

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

DYDDIAD Y CYFARFOD: DATE OF MEETING:	15 June 2021
TEITL YR ADRODDIAD: TITLE OF REPORT:	Mental Health Legislation Assurance Committee Quarterly Performance Report. Quarter 4, Jan- March 2021
CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:	Mr Andrew Carruthers, Director of Operations
SWYDDOG ADRODD: REPORTING OFFICER:	Mrs Ruth Bourke, Mental Health Act Administration Lead

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

For Information

**ADRODDIAD SCAA
SBAR REPORT**

Sefyllfa / Situation

The purpose of the paper is to present to the Mental Health Legislation Assurance 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 Mental Health (Wales) Measure 2010;

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 (MHL) Services during the quarter, that those functions of the Mental Health Act 1983 (the Act), as amended, and the Mental Health (Wales) Measure 2010 (the Measure) which they have delegated to officers and staff, are being carried out correctly; and that the wider operation of the 1983 Act and the Measure in relation to the Local Health Board's area is operating properly.

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

The Terms of Reference of the Committee itself 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.

Asesiad / Assessment

Summary

The report outlines how the Mental Legislation Assurance Committee has complied with the duties through the Terms of Reference set, and also identifies key actions to address developments.

The Mental Health Act, 1983

Any exceptions highlighted in the Mental Health Act activity report are intended to raise the Committee's awareness of matters relating to the functions of hospital managers and give assurance that the care and treatment of patients detained in Hywel Dda University Health Board and those subject to a community treatment order is only as the Act allows. Rates of detention under different sections of the MHA typically fluctuate between each quarter therefore only significant points are highlighted here.

Covid 19 Impact on the Act

Whilst the Coronavirus Act 2020 was never enacted that allowed temporary adaptations to the Mental Health Act other operations and processes within the Act have remain modified during this quarter.

MHRT hearings

In March 2020 Mental Health Review Tribunal for Wales issued a temporary Practice Direction in relation to Covid 19 to enable an adjustment in the way they operated. The changes resulted in the suspension of preliminary examinations by a medical member and all hearings taking place being done so via telephone conference calls. This practice continued throughout this quarter and an update from the MHRTfW is expected in due course.

All patients had the same opportunity to appeal and access to legal representatives by telephone prior to hearings taking place.

Hospital Managers reviews

All Hospital Managers reviews have been remotely during this quarter via use of MS Teams. This is continually monitored and evaluated through the Hospital Managers Power of Discharge Sub Committee. Rights to appeal against ongoing detentions have not been compromised as a result of remote hearings as a result patients' right to liberty as set out in Article 5(4) ultimately is still being protected.

Healthcare Inspectorate Wales (HIW) – SOAD service change

With effect from 27 March 2020 HIW issued guidance on the interim methodology for second opinions. As a result all physical visits by SOADs were suspended and SOAD requests required additional information. This has continued throughout this quarter and certificates were provided electronically directly to MHA administration teams.

The above changes have had a positive impact on the process in that certificates are generally being issued in a more timely manner.

MHLD Leave and Visiting Arrangements

Leave and visiting arrangements within the Health Board were amended in March 2020 in

order to protect both patient and staff safety in wards areas. Leave and visiting has continued to be impacted by the pandemic during this quarter. Additional Ipads to enable contact with family and friends have been provided to wards.

