

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

## **Cumbria Partnership NHS Foundation Trust**

### **Executive Summary**

This statement reflects the findings of visiting Mental Health Act (MHA) Commissioners in the period between November 2009 and October 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 Cumbria Partnership NHS Foundation Trust on 12 occasions, visiting ten wards, interviewing 29 patients in private and scrutinising 36 sets of records.

In general the MHA Commissioner found that the trust continues to demonstrate its commitment to improving the physical environment for patients and by providing a high standard of accommodation, improves the patient experience.

There, however, remains a wide variation in the provision of therapeutic activities that are available in the ward units across the county, for some units there has been an improvement in the range of activities, in others it remains at an inadequate level. These difficulties are often linked to having sufficient available staff to undertake these activities or for example to enable activity rooms to be accessed by patients, where staff are required to supervise patients e.g. on the Psychiatric Intensive Care Unit (PICU).

There also continues to be confusion and uncertainty from some patients and staff, about the proposed changes to services as a result of the modernisation agenda, and consultation and resettlement processes appear to have very short timescales, the most recent example being Syra House.

Overall compliance with the Mental Health Act and the Code of Practice is of a good standard, with some minor improvements around Consent to Treatment issues. There is, however, a need to ensure the views of service users are incorporated into their care plans, and patients receive copies of their care plans and Section 17 leave forms, and if this is not appropriate or the patient refuses them, this is recorded.

### **Main Findings**

Cumbria Partnership NHS Foundation Trust provides in-patient and community services across the county of Cumbria, for individuals detained under the Mental Health Act and informal patients. The main in-patient unit is at Carleton Clinic, Carlisle, with other wards being based in Furness General Hospital, Barrow, Westmoreland General Hospital, Kendal, Ulverston Hospital and West Cumberland Hospital, Whitehaven. The service includes a PICU, acute admission and assessment wards, a rehabilitation ward and long term care wards for complex needs and is provided for adults and older people with mental health problems and learning disabilities.

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 to support them 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 appropriate responses taken. The visiting Mental Health Act Commissioner on her visits during the reporting period has noted considerable progress in many areas identified in last years report. Throughout the reporting period the Commissioner has found ward staff, and Mental Health Administrators to be very helpful and welcoming, and issues identified during the visits have been pro actively responded to by staff. It is also reassuring to note that with a very few exceptions detained patients spoke highly of their care and the staff who look after them.

Constructive meetings have also taken place with senior managers throughout the year to discuss and clarify issues.

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

#### **Detention and 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*

Of all the documents inspected no issues regarding the legality of detention were found, although in some cases the documentation on file was not complete, e.g. copies of section papers were not on file but with the Mental Health Act Administrator, or the Approved Mental Health Professional (AMHP) report was not available.

The trust has produced its own, very helpful leaflet, which explains the rights of informal patients to leave the ward, and their rights not to be held against their will without good reason, as protected under the Human Rights Act (1998) and common law.

The leaflet also explains the reasons why a ward where informal patients are placed may be locked and the fact that notwithstanding this, informal patients continue to be free to leave the ward unless there is good reason for the patient to be kept there under the Mental Health Act (1983).

However, on several wards visited where the door was locked, this leaflet was not available to informal patients and nether was it available in the ward information pack.

## **Section 17 Leave**

Whilst Section 17 leave forms were in order, it was unclear if patients are routinely given a copy of their leave form, as this was not recorded by staff. On wards where patients had escorted leave, it was also sometimes not possible for them to receive this leave, due to the unavailability of staff, who were unable to escort them as they were engaged in other activities.

## **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*

The Commission recognises there has been considerable problems in providing a Second Opinion Appointed Doctors (SOADs) and this has led to a significant increase in the use of Section 62 to ensure patients can continue to be treated.

There is currently one Approved Clinician (AC) working for Cumbria Partnership NHS Foundation Trust who is also a SOAD.

In general the documentation is good, but there are some areas of improvement i.e. in the recording of the ACs assessment of the patients capacity and the recording of a meaningful discussion with the patient with regards to consent and medication and finally the recording of the ACs discussion with the patient following the SOAD's visit.

## **Section 117 / Care Programme Approach (CPA)**

*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 4A and 4R*

The visiting Commissioner has paid particular attention to the comprehensive nature of the care plans and has found some excellent examples of care planning, where care plans have been written in the first person. However, in many cases the Commissioner could not find evidence of the patient's views being incorporated into the care plan, although often these are found in other documents. It has been suggested that the eCPA system is unable to incorporate patients' views. Further improvements are also required in staff recording to confirm patients have been given a copy of their care plan and if not the reason why not.

## **Section 132 – Information to Patient**

*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 general the trust complies with the Code of Practice requirements to keep patients informed of their rights and most patients seen were aware of their rights. There is also generally good documentation showing that patients have been informed of their rights under Section 132. However, staff need to ensure they record if a patient lacks capacity and this or any other reason why the care team has decided that their rights will not continue to be read to patients.

