Mental Health Act Monitoring Committee

Thu 10 June 2021, 13:00 - 15:00

Microsoft Teams

Agenda

13:00 - 13:15
15 min

1. Preliminary Matters

1.1. Welcome and Introductions

Verbal *Chair*

1.2. Apologies for Absence

Verbal *Chair*

1.3. Declarations of Interest

Verbal *Chair*

1.4. 1.05-1.15 Minutes of Meeting Held on 2nd March 2021

Attachment *Chair*

1.4 MHAMC Minutes 02.03.21.pdf (6 pages)

13:15 - 14:15
60 min

2. Agenda Items

2.1. 1.15-1.35 Committee Terms of Reference Discussion

Attachment *Chair*

2.1 T of R draft - MHA Monitoring Committee 2021 May.pdf (10 pages)

2.2. 1.35-1.55 Mental Health Act Update

Attachment *Sarah Cadman*

2.2 MHA Update Report 2020-21 Annual.pdf (22 pages)

2.3. 1.55-2.15 Update on Section 117 Aftercare and Progress of the Section 117 Policy Review

Verbal *Sarah Cadman*

14:15 - 14:25
10 min

3. Final Matters/For Information

3.1. 14:15-14:25 Mental Health Act Benchmarking Information

Verbal *Chair*

14:25 - 14:30
5 min

4. Date of Next Meeting- Wednesday 8th September 2021, at 9am via Microsoft Teams

ANEURIN BEVAN UNIVERSITY HEALTH BOARD

Minutes of the Mental Health Act Monitoring Committee held on Wednesday 2 March 2021 at 10:15am in Executive Meeting Room, Headquarters St Cadoc's Hospital, Caerleon

---

Present:

Emrys Elias	-	Chair
Katija Dew	-	Independent Member

In Attendance:

Richard Howells	-	Board Secretary
Dr Chris O'Connor	-	Divisional Director for Mental Health and Learning Disabilities
Ian Thomas	-	General Manager, Mental Health and Learning Disabilities
Nick Wood	-	Executive Director of Primary, Community and Mental Health Services
Sarah Cadman	-	Head of Quality and Improvement for Mental Health and Learning Disabilities
Dr Kavitha Pasunuru	-	Clinical Director, Child and Adolescent Mental Health
Michelle Forkings	-	Divisional Nurse for Mental Health and Learning Disabilities/Associate Director of Nursing
Ian Thomas	-	General Manager, Mental Health Learning Disabilities
Claire Lipetz	-	Consultant Gynaecologist, Divisional Director
Tanya Strange	-	Assistant Director of Nursing

Apologies: No Apologies noted

MHAMC 0203/01 Welcome and Introductions

The Chair welcomed members and guests to the meeting.

MHAMC 0203/02 Apologies for Absence

No apologies for absence were noted. Claire Lipetz expressed her apologies as she had to leave the meeting early.

MHAMC 0203/03 **Declarations of Interest**

There were no Declarations of Interest in relation to items on the Agenda.

MHAMC 0203/04 **Minutes of the Meeting held on 4th March 2020**

The Minutes were agreed as a true and accurate record of the meeting held on 4th March 2020.

MHAMC 0203/05 **Action Log of the Meeting held on 4th March 2020**

The Committee agreed the actions from the previous meeting.

MHAMC 1710/07 – Mental Health Practice Issues resulting from a Board Development Session to include:

- **Section 117 Aftercare**

Updates on progress of the Section 117 policy review would be reported at the next committee meeting.

ACTION: Chris O'Connor

MHAMC 0203/06 **Mental Health Act Update**

Sarah Cadman provided an overview of the use of the Mental Health Act within the Health Board over the past 9 months.

A more detailed review of the last quarter was presented and a comparative view against previous years data to ascertain the trends in the Acts usage.

It was noted that Section 4 of the MH Act had been used more in this Health Board in the last year than previously, and that there had been a significant decrease in the use of Section 136 of the Act since the beginning of COVID. The use of these sections will be monitored accordingly.

The Committee was assured that the Hospital manager's hearings and tribunals were continuing and were being held virtually.

The Committee was advised that there was a rise of 5.7% in Mental Health Act activity, in comparison to the previous quarter, and that this was being closely monitored. Kajita Dew suggested that it would be interesting to review the areas in which there was a decrease since the start of the pandemic and whether this was due to the change in circumstances having an impact on mental health or if it was due to people not presenting when unwell.

The Chair highlighted the good work that the Health Board was undertaking in the community with the new service models for Crisis and Prevention. The evaluation of these services will help to inform on the effectiveness and management of crisis and support the future planning and commissioning of mental health service models..

Chris O'Connor reported that the tender for the *Sanctuary Service* had been agreed and this service it will be reviewed as part of the evaluation of crisis care.

MHAMC 0203/07 **Power of Discharge Sub-Committee Update**

Sarah Cadman provided the Committee with an update on the work of the Power of Discharge Sub-committee, the Mental Health Act and associate hospital managers activity within the Mental Health and Learning Disabilities Division.

It was noted that the formal agenda had been temporarily replaced with an informal progress and current situation reporting meeting, to fit with the COVID requirements and adjusted governance arrangements. Feedback from managers was generally positive and it was reported that having papers available electronically was an efficient and a more confidential process..

One item of note was *feedback from Service users about the use of virtual hearings* and how the Health Board will use this to improve services. Kajita Dew highlighted that this was a good opportunity for reflection, to look at what would work best for service users. Sarah Cadman confirmed that the report on the feedback would be ready after the next MHAMC meeting. **Action: Sarah Cadman**

MHAMC 0203/08 **Consultation regarding the proposed changes to the Mental Health Act**

Chris O'Connor updated the Committee on the White Paper, outlining the findings and recommendations of the UK government's independent review of the Mental Health Act. The Committee was advised that the formal consultation, based on the proposed changes,

would end in April. Chris O'Connor highlighted the four new guiding principles around changes to the Mental Health Act:

- Giving individuals more choice and autonomy.
- Supporting people in the least restrictive way.
- Ensuring that any use of the Mental Health Act provides therapeutic benefits to the individuals.
- Person centred care and support for individuals.

It was understood that all responses to the consultation would be submitted to the UK Government but any specific responses within Wales would be shared and developed with the Welsh Government. Nick Wood assured the Committee that the White Paper's recommendations align with the Health Board's proposals in the new transformation model for Mental Health services. The new model guidance focussed on a whole person system based on individual needs.

Kajita Dew highlighted the current work around COVID vaccinations for BAME groups taking place between Members of the Senedd, Independent members and the Muslim Doctors Cymru Group. The possibility of using these groups to relay any future messages, particularly in Mental Health, was suggested to the Committee.

The Chair stated that the Health Board would be responding to the Mental Health Act consultation document and highlighted the timeframe of eight weeks in which to do so. **Action: Nick Wood**

MHAMC 0203/09 **COVID-19; How the Mental Health Act has been monitored under adjusted governance arrangements during the pandemic.**

Nick Wood provided an overview of how the Mental Health Act had been monitored during the period of adjusted governance.

The Committee were assured that there had been ongoing monitoring of compliance, ensuring that the Health Board retained assurance and governance for Mental Health services. The Health Board chose an incident response approach to align with the major incident approach and a Gold Strategic cell was established to maintain service delivery. Silver cells were also established with a focus on service delivery directly related to the pandemic and divisional Bronze

cells were set up, including Mental Health, with the responsibility to direct, control, coordinate and report on issues. The Bronze group enabled the division to monitor compliance with all safety and service standards applicable to the Mental Health Act, with a clear escalation route through to the Executive Team, the Board and the Welsh Government. Nick Wood highlighted that assurance meetings had followed adjusted governance arrangements and had been less frequent over the past year. However, clear reporting and structure had been maintained throughout.

It was noted that the structural approach had been changed during the 2nd wave of the pandemic and that the Tactical Cell had been stood down. From 21st December 2020, the Bronze cell has reported directly to the Executive Team, with weekly meetings to ensure any issues can be escalated in a timely manner.

A summary of how the Mental Health Act has been monitored under adjusted governance arrangements to be provided to the Board for assurance. **Action: Nick Wood**

MHAMC 0203/10 **Committee Structure Diagram**

Michelle Forkings revisited a paper that was presented to the Committee in March 2020, which included the Committee structure for the Mental Health and Learning Disabilities Division and its interface with local and national partners. A further paper was produced that outlined the Committees structure, specifically relating to the Mental Health Act. This paper included the present Committee structure, the Power of Discharge Sub Committee structure and areas of which the governance and structure align to.

The Committee noted the report.

MHAMC 0203/11 **Items for Board Consideration**

The Chair noted that a paragraph on the monitoring of the Mental Health Act to be provided for assurance to the Board (See previous Action **MHAMC 0203/09**).

MHAMC 0203/12 **Date and Time of Next meeting**

The next meeting of the Mental Health Act Monitoring Committee will be held on Thursday 3rd June 2021 at 1.00pm via Microsoft Teams.