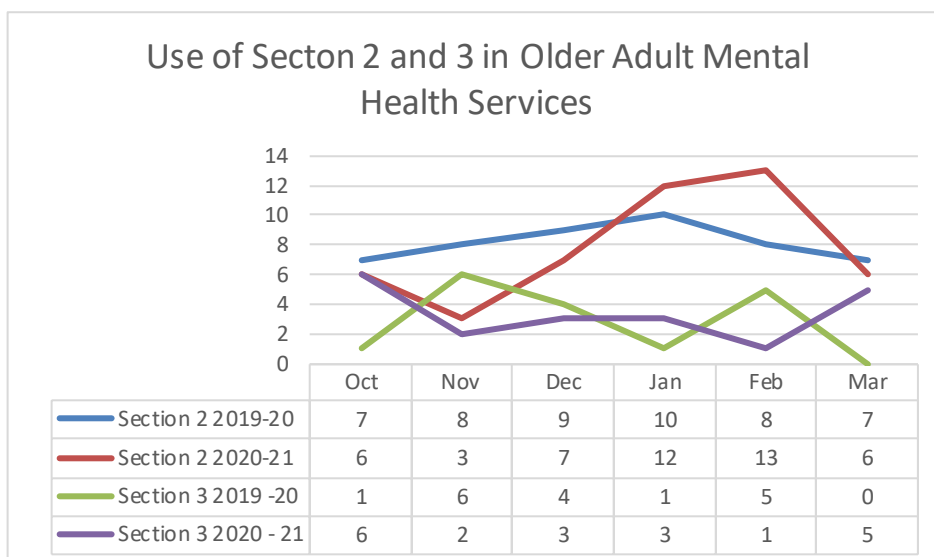
As expected there has been an overall reduction in short term periods of Section 17 leave being granted and it has also meant that ward doors were locked constantly throughout this period. Whilst no specific exclusion of visitors were reported there was an overriding limit on visitors to all units.

Overall, the use of the Act has remain largely unchanged with constant levels of applications, changes in legal status and discharges under the Act. Detained patients have continued to be provided with their legal rights and supported by IMHAs and legal representatives when requested.

A more detailed breakdown of the Act is as follows.

Section 2¹ and Section 3² are the most commonly used sections of the Act in the detention for assessment and treatment of individuals suffering from a mental disorder.

Detentions under S.2 and 3

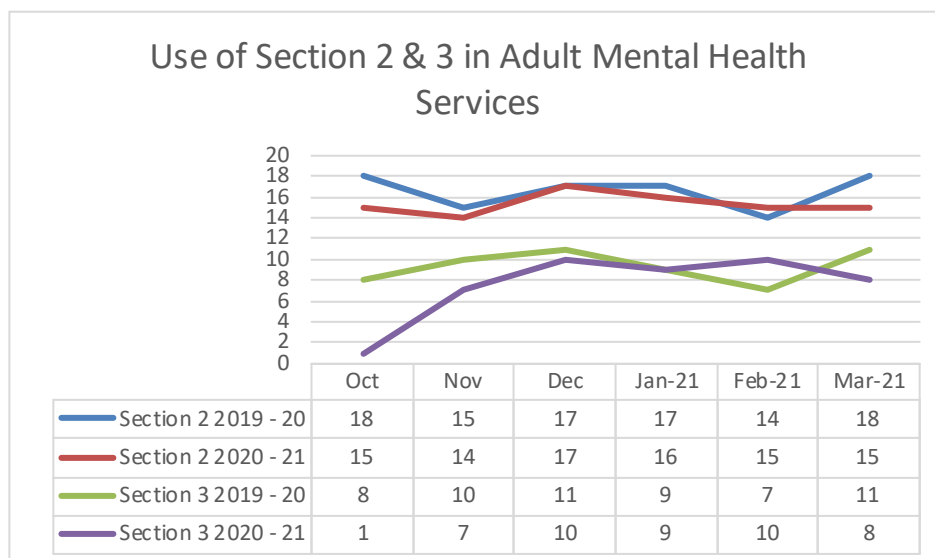
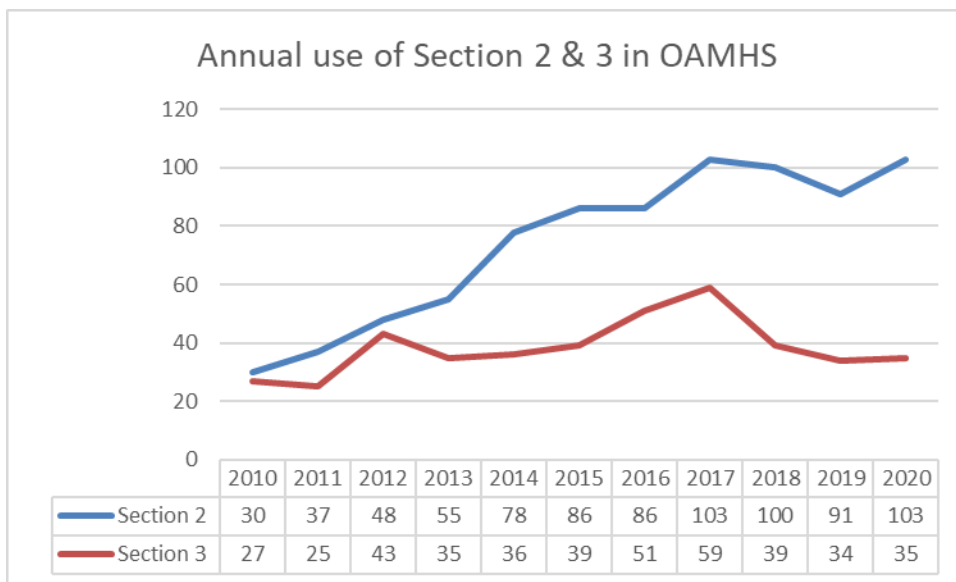


