Mental Health Act Annual Statement October 2009

Avon and Wiltshire Mental Health Partnership NHS Trust

Introduction
The Care Quality Commission (CQC) visits all places where patients are detained under the Mental Health Act 1983. Mental Health Act Commissioners meet and talk with detained patients in private and also talk with staff and managers about how services are provided. As part of the routine visit programme information is recorded relating to:

- Basic factual details for each ward visited, including function, bed occupancy, staffing, and the age range, ethnicity and gender of detained patients.

- Ward environment and culture, including physical environment, patient privacy and dignity, safety, choice/access to services/therapies, physical health checks, food, and staff/patient interaction.

- Issues raised by patients and patient views of the service provided, from both private conversations with detained patients and any other patient contacts made during the course of the visit.

- Legal and other statutory matters, including the scrutiny of Mental Health Act documentation, adherence to the Code of Practice, systems that support the operation of the Act and records relating to the care and treatment of detained patients.

At the end of each visit a “feedback summary” is issued to the provider identifying any areas requiring attention. The summary may also include observations about service developments and/or good practice. Areas requiring attention are listed and the provider is asked to respond stating what action has been taken. The response is assessed and followed up if further information is required. The information is used by CQC when verifying the NHS Health Check and making decisions about the inspection programme in both the NHS and Independent Sector. In future years it will be used to inform the registration decisions

A list of the wards visited for this provider can be found in Appendix A.

Background
The Avon and Wiltshire Partnership NHS Trust is one of the largest mental Health Trusts in the country. It provides specialist mental health services to

1.6 million people of all ages throughout Bristol, North Somerset, South Gloucestershire and Wiltshire. It works in partnership with six NHS Trusts and local authorities as well as a number of independent agencies.

These services are delivered through six Trust-wide Strategic Business Units (SBUs) or care groups, supported by a research and development unit. This Statement concerns itself with three of those business units: the Adults of Working Age SBU, Older People SBU and the Specialised and Secure Services SBU. The past year has seen the transfer of the Specialist Mental Health Services for People with Learning Disabilities from its previous provider, Bath and North East Somerset Primary Care Trust to Avon and Wiltshire Mental Health Partnership NHS Trust. It now provides inpatient services, commissioned by South Gloucestershire, Bristol, Bath and North East Somerset Primary Care Trust and North Somerset, at the Lansdowne Assessment and Treatment Unit on the Fromeside site, and comes under the umbrella of the Specialised and Secure Services SBU.

The Trust is currently involved in the process of preparing to become a Foundation Trust. It is formally consulting with staff, service users, carers, members of the public and other key stakeholders, and it hopes to achieve Foundation Trust status early next year.

This Annual Statement draws on findings from the visits by Mental Health Act Commissioners both under the auspices of the Mental Health Act Commission (MHAC) and those, which took place after 1 April 2009 when the functions of the MHAC were absorbed by the CQC.

The Annual Statement provides an overview of the main findings from visiting, highlighting any matters for further attention and/or areas of best practice. It is published on the CQC website, together with other publications relating to individual mental health providers.

Main findings

The Trust continues to demonstrate a commitment to responding positively to most issues raised by the CQC as a result of visiting activity. There are, however, still unexplained delays, often of several months, in receiving a response to a number of issues. This is disappointing, as this matter was raised in the 2008 MHAC Annual Report and in subsequent meetings with the Trust and the MHAC was assured that steps would be taken to remedy this and improve response time. The CQC has, very recently, been advised that the Trust, through the office of the Director of Nursing, is to institute an improved system for responding to issues raised. The Trust intends to implement revised procedures in December 2009. The CQC welcomes this and looks forward to an improvement and will review this again shortly..