Mental Health Act Monitoring Committee
Terms of Reference – 2021/22

Version: Draft

Date: 07/05/2021

Document Title:	Mental Health Act Monitoring Committee Terms of Reference – 2021/22
Date of Document:	07/05/2021
Current version:	Draft
Previous version:	
Approved by:	
Review date:	March 2022

Contents

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 work will provide assessment and assurance of the Health Board's:

- compliance with the relevant regulatory requirements, standards, quality and service delivery requirements and other directions and requirements set by the Welsh Government and others;
- efficiency, effectiveness and economic use of resources and the extent to which the safeguards and protects all assets, including its people (in association with the other relevant Committees)

- compliance with Standing Orders, Standing Financial Instructions (including associated framework documents, as appropriate) and Scheme of Delegation

In performing this work the Committee will review:

- The underlying assurance processes that indicate the degree of the achievement of corporate objectives, the effectiveness of the management of principal risks and the appropriateness of the above disclosure statements;
- The policies for ensuring compliance with relevant regulatory, legal and code of conduct and accountability requirements;

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 assurance that there is an effective framework for the management of strategic, clinical and operational risks linked to the Health Boards delegated functions under the Act and that the effectiveness of the framework is regularly reviewed.

4.3. Effective 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

4.4. 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 Board Secretary.

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.

GIG CYMRU NHS WALES Bwrdd Iechyd Prifysgol Aneurin Bevan University Health Board	Aneurin Bevan University Health Board Day, Date, Month, Year Agenda Item: XX

Aneurin Bevan University Health Board

Mental Health Act Update

Executive Summary

This report provides the Mental Health and Learning Disabilities Committee with an update on the use of the Mental Health Act within Aneurin Bevan Health Board.

The Board is asked to: (please tick as appropriate)	
Approve the Report	
Discuss and Provide Views	
Receive the Report for Assurance/Compliance	X
Note the Report for Information Only	

Executive Sponsor: Nick Wood

Report Authors: Amelia James, Mental Health Act Administration.

Report Received consideration and supported by :

Executive Team		**Committee of the Board**	Mental Health and Learning Disabilities Committee

Date of the Report: 10.05.21

Supplementary Papers Attached: Glossary Of Terms

MAIN REPORT: As a guide, reports should be no longer than 8-10 pages

Purpose of the Report

The report provides activity information on the use of the Mental Health Act over the last financial year (2020/21) and provides a comparison of activity over the previous year. Where available, other information sources will be used in order to highlight any trends, patterns or variation over time.

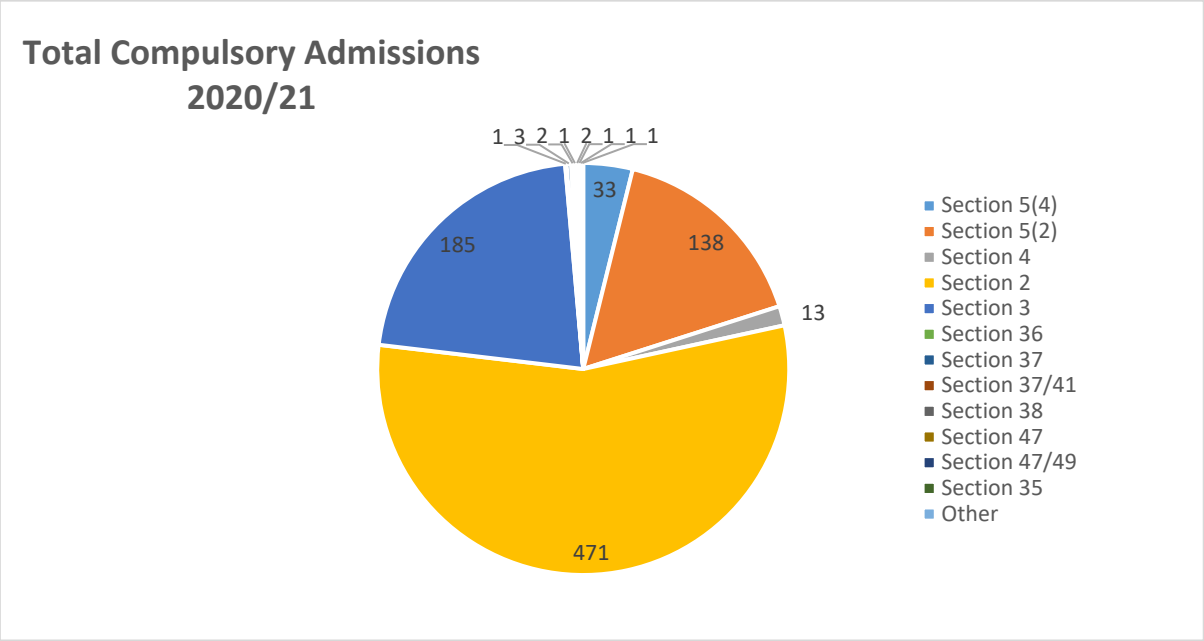
The report is presented to provide assurance to the Committee on the compliance with the legislative requirements of the Mental Health Act.

Background and Context

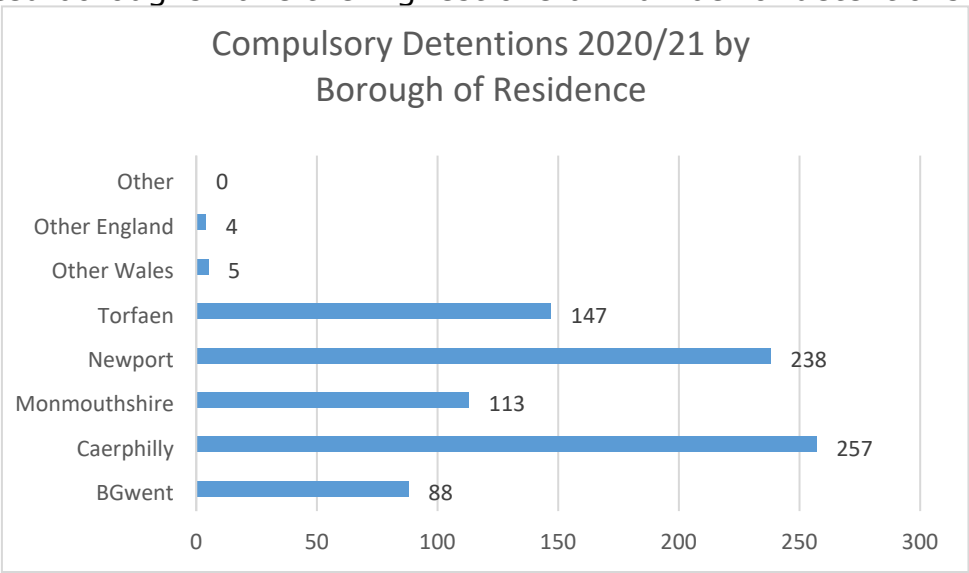
The report presents data by quarter over the 2020-21 financial year on the use of the Mental Health Act (MHA) across the Health Board. The data is currently collected and analysed through the Mental Health Act Administration Office.

1. In-Patient MHA Activity

Data on the use of compulsory admission under the MHA by is shown below. The pie chart provides a high level summary on the use of the act by section across all ages/specialties in the Health Board.



A breakdown of all compulsory admissions by borough of residence of each patient is shown below. This shows that there is some variation in the number of detentions by borough in comparison to population size, although Caerphilly and Newport as the largest populated boroughs have the highest overall number of detentions.



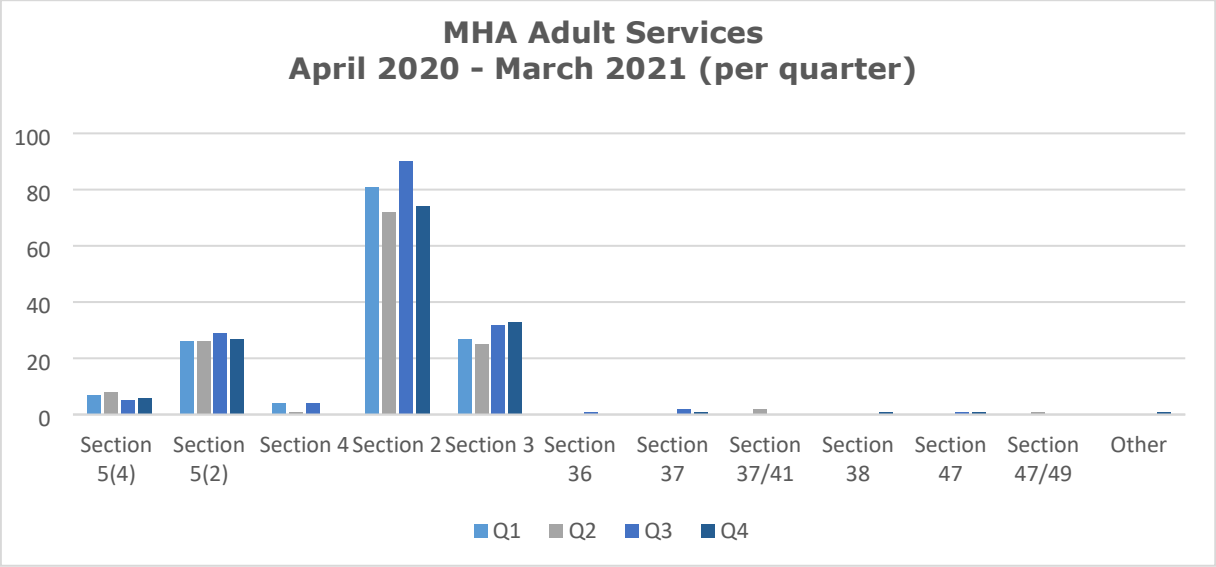
Borough	Detentions	Population (000's)	Detentions per 1,000 population
Caerphilly	257	181	1.4
Newport	238	153	1.6
Monmouthshire	113	94	1.2
Torfaen	147	93	1.6
Blaenau Gwent	88	69	1.3

In comparison to the previous financial year (2019/20), there has been a slight increase (2%) in the overall number of patients detained under the Act.