- In older adult services the use of both Section 2 and Section 3 has increased during this quarter when compared to the same three months last year. However figures fluctuate quite significantly, particularly section 2, month to month.

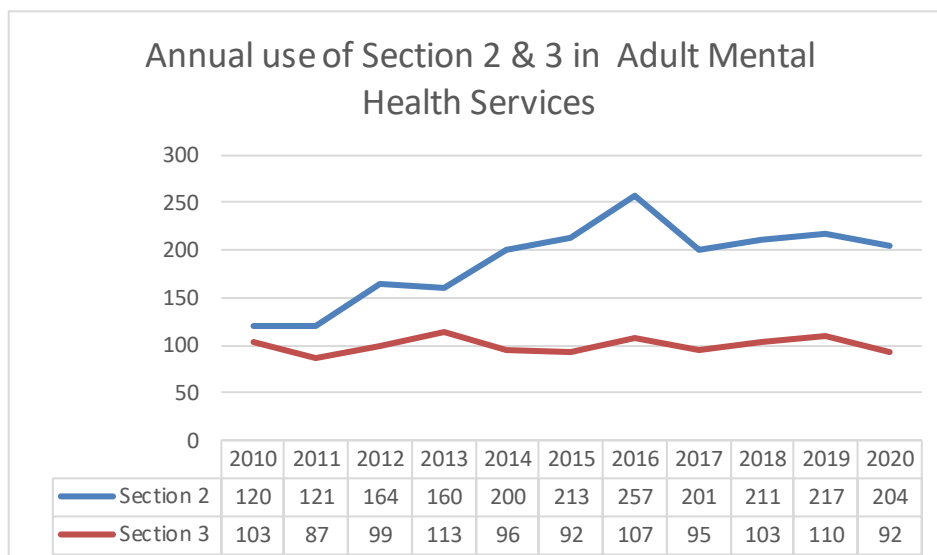
A more accurate trend may be obtained from annual use of section 2 and section 3 which can be found in the graph below:

¹ Section 2 of the Act allows for a period of detention in hospital for up to 28 days for assessment and treatment.

² Section 3 of the Act allows for a period of detention in hospital for up to six months for treatment and may be renewed.

