

# **Mental Health Act Annual Statement December 2010**

## **Ealing, Hammersmith & Fulham and Hounslow Service Delivery Units**

### **West London Mental Health NHS Trust**

#### **Executive Summary**

This statement reflects the findings of visiting Mental Health Act (MHA) Commissioners in the period October 2009 to September 2010. Where appropriate this statement includes consideration of the responses given by the provider to those visits. During the reporting period the Care Quality Commission (CQC) has visited Ealing, Hammersmith & Fulham and Hounslow Service Delivery Units (SDU) 17 times, visiting 16 wards, interviewing 85 patients in private and scrutinising 62 sets of records.

The Commission has been able to make many positive comments about individual wards on visits. Recently these have included effective community meetings, good activity programmes and positive comments from patients about nursing staff such as: *'nurses are great, do a really good job'* and *'nurses are very good'*

The Commission is aware of considerable changes to the management of the trust and also the refurbishment and re-structuring of wards aiming to improve the patient experience. The Commission has been particularly impressed by the pro-active approach by Hounslow SDU to issues raised from visits.

The SDU with the most reported concerns by Commissioners was Ealing. One reason is that it has the most wards nevertheless overall the Commission would view Ealing SDU as having raised the most challenges in respect of compliance with the Mental Health Act and the care of detained patients.

#### **Main findings**

The trust has five Service Delivery Units (SDU) and this statement covers three of them – Ealing, Hammersmith & Fulham and Hounslow. These units provide comprehensive specialist mental health services, both community and in-patient to the three London Boroughs after which they are named.

The following points highlight those Mental Health Act issues raised by Commissioners on visits and is drawn from the data presented in annex A. The detailed evidence has already been shared with the provider through the feedback summaries and is not repeated here. For further discussion about the findings of this Annual Statement please contact the author via the Care Quality Commission's Mental Health Operations Office located at The Belgrave Centre, Nottingham.

#### **Relationships with the provider in the reporting period**

The previous Annual Statement was received positively by the board and an action plan published. There are currently five feedback summaries awaiting a response

the oldest being 36 weeks ago. During the period the lead Commissioner had a number of constructive meetings with the SDU directors of each area. The Commission is concerned about the long time periods taken for some responses to visits. A recent response was six months after the visit with no explanation given for such a delay. The target given for visits is normally four to six weeks. During the year of this statement there have been six cases where the trust response has been over 20 weeks, five of these were for the Ealing SDU.

## **Mental Health Act and Code of Practice Issues**

### **Detention**

Commissioners generally found statutory documentation in order and on the occasions where errors have been found, they have been quickly corrected. The last Annual Statement commented that specific Mental Health Act concerns raised in one part of local services continue unchanged on other sites suggesting a lack of overall action to address issues across the entire service at a strategic level. During this period a Commissioner was obliged to contact the Chief Executive twice in relation to wards using out of date rights forms.

### **De Facto Detention**

*Concerns in this area may contribute to an understanding of the CQC's evaluation of the Provider's compliance with the Essential Standards of Safety and Quality Regulatory Outcome 7L*

The need to ensure that informal patients understand their rights has been raised on a number of occasions. The trust should consider a uniform approach across all three SDUs to address this matter including an informal rights leaflet and signs by exit doors explaining rights. Hounslow SDU produced a highly effective action plan to address the issue during the year.

### **Consent to Treatment**

*Concerns in this area may contribute to an understanding of the CQC's evaluation of the Provider's compliance with the Essential Standards of Safety and Quality Regulatory Outcomes 2C and 9E*

Problems around consent to treatment in relation to the Act are a regular issue on visits and this matter was raised in the last Annual Statement. Responsible Clinicians do not regularly record assessments of capacity when negotiating consent to treatment for detained patients nor regularly record the nature of discussions for consent or the information provided to patients. The compliance of Responsible Clinicians with the requirement to record the conversation they have with a detained patient following the visit of a Second Opinion Appointed Doctor (SOAD) remains inconsistent as does the requirement that the other consultees also record their meetings.

### **Section 132 – Information to Patients**

*Concerns in this area may contribute to an understanding of the CQC's evaluation of the Provider's compliance with the Essential Standards of Safety and Quality Regulatory Outcome 1A*

In the majority of cases the trust is meeting its statutory obligations in this area, however Commissioners did find deficiencies on a regular basis. Patients have

shown little understanding of their rights which raises questions about the effectiveness of current methods of discussing rights with those who are detained.

On Windermere Ward at Ealing in May a Commissioner found that: In 2008 a previous Commissioner noted “Most patients I spoke to had little understanding of how and why they were detained, and of their rights under the MHA.” The Commissioner for this visit was very concerned that two years later the situation was the same if not worse. Only one patient out of seven interviewed knew they were detained.

