three occasions per quarter. During this quarter it was used on less than five occasions.
- 66% were completed by a S12 approved doctor.
- Carmarthenshire and Ceredigion local authorities utilised Section 4.
- Ethnicity – 100% white British, Gender - 100% female.

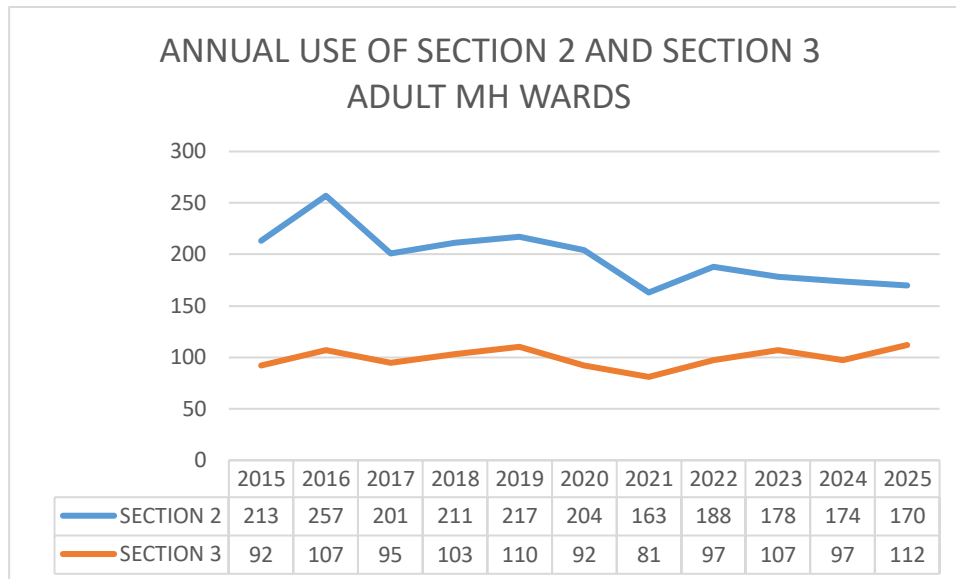
### 3.1.4. Section 5 – Holding Powers

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

- Use of the nurses holding power is rare. It has not been utilised during this quarter.
- The doctors holding power was used on 22 occasions. Use of this area of the Act fluctuates. During Q 1 it was used on 12 occasions which was its lowest use for at least a minimum of five years. Following that it was used on 22 occasions in Q 2 and then 13 in Q 3.
- Of the 13 Section 5(2)s used five were used in adult MH acute wards.
- There were no detentions under Section 5(2) during this period for under 18s.
- During this quarter it was used lawfully and appropriately on nine occasions within general hospital wards. The outcomes of these holding powers were that 44% were detained under a longer term section of the MHA. The remainder were regraded to voluntary status or discharged.
- 68% of assessments were carried out within 48 hours.
- 64% were further detained under Section 2 or 3.
- Statistics:
  - 95% white British, 64% male, 36% female

