

PWYLLGOR DEDDFWRIAETH IECHYD MEDDWL MENTAL HEALTH LEGISLATION COMMITTEE

DYDDIAD Y CYFARFOD: DATE OF MEETING:	07 June 2024
TEITL YR ADRODDIAD: TITLE OF REPORT:	Mental Health Legislation Scrutiny – Mental Health Act Data Performance Report
CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:	Mr Andrew Carruthers, Director of Operations
SWYDDOG ADRODD: REPORTING OFFICER:	Sarah Roberts, Mental Health Legislation Manager

**Pwrpas yr Adroddiad (dewiswch fel yn addas)
Purpose of the Report (select as appropriate)**

Er Gwybodaeth/For Information

ADRODDIAD SCAA SBAR REPORT

Sefyllfa / Situation

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

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

Cefndir / Background

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

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

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

This report is prepared following the quarterly meeting of the Mental Health Legislation Scrutiny Group. The purpose of this Group is to allow senior managers and clinicians from Hywel Dda University Health Board, its partner agencies and other stakeholders to scrutinise

the University Health Board's (UHB) performance, to highlight areas of good practice, and any areas of concern that must be brought to the Committee's attention.

A copy of the full report received to inform the MH Legislation Scrutiny Group has been submitted as Appendix 1.

Asesiad / Assessment

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

- High use of Section 3 during the quarter period, the highest quarterly use in at least over a decade. There were no apparent reasons for this and the high use was seen across all disciplines i.e. adult and older adult services and in all three counties of Carmarthenshire, Pembrokeshire and Ceredigion.
- Continued increase of Section 136 cases being taken to A&E settings which presents a number of operational issues. Whilst this was discussed at length particular reference was made to the report (page 11) illustrating the significant increase in percentage of persons removed to A&E settings as a place of safety during this particular period.
- Community treatment order figures appear to have stabilised following a decrease in popularity over recent years.
- Data recording difficulties can jeopardise some reporting activity of data – for example, system in place records two admissions when an inpatient is transferred temporarily to a general hospital for some short term treatment, recording of ethnicity is not always completed.
- Section 17 Policy final draft version was discussed and that several other MHA policies were due to be reviewed over the next year.
- Successful recent appointment of 6 new Hospital Managers acting on behalf of the Health Board.

Argymhelliad / Recommendation

For discussion

Amcanion: (rhaid cwblhau) Objectives: (must be completed)	
Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Not applicable
Safon(au) Gofal ac Iechyd: Health and Care Standard(s):	Governance, Leadership and Accountability Choose an item. Choose an item. Choose an item.
Amcanion Strategol y BIP: UHB Strategic Objectives:	All Strategic Objectives are applicable Choose an item. Choose an item. Choose an item.

Amcanion Cynllunio Planning Objectives	Choose an item. Choose an item. Choose an item. Choose an item.
Amcanion Llesiant BIP: UHB Well-being Objectives: Hyperlink to HDdUHB Well-being Objectives Annual Report 2018-2019	1. Improve population health through prevention and early intervention 2. Support people to live active, happy and healthy lives Improve efficiency and quality of services through collaboration with people, communities and partners

Gwybodaeth Ychwanegol: Further Information:	
Ar sail tystiolaeth: Evidence Base:	Agendas, papers and minutes of the Mental Health Legislation Scrutiny Group
Rhestr Termau: Glossary of Terms:	Included within the body of the report.
Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Deddfwriaeth Iechyd Meddwl: Parties / Committees consulted prior to Mental Health Legislation Committee:	MH Legislation Scrutiny Group

Effaith: (rhaid cwblhau) Impact: (must be completed)	
Ariannol / Gwerth am Arian: Financial / Service:	Not applicable
Ansawdd / Gofal Claf: Quality / Patient Care:	SBAR template in use for all relevant papers and reports.
Gweithlu: Workforce:	Not applicable
Risg: Risk:	Risk of non-compliance with the 1983 Act and with the Welsh Government's <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> . Safety of patients Assurance – use of statutory mechanisms

Cyfreithiol: Legal:	As above
Enw Da: Reputational:	Not applicable
Gyfrinachedd: Privacy:	Not applicable
Cydraddoldeb: Equality:	Not applicable



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

**01 January – 31st March 2024
(Quarter 4)**

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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 4, 2023/24.

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

The use of the Act during Quarter 4, 2023/2024 appears to be relatively average with the exception of Section 5(2) and particularly Section 3 which were both higher than the normal quarterly use. In fact it was the highest recorded use of section 3 in a single quarter period for at least over a decade. Whilst the increase prominently came from the Carmarthenshire local authority both Ceredigion and Pembrokeshire residents had a high level of use of this section also during this period. Similarly use of Section 3 was high in both adult and older adult services during this period.

The numbers of Section 136 were fairly average however there continued to be a huge increase in the numbers that were taken to an A&E department as opposed to a mental health place of safety settings. It was also noted that there are a number of individuals with repeated use of Section 136s over a short period which amplifies the numbers quite significantly.

