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Bwrdd Iechyd Prifysgol
Aneurin Bevan
University Health Board

Mental Health Act Monitoring Committee

Annual Report for 2023-24

DATE February 2024

CONTENTS

Foreword

1.	Introduction to the report and the Mental Health Act Monitoring Committee (MHAMC)	4
2.	2023-24 Work Programme	4
3.	Frequency of Committee Meetings and Membership	5
4.	MHAMC Reporting Arrangements	5
5.	Self-assessment and Evaluation	6
6.	Key Areas of Focus in 2024-25	6
7.	Conclusion	7
Appendix 1	MHAMC Terms of Reference (March 2023)	8
Appendix 2	MHAMC Work Programme for 2023-24	17
Appendix 3	MHAMC Meetings in 2023-24	18

Chair's Foreword

I am pleased to present the Mental Health Act Monitoring Committee's (the Committee's) Annual Report for the year ended 31 March 2024.

In this report we provide an overview of the work of the Committee in ensuring compliance with the legislative requirements of the Mental Health Act.

Diolch yn Fawr / Thank you

Pippa Britton
Chair
Mental Health Act Monitoring Committee

1. Introduction

- 1.1 Section 1 of the Standing Orders of the Aneurin Bevan University Health Board (referred to throughout this document as 'ABUHB, the Board' or the 'Health Board') provides that:

"The Board may and, where directed by the Welsh Government must, appoint Committees of the Health Board either to undertake specific functions on the Board's behalf or to provide advice and assurance to the Board in the exercise of its functions. The Board's commitment to openness and transparency in the conduct of its business extends equally to the work carried out on its behalf by committees".

- 1.2 The Term of Reference of the Mental Health Act Monitoring Committee (referred to throughout this document as 'MHAMC' or the 'Committee') were approved by the Board in March 2022 (see **Appendix 1**). These were not changed during the reporting year.
- 1.3 The purpose of the **Mental Health Act Monitoring Committee** is to advise and assure the Board and the Accountable Officer by critically monitoring and reviewing the way in which the Health Board discharges its functions and responsibilities under the Mental Health Act 1983 (the MH Act).
- 1.4 This report describes how the MHAMC discharged its role and responsibilities during the period 1 April 2023 to 31 March 2024.

2. 2023-24 Work Programme

- 2.1 ABUHB Standing Orders require the Board Secretary to produce an Annual Plan of Board business. This should incorporate formal Board meetings, regular Board Development sessions and, as appropriate, planned activities of the Board's Committees and Advisory Groups. The Work Programme adopted for MHAMC in 2023-24 is attached to this report (see **Appendix 2**).

A Work Programme is designed to align to its terms of reference and the requirement for it to seek information to be able to give advice or gain assurance for itself and on behalf of the Board. The Work Programme is, however, a framework rather than a prescriptive agenda. This gives MHAMC flexibility to identify changing priorities or any need for further assurance or information.

- 2.2 The focus of the MHAMC is to monitor and review the way in which the Health Board discharges its functions and responsibilities under the Mental Health Act 1983. The Committee therefore receives the Mental

Health Act and Compliance quarterly report, that provides an overview of performance across key areas and in doing so provides assurance to the Committee on the level of compliance with the legislative requirements of the Mental Health Act.

- 2.3 Arising from this report during the year, the Committee heard that the number of detentions held under Section 4 of the Mental Health Act, that permits an emergency application for detention in hospital for 72 hours demonstrated that numbers had increased for those who are detained but are within the normal range for Wales.
- 2.4 As part of strengthening reporting arrangements and to provide greater assurance, Members requested that moving forwards that within this report a performance trend is provided and that this would include the annual figures for each section to better aid comparison and the identification of trends.
- 2.5 The Committee also received assurance that the number of Asylum Seekers presenting with Mental Health concerns following their arrival in the UK was not an area of concern as numbers are low. Members were also assured that when a young person is detained there was a planned approach of the patient to the Community.
- 2.6 During the year the Committee also reviewed and agreed the revised Mental Health Act Managers Policy, that provides for two associate members of the Power of Discharge Committee to attend the Committee, although confirmation was sought as to who would be the responsible owner for this policy moving forwards.