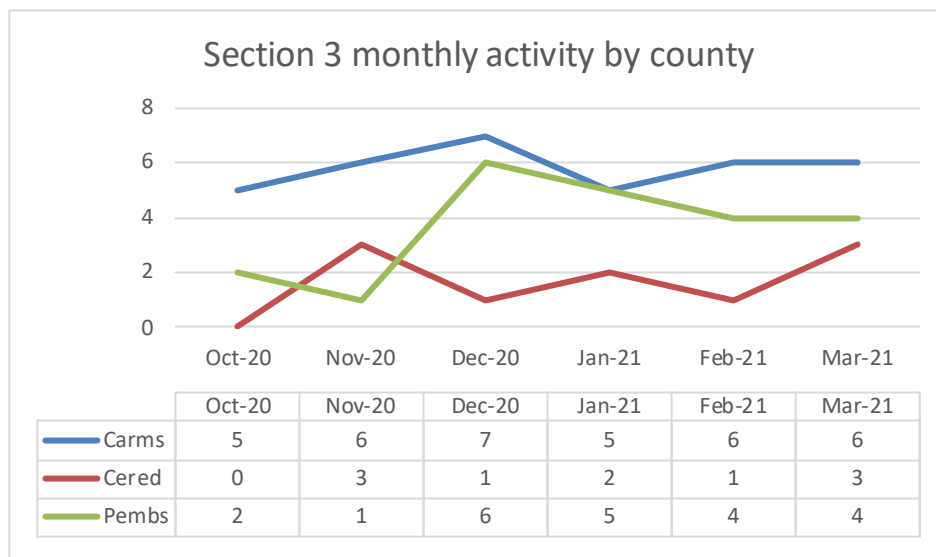


- Use of both Section 2 and 3 in adult services remain very consistent with the same period for 2019 with only slight variables from month to month.

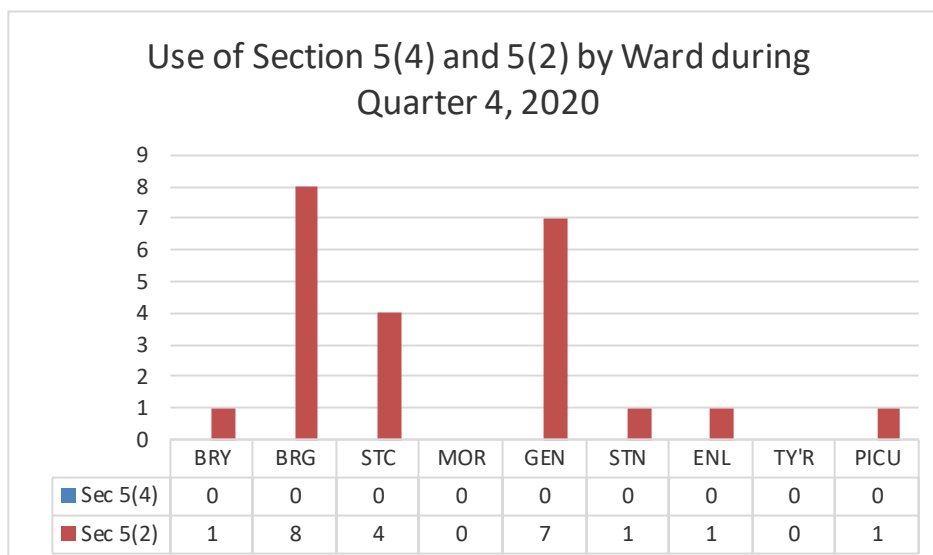


- New detentions under the MHA within the learning disability services remain extremely low. During this quarter there has not been new Section 2 or Section 3.
- Overall use of section 2 during this quarter has increased to 80 compared, a lower than average use of, 65 for the previous quarter. The average use of Section 2 (based over the previous 8 quarters) is 78.
- 62 patients were admitted to a ward directly from the community (this includes direct admissions under the Act from the general hospital wards).
- 2 patients were transferred in from another hospitals outside the health board.
- 18 out of 80 patients detained under section 2 during this quarter went on to Section 3 for treatment.
- There were 2 admissions under section 4 during this quarter. The average use of Section 4 per quarter based over the previous two years is between 3 and 4.

The MH Scrutiny Group are currently tasked with focussing on what is happening to people prior to their admission under Section 2, the level of activity, service input and if could have avoided any detentions.