Use of the different sections shown 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	73	74 ↑	Relatively average use of this section.
3	31	53 ↑	A much higher use than average and is the single highest use of this section of the Act during a Qtr period in over a decade.
4	3	Under 5	Average number

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	26 ↑	A higher than average use of section 5(2) during the quarter.
17A (CTO)	5	5	Average use this section of the Act.
135	3	Under 5	Use of this section of the Act is relatively rare and has been used an average number of occasions.
136	54	53	Average use this section of the Act.
Part III	3	Under 5	Average number of Part II patients during the quarter.

3.0 Findings and Information

3.1 Part II, MHA

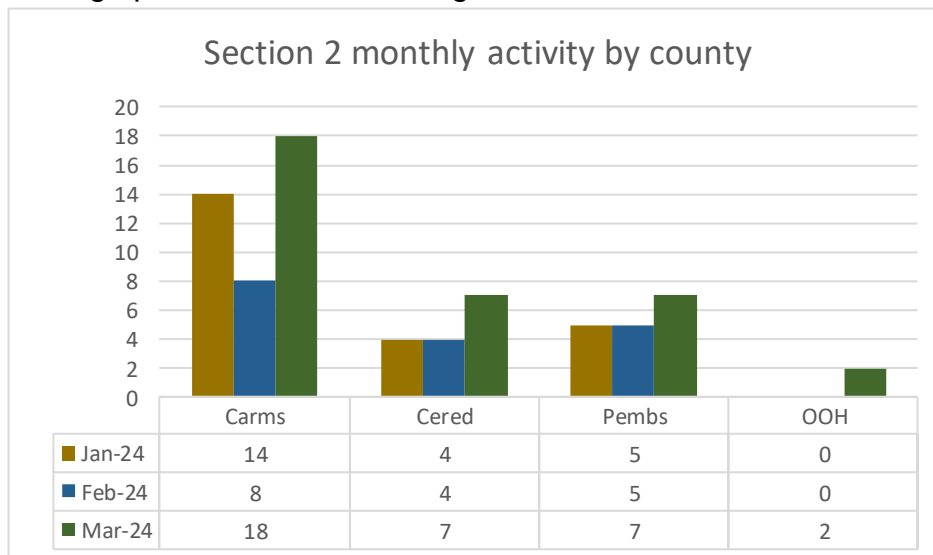
3.1.1. Section 2 - Admission for Assessment

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 74 which is relatively standard when compared with the average use based on the numbers over the previous 12 quarters (January 2021 – December 2023) which is 73.
- Its use within older adult services has decreased to 29 occasions this quarter compared to 38 in quarter 3 but 25 in quarter 2 and 19 in quarter 1. The average being 26 per quarter (based on last 3 years activity).
- 57 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 less than 5 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: 28/74
 - Friday 05.01pm to Monday 08.59am: 22/74
 - Weekday out of hours (5.01pm to 08.59am): 24/74
- Following section 2 22 patients went on to S3 (30%) which is a consistent ratio with all previous quarters over the last year. 27 (20%) were discharged by the responsible clinician, 26 were discharged from section but remained informally.

Other outcomes included discharge by the MHRT, transfer to another hospital and still running.

- 97% were of white British ethnicity.
- The graph below show the usage across the three counties

