



**Hywel Dda University  
Health Board  
Mental Health Legislation  
Committee  
Annual Report 2023/24**

## **Introduction**

The Mental Health Legislation Committee (MHLC) has been established as a Committee of Hywel Dda University Health Board (HDdUHB) and constituted from 1st June 2015 to assure the Board that those functions of the Mental Health Act 1983, as amended and The Mental Health (Wales) Measure 2010 have been 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 UHB's area are operating properly.

This Annual Report outlines how the Mental Health Legislation Committee has complied with the duties set through its Terms of Reference, and identifies key actions to address developments.

During 2023/24, Mental Health Legislation Committee meetings was held on a quarterly basis. The Committee was quorate and met on a hybrid basis in person and virtually on the four occasions:

- 15 June 2023
- 7 September 2023
- 18 December 2023
- 26 March 2024

The purpose of the Mental Health Legislation Committee is to assure the Board on the following:

- 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;
- The provisions of the Mental Health (Wales) Measure 2010 are implemented and exercised reasonably, fairly and lawfully;
- The UHB's responsibilities as Hospital Managers are being discharged effectively and lawfully;
- The UHB is compliant with Mental Health Act, 1983 Code of Practice for the Mental Health (Wales) Measure 2010 Legislation;
- The Committee will also advise the Board of any areas of concern in relation to compliance with mental health legislation and agree issues to be escalated to the Board with recommendations for action.

Membership of the Mental Health Legislation Committee consists of Independent Members. The Vice Chair of the University Health Board (UHB) undertakes the role of Chair of the Committee given their specific responsibility for overseeing the Board's performance in relation to Mental Health Services. Membership of the Committee consists of two Independent Members.

In attendance, membership includes UHB manager representation, a wide range of partner organisations, including local authority, police, advocacy, user representation, carer representation, Welsh Ambulance Services NHS Trust and the Community Health Council. The Committee may also request the attendance of any other officers of the UHB as required.

Mr Andrew Carruthers, Director of Operations has been Executive Director for the meeting since December 2019.

Ms Eleanor Marks was welcomed as the new Chair of Mental Health Legislation Committee in March 2024.

### **Executive Summary**

MHLC areas of Scrutiny 2023/24 have been varied. During 2023-24 the agenda has been categorised into four areas, which are:

- Governance
- Assurance
- Policies
- For Information

Agenda, papers and minutes are available on the Health Board website: [Mental Health Legislation Committee \(MHLC\)](#)

During 2023/24, the Committee received the following reports:

### **Governance:**

Reports submitted to the Committee for review in June 2023 and was approved by Public Board in July 2023 included-

- Committee Annual Report 2022/23
- Committee Terms of Reference

Also presented to the Committee during 2023-24 were the Terms of Reference from the-

- Mental Health Legislation Scrutiny Group- approved at the December 2023 meeting.
- Power of Discharge Sub-committee- approved at the June 2023 meeting.

Additional Governance reports presented to Committee during 2023/24:

- The **Annual Work Plan 2024-2025** has become a standing agenda item for Committee. The Committee takes an annual work plan-based approach to the management of its work and reminds members and stakeholders at every meeting that they can influence this work plan at any time.
- The **Mental Health Legislation Committee (MHLC) Self-Assessment 2022/23 new process** was presented to Committee in December 2023. The aim of the new process is to be proportionate, achievable and to add value to the governance capability organisation. The self-assessment will reflect on the previous year's Committee meetings in order to illustrate to the Board the difference that the Committee has made. From the 15 January 2024, all Members and In Attendance Members received the new digital self-assessment form to complete within a period of two weeks. The outcome of the feedback on the self-assessment will be presented to Committee in June 2024.

The Committee has reported to the Public Board after each of the Mental Health Legislation Committee meetings by presenting a summary report of the key discussion items at the Mental Health Legislation Committee. The Chair of the Mental Health Legislation Committee presents the report.