2.7 **Power of Discharge Sub Committee(PDSC):**

The Health Board, as Hospital Managers, may arrange for their functions under the Mental Health Act to be performed on a day-to-day basis by an Officer or Lay Member on their behalf. These individuals appointed by the Health Board are known as Associate Hospital Managers and form the membership of the Power of Discharge Sub-Committee.

During the year the Committee discussed what the Sub-Committee had done to move forward with the requirements of the Power of Discharge Sub Committee. The Committee was assured to note that the actions included:

- The minutes of the meetings are now routinely shared with the Committee as part of the regular update.
- Regular meetings had been arranged to align with the MHAMC.

- Reports from the PDSC are routinely share with the Committee for assurance and developmental purposes.
- Effective structure and process are in place.
- Recruitment of 8 new members are in train to support the Sub-Committee.

This provides the Committee with assurance that the processes and procedures that operate in respect of the Power of Discharge Committee are fit for purpose.

3. MHAM Committee Meetings and Membership

- 3.1 During 2023-24, the MHAMC met four times via Microsoft Teams- June 2023, September 2023, December 2023, and February 2024. Details of the Members and Executive Directors who attended these meetings is provided at **Appendix 3**.
- 3.2 The Committee comprised the following Independent Members:
- Pippa Brittons (Chair)
 - Vice Chair (Vacant post)
 - Paul Deneen

Arrangements are underway to fill the vacant position on this committee to ensure that it appropriately constituted.

- 3.3 In accordance with the Public Bodies (Admissions to Meetings) Act 1960 the organisation is required to meet in public. Following the pandemic, the Committee has continued during the current year to meet virtually and this has therefore meant that the Health Board has not complied with its Standing Orders in this regard and this will be a key consideration as part of the Improving Board Business action plan.

To ensure business was conducted in as open and transparent manner as possible during this time the meeting agenda packs have been published to the Health Board's [website](#) in advance of meetings.

4. MHAMC Reporting Arrangements

- 4.1 Following each meeting, the MHAMC submits an Assurance Report to

the following Board meeting, outlining topics discussed, areas of concern and areas of risk. All Board papers can be accessed via the following [link](#)

5. Self-assessment and Evaluation

- 5.1 The Board has undertaken an overall assessment of its effectiveness during 2023/24 using the NHS England and NHS Improvement (NHSE and NHSI) Well-led Framework for Leadership and Governance Developmental Reviews.

The Well-led Framework supports boards to maintain and develop the effectiveness of their leadership and governance arrangements and has a strong focus on integrated governance and leadership across quality, finance and operations as well as an emphasis on organisational culture, improvement and system working.

The outcome of the current years self-assessment that was reported to the Committee on 21st February 2024 confirms that, the results of the individual self-assessment, combined with the analysis of the three completed self-assessments determined that the Committee is effective and meeting the standards.

Rating	Definition	Evidence
2	Meeting standards	The Mental Health Act Monitoring Committee is performing to the required standard in this area. There may be room for improvement, but the Mental Health Act Monitoring Committee can be seen to be discharging its responsibilities effectively.

Further, all of the respondents confirmed that the Committee was either meeting or excelling the standard for the effectiveness of this Committee.

Then main areas for improvement identified as part of the self assessment are shown below:

Specific Actions to deliver improvements in the Committee's effectiveness			
Section	Area of Focus requiring attention	How & by When	Action Holder

<p>Section 1 Committee Processes: Composition, Establishment, and Ways of Working</p>	<ul style="list-style-type: none"> • Inclusion of a standard agenda item to facilitate Committee Members reflection of the meeting held. • Members to have oversight of the Terms of Reference on an annual basis. • Induction training for Committee Members. 	<p>All actions to inform the development of an overarching Board Business Improvement Plan – March 2024 for Board approval</p>	<p>Director of Corporate Governance with Head of Board Business</p>
<p>Section 2 Governance and Assurance</p>	<ul style="list-style-type: none"> • RCRP/Concordat information report to be shared with Committee Members for information to support when reviewing multi agency protocols/policies. 	<p>to be factored into the Committee’s workplan 2024/25</p>	<p>Director of Corporate Governance with Head of Board Business</p>

These findings will be used to inform a comprehensive annual assessment of the Board’s effectiveness. An overarching Board Business Improvement Plan will be developed, informed by the assessment of the Board and its Committees and other feedback such as Structured Assessment, for delivery in 2024/25. The effectiveness of the Board’s Business function is reported through the Annual Governance Statement, enabling a focus on the work undertaken with the Board’s Committees, interconnectedness of the committees and escalation to the Board, as well as the culture between the Health Board and its auditors, regulators, and partners.