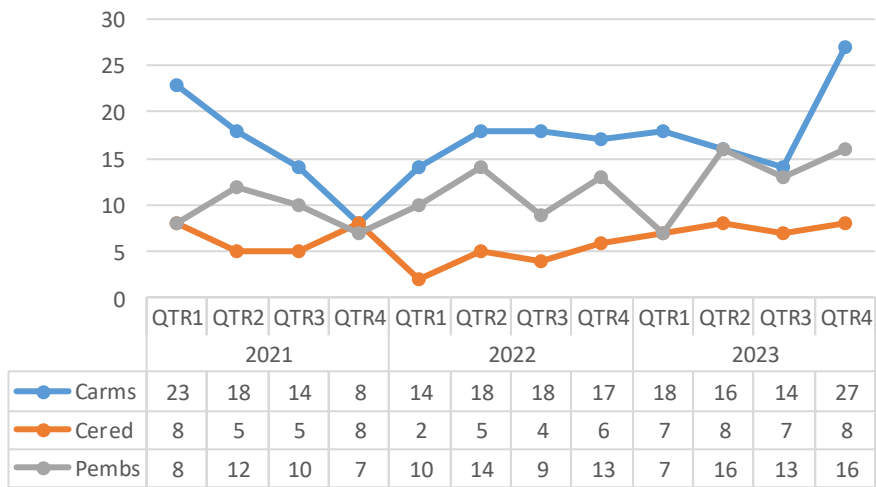


3.1.2. Section 3 - Admission for Treatment

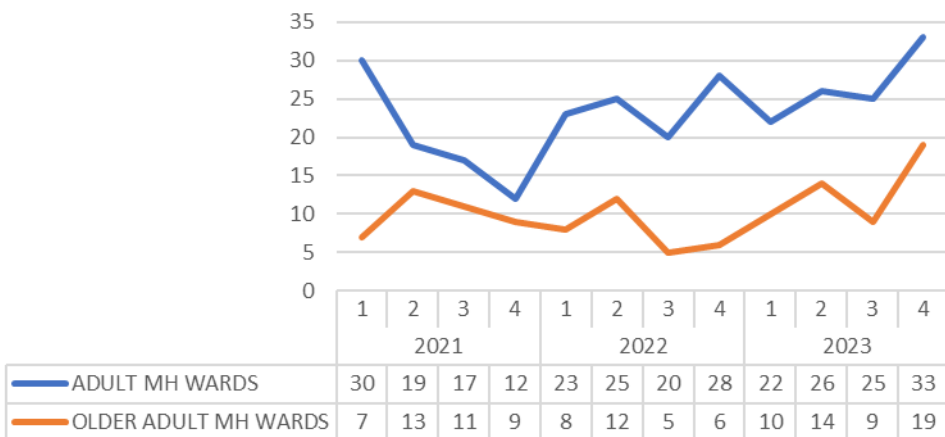
The use of Section 3 provides for someone to be detained in hospital for treatment of their mental disorder.

- Use of Section 3 occurred on 53 occasions which is substantially higher than the quarterly average (based across last 3 years) and is the highest single use in a quarter for at least a period of 10 years. A chart to show a comparative breakdown of Section 3 use in the different services and counties can be found below.
- Of the 53 instances 44 were changes in a legal status e.g from informal or section 2. There were 9 direct admissions under this section, this would include transfers from other hospitals.
- Of the 53 overall section 3s 33 were detained to adult inpatient wards and 19 to older adult wards, the remaining to other areas within Hywel Dda hospital settings.
- 45 Section 3s were discharged during this quarter with the following outcomes - 24 regraded to informal status (which could include DoLS authority), 15 were discharged from hospital, 1 transfer out to another hospital and 5 placed in the community subject to a Community Treatment Orders.
- 96% were of white British ethnicity.

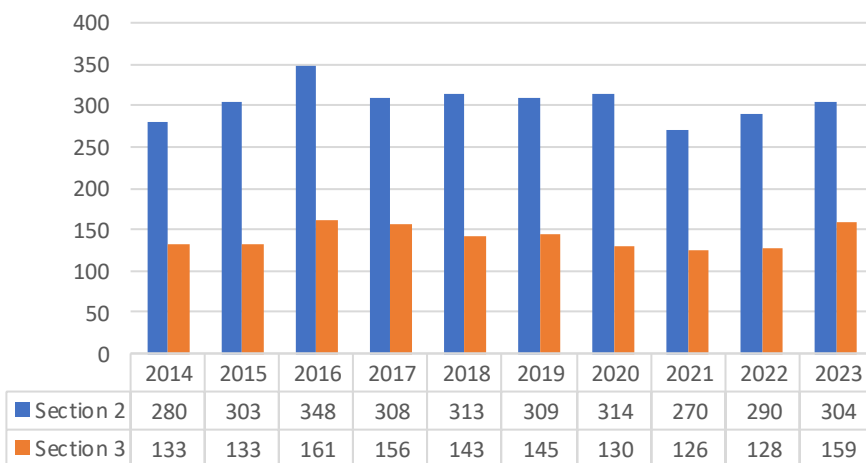
Section 3 Quarterly Activity by County(3 years)



QUARTERLY USE OF SECTION 3 IN ADULT AND OLDER ADULT MH WARDS



Annual use of Section 2 and 3



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 between Carmarthenshire and Ceredigion counties, all of which were within adult services.
- 50% were completed by a S12 approved doctor.
- In the majority of cases Section 4 appeared to be used due to the imminent risk to the persons health or safety or for the protection of others. However there was a reference made to difficulties in accessing a bed within an emergency detention.
- All Section 4s were converted to section 2 within 48 hours of admission to hospital.
- Ethnicity – 100% white British, Gender - 50% female.