Section	Total 2019/20	Total 2020/21	Annual Trend
Section 5(4)	52	33	↓
Section 5(2)	122	138	↑
Section 4	17	13	↓
Section 2	419	471	↑
Section 3	212	185	↓
Total	**822**	**840**	↑

- **MH Adult Compulsory Admissions Under the MHA (1983)**

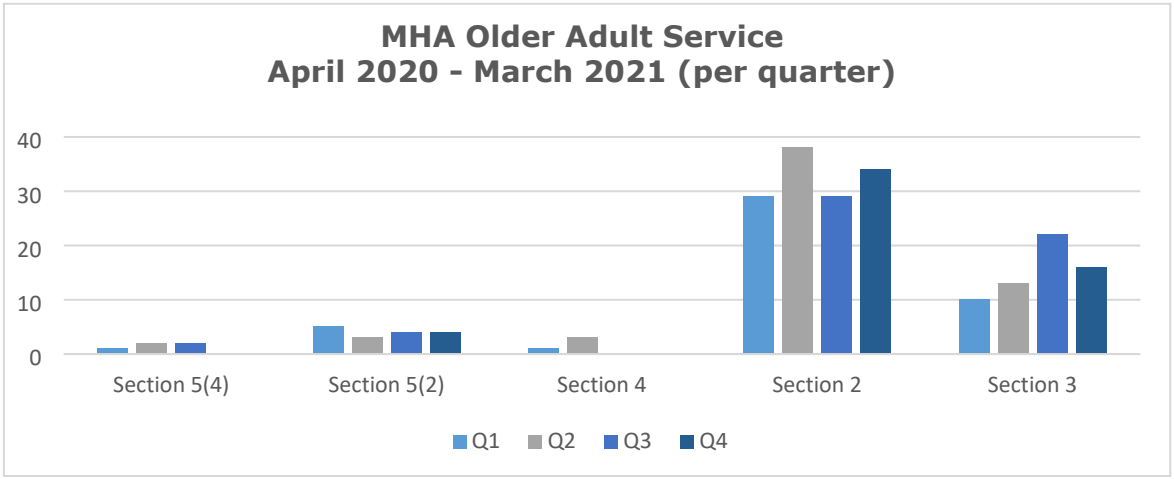
A breakdown of all compulsory admissions to mental wards of all adults under 65 years of age is shown in the chart and table below. It can be seen that just over half of all admissions are under Section 2 (Assessment) of the MHA, with around a fifth of detentions under section 3 (Treatment). 22% of all adult detentions were under Section 5 of the Act.



Section	Q1 20/21	Q2 20/21	Q3 20/21	Q4 20/21	TOTAL	% of Total
Section 5(4)	7	8	5	6	**26**	**4%**
Section 5(2)	26	26	29	27	**108**	**18%**
Section 4	4	1	4	0	**9**	**2%**
Section 2	81	72	90	74	**317**	**54%**
Section 3	27	25	32	33	**117**	**20%**
Section 36	0	0	1	0	**1**	**0%**
Section 37	0	0	2	1	**3**	**1%**
Section 37/41	0	2	0	0	**2**	**0%**
Section 38	0	0	0	1	**1**	**0%**
Section 47	0	0	1	1	**2**	**0%**
Section 47/49	0	1	0	0	**1**	**0%**
Other	0	0	0	1	**1**	**0%**
TOTAL	**145**	**135**	**164**	**144**	**588**	

- **MH Older Adult Compulsory Admissions Under the MHA (1983)**

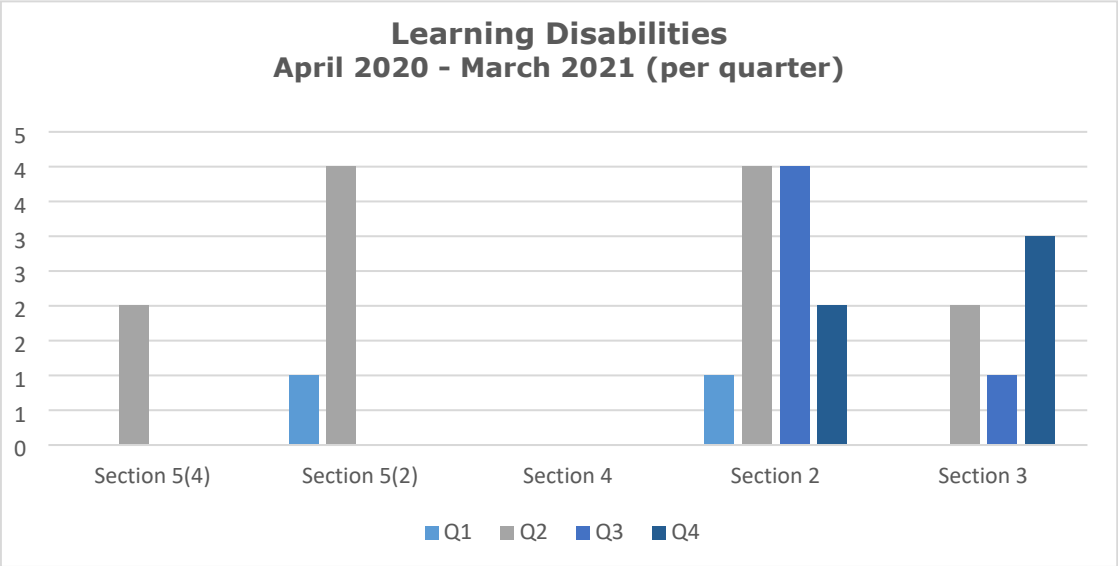
Within the older adult population patients admitted and detained, 88% were admitted under Sections 2 or 3 of the MHA with only 9% admitted under Section 5 provision.



Section	Q1 20/21	Q2 20/21	Q3 20/21	Q4 20/21	TOTAL	% of Total
Section 5(4)	1	2	2	0	**5**	**2%**
Section 5(2)	5	3	4	4	**16**	**7%**
Section 4	1	3	0	0	**4**	**2%**
Section 2	29	38	29	34	**130**	**60%**
Section 3	10	13	22	16	**61**	**28%**
TOTAL	**46**	**59**	**57**	**54**	**216**	

- **Learning Disability Compulsory Admissions Under the MHA (1983)**

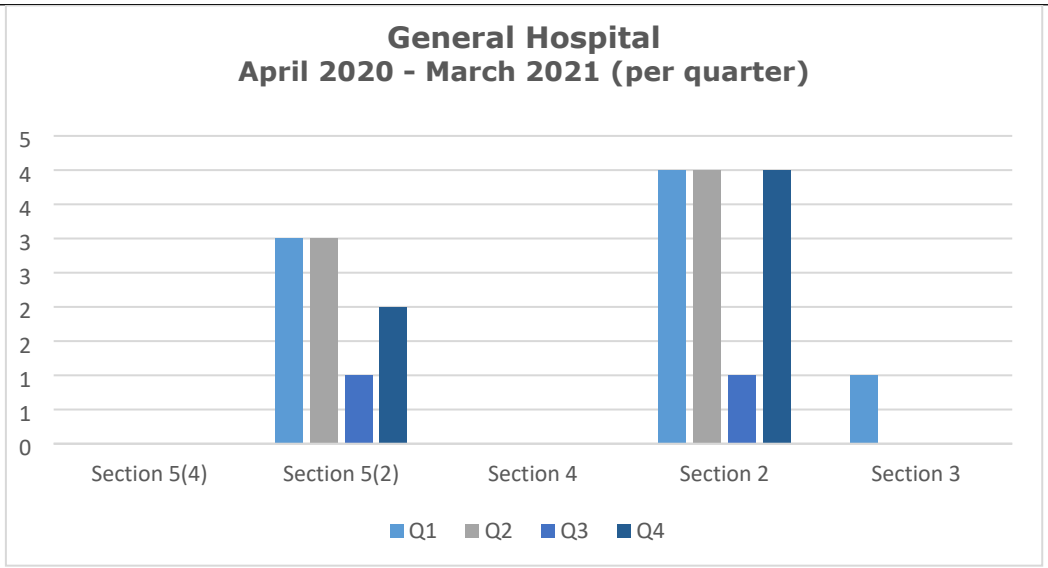
For individuals with a learning disability requiring admission under the MHA, 68% were admitted under Section 2 or 3, with 28% admitted under section 5.