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

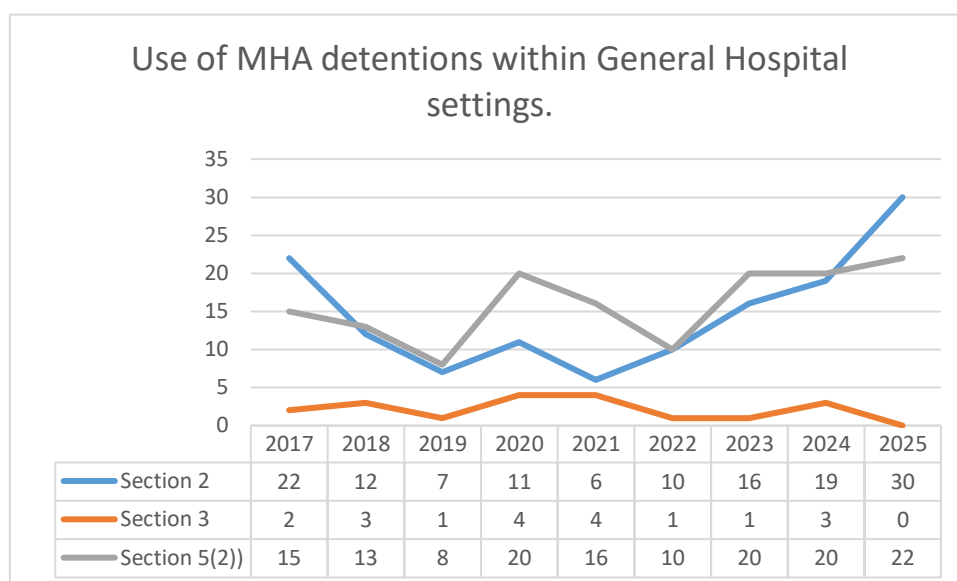




The table below demonstrates the % of which service both section 2 and section 3 were utilised. For example, it can be seen that in 2024 Quarter 3 60% of all section 2's were adult services and only 7% of its use in the general hospital setting.

% of Overall Activity	2024/2025		2025/2026			
	QTR 3	QTR 4	QTR 1	QTR 2	QTR 3	QTR 4
<b>SECTION 2</b>	%	%	%	%	%	%
Adult	60	58	63	59	62	59
Older Adult	24	30	27	32	31	27
General DGH	7	8	8	9	6	11
CAMHS	7	3	2	0	1	3
Learning Disabilities	2	1	0	0	0	0
<b>SECTION 3</b>						
Adult	68	67	74	63	72	70
Older Adult	29	30	26	37	28	30
General DGH	0	3	0	0	0	0
CAMHS	3	0	0	0	0	0
Learning Disabilities	0	0	0		0	0

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



No of Detentions to the General Hospital Wards (by Quarter)					
	Jan- March 25	Apr- June 25	July – Sep 25	Oct – Dec 25	Jan – Mar 26
Section 2	6	7	7	(1-5)	11
Section 3	(1-5)	0	0	0	0
Section 5(2))	7	5	5	(1-5)	9

### Legal Status of Patients:

The table below is a snapshot the legal status's broken down as a % in each ward as of 31<sup>st</sup> March 2026

Ward	MHA includes home leave pts	DoLS	Informal	Home leave
Bryngofal	67%	0 %	33%	6%
Bryngolau	67%	20% - DoLS referral sent awaiting assessment (all referred DoLS)	13%	0%
St Caradog	76%	0%	24%	24%
St Nons	69%	8% - authorised DoLS 8% - DoLS referral sent awaiting assessment	15%	8%
Morlais	90%	0%	10%	10%
Enlli	14%	43% - authorised DoLS 29% - Informal with a DoLS request – awaiting assessment	14%	0%
Low Secure	100%	0%	0%	0%

PICU	100%	0%	0%	12.5%
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### 3.2. Use of Police Powers Sections 135 & Section 136

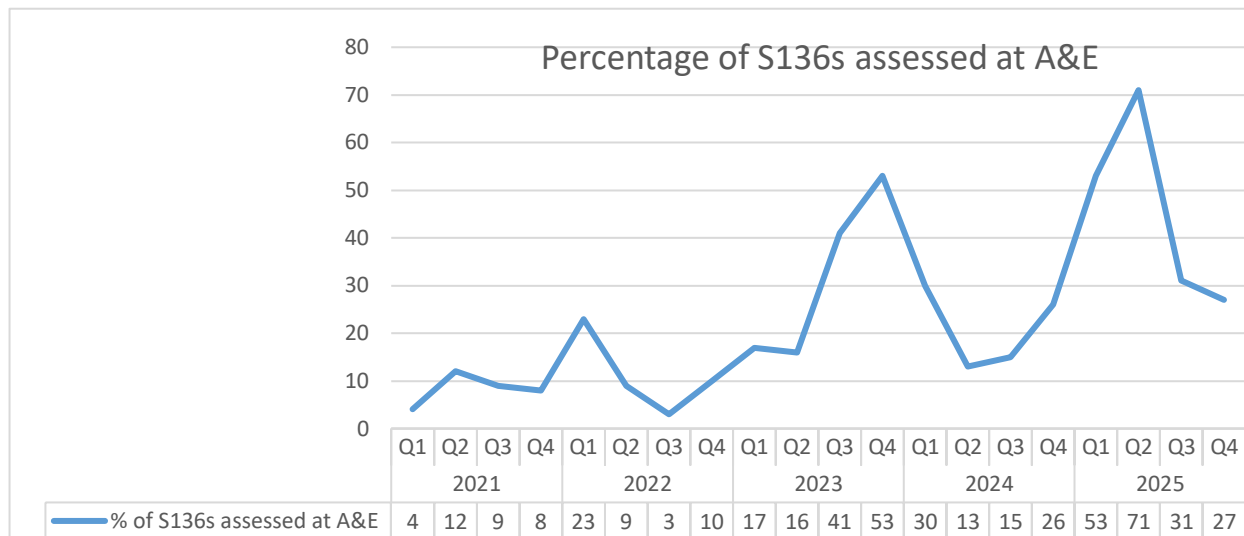
#### 3.2.1. Section 136 – Removal of Mentally Disordered Persons to a place of Safety