The CQC is concerned about the level of the current inpatient provision for older people in the Bath area The ward for older patients with functional illness at St Martins Hospital has closed and three beds have been allocated to this patient group at Hillview Lodge. The Trust has stated that there are sufficient numbers of beds for older adults who need inpatient care. Equally however, it recognises that the current configuration is not be ideal. Older people requiring inpatient treatment may currently have to be cared for some distance from their home. The Trust has informed the

CQC that the matter is subject to discussions with its lead Commissioner and other PCT Commissioners. The CQC hopes that this will lead to being able to ensure that no older person is significantly disadvantaged by having to have inpatient care offered to them some which is far away from family and friends.

During the visiting period older patients at Hillview Lodge have expressed their unease at having to share the ward with much younger patients. The Trust has confirmed that this situation was not satisfactory. . There were also concerns raised on visits at some sites about gender separation on wards for older people. The Trust has subsequently undertaken a review of privacy and dignity issues across all sites and reports that it is confident that it meets all compliance standards. Given seasonal fluctuations and other variables, the CQC will wish to be assured in its forthcoming visits that compliance will continue to be met.

The CQC is disappointed to find that many of the areas recommended for remedial action made in the MHAC's 2008 Annual Report were still being encountered while Mental Health Act Commissioners carried out the 2009 visiting programme. These were mainly in reference to the implementation of the Mental Health Act and compliance with the Code of Practice. There were also some environmental concerns and continuing issues around the high use of temporary staff. There were issues at three sites concerning gender separation and patients' right to privacy and dignity.

Mental Health Act Commissioners reported that the Trust continues to provide a high level of activities at many of its sites, both on and off the wards. A small number of wards seemed to have insufficient occupational therapy input or patients reported a reduction in the activities on offer.

The CQC commends the Trust for the provision of the Primary Health Care Suite situated at Fromeside which continues to provide a service, and is appreciated by patients.

Mental Health Act and Code of Practice

The following points highlight those Mental Health Act Issues raised by Mental Health Act Commissioners on visits. The detailed evidence to support them has already been shared with the provider and is not rehearsed here.

The scrutiny procedures that the Trust has in place for the administration of the Mental Health Act are generally robust and a number of Mental Health Act Administrators support the Mental Health Act Manager in carrying out this activity. The CQC has found that members of the Mental Health Act administration team have been very helpful to Mental Health Act Commissioners both during and after visits. The named Mental Health Act Commissioner for the Trust and the regional Acting Mental Health Operations Manager held a productive meeting with Mental Health Act administrators earlier this year.

Greater scrutiny of documents is required at ward level, as Mental Health Act Commissioners found that anomalies in statutory documentation, which were brought to the attention of clinicians and ward staff by Mental Health Act administrators, were not always being corrected in patient files as requested.

Section 58
Recommendations concerning compliance with the requirements of Part IV of the Mental Health Act have been raised in the MHAC's Annual Reports over at least the previous three years, and were raised again in the 2008 Annual Report. Although there has been some improvement in this area, it is disappointing to have to report that Mental Health Act Commissioners again found, while carrying out the 2009 visiting programme, that there are still a number of areas of concern around Section 58, which seem resistant to change. The CQC would remind the Trust that any deficiency is a breach of the Code of Practice. The revised Code of Practice is more robust than the previous one and states:

'*The reasons for any departure [from the COP] should be recorded. Departures from the Code could give rise to legal challenge, and a court, in reviewing any departure from the Code, will scrutinise the reasons for the departure to ensure that there is sufficiently convincing justification in the circumstances'*.

Fewer notices of Compliance with Part IV of the Mental Health Act were issued this year in respect of patients being treated with medication for mental illness not authorised on a T2 or T3 certificate. However, Mental Health Act Commissioners found at a number of sites, that consultants were not keeping adequate records of their discussions with patients around their capacity to consent to treatment, when issuing a T2 certificate. Patients' files on Teign and Avon Wards at Fromeside are examples of good record keeping in this area. Mental Health Act Commissioners also found at a number of sites that the records of statutory consultees' discussions with the Second Opinion Appointed Doctor (SOAD) were either absent or not copied into patients' notes.