Section	Q1 20/21	Q2 20/21	Q3 20/21	Q4 20/21	TOTAL	% of Total
Section 5(4)	0	2	0	0	**2**	**8%**
Section 5(2)	1	4	0	0	**5**	**20%**
Section 4	0	0	0	0	**0**	**0%**
Section 2	1	4	4	2	**11**	**44%**
Section 3	0	2	1	3	**6**	**24%**
Section 35	0	1	0	0	**1**	**4%**
TOTAL	**2**	**13**	**5**	**5**	**25**	

- **General Hospital Compulsory Admissions Under the MHA (1983)**

For patients detained under the MHA in a General Hospital setting, 61% were detained under Section 2 or 3 and 39% of all patients were detained under section 5(2) of the MHA.

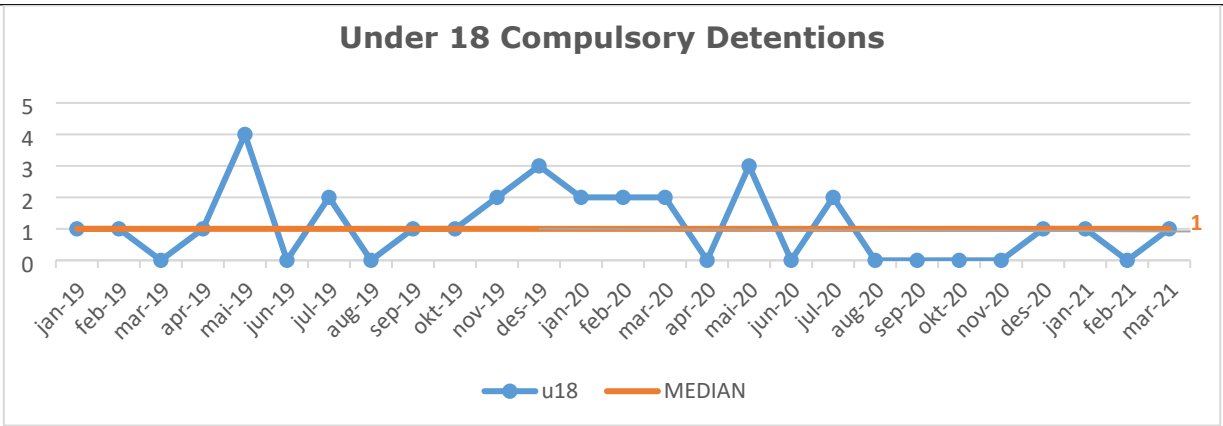


Section	Q1 20/21	Q2 20/21	Q3 20/21	Q4 20/21	TOTAL	% of Total
Section 5(4)	0	0	0	0	**0**	**0%**
Section 5(2)	3	3	1	2	**9**	**39%**
Section 4	0	0	0	0	**0**	**0%**
Section 2	4	4	1	4	**13**	**57%**
Section 3	1	0	0	0	**1**	**4%**
TOTAL	**8**	**7**	**2**	**6**	**23**	

- **Total number of Under 18s Compulsory Detentions Under the MHA (1983)**

Within Aneurin Bevan there is no dedicated Children and Young Persons CAMHS inpatient provision. Access to emergency provision for a bed in Ty Cyfannol extra care area for up to 72 hours is provided locally for 16-17 year olds, with younger patients normally being admitted to a paediatric ward if necessary. The number of admissions rose significantly between 2017/18 (4 admissions) and 18/19 (19 admissions) and stabilised at the higher level during 2019/20. The number of admissions decreased in 2020/21 with 8 admissions.

Under 18 years Detentions 2020/21	Q1	Q2	Q3	Q4	Total	Annual Trend
Section 5(4)	0	0	0	0	**0**	—
Section 5(2)	1	1	0	0	**2**	↓
Section 2	2	1	1	2	**6**	↓
Section 3	0	0	0	0	**0**	↓
CTO	0	0	0	0	**0**	↓
TOTAL	**3**	**2**	**1**	**2**	**8**	



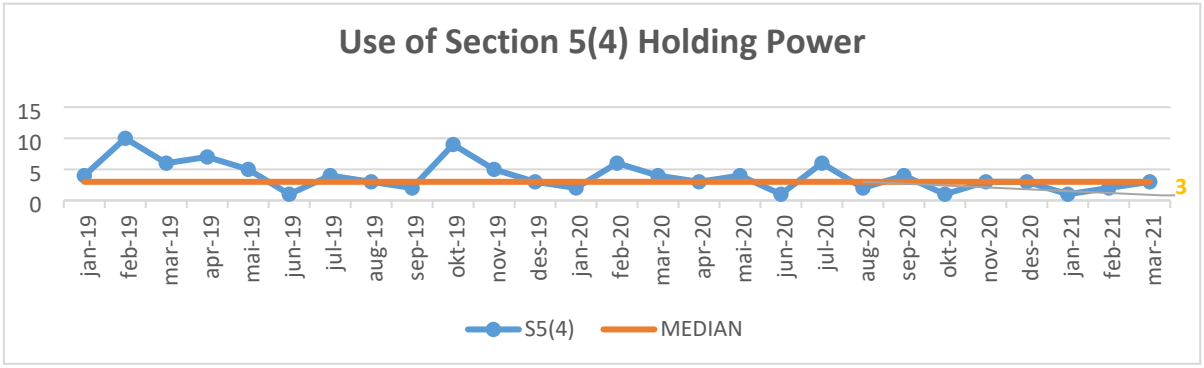
Higher number of admissions is a safety concern due to the limitations of the environment on a busy adult acute ward. Where there is an increase in Under 18 detentions under the MHA this is highlighted and escalated to the CAMHS and Adult senior lead nurses. Access to CAMHS specialist inpatient provision has also been escalated to Welsh Government previously. The MHA Administration Department monitor the trends on a regular basis.

2. Trend Analysis of the main compulsory admissions across all services from January 2019 to March 2021

This section briefly highlights any trends noted in the use of the Mental Health Act.

- **Use of Section 5 Holding Powers**

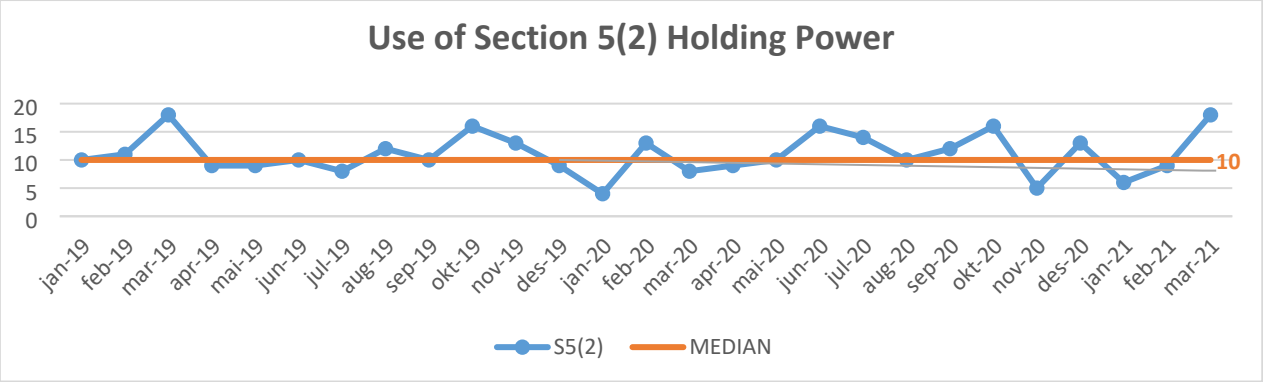
The use of Section 5(4) is intended as an emergency measure to detain informal patients for up to 6 hours to prevent an individual already receiving treatment from leaving hospital. There were 33 uses of this holding power over the last financial year, over two thirds of these resulting in a doctor/approved clinician detaining the patient under Section 5(2). Just under one third of all Section 5(4) either ended or lapsed.



Outcome of Section 5(4) – April 2020 to March 2021

Outcome	Total	%
Lapsed	7	21%
Ended	3	9%
Section 5(2)	23	70%
Section 2	0	0%
Total	**33**	

The use of Section 5(2) resulted in just under two thirds being detained under section 2 or 3 with over one third ending or lapsing without further detention under the MHA.