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:

Difficulties continue in obtaining accurate data relating to the use of Section 136. Monitoring forms are often poorly completed with much of the required information missing. When persons are taken to A&E it is often difficult to locate monitoring forms. Many forms refer to time spent with the person on a voluntary basis within the Section 136 detention period and omit the time of arrival to the place of safety. In addition, the MHA Administration Team are often contacted over queries relating to the start times of Section 136s, difficulties in obtaining assessments and transport for patients. Therefore much of the data provided is uncertain.

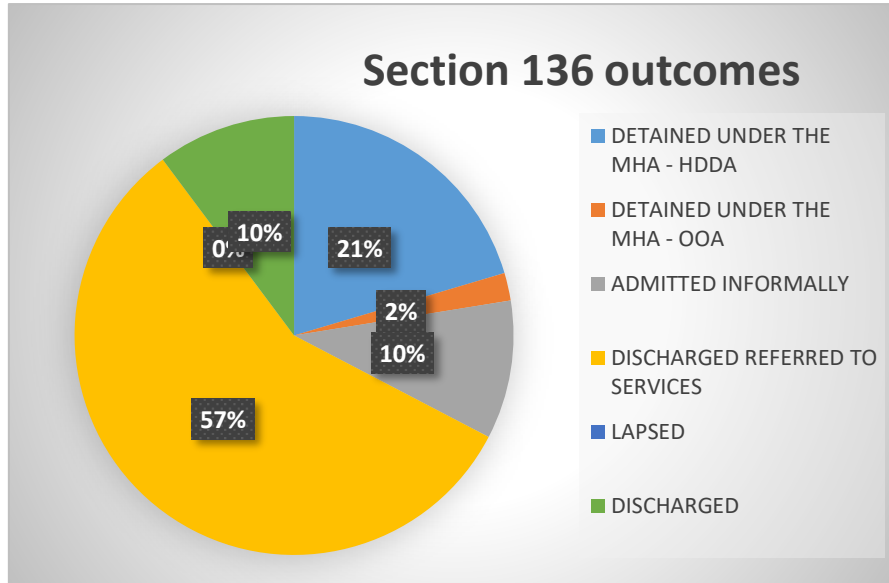
- There has been a gradual increase in the use of Section 136, particularly when compared to the early part of 2025. On average it is used 46 times per quarter. During this quarter it was used on 49 occasions. For the same period last year it was used on 39 occasions.
- 40 different individuals were placed on S136 during this quarter. There were less than 5 individuals having undergone multiple S136 detentions during the same quarter period.
- The places of safety used for the MH assessment were as follows:-
  - 35 to Bryngofal
  - Less than five to Morlais
  - Less than five to PICU
  - 13 to A&E
    - Withybush Hospital – Less than five
    - Glangwili Hospital – Five
    - Bronglais Hospital – Less than five
- Using A&E departments as places of safety under Section 136 remains. In addition to the 13 cases listed above it was also used a further 12 times as the first place of safety before the persons were transferred to a MH health place of safety (see graph below for % of S136s assessed at A&E).
- Of the 25 occasions A&E was used as a place of safety nine was due to a clinical need. Where no clinical need was identified monitoring forms submitted occasionally show why A&E was used. In some case it appears that the persons had already been in A&E voluntarily but left prior to having been assessed therefore officers applied the Section 136, there were also occasions the Section 136 suite was already occupied or issues with staffing at the designated place of safety. Officer also used A&E as a place of safety when consultation did not occur. It has been agreed the Scrutiny Group Chair will continue to monitor use of A&Es as a place of safety routinely.