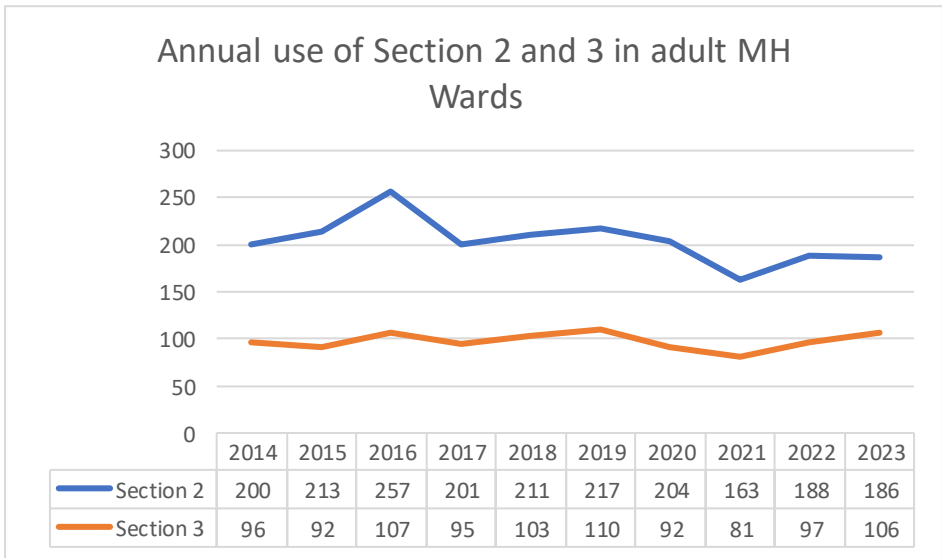
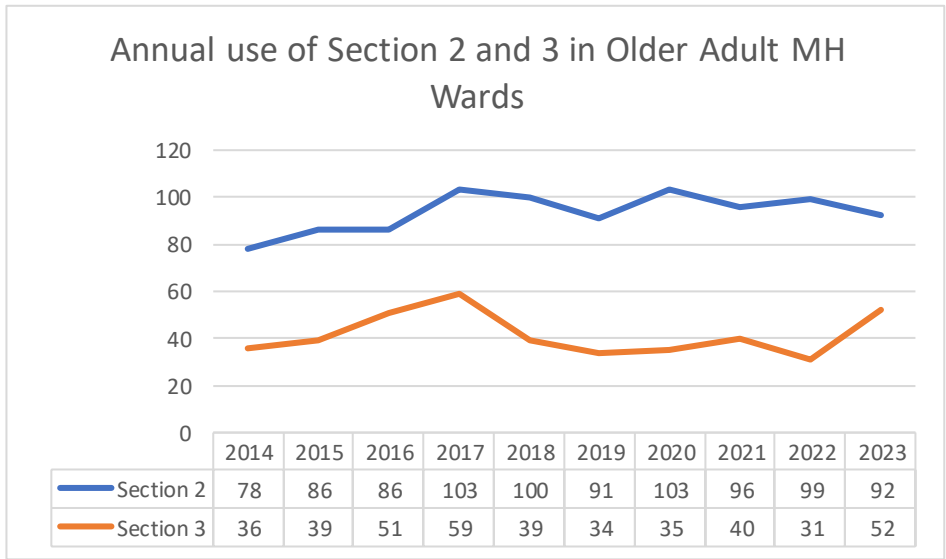
3.1.4. Section 5 – Holding Powers

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

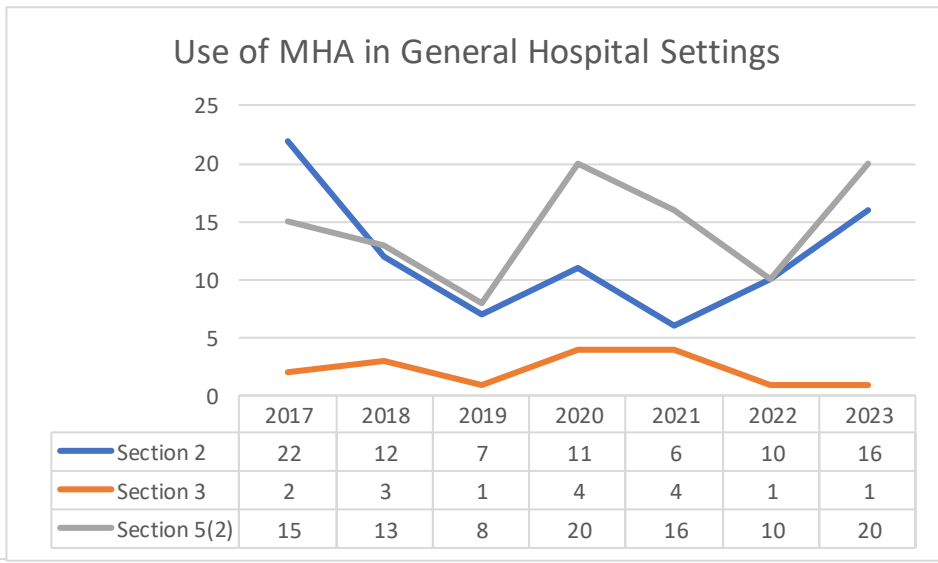
Section 5(4) is used by mental health and learning disability nurses in mental health in-patient settings for up to 6 hours to allow for a further assessment to take place

- Use of the nurses holding power is rare and has been used on less than five occasions during this quarter.
- The doctors holding power was used on 26 occasions during this quarter which is more than the quarterly average of 20.
- Of the 26, 21 were used in adult MH acute wards. The rest were split between older adult MH wards and general ward settings.
- There were 0 detentions under Section 5(2) during this period for under 18s.
- A holding power under Section 5(2) may be used within general hospital wards. During this quarter it was used lawfully and appropriately on less than 5 occasions. The outcomes of these holding powers were that 75% patients were regraded to section 2 or 3.
- 96% of assessments were carried out within 48 hours (60 hours deemed good practice). This compares with 100% in the last quarter.
- 73% were further detained under Section 2 or 3 (compared with previous quarter at 60%)
- Statistics:
 - 100% white British, 38% male, 62% female.

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



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



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. This compares with Quarter 1 where 68% of all section 2's were in adult services and 5% attributed to the general hospital.