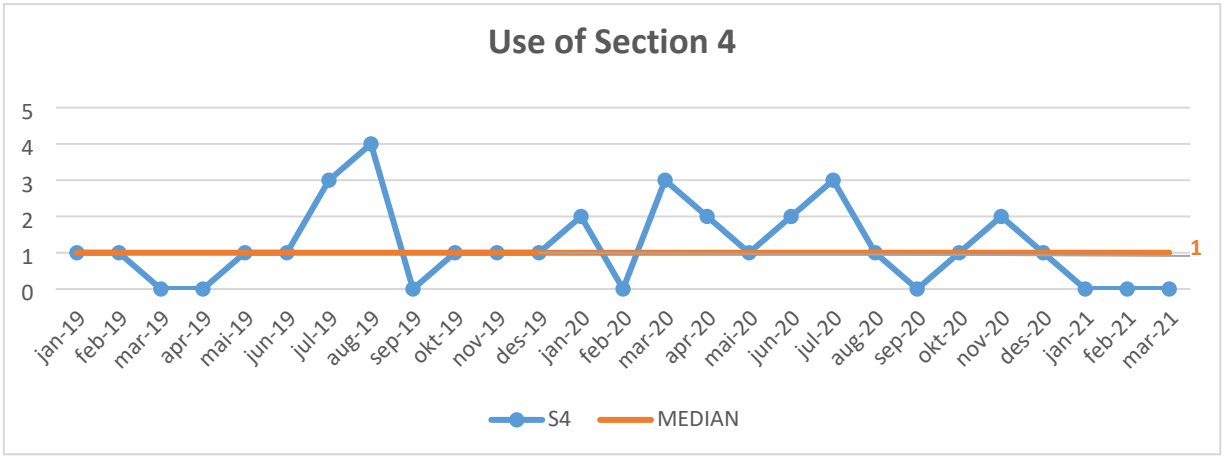


Outcome of Section 5(2) – April 2020 to March 2021

Outcome	Total	%
Lapsed	20	14%
Ended	31	22%
Section 2	72	52%
Section 3	15	11%
Total	**138**	

- **Use of Section 4**

The use of Section 4 is a relatively rare event and will be used only in emergency situations where it is not possible to secure 2 doctors for a Section 2 assessment immediately and it is felt necessary for a person's protection to detain under a section of the MHA.
While the use of this provision is uncommon it can be an indicator of a problem in the availability of two doctors to undertake an assessment.
The chart below shows that there has been a slight decrease in the use of this provision over the last twelve months and this has stabilised over the last quarter of the year.



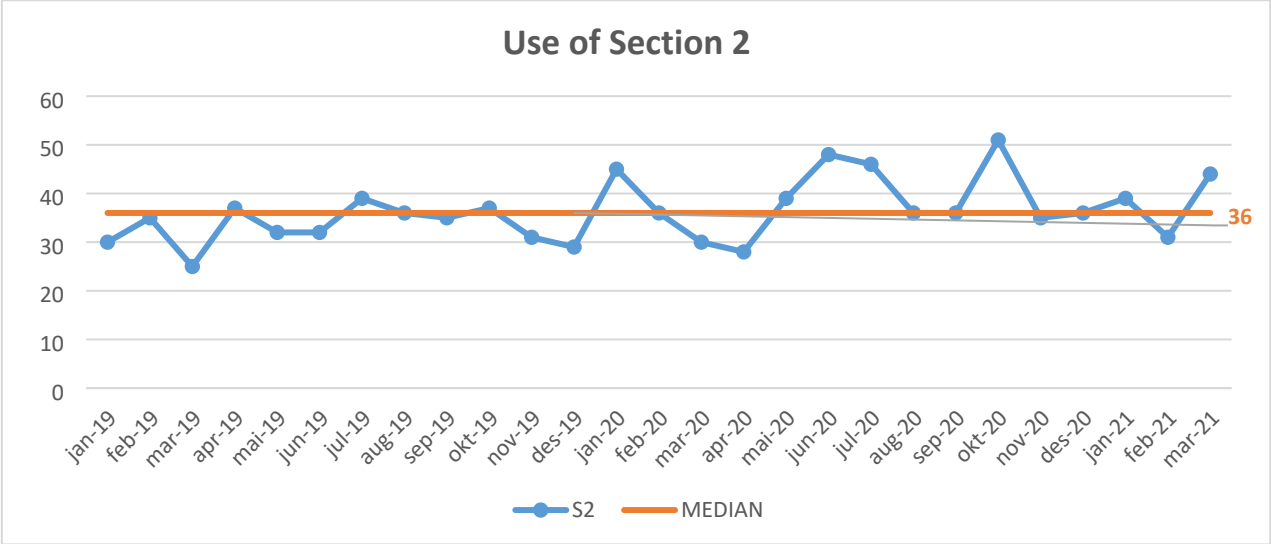
The main outcome of the use of Section 4 is that the individual will normally be placed on a Section 2 (admission for assessment) 100% of cases in this financial year.

Outcome of Section 4 – April 2020 to March 2021

Outcome	Total	%
Discharged	0	0%
Section 2	13	100%
Total		

- **Use of Section 2**

Over half (55%) of all detained admissions are admitted under Section 2 with the number of admissions remaining fairly stable over the last two years.



A total of 471 detentions were made using Section 2, with approximately just over two thirds of these in adult mental health services.
Of the total 471 patients detained under Section 2:

- 107 (23%) were regraded to Section 3
- 12 (3%) were transferred out of the Health Board during the Section 2
- 2 (0.4%) died whilst on section

Of the remaining 368 detentions under Section 2, a breakdown of the length of admission of these individuals shows that:

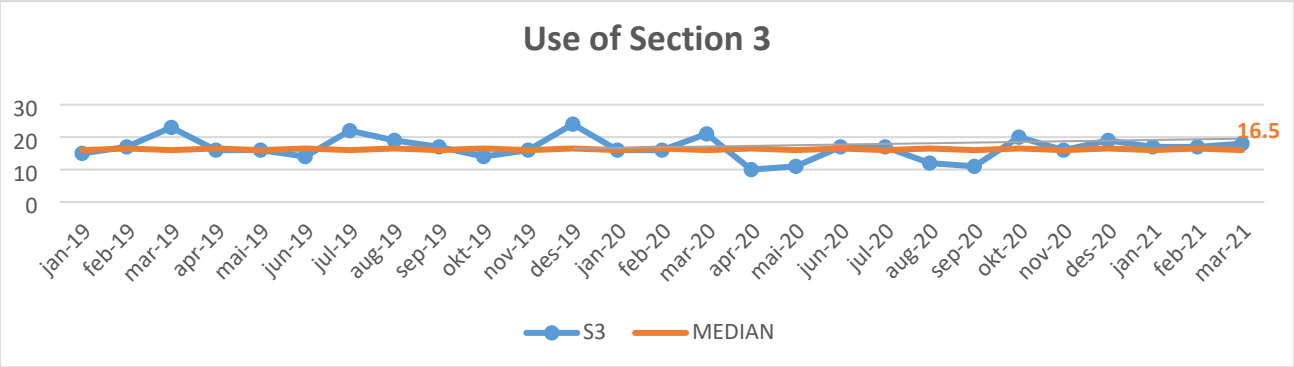
- 0-3 days 24 (5%) were detained between 0-3 days
- 4-13 days 138 (29%) were detained 4-13 days
- 14-28 days 152 (32%), were detained 14-28 days.

Of this cohort, 36 (8%) detentions were allowed to lapse.

It is considered poor practice to allow a Section 2 to lapse, as it raises the question whether the patient met the criteria to be discharged at an earlier stage of the detention. Where detentions are allowed to lapse the MHA Administration Department highlights this issue to relevant medical and ward staff.

- **Use of Section 3**

The trend graph shows that there was an overall 7% decrease in the use of Section 3 over the last two year period.



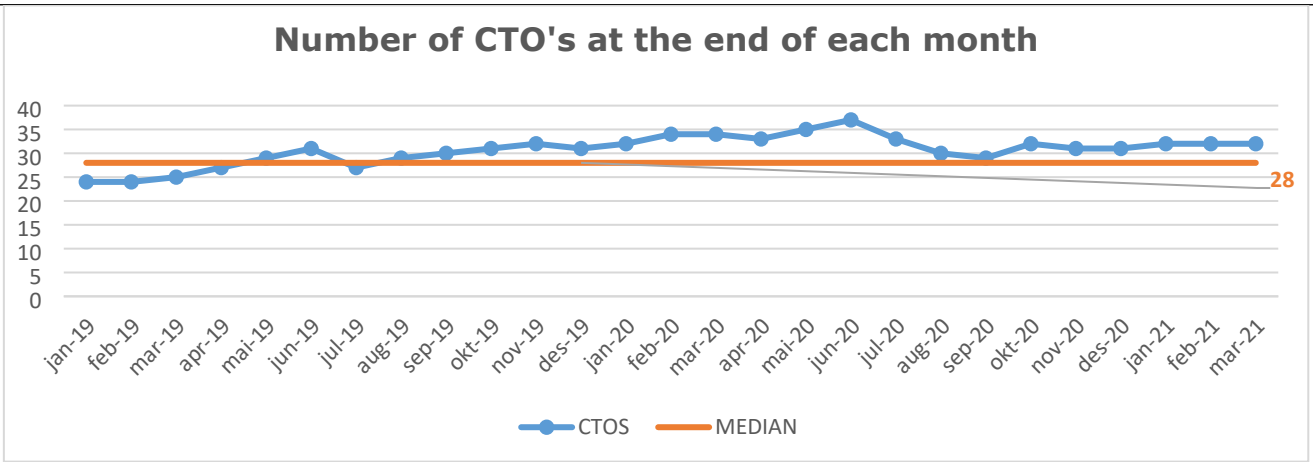
- **Renewal of In-patient Detentions under the MHA (1983)**

The table below shows that the number of renewals of inpatient detentions has remained fairly consistent over the last year with a slight increase in Q1 and Q3. There was a total of 30 Section 3 renewals over the full year.