During 2023-24, the Committee received the following reports:

**Assurance:**

**The Mental Health Act Quarterly Report**

The Mental Health Act Quarterly report is presented to Committee for discussion. 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). The paper also includes assurance of other work carried out by the Mental Health and Learning Disabilities Directorate were related to mental health legislation.

The Committee considered use of the Mental Health Act during each quarterly meeting and found the use of the Act tended to fluctuate, sometimes quite significantly between each quarter.

Overall use of Section 5(2), doctors holding power, was the highest use since 2018. Use of Section 3, admission for treatment, was also higher with it being the second highest overall use in the last 10 years. Despite this the overall use of Section 2, admission for assessment, was relatively unremarkable and consistent with figures held over the last few years.

One theme that was referenced throughout the four reports on Mental Health Act performance was the increased use of the Mental Health Act within the general hospitals. The percentage of all Section 136 assessments whereby an A&E\* setting (to include MIU at Prince Philip Hospital) was used as a place of safety for a mental health assessment. During 2021/2 approximately 8% of all S136s were assessed in an A&E \* setting. During 2023/24 this percentage was closer to 35% on average and during quarter four 53% of all S136s were assessed in this area of the Health Board. When the Place of Safety is not in use then police officers take people to A&E departments for them to be assessed there. This increase was attributed to the Mental Health Place of Safety being used as an overflow bed because of increased demand for inpatient beds. However, a directive has been issued from the Director that the place of safety is not to be used as a surge bed.

There has been a steady decline in the use of Community Treatment Orders however, this figure appears to have now stabilised over the past three years.

**Mental Health Legislation Scrutiny Group**

The Mental Health Legislation Scrutiny Group is a Sub-Group of the Mental Health Legislation Committee (MHLC). The purpose of the report is to present the Mental Health Legislation Committee an update from the Mental Health Legislation Scrutiny Group on a quarterly basis.

### **The Mental Health (Wales) Measure 2010**

The Mental Health (Wales) Measure 2010 is reported to Committee on a quarterly basis in order to provide assurance that activity is closely monitored, and that practice is compliant with Welsh Government's key performance indicators. This primary legislation 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 available to all.

### **Power of Discharge Sub-committee**

The Power of Discharge Sub-committee report provides the Mental Health Legislation Committee assurance in respect of the work that has been undertaken by the Power of Discharge Sub-Committee during the quarter. The Power of Discharge Sub-committee that those functions of the Mental Health Act 1983 (the Act), as amended are being carried out correctly; and that the wider operation of the 1983 Act in relation to the Local Health Board's area is operating properly.

### **Risk Register**

The Mental Health Legislation Committee (MHLC) is responsible for providing assurance to the Board that risks aligned to the Committee are being identified, assessed and managed effectively.

The Committee is asked to seek assurance from Lead Officers/representatives of the Mental Health and Learning Disabilities (MHLD) Directorate that the operational risks identified in the attached reports are being managed effectively.

Operational risks must be managed within Directorates under the ownership and leadership of individual Executive Directors, who must establish local arrangements for the review of their Risk Registers, which includes the validation of the information and risk scores, and the prioritisation and identification of solutions to their risks. In addition to these local arrangements, formal monitoring and scrutiny processes are in place within Hywel Dda University Health Board (HDdUHB) to provide assurance to the Board that risks are being managed effectively.

All risks identified within the Datix Risk Module must be assigned to a formal Board Committee, Sub-Committee or Group (Mental Health Legislation Scrutiny Group) which will be responsible for securing assurance that risks within their remit are being managed effectively.

Management Leads are asked to review risk assessments and risk actions in line with the following timescales for review:

<b>RISK SCORE</b>	<b>DEFINITION</b>	<b>MINIMUM REVIEW FREQUENCY</b>
<b>15-25</b>	<b>Extreme</b>	This type of risk is considered extreme and should be reviewed and progress on actions updated at least monthly.