Section 17
Although Mental Health Act Commissioners did not find as many shortcomings in the documents pertaining to leave as the MHAC found last year there were still areas which need addressing. They are all areas that were recommended for action in the MHAC's 2008 Annual Report.

On several wards, the CQC found that out-of-date leave forms were not being routinely cancelled or the relevant Section 17 form could not be located in patients' files.

Although the CQC has been told that a copy of the leave authorisation is routinely given to patients, as required by the Code of Practice, there is no evidence on the leave forms that this has been done.

For some patients on Section 37/41, the Ministry of Justice (MOJ) leave authorisation was not with the Section 17 paperwork, and in some instances the relevant MOJ authorisations could not be located. It is particularly important for both patient and public safety that restricted patients are not given leave to which they are not entitled. This was a concern last year and the Trust's attention is once more directed to paragraph 7.74 of the Mental Health Act Commission's Twelfth Biennial Report (pub. 2008) concerning Section 17 Leave for restricted patients. Recommendation 41 of the report states:

'A copy of Mental Health Unit authorisation of leave should be kept alongside local leave documentation for restricted patients. RMOs should be careful to define the parameters of leave for such patients where elements of that leave are at staff discretion.'

Of great concern to the CQC is the Trust's continuing practice of the use of 'extended' leave, when patients on long-term leave are being allocated to a named ward but are often unknown to the ward staff and their statutory documentation authorising detention, leave or treatment is retained by community mental health support staff and unavailable at the ward. Recommendation 6 of the MHAC's 2008 Annual Report requested that the Trust should review its practices in relation to Section 17 leave, and the Trust's response was that this would be done. It was hoped, that with the introduction of Supervised Community Treatment, there would be little need for continuing this practice. It has, therefore, been extremely disappointing to find that this is not the case. For the CQC there are implications in terms of ensuring that all the requirements of the Act are being met, as Mental Health Act Commissioners are not able to ensure that patients are lawfully detained or that medical treatment is being administered with proper lawful authority. Furthermore, the Trust has a duty to all detained patients in terms of regularly informing them of their rights and with regard to consent to treatment provisions. Instances of this practice continuing were found on Aspen Ward, Callington Road, at Sandalwood Court and Sycamore Ward, Hillview Lodge. Imber Ward, Green Lane Hospital, was signaled out last year as an extreme example of this practice when the Mental Health Act Commissioner found on the day of the visit that out of 25 detained patients, 12 were on long-term leave. At a visit to the same ward on the 30 September 2009 there were 25 patients assigned to this 20 bedded ward.

In response to the CQC's concerns about the frequent and widespread use of 'extended' s17 leave the Trust acknowledged that there are improvements to be made. The Trust has advised the CQC that its clinical teams are still learning to work more flexibly with the new powers granted under the amended Act which is one, but not the only, factor which is relevant here. It is anticipated that a review of practice within and between clinical teams will assist with both a reduction in the use of 'extended' leave and (where clinically appropriate) a correct use of appropriate legal powers. As a result of the Trust's anticipated review, the CQC looks forward to improvements in the care and management of detained patients who no longer require inpatient care.

Section 132

Mental Health Act Commissioners found that the the majority of patients' files showed that attempts had been made to inform patients of their rights and that many patients were given regular reminders. There were, however, a number of instances in which no evidence could be found that rights under Section 132 had been offered on admission or on a regular basis thereafter. The CQC also found that information leaflets were not yet available in an easy-read or pictorial format for learning disabled patients at the Lansdowne Unit. This has subsequently been rectified.

The CQC is pleased to learn that the revised Section 132 form records whether a patient has requested the support of an Independent Mental Health Advocate but it

does not record the outcome of that request nor could Mental Health Act Commissioners find references to the outcome in patient files examined.