Section	Q1	Q2	Q3	Q4	Total	Annual Trend
Section 3 renewal	8	5	11	6	**30**	↓
Section 37 renewal	1	0	0	0	**1**	↓
Section 47 renewal	0	0	0	0	**0**	–
TOTAL	**7**	**5**	**11**	**6**	**31**	

- **Use of Community Treatment Orders (CTOs)**

The number of Community Treatment Orders has remained consistent over the past year with 33 at the beginning and end of the year. There was a peak in June with 37 which decreased to a low in September of 30. This increased to 33 in January and remained consistent throughout the last quarter of the year.



A summary of the use / changes to CTOs is shown below

Community Treatment Orders (CTOs) – April 2020 to March 2021

Section	Power	Q1	Q2	Q3	Q4	Total	Annual Trend
17A	CTOs made	7	2	7	4	**20**	↓
	CTOs extended	6	5	9	2	**22**	↑
	Recalled to hospital and not admitted	0	0	0	1	**1**	↓
	Recalled to hospital and revoked	2	3	3	3	**11**	–
	Discharged from CTO	1	6	2	0	**9**	↑

3. Unlawful Detentions/Failed Medical Scrutiny / Rectifiable Errors

A summary of unlawful detentions, section papers that failed medical scrutiny or section papers with rectifiable errors in 2020/21 is provided below.

- **Unlawful Detentions**

There were a total of 5 unlawful detentions identified during 2020/21. The reason for the unlawful detention is highlighted in the table below. Where these are identified the Mental Health Act Administration will immediately contact the ward/clinical team; the team will inform the patient and the clinical team will determine the appropriate next steps such as undertaking a new assessment.

	Q1	Q2	Q3	Q4	Total	Annual Trend
Unlawful Detentions	1	2	2	0	**5**	↑

- Invalid Section 2 - (Ty Cyfannol Ward) HO2 addressed to detain in SCH. Pt detained to YYF with TC1 completed.
- Invalid Section 3 – (Annwylfan Ward) S2 papers completed instead of S3 papers.
- Invalid Section 5(2) – (Ty Cyfannol Ward) Formal assessment wasn't taken due to patient being asleep.
- Invalid Section 5(2) – (Grange University Hospital) Paperwork not fully completed with section details / not signed by doctor.
- Invalid Section 2 - (Beechwood Ward) AMHP application made to detain patient in Adferiad. Pt admitted to PICU.

- **Failed Medical Scrutiny**

The Health Board has 14 days to undertake medical scrutiny of section papers. Where medical scrutiny identifies that further information is required the papers are returned to the doctor who completed the assessment highlighting what further information is required and returned within the 14 day period.

	Q1	Q2	Q3	Q4	Total	Annual Trend
Failed Medical Scrutiny	1	1	2	2	**6**	↑

- **Rectifiable Errors on Documents**

Rectifiable errors are considered a 'slip of a pen' and the data continues to show these remain quite high and have increased 10% since last year. This highlights a need for ongoing training regarding the acceptance and scrutiny of documentation before it is received into the MHA Administration Department.

	Q1	Q2	Q3	Q4	Total	Annual Trend
Rectifiable errors on document	9	17	15	2	**43**	↑

4. Use of Sections 135 and 136

- **Section 135**

There are data completeness issues with the compilation of Section 135 data. The table below therefore provides a summary of the available data. There was one occasion where the person was not found, this is included in the Other section below.

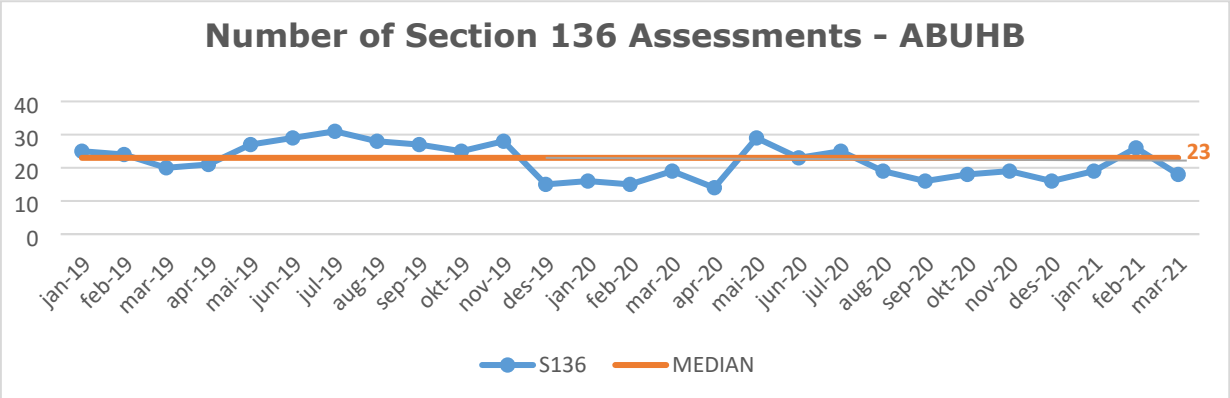
Use of Section 135: April-March 2020/21

Section 135 of the MHA	Q1	Q2	Q3	Q4	Total	Annual Trend
Assessed and admitted informally	0	0	0	0	**0**	—
Assessed and discharged	0	0	1	0	**1**	↓
Assessed and detained under Section 2	0	3	2	2	**7**	↑
Assessed and detained under Section 3	0	1	1	2	**4**	↓
Assessed and CTO Revoked	0	0	0	0	**0**	—
Other	**0**	**0**	**1**	**0**	**0**	—
Total	**0**	**4**	**5**	**4**	**13**	

The MHA Administration department has confirmed that the above data is not complete and has been unable to capture the true activity information for the data periods due to it not receiving all copies of executed Section 135 warrants. There are on-going inter-agency discussions between Health, Local Authorities and Gwent Police to ensure that all Section 135 activity is correct and is collected in a timely manner.

- **Section 136**

A breakdown on the number of 136 assessments undertaken at the 136 (Place of Safety) Suite at St Cadoc's Hospital is shown in the table below. This shows that activity has been lower during the second half of the year in comparison to the first six months although this is only by 8% so there is no clear trend of change at present. The activity is closely monitored by Police and the Health Board both locally and nationally.

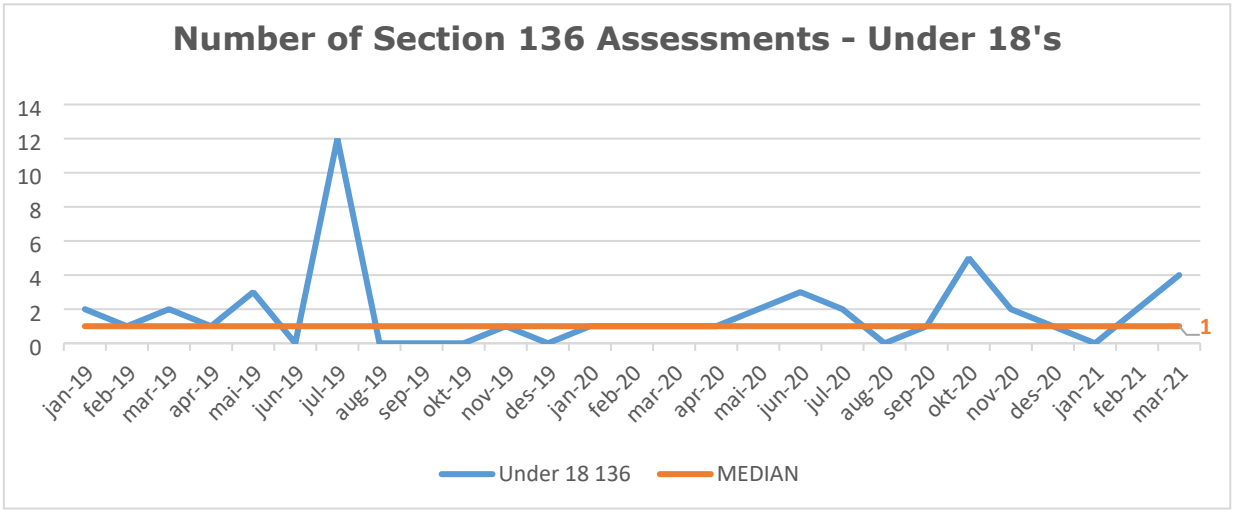


A breakdown of the outcome of 136 assessment is shown in the table below. A total of 242 assessments were undertaken. Of those assessed 48% were admitted, with 49% of those admitted being formally detained. 17% of individuals assessed were discharged with no follow up required, while 35% were discharged with a follow up plan in place.