- There has been no report received to indicate 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.

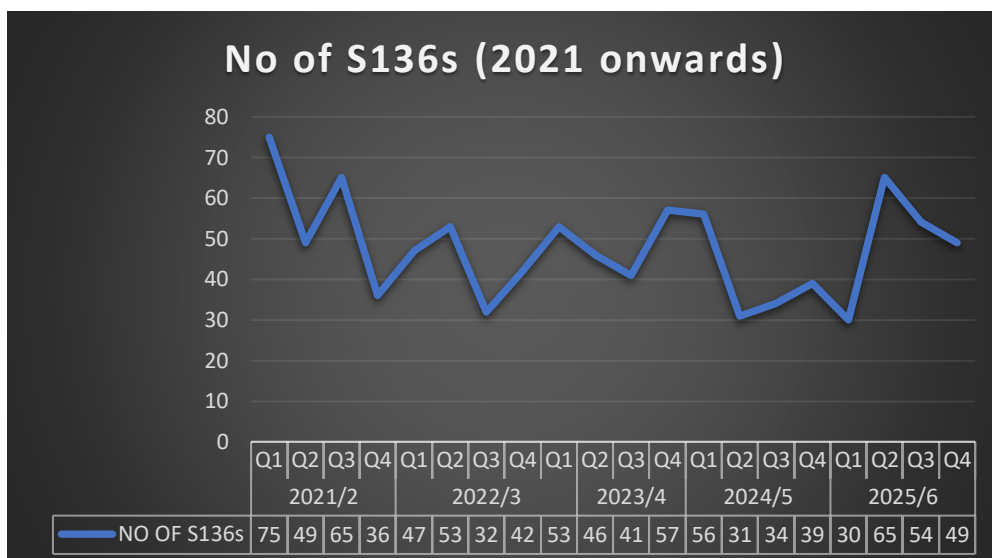


- Morlais Ward is a place of safety for the purpose of assessing under 18's subject to S136. It has not been used as a place of safety during this quarter.
- Custody has been used as a place of safety on less than five occasions during this quarter. Custody can only be used for adults in exceptional cases.
- There were no under 18s detained on Section 136 during this quarter.
- Restraint is recorded on monitoring forms and are used in the majority of cases.
- The duty to inform patients of their statutory rights was evidenced in 43 out of 49 cases overall. Where the person was assessed in the A&E settings patients were informed of their rights on all occasions which is a positive increase and very much down to the input of MH Liaison Services.
- Consultation is recorded as having occurred in 35 out of the 49 occasions. Monitoring forms received show that consultations take place between the police officer and the AMHP's in the majority of instances however it is believed this is inaccurately recorded and it is with the established point of contact as per joint policy.
- The Out of Hours service record contacts by police which include details of any potential Section 136's that have been diverted. These records suggest that instead the majority were taken to A&E on informal basis.
- 46 of the 49 resided within Hywel Dda catchment area.

Outcomes of the assessments as follows:



- Where the outcome of the assessment did not result in detention under the MHA – 30 of 38 utilised two doctors for the assessment.
- 44 out of 49 assessments took over 4 hours.
- There were a number of Section 136s extended passed 24 hours during this period and further periods of Section 136 detentions lasting longer than 24 hours but without an extension having been applied.
- Ethnicity statistics –
  - 98% White British (the remainder wishing not to disclose)
  - 69% Female 31% Male



### 3.2.2. Section 135 – Warrant to search and remove person

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

Section 135 is split into two categories as follows:

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

- Less than five Section 135(1) was used during this period.
- It is not known exactly how many warrants are applied for but get refused by court or alternatively granted but then not executed under this section.
- Both Ceredigion and Carmarthenshire local authority applied Section 135 warrants during this period.
- 100% of assessments resulted in further detention under the Act.