Independent Mental Health Advocacy(IMHA)
Since 1 April 2009 Hospital Managers have had a duty to inform qualifying patients of their legal right to support from a designated IMHA**.** Although the CQC visited several wards where this was happening, there were a number of sites where the service was not visibly advertised and staff were not aware of either the purpose of the service or of the procedures for accessing the service on behalf of patients. Examples of sites where staff were not aware of the service were Charterhouse, Long Fox Unit, some of the Southmead Hospital wards and Avebury Ward at Green Lane Hospital.

The CQC is pleased to note that at St Martin's Hospital the IMHA service provider has been actively involved in training the staff about their role.

Other Issues raised from Mental Health Act Visiting Activity

Staffing
Staffing issues were raised as a concern in the MHAC's 2008 Annual Report, where the volume of staff changes and vacancies at a number of sites, and the subsequent effect on staff morale was noted. Staffing issues and the resulting over-reliance on temporary staff has also been raised at subsequent meetings with senior Trust management and in correspondence with the Trust, as the CQC needs to ensure that patient care is not compromised as a result of these shortages. Although the situation has improved at some sites, it is still an issue of great concern to the CQC as staff and patients continue to complain about the effects of the use of temporary staff on nearly ***every*** visit that we have made over the past year. Patients feel that they aren't listened to or get the quality of service they can expect from bank and agency workers and that their ability to take up escorted leave or to get individual time with the permanent staff is severally compromised by the situation. Staff, at a number of sites, have told Mental Health Act Commissioners that they felt that representations made to management to hasten efforts to recruit more permanent staff were not receiving a response and that staff morale was effected as a result, with the knock-on consequence of more staff leaving.

In response to the above concerns being raised on visits the CQC later learned that all nursing posts which had been 'frozen' are now being recruited to. Further, the CQC understands that the recently appointed Assistant Director of Nursing now attends a local NHS Professionals quality monitoring panel. It is anticipated that these two responses will address concerns observed directly by visiting Commissioners and and those reported to them by clinical staff.

Gender Separation/Dignity and Privacy
Although most Trust sites are fully compliant with the Mental Health Act in terms of providing separate sleeping wings and bathrooms for male and female patients, there were some areas of concern identified; principally the long-term consequences for patients on Mason High Dependency Unit of the outbreak of Legionnaire's Disease at Southmead Hospital. The Mental Health Act Commissioner was told that for at least eight months patients had only been able to use the toilets in their en suite

bathrooms as the showers and running water were subject to infection control measures. This had meant that gender separation in the use of bathing facilities, as recommended in the Code of Practice, had not been possible and the eight patients on the ward had to share one bathroom. Not only is this distressing for patients but also of great concern to the CQC is that patients spoke of their privacy being invaded by patients and staff – sometimes of the opposite sex, when the bathroom door had been left inadvertently unlocked. This is a high dependency mixed ward serving the whole of Bristol and so it is always at full occupancy and frequently cares for patients with specific cultural needs. The Mental Health Act Commissioner learnt from staff that using a communal bathroom can be culturally unacceptable for some patients and that they had to be taken to another ward at Southmead Hospital, where the showers are supplied by a different source of uncontaminated water.

The CQC conducted a Hygiene Code inspection in September and the actions arising from that inspection are being overseen by other inspectors within the CQC.

The CQC was also concerned to discover at Avonmead Ward at Southmead Hospital that there was no en-suite provision and all bathrooms and toilets were for communal use, with no gender specific allocation. This ward accommodates older patients with functional and organic illness. There is a mixed-sex functional wing and two separate male and female wings for patients with organic illness and on the day of the CQC visit the Mental Health Act Commissioner found that the functional wing accommodated one male patient amongst females and on the male organic wing there was one female patient.

The CQC also found that there were no gender separate corridors on the older peoples' wards at The Long Fox Unit, although it is understood that a reconfiguration is planned.

The CQC reminds the Trust of the *Respect Principle*, which is one of the Guiding Principles to The Code of Practice. This principle states that there must be no unlawful discrimination. It is also of paramount important that older people are accorded the same level of dignity and privacy as other patients and they have the right to expect the same quality of care as other patients.