Holding Powers - detentions under Section 5



- Section 5(4)³ has not been used during this quarter.
- Section 5(2)⁴ was used on 26 occasions during this quarter which compares to 20 in the last quarter.
- Section 5(2) was used in adult MH ward settings on 23 occasions, older adult MH ward settings on 3 occasions and in a general hospital ward setting on 7 occasions.
- 20 of these assessments were carried out within 60 hours.
- 15 of those patients were further detained on Section 2 or 3.

Detention without authority or Invalid Detentions

- 118 statutory documents were medically scrutinised
- 52 rectifiable errors were made on medical documents under section 15, MHA which allows corrections to be carried out within the statutory time limits (14 days).
- Other errors not covered under Section 15 includes:-
 - HO12s – not stating time / date of report being furnished to hospital managers
 - Missing names and details on the reasons why detention is necessary
 - Original paperwork is not being sent to MHA departments and/or getting lost in transit
- There were four invalid detentions –
 - Section 5(2) – holding powers on two occasions were furnished with no details relating to the time and date it was initiated
 - Section 2 – on two occasions were submitted with incorrect dates e.g. application made before the medical recommendations

	April – Jun 20	Jul – Sept 20	Oct – Dec 20	Jan – Mar 21
Detention Papers	119	118	98	118
Rectifiable Errors	58	42	42	35
Non Rectifiable Errors	2	5	2	4

The use of Section 135/6⁵

The number of occasions that Section 135/6 has been used with the UHB has decreased compared to the previous quarter (53 occasions compared to 61). The Section 136 activity is discussed at the Section 136 review group.

- The places of safety used for the MHA assessment were as follows:-
 - 35 to Bryngofal ward

³ Section 5(4) allows for a mental health and learning disability nurse to hold an in-patient up to 6 hours to allow for a decision to be made whether an application for detention should be made.

⁴ Section 5(2) grants a doctor in both mental health and general hospital ward settings to hold an inpatient for up to 72 hours to make a decision whether an application for detention should be made.

⁵ Section 136 allows a police officer to remove a person to a place of safety, if the person appears to be suffering from a mental disorder and to be in immediate need of care or control.

- 3 to Morlais Ward
- 10 to St Caradog Ward
- 3 to DGHs
- 1 to Gorwelion Resource Centre.
- 1 to custody
- There were one instance where a patient was taken to police custody as a place of safety and had an assessment. The outcome of this assessment was to detain the person under the Mental Health Act.
- No assessment had to be extended over 24 hours.
- Section 135⁶ was used on two occasions during this quarter each resulting in detention under the Mental Health Act.

A more detailed analysis of the use of Section 136 is detailed below providing information on which persons were previously known to MH&LD services, the follow up they received following the Section 136 and whether or not they had a care and treatment plan or were care co-ordinated. The Committee via the MH Scrutiny Group needs to understand person's experience of being detained therefore the MH Scrutiny Group is currently focusing on how this is measured and will report its findings separately to this Committee.

2020/21 QTR 4		JAN	FEB	MAR	TOTAL
SEC 136 MONTHLY ACTIVITY					
COUNTY	CARMS	9	7	12	28
	PEMBS	6	5	4	15
	CERED	2	0	1	3
PLACE OF SAFETY	BRYNGOFAL	11	9	15	35
	ST CARADOG	2	4	3	9
	MORLAIS	2	0	0	2
	GORWELION	0	0	1	1
	GEN HOSP	1	1	1	3
	CUSTODY	1	0	0	1
M/F/O	MALE	11	6	10	27
	FEMALE	6	8	10	24
	OTHER				
OUTCOME	DETAINED	5	6	6	17
	VOLUNTARY ADMISSION	4	3	1	8
	DISCHARGED	1	4	4	9
	Discharged & Referred to Services	7	1	9	17
KNOWN TO SERVICE	NO	3	2	1	6
	YES	14	12	19	45
	CARE CO-ORDINATED	5	3	4	12

⁶ Section 135(1) is a warrant provided by a magistrate authorising a police officer to lawfully remove a person from a private premises and remove them to a place of safety. Evidence will have been provided that there is cause to suspect the person to be suffering from a mental disorder.