6. Key Areas of focus in 2024-25

To maintain focus on ensuring compliance with the legislative requirements of the Mental Health Act, and will also be informed by the findings of the Annual Committee Self-Assessment that will include for the RCRP/Concordat information reports to be routinely shared with the Committee when reviewing multi agency protocols/policies. Members have also requested that a standing agenda item on reflection is included on future agendas to enable a continuum of learning, reflection and improvement.

7. Conclusion

- 7.1 This report provides a summary of the work undertaken by the MHAMC during 2023-24, and demonstrates that the Committee has complied with its Terms of Reference as approved in March 2022.



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Appendix One

Mental Health Act Monitoring Committee

Terms of Reference 2022/23

Version: Approved

Date: March 2022

Document Title:	Mental Health Act Monitoring Committee Terms of Reference – 2022/23
Date of Document:	March 2022
Current version:	Approved
Previous version:	May 2021
Approved by:	Board
Review date:	March 2023

1. Introduction

The Aneurin Bevan University Health Board's standing orders provide that *"The Board may and, where directed by the Welsh Government, must appoint Committees of the Health Board either to undertake specific functions on the Board's behalf or to provide advice and assurance to the Board in the exercise of its functions. The Board's commitment to openness and transparency in the conduct of all its business extends equally to the work carried out on its behalf by committees"*.

In line with standing orders and the Health Board's Scheme of Delegation, the Board shall nominate annually a committee to be known as the **Mental Health Act Monitoring Committee**.

The Committee is formed of Independent Members of the Health Board and has no executive powers, other than those specifically delegated to it by the Board as outlined in these Terms of Reference.

The detailed Terms of Reference and operating arrangements set by the Board in respect of this Committee are set out in this document.

2. Purpose of the Committee

The purpose of the **Mental Health Act Monitoring Committee** ("the Committee") is to:

Advise and **assure** the Board and the Accountable Officer by critically monitoring and reviewing the way in which the Health Board discharges its functions and responsibilities under the Mental Health Act 1983 (the MH Act).

It will support the Health Board in discharging its accountabilities and responsibilities for the achievement of the Health Board's objectives and organisational requirements in accordance with the standards of good governance determined for the NHS in Wales.

Where appropriate, the Committee will advise the Board and the Accountable Officer (Chief Executive) on where and how its system of governance and assurance may be strengthened and further developed.

3. Delegated Powers and Authority

3.1. Authority

The Committee is authorised by the Board to investigate or to have investigated any activity (clinical and non-clinical) within its Terms of Reference. In doing so, the Committee shall have the right to inspect any books, records or documents of the Health Board relevant to the Committee's remit (ensuring patient, service user, client and staff confidentiality, as appropriate). It may seek relevant information from any:

- employee (and all employees are directed to cooperate with any reasonable request made by the Committee);

and

- any other committee, sub-committee or group set up by the Board to assist it in the delivery of its functions.

The Committee is authorised by the Board to obtain outside legal or other independent professional advice and to secure the attendance of outside representatives with relevant experience and expertise if it considers it necessary, in accordance with the Board's procurement, budgetary and other requirements.

The Committee may act on any particular matter or issue upon which the Board or the Accountable Officer may seek advice.

3.2. Sub-Committees

The Committee may, subject to the approval of the Health Board, establish sub-committees or task and finish groups to perform specific aspects of Committee business.

In this respect a **Power of Discharge Sub-Committee** will be created.

The Health Board, as Hospital Managers, may arrange for their functions under the Mental Health Act to be performed on a day-to-day basis by an Officer or Lay Member on their behalf. These individuals appointed by the Health Board will be known as Associate Hospital Managers and will form the membership of the Power of Discharge Sub-Committee.

The Sub-Committee will report routinely to the Committee for assurance and developmental purposes.