Since the matters reported here were identified by the CQC during its visiting programme in 2009, the Trust has subsequently undertaken a review of privacy and dignity issues across all sites. The Trust now reports that it is confident that it meets all compliance standards and that it has been cited as an example of good practice in this area by the Department of Health. There are, however, seasonal fluctuations as well as many other service and patient variables that may challenge a provider's obligations to meet standards here continually. In view of this CQC's MHA visiting Commissioners will keep this matter under close review during forthcoming visits.

Environmental

Many of the Trust's inpatient wards are housed in specifically designed, modern buildings, which were found, on the whole, to be clean and well maintained and in good decorative order. Most wards were also found to be well designed in terms of accessibility for patients with a physical disability. An exception to this was Sycamore

Ward at Hillview Lodge, where the dining room, which was designed for 20 patients, was being used by 23, several of whom were wheelchair users.

The CQC has some concerns about the maintenance department's response time to urgent requests for repairs at some sites.

The standard of outside areas was also variable. The gardens at Charter House are very attractive and a good example of what can be achieved in terms of design to provide an attractive therapeutic space for patients. Sites which Mental Health Act Commissioners felt fell below the standard that patients could expect included some wards at Callington Road, Ashdown PICU at Fountain Way and Cromwell and Fairfax wards at Fromeside.

Recording of Ethnicity
For a number of years Mental Health Act Commissioners have been carefully monitoring the recording of patient ethnicity at all Trust sites. Although Mental Health Act Commissioners found that, by and large, this was now being more systematically and accurately recorded, there were still instances in which this was not happening or the preferred Department of Health categories were not being used. It is important that staff are made aware that it is a Department of Health requirement and should be done correctly in all cases.

Patient Care and Treatment
Although many patients spoke highly of the quality of care that they received from the permanent staff, the most common issue raised by patients at all sites visited was the effect of the use of bank and agency staff. This concern has already been mentioned.

Patients at a large number of sites complained about the standard of the food. The cook/chill menus were not popular and many patients also complained of lack of variety and of insufficient fresh food being available. Quality of food is a particular concern for patients who are on long term sections of the Act or are subject to Ministry of Justice restrictions and who see the same menus coming round every few weeks.

Although patients were fully aware of the Trust's policy on smoking, there are very few outside shelters provided at Trust sites. At a number of sites, Mental health Act Commissioners observed smokers and non-smokers alike, huddled together under the eaves of buildings, sometimes in rain or strong sun.

Advocacy
Community meetings do not regularly take place at a number of sites and general advocacy provision is patchy.

Recommendation for Action

- The CQC requests that the Trust reviews the procedures that it has in place for responding to feedback resulting from Mental Health Act Commissioner visits.

- The CQC suggests that staff are reminded of their statutory duties in relation to the Sections of the Act mentioned in this Annual Statement, including the need for a greater scrutiny of documents at ward level

- The CQC requests that the the Trust should urgently review its practices in relation to Section 17 of the Act.

- The CQC requests that the Trust gives serious attention to the concerns raised about overreliance on the use of temporary staff to ensure that a more stable workforce is in place across all sites.

- The CQC requests that the issues detailed in this statement around gender separation and privacy and dignity are resolved as a matter of urgency.

- The CQC requests that the Trust ensures that the provision of advocacy – including the IMHA service - is visibly available to patients at all its sites and that Community Meetings are reinstated at those sites where meetings do not presently take place.

- The CQC requests that patient concerns around the quality of food are addressed.

- The CQC requests that the Trust looks at the feasibility of providing more shelters in outside areas so that all patients can enjoy access to fresh air with some protection from the elements.

Forward Plan

- Mental Health Act Commissioners will continue to visit the Trust's sites in the coming year to monitor the operation of the Act and to meet with detained patients in private.

- Particular attention will be given, while carrying out the visiting programme, to those areas recommended for action in this Annual Statement.

- Mental Health Act Commissioners will work with other colleagues in the CQC to develop an integrated approach to the regulation of the provider's services.