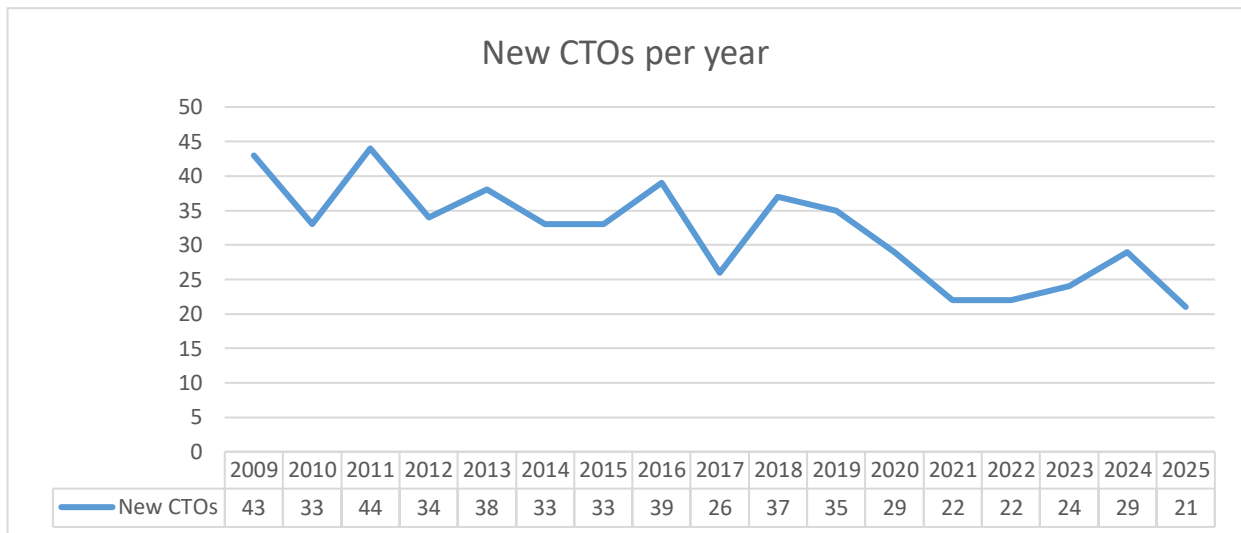
### 3.3. Section 17A - G, Community Treatment Orders

#### 3.3.1. Community Treatment Order Activity

There were 26 Community Treatment Orders in place as at 31<sup>st</sup> March 2026.

County	Number of CTO's	Ethnicity
Carmarthenshire	10	White British – 100%
Ceredigion	5	White British – 100%
Pembrokeshire	11	White British – 91% Other ethnicities – 9%

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



### 3.4 Part III

#### 3.4.1. Patients Concerned in Criminal Proceedings or Under Sentence

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

- Use of this area of the Act is minimal within the Health Board. During this quarter it has been used on less than five occasions.
- Unrestricted patients can be made subject to Community Treatment Orders however no new CTOs for Part III patients were made during this quarter.
- Less than five restricted patients were discharged by the MHRTfW during this period.
- There were no unrestricted patient discharges.
- As of the 31 March 2026 the total number of Part III patients are split into the following 54% restricted; 31% unrestricted; 15% 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).

- 120 statutory documents were medically scrutinised
- 38 rectifiable errors were made on detention papers. This included 16 errors made by nurses receiving papers on behalf of the Hospital Managers for example missing middle names, recording the admission as a direct admission inaccurately or not omitting required information.
- Common errors on both the medical recommendations and applications included middle names missing, failing to delete whether the nearest relative had been informed of the detention, spelling errors, omitting specific information (e.g. reasons neither doctors had acquaintance with patient) and overuse of abbreviations. Amendments can be made within 14 days under Section 15, MHA and this process is carried out by the MHA administration team liaising with the professionals involved.

#### **3.5.2. Section 15 - Non-Rectifiable Errors**

Where the type of error cannot be rectified under Section 15 the appropriate action is taken.