## **Documentation**

Documentation has improved throughout this period, with the introduction of the patient journey documents which act as a checklist of tasks for staff to complete within set timescales and includes provision of a welcome pack for all patients,

checks that rights under Section 132 are read to patients and comprehensive mental health and physical assessments are completed, including a risk assessment safety profile.

In Older Adults Services the CPA Older Peoples Recovery Plan is a comprehensive document, which produces care plans of a high standard and identifies strategies to promote wellbeing for individual patients. Similarly there were excellent care plans and assessment tools for patients with learning disabilities.

### **Mental Capacity Act (MCA / Deprivation of Liberty Safeguards (DOLS)**

*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*

There is evidence that the trust is implementing DOLS as the less restrictive alternative for some individuals, following careful considerations by the multidisciplinary teams (MDTs), and all the DOLS documents seen were in order.

Concerns were expressed by the visiting Commissioner on Ruskin Ward, as to whether Deprivation of Liberty should be considered for certain patients who lack capacity on this locked ward. This concern was discussed with senior managers and all subsequent actions agreed were responded to very promptly by the trust i.e. information as to the rights of informal patients has been included in the ward information pack and DOLS assessments have been completed that indicate that the criteria has not been met for these individuals. For one individual it was considered that the restraint (the locked door) was a reasonable and proportional response to ensure safety in the patients best interest and as such would be compliant with Section 6 of the Mental Capacity Act. Finally, clarification and guidance on the use of the above powers has been provided to the unit staff.

It is acknowledged that this is an area of developing practice and the above response provides an excellent example of the trusts willingness to work together with the Commission to problem solve and take proactive action.

### **Environment**

The trust is clearly committed to providing a high standard of accommodation for patients and the ongoing refurbishment programme continues to enhance the privacy and dignity of patients by increasing single room accommodation through out the county. This past year has also seen refurbishment to Becksie Ward and the ongoing refurbishment of Hadrian Ward.

### **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*

Privacy is generally respected on the wards where there are single rooms. Staff have been observed knocking and waiting before entering and requesting permission from patients before Commissioners can access their room.

## **Gender Separation**

This year the trust has implemented their new policy document Delivering Same Sex Accommodation and assessments had been completed on the wards visited to establish how far these standards are being met. This has resulted in increased awareness by staff of the need to ensure the privacy and dignity standards are met and clarifies for them what actions they need to take to promote the standards i.e. female service users should have access to a female member of staff at all times and an escort of the same gender should always be available.

## **Activities**

A continuing complaint of patients in almost all the units is a lack of available activities (this was not evident at Edenwood where community activities are accessed by the majority of patients). This issue has been raised in previous reports.

On most wards a weekly activity programme is in place but the reality is that often there are insufficient staff available (either ward staff, occupational therapists or activity nurses) to provide these activities. E.g. on Yewdale Ward activities are only available in the evenings, but not during the day due to the staffs other responsibilities (electro-convulsive therapy (ECT) and Section 136 suite).

On Rowanwood the new games room, which is modern and attractive, is often not in use due to the lack of staff to supervise activities. The importance of therapeutic and meaningful activities as an important aid to recovery are recognised in the ward information for Rowanwood, which goes on to say that the team provides a comprehensive programme of activities both on and off the ward. Unfortunately the reality is there is some way to go before this aspiration is met.

## **Staffing**

Patients continue to complain that there are not enough staff to take them on their escorted leave and when staff are asked they say this is due to their other duties which have to be given a higher priority e.g. close observations, Section 136 suite. Psychological input is very apparent on some wards (Edenwood) but remains a problem on other wards i.e. Rowanwood.

## **Video conferencing**

These facilities are now in place to improve communication with professionals and relatives/carers across this large county. However, when asked, staff report there has been some use of these facilities with professionals but these facilities do not yet appear to have been used by relatives or carers to keep in touch with their family member when they are on an in-patient unit.

## **Recommendations and Actions Required**

1. De Facto Detention: The trust to put in place systems that ensure all informal patients receive a copy of the Informal Patients Information Leaflet, which advises them of their rights.
2. Section 17 leave: The trust to ensure patients receive a copy of their Section 17 leave form and patients, where ever possible, receive their escorted leave entitlement.
3. Consent to Treatment: The trust is asked to continue to encourage other consultants to become SOADs and to put systems in place to ensure that capacity to give consent and meaningful discussions of consent are recorded by ACs, together with the requirement for ACs to record their discussion with patients following a SOAD visit.
4. Care Planning: The trust to consider how patients' views can be best included in their care plans and that staff are reminded to ensure patients receive a copy of their care plan and this is recorded on the plan.
5. Activities: The trust is asked to review their current levels of off ward and on ward activities to ensure a comprehensive programme is available to all patients.
6. Staffing: The trust is asked to ensure that sufficient staff are available to enable patients to take escorted leave and there is sufficient numbers of psychologists available to meet in patient need.
7. Video conferencing: The trust to consider how to make best use of the video conferencing facilities for relatives / cares to maintain contact with their family members whilst they are in 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	Patients seen	Records checked
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### West Cumberland Hospital (Mental Health)