	CTP IN PLACE	2	2	4	8
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S-CAMHS admissions to age-appropriate beds

In line with the Welsh Government document “Admission Guidance”, HDUHB has in place a robust Admission Policy/ Pathway outlining the process for admitting any young person into an adult mental health ward. The guidance stipulates that the Health Board must have a designated unit and within HDUHB this is Morlais Ward on the Glangwili Hospital campus.

A new protocol has been approved to meet this statutory requirement which will ensure compliance against Welsh Government expectations.

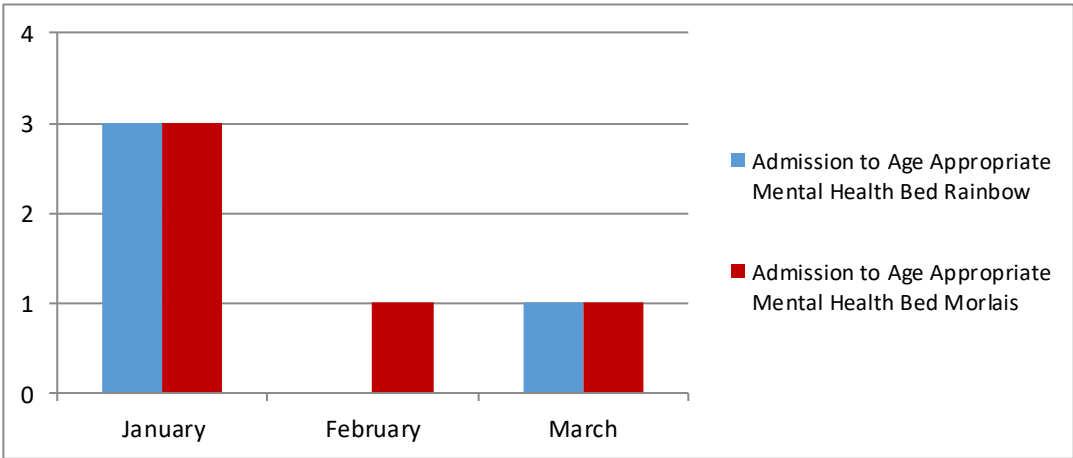
Admission to an adult mental health ward can be a frightening experience and every attempt is made to consider the least restrictive alternative for admission. In the majority of cases as young person is admitted to the designated unit on Cilgerran Ward support by staff from the mental health unit.

In line with the guidance, the staff have received additional training in safeguarding young people and in addition the staff on Morlais ward have all undertaken the following:

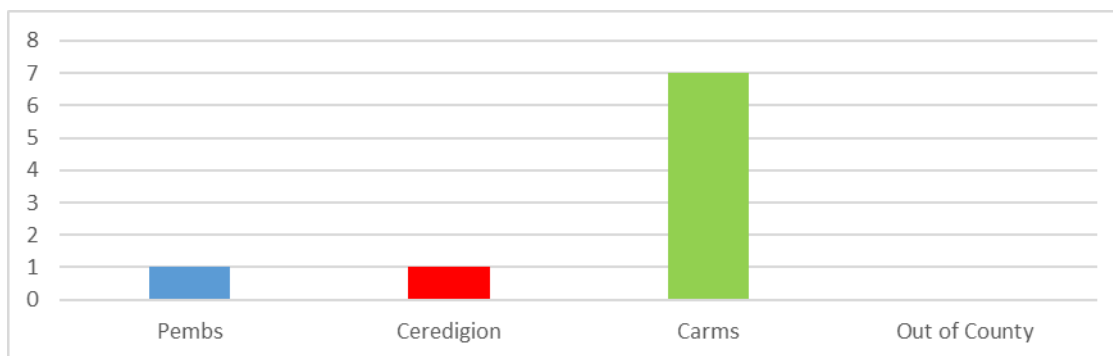
- Safeguarding children Level 3 training
- Have a valid enhanced DBS in place
- Undertaken specific training on the emotional and mental health needs of children and young people
- Training on the Mental Health Act and Social Services and Wellbeing (Wales) Act 2014.