4. Function and Work Programme

4.1. Governance and Assurance

The Committee's programme of work will consider:

- how the delegated functions under the Mental Health Act are being exercised (for example using a programme of Annual Audit) and in line with the 'Code of Practice' requirements
- the operation of the 1983 Act within the Aneurin Bevan University Health Board area
- the multi-agency training requirements of those exercising the functions (including discussing the training report for assurance)
- issues arising from the operation of the hospital managers' power of discharge
- a suitable mechanism for reviewing multi agency protocols/policies relating to the 1983 Act
- trends and patterns of use of the Mental Health Act 1983
- cross-agency audit themes and sponsor appropriate cross-agency audits
- lessons learnt from difficulties in practice and the development of areas of good practice

To assist it the Committee will utilise the work of scrutiny and other assurance services including NHS Wales Internal Audit and Audit Wales, but will not be limited to these audit functions. It will also seek reports and assurances from directors and managers as appropriate, concentrating on the overarching systems of good governance, risk management and internal control, together with indicators of their effectiveness.

4.2. Risk Management

The Committee will seek assurances on the management of strategic risks delegated to the Committee by the Board, via the Corporate Risk Register.

4.3. Access

The Head of Internal Audit and the Auditor General and his representatives shall have unrestricted and confidential access to the Chair of the Committee at any time, and vice versa.

The Chair of the Mental Health Act Monitoring Committee shall have reasonable access to Executive Directors and other relevant senior staff.

5. Membership

The Mental Health Act 1983 gives responsibility to health and social care organisations and practitioners, in collaboration with a range of other agencies including police and ambulance services, as well as third sector

bodies such as advocacy providers. Therefore, consideration will be given to reflecting this wider partnership in the membership of the Committee, as different agencies and practitioners have differing responsibilities and duties under the Act.

5.1. Members

The Committee shall comprise of three (3) members:

Chair: Vice Chair of the Health Board

Vice Chair: Independent member of the Board

Other Members: One other independent member of the Board

The committee may also co-opt additional independent 'external' members from outside the organisation to provide specialist skills, knowledge and expertise.

5.2. Attendees

Health Board:

- Director of Primary Care, Community and Mental Health will be the lead Executive but will not be a formal member of the Committee.
- Other Executive Directors will attend as required by the Committee

Others by invitation

The Committee Chair may invite any other Health Board official and / or any others from within or outside the organisation to attend all or part of a meeting to assist it with its discussions on any particular matter.

5.3. Member Appointments

The membership of the Committee shall be determined by the Board, based on the recommendation of the Health Board Chair, taking account of the balance of skills and expertise necessary to deliver the Committee's remit and subject to any specific requirements or directions made by the Welsh Government.

Members shall be appointed to hold office for a period of one year at a time, up to a maximum of their term of office.

During their period of appointment a member may resign or be removed by the Board.

6. Support

6.1. Secretariat

Secretariat arrangements will be determined and arranged by the Director of Corporate Governance.

6.2. Advice and Member Support

The Board Secretary, on behalf of the Committee Chair, shall:

- Arrange the provision of advice and support to Committee members on any aspect related to the conduct of their role;
and
- Ensure the provision of a programme of organisational development for committee members as part of the Health Board's overall OD programme developed by the Director of Workforce and Organisational Development.

7. Committee Meetings

7.1. Quorum

At least two of the selected members must be present to ensure the quorum of the Committee, one of whom should be the Committee Chair or Vice Chair.

The Director of Primary Care, Community and Mental Health (or deputy) will count towards quorum, although is not considered a member of the Committee.

7.2. Frequency of Meetings

Meetings will be held quarterly per annum and otherwise as the Chair of the Committee deems necessary – consistent with the Health Boards plan of Board business.

7.3. In Committee and withdrawal of individuals in attendance

The Chairman may ask any or all of those who normally attend but who are not members of the Committee to withdraw to receive information which may include matters of a sensitive and/or confidential nature.

7.4. Record of the Committee Meeting

A record of the meeting will be presented as notes and action points.

7.5. Public Meetings

The Committee will be open to the public.

8. Relationship and Accountabilities with the Board and its Committees

Although the Board has delegated authority to the Committee for the exercise of certain functions as set out within these Terms of Reference, it retains overall responsibility and accountability for ensuring the quality and safety of healthcare for its citizens through the effective governance of the organisation.

The Committee is directly accountable to the Board for its performance in exercising the functions set out in these Terms of Reference.