	2023 Q1	2023 Q2	2023 Q3	2023 Q4
	%	%	%	%
S2:adult	68	62	48	57
S2:Older adult	25	29	38	39
S2: Gen	5	6	6	1
S2:LD	0	1	1	0
S2 CAMHS	2	1	7	3
S3:adult	69	65	74	62
S3:Older adult	31	35	26	36
S3:Gen	0	0	0	2
S3: LD	0	0	0	0

Legal Status of Patients:

The table below is a snapshot the legal status's broken down as a % in each ward as of 31st March 2024:

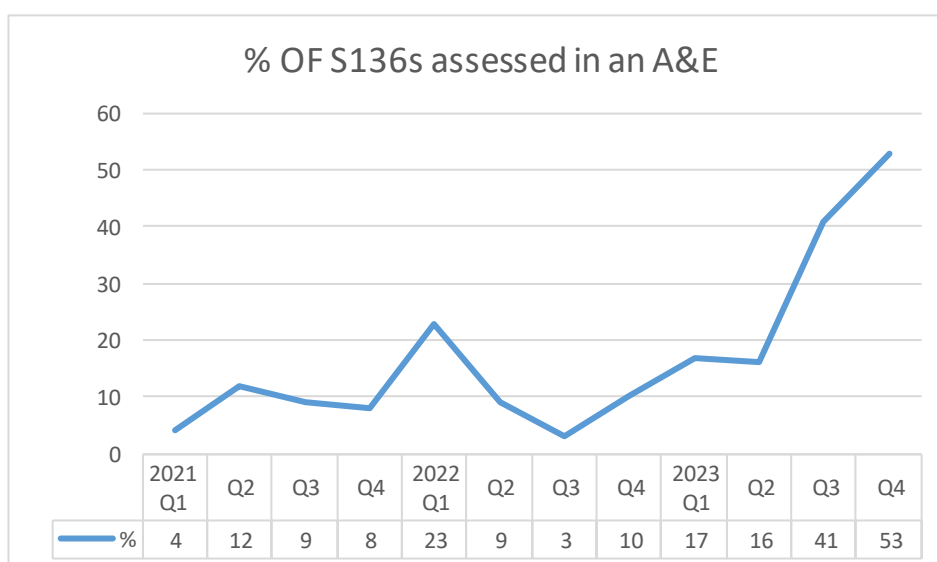
Ward	MHA includes home leave pts	DoLS	Informal	Home leave
Bryngofal	83%	6 % - authorised DoLS	11%	6%
Bryngolau	67%	7% - authorised DoLS 13% - DoLS – awaiting a BIA assessment	13%	0
St Caradog	59%	0%	41%	12%
St Nons	54%	15% - authorised DoLS 15% DoLS awaiting BIA assessment	15%	0%
Morlais	80%	0%	20%	10%
Enlli	67%	8% - authorised DoLS	25%	8%
Low Secure	100%	0%	0%	13%
PICU	88%	0%	12%	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

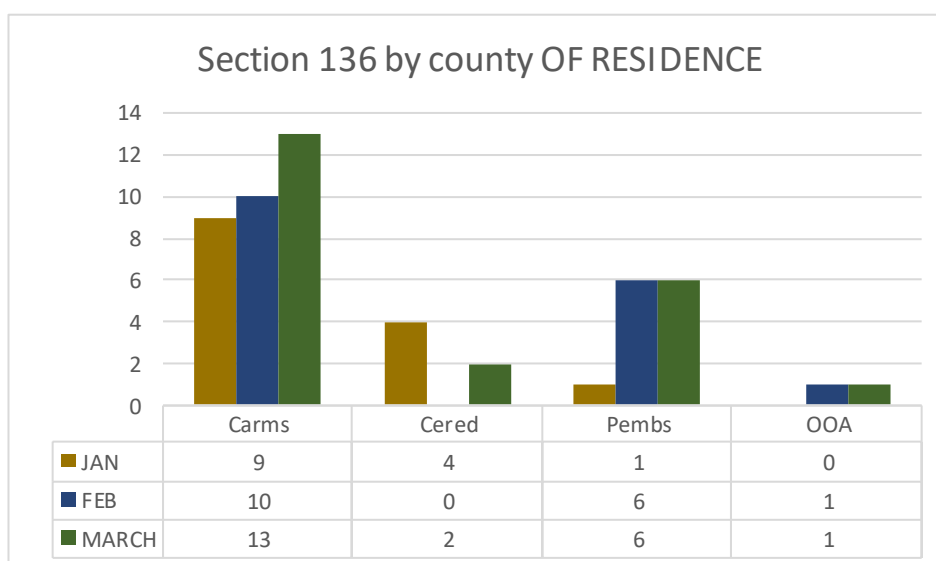
The powers of section 136 provide authority for a police officer who finds a person who appears to be suffering from mental disorder, in a place to which the public has access, to remove him to a place of safety if the person:

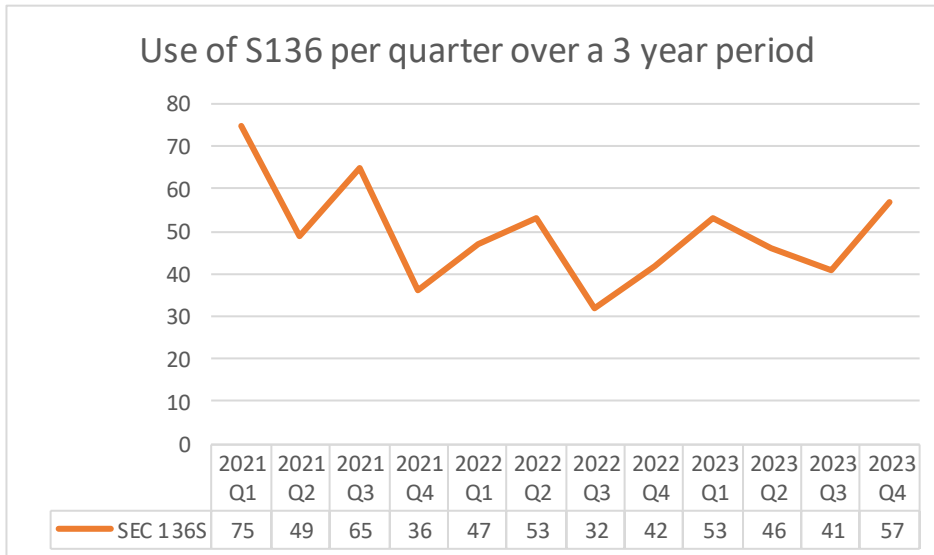
- Section 136 has been used on 53 occasions during this quarter which is a relatively average number based on the last three years.
- 31 different individuals were placed on S136 during this quarter – with 7 cases of having more than one S136 episode.
- The places of safety used for the MH assessment were as follows:-
 - 22 to Bryngofal
 - 3 to Morlais
 - 28 to A&E:
 - Withybush Hospital – 11
 - Prince Philip MIU – 7
 - Glangwili Hospital – 7
 - Bronglais Hospital - 3
- The use of A&E departments as places of safety has continued to increase during this quarter. In addition to the 28 cases listed above it was also used a further 7 times as the 1st place of safety before the persons were transferred to a MH health place of safety.
- Of the 28 episodes where A&E was used as the only place of safety for assessment records show that 8 were taken there as a result clinical need.
- 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.



- Custody was not used as a place of safety during this quarter.

- Morlais Ward is a place of safety for the purpose of assessing under 18's subject to Section 136. It has not been used as a place of safety for an over 18 during this quarter.
- There were less than 5 under 18s detained under S136 during this quarter. Of those it is reported that handcuffs were used in over 60% of cases.
- In total it is recorded within the monitoring forms that some form of restraint were used on 72% of all cases compared to on 66% last quarter.
- Consultation is recorded as having occurred in 36 out of the 53 occasions (68%). This compares to 46% during the last quarter.
- Errors and missing data on Section 136 monitoring forms continue to present difficulties in obtaining the data accurately. These errors are reported weekly to Dyfed Powys Police and is provided to ward teams. There are regularly instances of missing or incorrect data.
- There is a report under the Out of Hours service that has a record of diverted S136s. There are 5 cases listed during the period of Quarter 4 (compared to 3 in quarter 3). Records suggest that instead of applying S136 detention the majority agreed to attend on a voluntary basis.
- 51 of the 53 cases resided within the Hywel Dda catchment area
- Of the 53 assessments 30 were discharged but referred to community services, 5 were discharged with no follow up arrangements. 8 were admitted to hospital on an informal basis and 9 were directly admitted and detained to an adult acute ward and 1 detention lapsed with no assessment within 24 hours.
- Of the 44 outcomes which did not require further detention under the Act - 34 utilised 2 doctors for the assessment.
- The duty to inform patients of their statutory rights was evidenced in 28 out of 53 cases overall. Within the A&E settings on 7 out of the 28 occasions.
- 91% of the assessments took over 4 hours.
- Ethnicity statistics –
 - 92% White British
 - 66% Female 28% 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.

There has been under 5 Section 135 warrants exercised during this quarter however only 1 monitoring form was completed in line with joint Section 135 procedural arrangements.

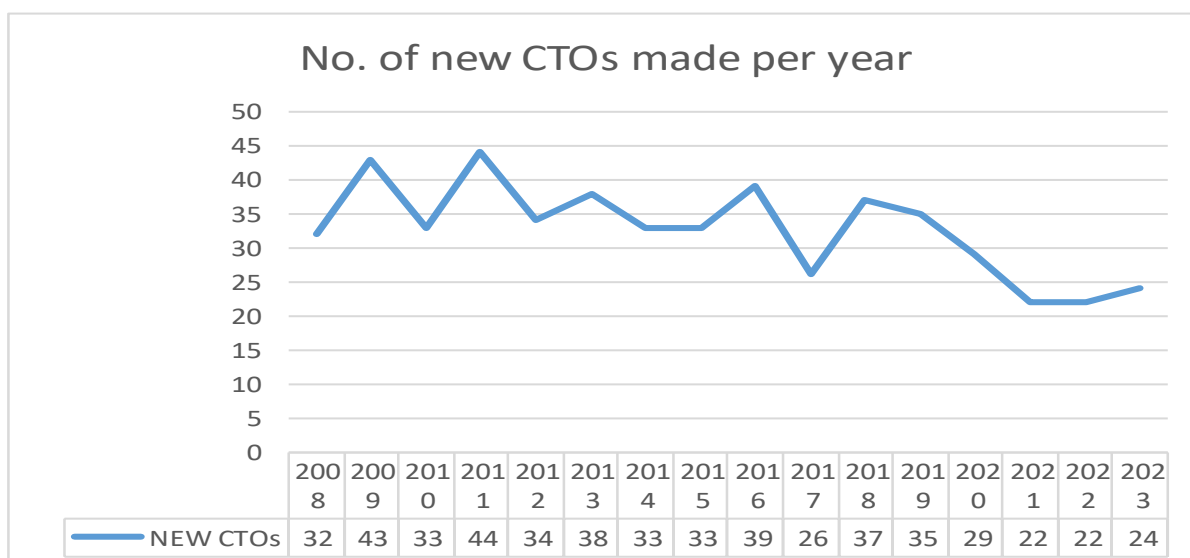
3.3. Section 17A - G, Community Treatment Orders