### **Mental Capacity Act, Deprivation of Liberty Safeguards**

*Concerns in this area may contribute to an understanding of the CQC's evaluation of the Provider's compliance with the Essential Standards of Safety and Quality Regulatory Outcome 7L*

Although some improvements have been made, failure to use the Mental Capacity Act in treating informal patients that lack capacity to consent remains a recurring issue. Visits to several wards showed that informal patients were not being treated legally under the requirements of the Act. Doctors have been found to record patients as 'lacking insight' but not carrying out a test of capacity around their ability to consent to treatment. Medical staff have also stated patients lack capacity to consent to treatment but not carried out a test to prove this. There was often no evidence of best interest decisions being made in line with the legislation. The issues raised indicate a lack of understanding by medical staff of the statutory framework now in force around consent. This issue has been raised extensively across all sites and for a considerable period of time.

### **Participation**

*Concerns in this area may contribute to an understanding of the CQC's evaluation of the Provider's compliance with the Essential Standards of Safety and Quality Regulatory Outcome 1*

Several visits have highlighted inconsistencies in the recording of patient participation. It is often the case that the level and content of patient participation is not reflected in documented care plans. This has been raised in relation to nursing care plans which do not clearly indicate the patients' views and ward rounds written in progress notes that do not indicate staff present and discussions indicative of a participative approach to patient care.

Good practice in this area is a marker of a practice and culture that seeks to empower and involve patients as active participants in their care in recognition of their human rights, of the principles in the Code of Practice and the Care Programme Approach and of the evidence base that supports improved outcomes through involvement.

### **The Ward Environment**

Ward environments have improved over the period with the refurbishment of many wards. Concern over some ward environments was raised however, on a number of visits and included issues such as overcrowding, ligature risks, lack of cleanliness, no secure places for personal belongings, showers not working, a bedroom regularly

flooded with sewage and bed bugs. Examples include Mary Seacole Ward, Campion Ward and Blair Ward.

Serious concerns about ligature risks on Blair Ward at Ealing, were raised during this period. The Commissioner involved was obliged to contact the Chief Executive directly as despite the matter being raised previously with local management little progress was evident.

### **Privacy**

*Concerns in this area may contribute to an understanding of the CQC's evaluation of the Provider's compliance with the Essential Standards of Safety and Quality Regulatory Outcome 1A, 10F, 10M*

The lack of privacy in relation to patient phones has been raised on every SDU during the year. The Commission is aware of action being taken to address this matter so that it should be resolved in the near future.

### **Recommendations**

1. The trust should address compliance with the Mental Health Act in a strategic way so that learning from issues raised on individual ward visits during the year can be embedded across the trust.
2. The trust should develop standardised measures to address the rights of informal patients across all local services.
3. The trust should review its consent to treatment procedures in relation to the Mental Health Act and the Mental Capacity Act and ensure that clinicians are familiar with and act in accordance with their responsibilities under the legislative framework.
4. Within the ethos of the participation principle in the Code of Practice, the trust should strengthen clinical practice and documentation in respect of care planning and ensure that its electronic records evidence the views of patients.

## Annex A

The quantitative data will only apply to visits completed from 1 April 2010 which is the time that the new data started to be captured uniformly.

Date	Ward	Det. Pats seen	Pats in groups	Records checked
<b><u>Ealing Local (Non Forensic)</u></b>				
31/10/2009	Conway (Non Forensic)	3	0	4
05/12/2009	Beverley Ward (Non Forensic)	7	0	7
11/12/2009	Coniston (Non Forensic)	6	0	4
09/03/2010	Local Services PICU (Non Forensic)	8	0	1
25/02/2010	Coniston (Non Forensic)	3	0	3
11/03/2010	Campion Ward (Non Forensic)	0	0	0
08/04/2010	Windermere (Non Forensic)	7	0	4
09/07/2010	Mary Seacole Women's Unit (Non Forensic)	9	0	4
<b>Totals for Ealing Local (Non Forensic)</b>		<b>43</b>	<b>0</b>	<b>27</b>
 <b><u>Hammersmith &amp; Fulham Mental Health Unit</u></b>				
26/10/2009	Lilly Ward	8	0	5
13/01/2010	Meridian Ward	2	0	3
20/01/2010	Askew Ward (Now Closed)	3	0	3
29/07/2010	Avonmore Ward	3	0	5
15/09/2010	Ravenscourt Ward	7	0	4
<b>Totals for Hammersmith &amp; Fulham Mental Health Unit</b>		<b>23</b>	<b>0</b>	<b>20</b>
 <b><u>Lakeside Unit</u></b>				
27/10/2009	Dove Ward	4	0	3
29/01/2010	Grosvenor Ward	4	0	3
14/05/2010	Finch Ward	6	0	4
29/09/2010	Kingfisher Ward	5	0	5
<b>Totals for Lakeside Unit</b>		<b>19</b>	<b>0</b>	<b>15</b>