Appendix A

List of Wards visited in Avon and Wiltshire Mental Health Partnership NHS Trust

Date	Ward	Det. Pats. seen	Records checked
Blackberry Hill Hospital			
30 Apr 2009	Elizabeth Casson House	4	4
Total for Blackberry Hill Hospital		**4**	**4**
Hillview Lodge			
10 Dec 2008	Sycamore	4	3
12 Dec 2008	The Cherries	3	3
Total for Hillview Lodge		**7**	**6**
354 Lodge Causeway			
30 Sep 2008	354 Lodge Causeway	1	3
Total for 354 Lodge Causeway		**1**	**3**
Sandalwood Court			
31 Mar 2009	Applewood House	3	6
Total for Sandalwood Court		**3**	**6**
Long Fox Unit			
8 Apr 2009	Juniper Ward	3	4
15 Apr 2009	Juniper [HDU]	3	5
29 May 2009	Cove Ward	0	1
	Dune Ward	2	3
Total for Long Fox Unit		**8**	**13**
Southmead Hospital			
30 Sep 2008	Oakwood Ward	3	3
17 Mar 2009	New Horizon Mother & Baby Unit	0	0
6 May 2009	Avonmead	3	4
24 Jun 2009	Mason Unit (HDU)	5	5
Total for Southmead Hospital		**11**	**12**

Fromeside

27 Nov 2008	Cary Ward	3	3
4 Feb 2009	Bradley Brook	3	2
17 Feb 2009	Wellow Ward	5	3
11 Mar 2009	Ladden Brook	4	3
12 Mar 2009	Teign Ward	3	3
5 May 2009	Kennet Ward	4	3
25 Jun 2009	Siston Ward	5	3
13 Jul 2009	Avon	4	3
Total for Fromeside		**31**	**23**

Green Lane Hospital

24 Aug 2009	Avebury Ward	4	5
Total for Green Lane Hospital		**4**	**5**

Callington Road Hospital

16 Oct 2008	Silver Birch	5	7
5 Nov 2008	Larch Unit	4	5
20 Nov 2008	Aspen Ward	3	4
25 Nov 2008	Laurel Ward	4	5
9 Dec 2008	Lime HDU	3	3
24 Jan 2009	Alder Unit	2	2
23 Mar 2009	Lime HDU	4	7
28 Mar 2009	Hazel Unit	4	11
Total for Callington Road Hospital		**29**	**44**

Charter House

18 Aug 2009	Charter House	2	2
Total for Charter House		**2**	**2**

Windswept

22 Apr 2009	Windswept	0	0
Total for Windswept		**0**	**0**

St Martins Hospital (Bath)

18 Jun 2009	Ward 4	2	3
Total for St Martins Hospital (Bath)		**2**	**3**

Lansdown Unit

17 Dec 2008	Lansdown Unit	0	0
30 Jul 2009	Lansdown Unit	0	0
Total for Lansdown Unit		**0**	**0**

Fountain Way

14 Mar 2009	Ashdown	6	9
21 Mar 2009	Beechlydene Ward	4	7
Total for Fountain Way		**10**	**16**

37 Whittucks Road

30 Sep 2008	37 Whittucks Road	1	3
Total for 37 Whittucks Road		**1**	**3**

Elmham Way

8 Sep 2008	1 Elmham Way	1	1
Total for Elmham Way		**1**	**1**

Blaise View

8 Sep 2008	Blaise View	1	1
Total for Blaise View		**1**	**1**

Wickham Unit (High Dependency Rehab Service)

3 Dec 2008	Hopton Ward	4	3
12 Mar 2009	Fairfax Ward	3	3
15 Apr 2009	Cromwell Ward	4	4
Total for Wickham Unit (High Dependency Rehab		**11**	**10**

Total Number of Visits: 42
Total Number of Wards visited: 41
Total number of Patients seen: 126
Total Number of documents checked: 152