3.3.1. Community Treatment Order Activity

There were 33 Community Treatment Orders in place as at 31st March 2024.

County	Number of CTO's	Ethnicity
Carmarthenshire	12	White British – 83% Not stated on WPAS – 17%
Ceredigion	8	White British – 75% Other ethnicities – 13% Not stated on WPAS – 13%
Pembrokeshire	13	White British – 77% Other ethnicities – 15% Not stated on WPAS – 8%

- 5 new CTO's for the quarter.
- There were 2 recalls during this quarter.
- 2 CTO's were discharged by the Responsible Clinicians
- Since introduced into the Act in 2007 the popularity of Community Treatment Orders by clinicians generally appears to have reduced over recent years as can be seen below.



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 new CTO for Part III patients were made during this quarter.
- Less than 5 restricted patients were discharged by the MHRTfW during this period.
- As of the 31st March 2024 the total number of Part III patients are split into the following – 56% restricted; 38% unrestricted; 6% 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).

- 129 statutory documents were medically scrutinised
- Common errors included spelling mistakes e.g. patient name, hospital; use of abbreviations in justification of detention, missing names.
- There were 18 errors recorded on HO14s by the nursing staff receiving papers on behalf of the Hospital Managers.
- There were 12 rectifiable errors relating to application made by the AMHP.
- 25 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 was less than 5 detentions during this current quarter that were deemed to be unlawful and/or non-rectifiable.

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 26 Section 5(2)s submitted during this quarter 7 had errors. These errors included insufficient / missing information and /or incorrect patient information. There were instances where the report is not being received on behalf of the hospital managers by the nursing officers in charge. 3 of the 7 errors came from general hospital wards.
 - There was an additional HO12 submitted but not accepted on behalf of the Hospital Managers due to form not being compliant with Welsh Regulations.

Section 15	Apr - Jun 23	Jul – Sept 23	Oct – Dec 23	Jan – March 24
Detention Papers	110	125	105	129
Rectifiable Errors	41	55	47	55
Non Rectifiable Errors	Under 5	Under 5	0	Under 5

3.6. Code of Practice (Mental Health Act)

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

The Code of Practice 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. All wards have reported adhering to Code of Practice and local policy requirements.

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 no reported exclusions during this quarter. 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 to 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 23 new treatment authorisation documents completed for consenting to treatment instances:-

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

2 x C08 – as above (CTOs)

1 x CO4 – as above for the treatment of ECT

This compares with 25 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.

- 26 SOAD requests were made (27 in the previous quarter, 15 in Quarter 2 and 27 in Quarter 1) and the following certificates were completed:
 - 18 CO3s (detained patients)
 - 7 CO7s (CTOs)
 - 5 CO6s (ECT)
- Average waiting time for a SOAD (medication for inpatients) was 12 days, compared to 7 in the last quarter.
- Of the 30 certificates issued by a SOAD 5 patients were seen in person with the remaining 25 reviews conducted remotely by a SOAD before issuing the relevant certificate to authorise treatment.

- HIW advised that this ratio is likely to remain and provided a full update on 26.03.24 which included:
 - Future SOAD cases will take place on site where practicable for the purpose of interviewing the patient. Cases will be allocated to those who can conduct on site visits wherever possible. However when a cases is not successfully allocated to a SOAD within the first few days the case will be considered for remote allocation unless there is an express communication from the patient that they wish to see the SOAD in person.
 - The notable exception will be to CTO cases which will now be allocated as a remote case in the first instance unless the patient has specifically requested a face to face visit. To reflect the change CTO cases will be expected to be undertaken within 5 days of allocation (reduction from current KPI of 10 days)..
- Longest waiting time for a certificate during Quarter 4 was 21 days. It is reported that this was due to difficulties in getting hold of a statutory consultee. There were 6 instances where a SOAD certificate took over 2 weeks to be issued.
- Section 62 and 64 (emergency) treatment allows for lawful and short term administration of treatment in the absence of a SOAD certificate. Section 62/64 emergency treatment was used on 26 occasions in total during this quarter (compared to 19 in the previous). It was used once to allow for an urgent medication change and once because a SOAD certificate had an expiry date pending imminently. On 3 occasions the patient had changed from consent to non consenting status. It was used on 13 occasions because the one/three month rule for treatment had expired without the relevant treatment certificate being in place by a SOAD. It was also used to authorise ECT to proceed on eight occasions.