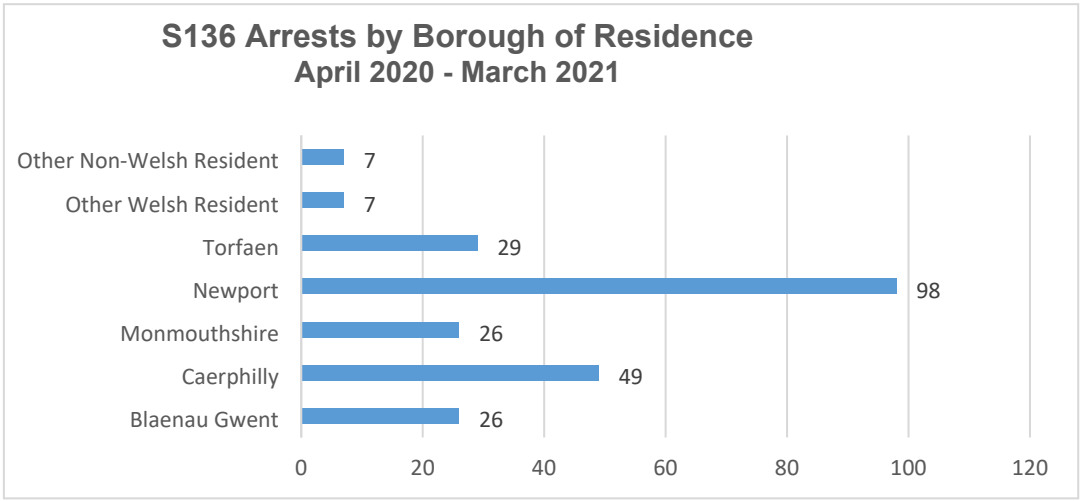
Use of Section 136 April-March 2020/21

Section 136 of the MHA	Q1	Q2	Q3	Q4	Total	Annual Trend
Assessed and admitted informally	14	22	10	14	**60**	↓
Assessed and detained under Section 2	12	13	13	17	**55**	↑
Assessed and detained under Section 3	1	0	1	0	**2**	–
Assessed and detained under Section 4	0	0	0	0	**0**	–
Discharged – no follow-up required	17	9	6	8	**40**	↓
Discharged – with follow-up plan	21	16	23	24	**84**	↓
Section 136 lapsed	1	0	0	0	**1**	↓
Other – subject to S7 Guardianship	0	0	0	0	**0**	↓
TOTAL	**66**	**60**	**53**	**63**	**242**	

A breakdown of the number of under 18's undergoing 136 assessment is shown in the graph below. The graph shows that the number of under 18's undergoing assessment is increasing, with a 15% increase over the past financial year.



A breakdown of assessed patients by borough shows that Newport had significantly higher demand than other boroughs, accounting for over a third of all assessments.

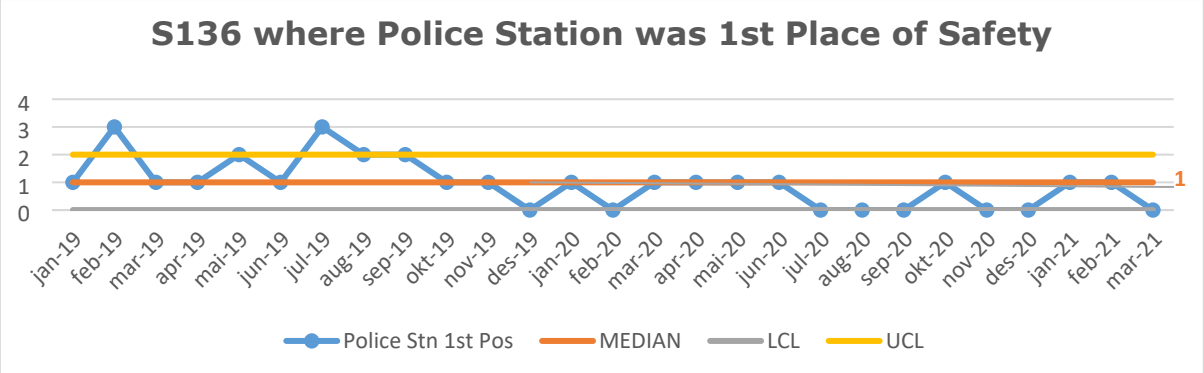


A breakdown of all 136 events shows that the majority of patients (57%) were male patients with alcohol and/or drugs being a related factor in 38% of all cases. Approximately 9% of cases were under the age of 18yrs. No assessments were undertaken at a police station. In Q1 it shows that 98% of assessments took place in hospital, this is due to a lapsed detention that occurred because the physical health over the patient overtook.

Section 136 of the MHA	**Q1**	**Q2**	**Q3**	**Q4**
TOTAL	**n=66**	**n=60**	**n=53**	**n=63**
Gender:				
% Male	52%	55%	77%	48%
% Female	48%	45%	23%	52%
Place of Safety:				
% Hospital	95%	100%	98%	97%
% Police Station	5%	0%	2%	3%
% Under 18 Years	9%	5%	13%	10%

Use of Illicit Substances:				
% Alcohol	23%	27%	25%	10%
% Drugs	12%	15%	8%	14%
% Both Alcohol and Drugs	8%	8%	8%	2%
Where Assessment took place:				
% Hospital	98%	100%	100%	100%
% Police Station	0%	0%	0%	0%
12 Hour extension granted	2%	0%	0%	2%

Following the introduction of the Police and Crime Act in December 2017 persons detained under section 136 (MHA) will not be taken to a Police Station as a first Place of Safety unless there is a substantive need to do so. The graph below shows the number of individuals who were taken to the Police station or self-presented there.



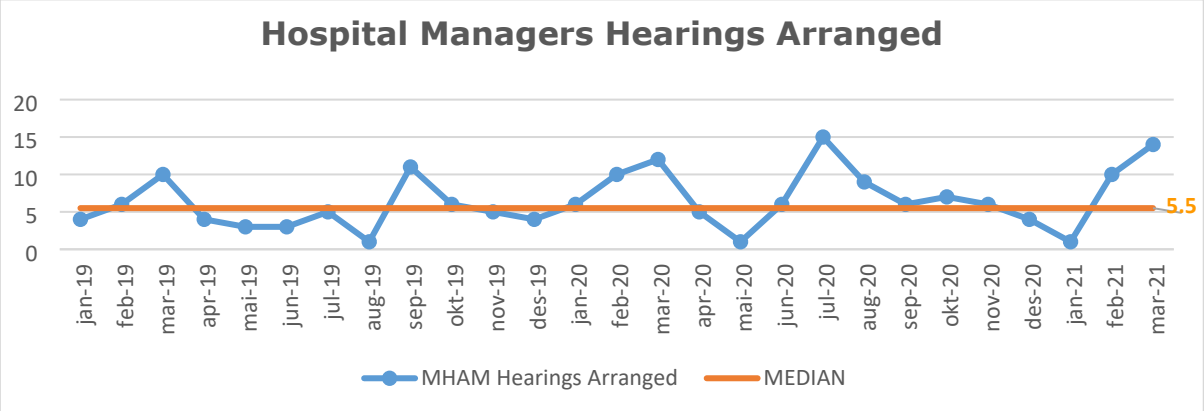
For the period April 2020 – March 2021 there were 6 persons detained under s136 and taken to or presented at a Police Station as first Place of Safety. The reasons where recorded are shown below:

- 4 were arrested for a substantive offence
- 1 presented at the Police Station voluntarily
- 1 was arrested for breach of the peace

All the above were transferred to the Section 136 hospital suite for a mental health assessment.

5. Mental Health Act Managers Hearings

In comparison to the previous financial year (2019/20) there has been an overall 20% increase in the number of MHA Managers hearings arranged. There was an increase in the number of hearings arranged in the second and fourth quarters of the year. This was also the case in 2019/20.



To overcome the constraints of Covid-19 each independent manager has been provided with a laptop and training on holding Manager Hearings via video conferencing. Of the 23 hearings held during 2021/21 16 were held via video conferencing and 5 via teleconferencing with the remaining 2 being in person.

A summary of activity and outcome of hearings is provided in the table below. The majority of hearings requested relate to inpatients. During 2020/21 no patient was discharged by Hospital Managers

Mental Health Act Manager Review Hearings
April 2020 – March 2021

Hospital Manager Hearings	Q1	Q2	Q3	Q4	Total	Annual Trend
Applications by patient – Inpatient	0	0	2	0	**2**	↑
Applications by patient – CTO	0	0	0	0	**0**	–
Renewal Hearing Applications – Inpatient	8	18	14	7	**47**	↓
Renewal Hearing Applications – CTO	4	16	6	1	**27**	↓
Barring Hearings	0	0	0	1	**1**	–
Hearing cancelled before being heard	8	21	10	22	**61**	↑
Hearing held - Patient Discharged by Hospital Managers	0	0	0	0	**0**	–
Hearing held – Section continued	4	9	7	3	**23**	↓

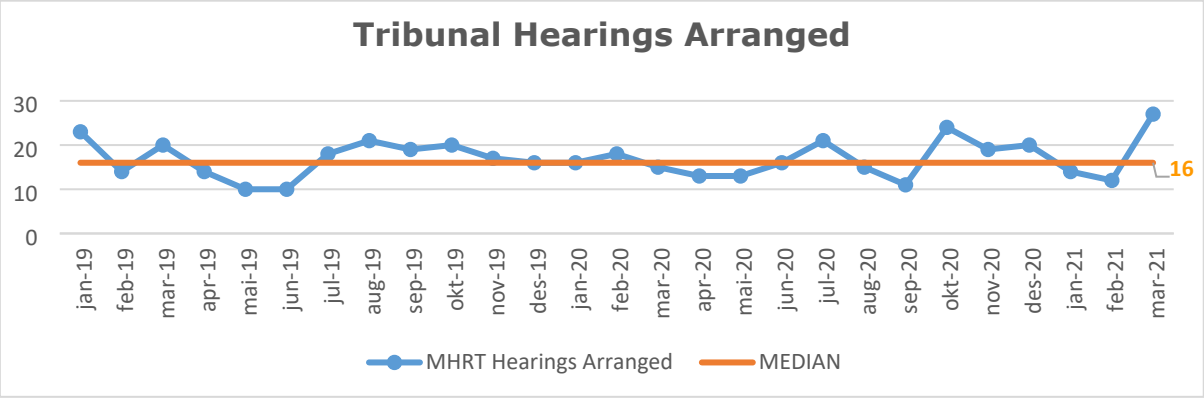
6. Mental Health Review Tribunals

There continues to be a trend for patients to apply for a Tribunal hearing as opposed to Managers hearings within the Health Board. The MHRT is a statutory independent body for hearing appeals against detention.