The Committee, through its Chair and members, shall work closely with the Board's other committees, including joint (sub) committees and groups to provide advice and assurance to the Board through the:

- ~ Joint planning and co-ordination of Board and Committee business and
- ~ Sharing of information

In doing so, it will contribute to the integration of good governance across the organisation, ensuring that all sources of assurance are incorporated into the Board's overall risk and assurance arrangements.

The Committee will consider the assurance provided through the work of the Board's other committees and sub groups to meet its responsibilities for advising the Board on the adequacy of the Health Board's overall system of assurance.

The Committee shall embed the Health Board's corporate standards, priorities and requirements, e.g. equality and human rights through the conduct of its business.

9. Reporting and Assurance Arrangements

The Committee Chair shall:

- Report formally, regularly and on a timely basis to the Board and the Accountable Officer on the Committee's activities. This includes verbal updates on activity and the submission of committee minutes and written reports throughout the year;
- Bring to the Board and the Accountable Officer's specific attention any significant matters under consideration by the Committee;
- Ensure appropriate escalation arrangements are in place to alert the Health Board Chair, Chief Executive (and Accountable Officer) or Chairs of other relevant committees of any urgent/critical matters that may affect the operation and/or reputation of the Health Board.

The Committee shall provide a written, annual report to the Board and the Accountable Officer on its work in support of the Accountability Report and the Annual Governance Statement, specifically commenting on the adequacy of the assurance arrangements, the integration of governance arrangements and the appropriateness of self-assessment activity against relevant standards. The report will also record the results of the committee's self-assessment and evaluation.

The Board may require the Committee Chair to report upon the Committee's activities at public meetings or to community partners and other stakeholders, where this is considered appropriate, e.g. where the Committee's assurance role relates to a joint or shared responsibility.

The Board Secretary, on behalf of the Board, shall oversee a process of annual self-assessment and evaluation of the Committee's performance and operation including that of any sub committees established. In doing so, account will be taken of the requirements set out in the NHS Wales Audit Committee Handbook.

10. Applicability of Standing Orders to Committee Business

The requirements for the conduct of business as set out in the Health Board's Standing Orders are equally applicable to the operation of the Committee, except in the following areas:

- Quorum

11. Review

These terms of reference shall be reviewed annually by the Committee with reference to the Board.

Appendix Two

Matter to be Considered by Committee	Frequency	Responsible Lead	Scheduled Committee Dates 2023/24			
			19 th June	5 th Sept	6 th Dec	21 st Feb
Preliminary Matters						
Attendance and Apologies	Standing Item	Chair	✓.	✓.	✓.	✓.
Declarations of Interest		All Members	✓.	✓.	✓.	✓.
Minutes of the Previous Meeting		Chair	✓.	✓.	✓.	✓.
Action Log and Matters Arising		Chair	✓.	✓.	✓.	✓.
Committee Requirements as set out in Standing Orders						
Development of Committee Annual Programme of Business 2023/24	Annually	Chair & Director of CG				✓.
Review of Committee Programme of Business	Standing Item	Chair	✓.	✓.	✓.	✓.
Annual Review of Committee Terms of Reference 2023/24	Annually	Chair & Director of CG				✓.
Annual Review of Committee Effectiveness 2023/24	Annually	Chair & Director of CG				✓.
Committee Annual Report 2023/24	Annually	Chair & Director of CG				✓.
Mental Health Act Compliance						
Mental Health Act Compliance Report	Standing Item	Head of Quality & Improvement	✓.	✓.	✓.	✓.
Power of Discharge Committee Update	Standing Item	Head of Quality & Improvement	✓.	✓.	✓.	✓.
Items requested by Committee members/internal stakeholders						
Annual Benchmarking Report MHMAC/05/09/3.1 BC Requested for June/July 2024	Annually	Director of CG

Appendix Three

Mental Health Act Monitoring Committee: Attendance at meetings in 2023-24

Attended **Did Not Attend** **Not a Member/Required Attendee**

Meeting Dates	19 th June	5 th September	6 th December
Independent Members			
Pippa Britton	x	x	x
Paul Deneen	x	x	x
Executive Directors			
Chris O'Connor	x	x	x
Leanne Watkins	x	x	x
Rani Dash	x	x	x