All admissions to the mental health bed must be reported, initially as a DATIX, and followed by a Serious Untoward Incident report to Welsh Government in line with the Welsh Governments Admission Guidance Document.

Age Appropriate Bed



Admissions to Rainbow / Morlais Bed according to Locality:



Admission Outcomes

	Discharged Home	Onward Admission	Remains on Ward
Rainbow	3	1	0
Morlais	3	1	1

Locked Door

The doors were locked on the three acute wards for the full period of Quarter 4. This was to ensure a safe enclosed environment and compliance with Health Board temporary policy on visitors during the Coronavirus pandemic. Visitors to all areas across the Health Board have been extremely limited during this period.

A variety of methods are used on the elderly and learning disability wards to prevent vulnerable patients from leaving the ward, these include digital locks, automatic locks and keypad locks.

Exclusion of Visitors

Visitors to all areas across the Health Board have been extremely limited during this period due to the Coronavirus pandemic. There have been no reports by individual wards where a report on an exclusion of a particular visitor has been made.

Applications for Discharge to Hospital Managers and Mental Health Review Tribunal

There have been 9 applications for discharge made to the hospital managers during this quarter. As a result two hearings took place. All other applications had a Mental Health Review Tribunal hearing within 6 weeks of the application being made or within 7 days if on section 2.

The hospital managers heard 13 renewals which is a decrease on last quarter of 22. The average number of renewals per quarter over the last year are 18. The Code of Practice states renewal hearings should ideally be held before the section expiry date. This is the third consecutive quarter whereby every hearing has taken place as per recommendation.

All renewals were upheld.

There were no applications for discharge made by a nearest relative during Qtr 4.

There were 57 applications/referrals to the Mental Health Review Tribunal (compared to 45 - the average over the previous four quarters). There were 31 hearings that took place during this quarter which is a significant increase from 18 in the last. The quarterly average (based over last 6 quarters) is 33 hearings.

There have been 2 discharges by the MHRT during this quarter – both section 3 cases.

All hearings during this quarter took place remotely. Hospital managers started using Microsoft Teams during September 2020 and have continued to hold reviews in this way. The MHRT continue to take place via telephone conferencing.

The Mental Health (Wales) Measure 2010

The Mental Health (Wales) Measure 2010 has been reported to the Committee on a quarterly basis in order to provide assurance that activity is closely monitored and that practice is compliant with the requirements of The Measure. This is primary legislation that was passed by the Welsh Government in 2010 and became operational during 2012. The intention of the legislation is to ensure that people are able to access appropriate mental health support services, receive care that is co-ordinated by a named person, enables direct access back to services following discharge and that the entitlement to independent mental health advocacy is increased.

To achieve this the Measure is divided into four Parts:

Part 1 - The expansion of mental health services within primary care settings

Part 2 - The introduction of the statutory Care and Treatment Planning for individuals receiving secondary mental health services

Part 3 - Enabling former users of secondary mental health services who have been discharged to refer themselves back for assessment without having to first go to their GP

Part 4 - Expanding the Independent Mental Health Advocacy (IMHA) to informal patients.

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 Part 4 - Expanding the Independent Mental Health Advocacy (IMHA) to informal patients.

Part 1 – Local Primary Mental Health Support Services

Part 1 of the Measure is monitored in two parts, Target 1 and Target 2 as detailed in the table below. Performance is being monitored by the Head of Adult Mental Health Services with the LPMHSS Team Leaders.