The Tribunal panel is composed of a judge, medical and specialist lay members with the judge chairing the proceedings. A solicitor can be appointed at no cost to the patient to represent at a Tribunal hearing.

In contrast to the Tribunal there is no requirement for the Hospital Managers panel to contain legally or qualified members, and there is no funding to appoint a solicitor to represent a patient.

Overall the number of hearings appears to be relatively consistent over the period of the last 2 years. Overall there has been a 6% increase in the number of Tribunals arranged in comparison to the last financial year (2019/20).



The activity and outcomes of arranged tribunals over the last year is summarised in the table below.

Mental Health Review Tribunals April 2020 – March 2021

MH Review Tribunal Hearings	Q1	Q2	Q3	Q4	Total	Annual Trend
Applications by patient – Inpatient	48	38	53	50	**189**	↑
Applications by patient – CTO	2	0	2	0	**4**	–
Renewal Hearing Applications – Inpatient	3	12	3	5	**23**	↓
Renewal Hearing Applications – CTO	3	5	2	1	**11**	↓
Referral by MOJ	0	0	0	1	**1**	↓
Referral by Welsh Ministers	2	0	0	0	**2**	↑
Outcomes: Hearing Cancelled before being heard	25	21	41	29	**116**	↓
Outcomes: Patient Discharged by MHRT	2	2	1	1	**6**	↓
Outcomes: Section Continued	15	24	21	23	**83**	↑

This shows that a significant number of Tribunals are cancelled before being heard. A total of 6 patients were discharged by the Tribunal over the last 12 months.

Assessment and Conclusion

This report is designed to provide information on trends and analysis of the use of the Mental Health Act and associated processes and to provide assurance to the Health Board that there adequate governance arrangements in place to ensure the fair and lawful

application of the act. The Mental Health and Learning Disabilities Division will continue to develop and refine the report using feedback provided.

Recommendation
The Committee is asked to receive the information provided on the use of the Mental Health Act.

Supporting Assessment and Additional Information	
Risk Assessment (including links to Risk Register)	Potential legislative risks to the Health Board if patients are not lawfully detained under the Mental health Act or treated under the safeguards of the Mental Health Capacity Act/ Deprivation of Liberty Safeguards
Financial Assessment, including Value for Money	None identified.
Quality, Safety and Patient Experience Assessment	The lawful application of the Mental Health Act, Mental Capacity Act and Deprivation of Liberty Safeguards is essential to the safeguarding of patients' rights and liberties.
Equality and Diversity Impact Assessment (including child impact assessment)	No specific equality and diversity issues have been identified.
Health and Care Standards	Relevant to Healthcare Standards 2,4 and 7
Link to Integrated Medium Term Plan/Corporate Objectives	No specific link to IMTP priorities
The Well-being of Future Generations (Wales) Act 2015 – 5 ways of working	This section should demonstrate how each of the '5 Ways of
	Integration – Statutory requirements are limited to hospital provision
	Collaboration – the application of the Mental Health act requires collaborative working with local authorities.
Glossary of New Terms	None
Public Interest	There is public interest in this report being shared.

Glossary of Terms

Definition	**Meaning**
Informal patient	Someone who is being treated for mental disorder in hospital and who is not detained under the Act.
Detained patient	A patient who is detained in hospital under the Act or who is liable to be detained in hospital but who is currently out of hospital (e.g. on section 17 leave).
Section 135(1)	Provides the power to forcibly enter a property to look for and remove a person to a place of safety (usually a hospital) for a period of up to 36 hours for assessment, if it appears to a magistrate that there is reasonable cause to suspect that a person believed to be suffering from mental disorder; has been ill-treated, neglected or kept otherwise than under proper control or is living alone and unable to care for themselves.
Section 135(2)	Authorises forcible entry of a property to look for and remove a detained patient who is absent without leave (AWOL) from hospital if on information given, it appears to a magistrate that there is reasonable cause to believe that a patient already subject to a section is to be found on premises within the jurisdiction of the magistrate and admission to the premises has already been refused or a refusal of entry is predicted.
Section 136	Under this section, if a police officer believes that a person in a public place is "suffering from mental disorder" and is in "immediate need of care and control", the police officer can take that person to a "place of safety" for a maximum of 24 hours (this can sometimes be extended for 12 hours) so that the person can be examined by a doctor and interviewed by an Approved Mental Health Professional (AMHP) and any necessary arrangements can be made for the person's treatment and care.
Section 5(4)	Allows a registered nurse to detain an informal patient of a patient lacking capacity for up to 6 hours. The person already has to be receiving treatment for mental disorder as an inpatient and is indicating that they wish to leave hospital and there has to be an immediate need to prevent this where

	a doctor or approved clinician is not available to complete a section 5(2) instead. This section is intended as an emergency measure.
Section 5(2)	This section provides the authority for a doctor or approved clinician to detain either an informal patient or a patient who lacks capacity for up to 72 hours. It is designed to provide the time required to complete an application for section 2 or section 3 if the person wishes to leave hospital before the necessary arrangements for these applications can be made.
Section 4	Provides the power to forcibly admit and detain a person in hospital for up to 72 hours where it is of urgent necessity for the person to be admitted and detained under section 2 but only one doctor is available at the time to make a medical recommendation.
Section 2	The detention period lasts for a period of up to 28 days to enable assessment or assessment followed by treatment for mental disorder to take place. Patients have the right of appeal to the Hospital Managers at any time and without limit to the number of appeals (at the discretion of the Hospital Managers) during the 28 days but they may only appeal to the Mental Health Review Tribunal within the first fourteen days of detention. Section 2 cannot be renewed but under certain circumstances, the 28 day period may be extended whilst an application is made to a county court to have another person appointed as nearest relative depending if certain grounds are met.
Section 3	This admission is initially for a period of up to six months; if it runs its full course, the section may be renewed for a further six months and twelve monthly periods thereafter. Patients may appeal to the Hospital Managers at any time during a period of detention but they can only appeal to the Mental Health Review Tribunal once in each period of detention. Where the patient has recently had a hearing (either MHRT or Managers), the chair of the Hospital Managers Power of Discharge Panel may refuse for the case to be considered unless there has been a significant change in the patient's circumstances or condition since that hearing. This prevents unnecessary hearings taking place which may distress the patient and impact on those involved in their care.
Section 37	Section 37 provides for a court to sentence a person to hospital for treatment (or guardianship) for up to six months.

	The criteria and resulting admission work in the same way as a section 3 except for the appeal process. A section 37 patient has: • the right of appeal to the Crown Court or Court of Appeal to have the conviction quashed or a different sentence imposed. • the right to appeal to the Tribunal, but only in the second six months and then once in each subsequent period of detention. • the right of appeal to the Hospital Managers at any time and without limit to the number of appeals at the discretion of the Hospital Managers.
Section 38	Empowers a Crown Court or Magistrates Court to send a convicted offender to hospital to enable an assessment to be made on the appropriateness of making a hospital order or direction.
Section 41	Empowers the Crown Court, having made a hospital order under section 37, to make a further order restricting the patients discharge, transfer or leave of absence from hospital without the consent of the Secretary of State for Justice.
Section 47	Enables the Secretary of State to direct that a person serving a sentence of imprisonment or other detention be removed to and detained in a hospital to receive medical treatment for mental disorder.
Section 49	Enables the Secretary of State for Justice to add an order restricting the patients discharge from hospital to a section 47.
Section 17A, Community Treatment Order	This allows for a patient to receive the care and treatment they need for their mental disorder in the community rather than in hospital. To be eligible for CTO the patient must have been detained on one of the treatment sections when the application for the CTO was made. Each time a period of section 17 leave is granted to a detained patient for more than 7 consecutive days, their RC must consider whether it would be appropriate for the patient to be subject to CTO rather than an inpatient on extended section 17 leave. The patient's responsible clinician may specify conditions to be applied by the CTO. The only limitation on conditions is that they are "necessary" or "appropriate" for: o ensuring the patient receives medical treatment o preventing the risk of harm to the patient's health or safety

	o protecting other persons. Once on a CTO, the patient may be recalled to hospital for up to 72 hours where the treatment rules under the Act apply during that period of recall.