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

#### **3.5.3. Other errors**

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

- HO12s are completed by a doctor for the purposes of Section 5(2). During this period seven errors were received on forms and of these some detentions were not appropriately applied. The highest number of errors under this section of the Act come from the general hospital wards.
- These errors included a number of unsigned detention papers, use of patient labels on forms as opposed to handwriting, forms not received / signed and dated, use of

initials where full names are required and insufficient reasoning for applying the holding power.

### **3.6. Code of Practice for Wales**

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

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

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

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

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

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

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

#### **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. During this reporting period there were no reported instances.

#### **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.

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

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

#### **3.7.1. Certification for Treatment – Capacity and Consenting Status**

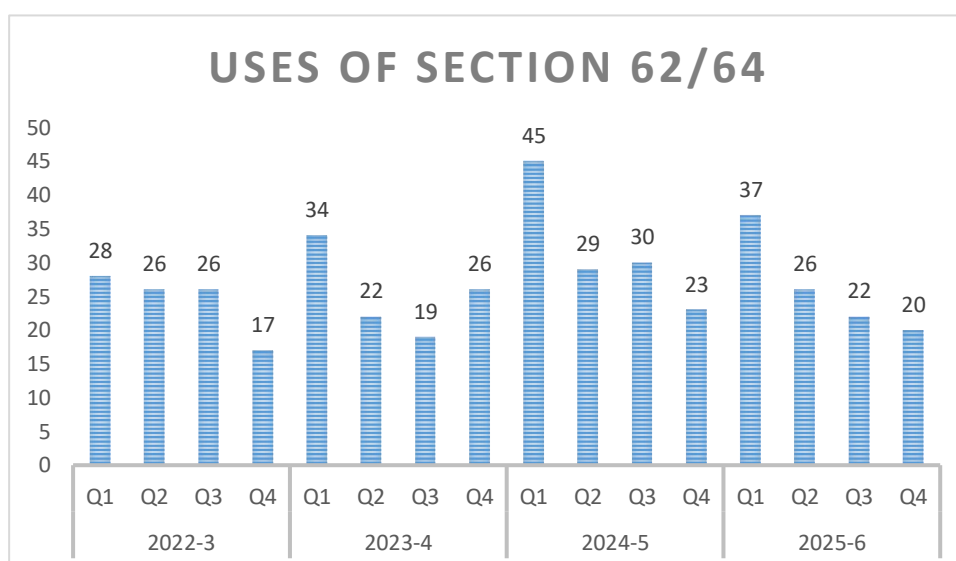
During this quarter there have been 11 new treatment authorisation documents completed for consenting to treatment instances: -

9 x C02 – to certify person has capacity and consents to treatment (detained patients)  
 Less than 5 x C08 – as above (CTOs)  
 This compares with 22 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.

- 18 SOAD requests were made (23 last quarter period; 19 in Qtr 2) and the following certificates were completed:
  - 16 CO3s (detained patients)
  - 0 CO7s (CTOs)
  - Less than 5 CO6s (ECT)
- Average waiting time for a SOAD (medication for inpatients) was 13 days (increase from 11 days last quarter).
- Of the 20 certificates issued by a SOAD four patients were seen in person with the remaining 16 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 five authority certificates for Electro-convulsive therapy (ECT) during this quarter. The average wait for a SOAD to certify treatment for ECT was 10 days (increase from three days last quarter).
- Longest waiting time for a certificate was 28 days. HIW have their own key performance indicators, however they are set from the point they allocate a doctor to the issuing of the certificate as opposed from when the SOAD request is made to the certificate being issued. On this occasion have reported that the SOAD was unable to make contact with consultees. SOADs have been requested to make contact with the MHA department should this issue arise to avoid such delays.
- Section 62 and 64 (emergency) treatment allows for lawful and short-term administration of treatment in the absence of a SOAD certificate. Use of this emergency treatment during this quarter was lower than average as can be seen from the line chart below showing its use over per quarter over the past three years. It was used on 20 occasions.