PART 1	Detail		JAN 21	FEB 21	MAR 21
Target 1	80% of assessments by the LPMHSS undertaken within 28 days from date of receipt of referral	Adult	97.7%	96.6%	92.0%
Target 1	80% of assessments by the LPMHSS undertaken within 28 days from date of receipt of referral	CAMHS	47.1%	96.6%	35.7%
Target 2	80% of therapeutic interventions started within 28 days following an assessment by the LPMHSS	Adult	76.7%	89.7%	91.5%
Target 2	80% of therapeutic interventions started within 28 days following an assessment by the LPMHSS	CAMHS	38.1%	78.3%	55.0%

Part 2 – Care and Treatment Planning

PART 2	Detail	JAN 21	FEB 21	MAR 21
Measure 1	90% of LHB residents who are in receipt of secondary mental health services (all ages) to have a valid CTP	91.8%	92.4%	90.4%

Part 3 – Self Referral to Secondary Care for Former Service Users

PART 3	Detail	JAN 21	FEB 21	MAR 21
Measure 1	Individuals are re-assessed in a timely manner; and a copy of a report to that individual is provided no later than 10 working days. (Total number of requests for re-assessment received) Target 100%	100%	100%	100%

Part 4 – Independent Mental Health Advocacy

PART 4	Detail	JAN 21	FEB 21	MAR 21
	100% of hospitals to have arrangements in place to ensure advocacy is available to all qualifying patients – Percentage of qualifying compulsory / voluntary patients have been offered advocacy services in the mental health services (Target 100%)	NA	NA	NA

- Informatics department have reported that Part 4 is an internal target and figures therefore have not yet been made available.

Argymhelliad / Recommendation

To discuss the Mental Health Legislation Assurance Committee Quarterly Performance Paper.

Amcanion: (rhaid cwblhau) Objectives: (must be completed)	
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): Hyperlink to NHS Wales Health & Care Standards	Governance, Leadership and Accountability
Amcanion Strategol y BIP: UHB Strategic Objectives: Hyperlink to HDdUHB Strategic Objectives	All Strategic Objectives are applicable
Amcanion Llesiant BIP: UHB Well-being Objectives: Hyperlink to HDdUHB Well-being Objectives Annual Report 2018-2019	<ol style="list-style-type: none"> 1. Improve population health through prevention and early intervention 2. Support people to live active, happy and healthy lives 3. Improve efficiency and quality of services through collaboration with people, communities and partners

Gwybodaeth Ychwanegol: Further Information:	
Deddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015 - Pum dull o weithio: The Well-being of Future Generations (Wales) Act 2015 - 5 Ways of Working: Hyperlink to Well-being and Future Generations Act 2015 - The Essentials Guide	Please explain how each of the '5 Ways of Working' will be demonstrated
	Long term – can you evidence that the long term needs of the population and organisation have been considered in this work?
	Prevention – can you evidence that this work will prevent issues or challenges within, for example, service delivery, finance, workforce, and/or population health?
	Integration – can you evidence that this work supports the objectives and goals of either internal or external partners?
	Collaboration – The Mental Health Legislation Assurance Committee comprises external agencies, carer representatives and local authorities
	Involvement – can you evidence involvement of people with an interest in the service change/development and

that this reflects the diversity of our population?

Gwybodaeth Ychwanegol: Further Information:	
Ar sail tystiolaeth: Evidence Base:	Agendas, papers and minutes of the Mental Health Legislation Assurance Committee, Power of Discharge sub committee and scrutiny group
Rhestr Termau: Glossary of Terms:	Included within the body of the report.
Partion / Pwyllgorau â ymgynhorwyd ymlaen llaw y Cyfarfod Bwrdd Iechyd Prifysgol: Parties / Committees consulted prior to University Health Board:	The Mental Health Legislation Scrutiny Group Mental Health Operational 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:	s
Enw Da: Reputational:	Not Applicable
Gyfrinachedd: Privacy:	Not Applicable
Cydraddoldeb: Equality:	Not Applicable