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 7 records made during this quarter under Section 61 which is consistent with the previous quarter.

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 2 applications for discharge made to the hospital managers during this quarter compared to 3 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 16 applications made. Of the 2 applications made this quarter as both had pending MHRT applications no reviews were undertaken.

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 16 renewals compared to 12 in the previous quarter. This is very much in comparison with the same quarter last year when 15 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 patients care coordinator being on sick leave and the review requiring a reschedule.

3.8.3. Application for Discharge by Nearest Relative

For the second consecutive quarter there has been no applications for discharge made by a nearest relative.

3.8.4. Hospital Managers Hearings

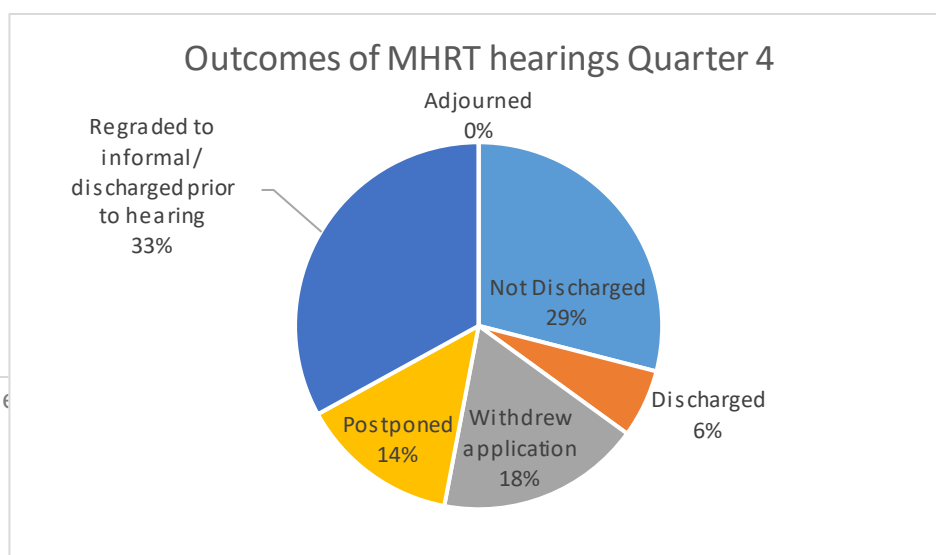
In total (all hearing types) the Hospital Managers held 16 reviews during this quarter. Of the 16 cases patients were present in 6 reviews, 5 supported by an IMHA (one with a solicitor also in attendance). Of the 10 where patients were not present 3 were attended by an IMHA and 3 by relatives.

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

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

There has been 47 applications/referrals to the Mental Health Review Tribunal (MHRTfW) during this quarter with 18 hearings conducted. The MHRTfW office have now introduced the option of face to face or remote reviews based upon patient choice. Of the 18 hearings 13 occurred in person and 5 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.

A published report on Welsh Standards within the MHRTfW (as published on their website) reports that during 2022- 2023 the tribunal received 1746 applications and 1010 hearings were held and of these 0 were held in Welsh. There were 6 requests for a Welsh interpreter at a hearing but only 3 of those proceeded to a hearing.

Data on this year is not yet available but will be included within future reporting in order to benchmark data.

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 4 activity	Notes
Applications to the Hospital Managers	7	2	Applications to hospital managers generally remain lower than pre-covid years. All applicants are asked whether they wish for a virtual or face to face review.
Renewals / Extension reviews	18	16	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	49	47	This is slightly lower than average.
MHRT hearings held	26	13	Lower than average – a number of applicants were made informal or discharged prior to the tribunal reviewing the case.

3.9. Miscellaneous

3.9.1. Policies

The following policies were under review during Qtr 4:
(363) Hospital Managers Scheme of Delegation – *approved March 2024*

The following policies commenced review during Qtr 4:
(731) Section 17 leave of Absence – *review by date 06.10.2024*

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
08.01.24 09.01.24	Senior Nurse Management Team (General)	Section 5(2)
11.01.24	Dyfed Powys Police	Section 135 / 136
23.01.24	Nursing Staff (Early Intervention Team)	MHA generic to specific team
08.02.24	Doctors Induction	MHA Overview generic to specific profession
12.03.24	Nursing and administrators in Single Point of Contact Service	MHA generic to specific team
13.03.24	Multi disciplinary team at St Nons	MHA generic to specific service
18.03.24	Administration Managers in Mental Health Services	MHA generic to specific administrative responsibilities and requirements
25.03.24	A&E General Hospital Bronglais	Section 136

In addition a pre-recorded training presentation has been uploaded to the MHA Administration Sharepoint page on the use of Section 5(2) holding powers which is readily and easily accessible to all staff across the Hywel Dda sites. Further presentations to be developed and should be available in due course on Section 136 and Receiving of Detention Papers, both aimed at nursing staff.

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

Following a considerably higher than average use of the MHA within this service during the last quarter during this current quarter it has reduced significantly. With use of Section 136 and Section 2 detentions equalling 5 in total. 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 in its early stages. During this period the Section 117 Administrator commenced in post on 1st January 2024 and is now available to respond to queries in relation to this area of Act.

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

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