- Reasons for its use is as follows:
    - On six occasions to authorise medication because three month rule had expired and the SOAD had not yet authorised treatment.
    - On the other occasions it was due to change in legal status (CTO revoked), change in capacity or consent status or medication.
    - It was used on seven occasions to authorise ECT. On some occasions Section 62 ECT was given whereby a SOAD had not yet been requested.
- Use of emergency Section 62 treatment could be reduced with more prompt SOAD requests or certificate being provided by the SOADs. There were occasions during the last quarter when SOADs were requested by Responsible Clinicians within three days of the three month rule expiring.

### **3.7.3. Section 61, Review of Treatment**

When a section is renewed under Section 15 or a CTO 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 10 records made during this quarter under Section 61 which is slightly lower than the previous quarter when there 12 undertaken.

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

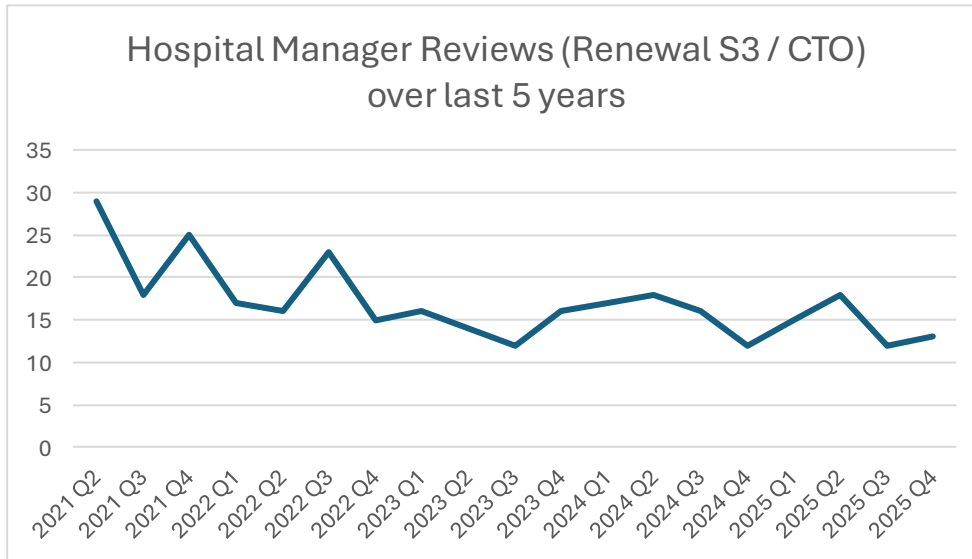
### **3.8.1. Applications for Discharge to Hospital Managers**

The number of applications for discharge to the Hospital Managers has once again fallen to three. This is a significant drop compared to the last three quarters which ranged from five to 15 per quarter. During the same quarter in 2018 16 applications were made. Of the application for discharge reviewed by the Hospital Managers and no discharge ordered. Others- withdrew their application and/or was made informal prior to the hearing taking place.

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 13 renewals this quarter which is consistent with both the previous quarter, of 12, and the same period last year of 12. There is a slight reducing trend in the number of renewal of sections being reviewed by the hospital managers as seen in the line chart below. The Code of Practice states renewal hearings should be held before the section expiry date. There was one occasion where this target could not be met due to the Responsible Clinician leaving the service therefore requiring a new clinician to become acquainted with the case.



### 3.8.3. Application for Discharge by Nearest Relative

There were no applications for discharge made by the nearest relative during this quarter.

### 3.8.4. Hospital Managers Hearings

In total (all hearing types) the Hospital Managers held 15 reviews during this quarter. Of the 15 cases patients were present in seven reviews and of those seven, less than five had the support of an IMHA and / or advocated themselves independently. Of the eight where patients did not attend less than five had an IMHA, solicitor or relative present at the review.