12 Mar 2010	Yewdale	3	4
<b>Total for West Cumberland Hospital (Mental Health)</b>		<b>3</b>	<b>4</b>

### Westmorland General Hospital

6 May 2010	Kentmere	2	2
<b>Total for Westmorland General Hospital</b>		<b>2</b>	<b>2</b>

### Ulverston Hospital

28 Apr 2010	Gill Rise	1	2
<b>Total for Ulverston Hospital</b>		<b>1</b>	<b>2</b>

### Dane Garth

13 Apr 2010	Beckside Ward	3	4
<b>Total for Dane Garth</b>		<b>3</b>	<b>4</b>

### Carleton Clinic

9 Dec 2009	Edenwood Ward	0	1
	Oakwood	3	4
17 Feb 2010	Rowanwood	1	3
24 May 2010	Oakwood	2	3
2 Jun 2010	Hadrian Unit	4	3
22 Jun 2010	Ruskin Unit	3	3
1 Jul 2010	Syra House	2	2
13 Jul 2010	Edenwood Ward	1	2
12 Aug 2010	Rowanwood	4	3
<b>Total for Carleton Clinic</b>		<b>20</b>	<b>24</b>

**Total Number of Visits: 12**

**Total Number of Wards visited: 10**

**Total number of Patients seen: 29**

**Total Number of documents checked: 36**

<b>Findings from Visits – Environment and Culture:</b>	<b>Yes</b>	<b>No</b>	<b>N/A</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?	7	2	1
Are you satisfied that there is evidence that informal patients are free to leave the ward in line with legal requirements?	8	0	1
Do patients have the ability to lock their rooms securely and the means to do so? [answer no if in dormitories]	6	4	0
Do patients have lockable space which they can control?	6	4	0
Are arrangements to cover viewing panels in bedroom doors adequate to protect patient privacy?	9	0	1
Are curtains or other window coverings in patient bedrooms adequate to protect privacy from people outside the ward?	9	1	0
Does the ward provide single gender sleeping areas, toilets, bathrooms and lounges?	10	0	0
Is there a ward phone for patients' use?	10	0	0
Is it placed in a location which provides privacy?	7	3	0
Are there any circumstances under which patients may have their mobile phones? [answer N/A if HSH]	9	1	0
Do patients have an opportunity to participate in influencing the ward they are on via such mechanisms as community meetings, patients' councils etc?	7	2	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	25	2	0
Was there either an interim or a full AMHP report on file?	25	2	0
If the NR was identified was s/he consulted, If there was no consultation, were reasons given?	22	2	3
Where appropriate was all psychotropic medication covered by a T2 and/or T3?	11	0	16
Was there evidence a capacity assessment at the time of first administration of medication following detention?	15	4	5
Was there evidence a discussion about consent at the time of first administration of medication following detention?	10	6	7
Was there a record of the patient's capacity to consent at 3 months?	7	2	14
Was there a record of a meaningful discussion about consent between the AC and the patient at 3 months?	7	2	14
Was there evidence that the RC had advised the patient of the outcome of the SOAD visit or an explanation why not?	1	5	16
Was there evidence of discussions about rights on first detention and an assessment of the patient's level of understanding?	24	3	0
Was there evidence of further attempts to explain rights where necessary?	3	8	15
Was there evidence of continuing explanations for longer stay patients?	4	1	21
Is there evidence that the patient was informed of his/her right to an IMHA?	21	5	0
Are the patient's own views recorded on a range of care planning tools?	15	13	0
Was there evidence that the patient was given a copy of their care plan?	6	21	0
Is there evidence that the patient signed / refused to sign their care plan	15	8	0
Was there evidence of care plans being individualised, holistic, regularly reviewed and evaluated?	25	1	2
Is there evidence of an up to date risk assessment and risk management plan?	27	1	0
Is there evidence that discharge planning is included in the care plan?	22	3	3
Were all superseded Section 17 leave forms struck through or removed?	10	7	8
Was there evidence that the patient had been given a copy of the section 17 leave form?	3	17	7
Are the timescales, frequency and conditions for the use of leave unambiguously specified?	19	0	7
For patients in hospital less than a year, is there evidence of a physical health check on admission?	24	2	0
For patients in hospital over than a year, is there evidence of a physical health check within the last 12 months?	3	2	22

<b>Enter 0 for none, 1 for one consultee, 2 for both consultees, and n/a if no T3</b>	<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.	0	0	7	15

## **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.