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Total Number of Visits: 17

Total Number of Patients Seen: 85

Total Number of Documents Checked: 62

Total Number of Wards Visited: 16

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<b>Findings from Visits - Environment and Culture:</b>	<b>YES</b>	<b>NO</b>	<b>NA</b>
If the door is locked is there evidence that informal patients are informed of their right to leave the ward and given the means to do so?	4	2	0
Are you satisfied that there is evidence that informal patients are free to leave the ward in line with legal requirements?	4	2	0
Do patients have the ability to lock their rooms securely and the means to do so? [answer no if in dormitories]	2	4	0
Do patients have lockable space which they can control?	5	1	0
Are arrangements to cover viewing panels in bedroom doors adequate to protect patient privacy?	6	0	0
Are curtains or other window coverings in patient bedrooms adequate to protect privacy from people outside the ward?	5	1	0
Does the ward provide single gender sleeping areas, toilets, bathrooms and lounges?	6	0	0
Is there a ward phone for patients' use?	6	0	0
Is it placed in a location which provides privacy?	4	2	0
Are there any circumstances under which patients may have their mobile phones? [answer N/A if HSH]	6	0	0
Do patients have an opportunity to participate in influencing the ward they are on via such mechanisms as community meetings, patients' councils etc?	6	0	0

<b>Findings From Document Checks</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>	
Were the detention papers available for inspection? Did the detention appear lawful	24	2	0	
Was there either an interim or a full AMHP report on file?	19	5	2	
If the NR was identified was s/he consulted, If there was no consultation, were reasons given?	20	2	4	
Where appropriate was all psychotropic medication covered by a T2 and/or T3?	3	2	21	
Was there evidence a capacity assessment at the time of first administration of medication following detention?	0	18	7	
Was there evidence a discussion about consent at the time of first administration of medication following detention?	1	18	7	
Was there a record of the patient's capacity to consent at 3 months?	4	1	21	
Was there a record of a meaningful discussion about consent between the AC and the patient at 3 months?	4	1	21	
Was there evidence that the RC had advised the patient of the outcome of the SOAD visit or an explanation why not?	0	2	24	
Was there evidence of discussions about rights on first detention and an assessment of the patient's level of understanding?	16	10	0	
Was there evidence of further attempts to explain rights where necessary?	9	13	4	
Was there evidence of continuing explanations for longer stay patients?	2	0	24	
Is there evidence that the patient was informed of his/her right to an IMHA?	9	10	7	
Are the patient's own views recorded on a range of care planning tools?	8	15	3	
Was there evidence that the patient was given a copy of their care plan?	5	13	3	
Is there evidence that the patient signed / refused to sign their care plan	3	20	3	
Was there evidence of care plans being individualised, holistic, regularly reviewed and evaluated?	15	9	2	
Is there evidence of an up to date risk assessment and risk management plan?	22	3	1	
Is there evidence that discharge planning is included in the care plan?	8	13	5	
Were all superseded Section 17 leave forms struck through or removed?	12	7	7	
Was there evidence that the patient had been given a copy of the section 17 leave form?	11	10	5	
Are the timescales, frequency and conditions for the use of leave unambiguously specified?	22	0	4	
For patients in hospital less than a year, is there evidence of a physical health check on admission?	24	1	1	
For patients in hospital over than a year, is there evidence of a physical health check within the last 12 months?	1	3	22	
	<b>0</b>	<b>1</b>	<b>2</b>	<b>N/A</b>
If the patient's medication was authorised on a T3, was there a record of the discussion between the SOAD and the statutory consultees [enter 0 for none, 1 for one consultee, 2 for both consultees, and n/a if no T3]?	1	1	0	24

## **Annex B – CQC Methodology**

The Care Quality Commission 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. Since November 2008, Commissioners have also been meeting with patients who are subject to Community Treatment Orders. 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, rights to leave, patient privacy and dignity, gender separation, choice/access to services/therapies, communication facilities, physical health checks, food, and staff/patient ratios, smoking facilities, staff patient engagement, diversity and cultural sensitivity, cleanliness and upkeep of the ward, fresh air and exercise, physical safety and environmental risks.
- 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 assessing the providers compliance with the Mental Health Act 1983 and the Code of Practice including scrutinising the supporting documentation, records, policies and systems. The Commissioner reviews the basis and evidence of detention, including compliance with Sections 132, 132a (information to the detained patient about their rights), Section 58 and 58A (consent to treatment), the provision of the Independent Mental Health Advocacy (IMHA) service, the use of the Mental Capacity Act Deprivation of Liberty safeguards, Section 17 and 17A (leave and Community Treatment Orders) and reviews the evidence of the patient's participation in their treatment by reference to the Care Programme Approach documentation. The patient's access to physical care and treatment is also assessed.

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 the CQC to inform the process of registration and ongoing compliance with the outcomes and essential standards of safety and quality in accordance with the Health and Social Care Act 2008.