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

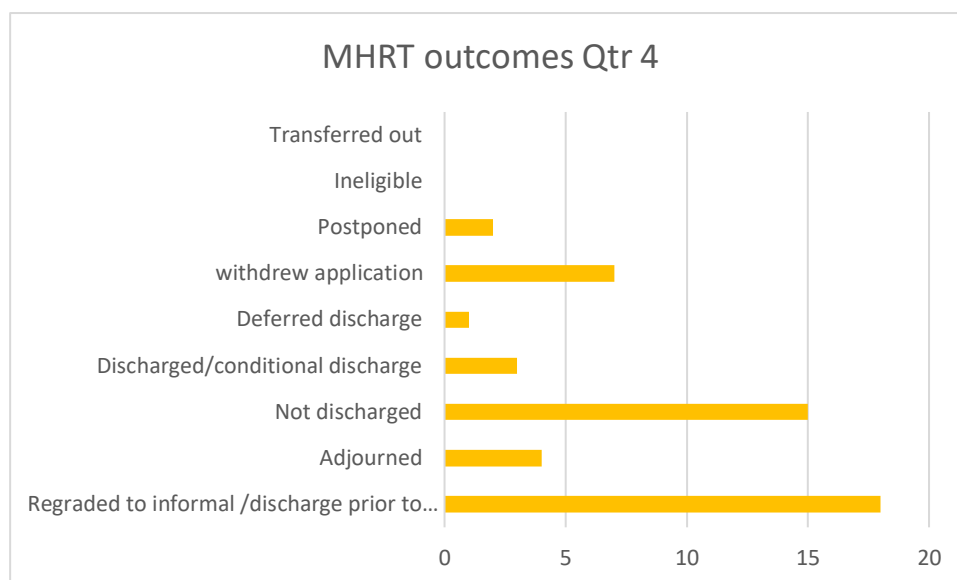
### 3.8.5. Applications, Referrals and Outcomes at the Mental Health Review Tribunal

There have been 39 applications/referrals to the Mental Health Review Tribunal (MHRTfW) during this quarter with 23 hearings conducted. During this period the MHRTfW office advised that all hearings would be conducted via Teams unless significant reasoning was provided not to do so. As a result, of 23 hearings less than five occurred in person and the rest remotely.

There were less than five discharges ordered by the MHRT during this quarter 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 three years.

Activity	Average per Qtr 2018/19	Average per Qtr Now	Qtr 4 activity	Notes
Applications to the Hospital Managers	14	5	Less than 5	Applications to hospital managers generally remain significantly lower than pre-covid years.
Renewals / Extension reviews		16	13	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	48	39	Lower with average
MHRT hearings held		24	23	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 policies were reviewed as followed:

(626) Section 5(4) Nurses Holding Power – *review complete and submitted to Committee for approval.*

(214) *Independent Mental Health Advocacy (IMHA) Policy – currently being reviewed*

(596) Section 5(2) Doctors Holding Power Policy – *notification received from Policy Coordinator to commence review.*

(625) Community Treatment Order Policy – *notification received from Policy Coordinator to commence 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 4 the following sessions have been provided either face to face or via MS Teams

Date	Group	Topic
19.01.26	Induction session to Hospital Managers	MHA Act and scheme of delegation requirements for nursing staff
17.02.26	Bryngofal qualified nurses	Consent to Treatment provisions
05.02.26	Induction session to new doctors	MHA Act relevant to role

In addition a pre-recorded training presentation on Section 136 and Section 5(2) and receiving and completion of detention forms are available on 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**

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

### **DATIX REPORTING**

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

### **3.9.4. Section 117 Aftercare**

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

During this quarter there were 20 new S117 applicable persons were detained to the health board under the Act. The total figure may be slightly more than that if persons within the area have been detained outside of the health board.

In addition to the above there were a further 17 persons detained under a qualifying section of the Act but who were already on the Section 117 register.

During this quarter we have been notified of 27 who have been removed from the centralised register either through a formal discharge or when deceased.

The centralised register is under development within the MHA department currently. At the present time it shows that there are 1245 persons eligible for Section 117 aftercare within the health board.

## 4.0. Description of Sections

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

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

Mental Health Act assessment undertaken by two 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 six months, renewable for six months, 12 monthly thereafter**

Mental health act assessment undertaken by two 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 six 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 six months, renewable for six 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 six months, renewable for six 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 six months, 12 monthly thereafter (medication can be given)**

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

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

*is suffering from mental disorder and that either –*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The section only applies to:

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

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

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

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