<b>8-12</b>	<b>High</b>	This type of risk is considered high and should be reviewed and progress on actions updated at least bi-monthly.
<b>4-6</b>	<b>Moderate</b>	This type of risk is considered moderate and should be reviewed and progress on actions updated at least every six months.
<b>1-3</b>	<b>Low</b>	This type of risk is considered low risk and should be reviewed and progress on actions updated at least annually.

During the December 2023 Mental Health Legislation Committee the following risk was raised:

<b>Risk Reference &amp; Title</b>	<b>Date risk identified</b>	<b>Lead Director</b>	<b>Current risk score</b>	<b>Rationale for the Current Risk Score (extracted from Datix)</b>	<b>Target Risk Score</b>
<p>1752 - There is a risk of due to the 136 suite for young people in Morlais ward being been identified as unsuitable, due to environmental safety concerns that cannot be fully mitigated.</p> <p>This is caused by the physical location of the 136 facility on the ward, space used and lack of adjoining private bathroom facilities.</p>	26/09/23	Director of Operations	<b>5x2=10</b>	<p>The current risk associated with points of ligatures substantially mitigated by staff presence and supervision.</p> <p>However, the risk associated with the patients privacy and dignity cannot be fully mitigated by this without relocation of the 136 suite to another area of the ward.</p> <p>The risk is mitigated as all children and young people assessed or admitted to the inpatient units are placed on a one to one.</p>	<b>2x1=2</b>

<p>This will lead to an impact/affect on the safety, privacy and dignity of young people who utilise the 136 suite being compromised</p> <p>Risk location, Glangwili General Hospital.</p>					
--	--	--	--	--	--

During the March 2024 Mental Health Legislation Committee the following risk was raised:

Risk Reference & Title	Date risk identified	Lead Director	Current risk score	Rationale for the Current Risk Score (extracted from Datix)	Target Risk Score
1781 - Risk of being unable to provide a Community Place of Safety (CPOS) to individuals detained under Section 136 in Ceredigion count	28/11/23	Director of Operations	<p><b>2x3=6</b></p> <p>(Reviewed 27/12/23)</p>	<p>Likelihood score given is 3 as it is always possible that an individual in Ceredigion will need to be detained on a Section 136. The current Impact score given is 2 as minor intervention is sometimes required (i.e. moving an individual to a different county) with an increased length of time in care/delay in assessment being undertaken.</p> <p>The risk of having no facility in Ceredigion is outweighed by the fact that the facility was unfit</p>	<b>2x2=4</b>

				for purpose and a much higher risk in itself.	
--	--	--	--	---	--

**Policies:**

The listed policies presented to MHLC during 2023-24 were up for their three-year review. All policies followed their governance process ahead of being approved by Committee.

- Section 5 (4) Nurses Holding Power Policy was approved at the June 2023 Committee meeting.
- The Provision and Access to the Independent Mental Health Advocacy (IMHA Service) Policy was approved at the June 2023 Committee meeting.
- 625 Community Treatment Order Policy was approved at the September 2023 Committee meeting.
- Section 5 (2) Dr Holding Policy was approved at the December 2023 Committee meeting.
- Community Treatment Order Policy was approved at the December 2023 Committee meeting.
- Hospital Manager Scheme of Delegation Policy was approved at the March 2024 Committee meeting.

**For Information:**

The following items was presented at the Mental Health Legislation Committee through 2023/24 for information:

- Schedule of Meetings 2023-2024
- Annual Work Plan 2023-2024
- Right Care Right Person
- Healthcare Inspectorate Wales (HIW) Annual Report 2022-2023
- Mental Health Standards of Care (Wales) Bill

**Opinion:**

The Committee is of the opinion that the draft Mental Health Legislation Committee report 2023-24 is consistent with its role as set out within the Terms of Reference and that there are no matters that the Committee is aware of at this time that have not been disclosed appropriately.

**ELEANOR MARKS**  
**Mental Health Legislation Committee Chair**

**IWAN Thomas**  
**Mental Health Legislation Committee Vice-Chair**