Mental Health Act Annual Statement October 2009

Barnet Enfield and Haringey Mental Health 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, and gender of detained patients.

- Ward environment and culture, including physical environment, patient privacy and dignity, safety, choice/access to services 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 Trust 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 Trust 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 when verifying the NHS Healthcheck 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 within this Trust is provided at Appendix A.

Background

Barnet Enfield and Haringey Mental Health Trust provides a range of inpatient, outpatient and community mental health services for the populations of Barnet, Enfield and Haringey and parts of South Hertfordshire. It also provides a number of specialist services, those falling within the remit of this report being the Eating Disorder Service and the North London Forensic Service (NLFS). NLFS provides forensic mental health and learning disability services to the boroughs of Barnet, Enfield, Haringey, Camden and Islington. This includes low and medium secure provision.

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This report draws on findings from visits by Mental Health Act Commissioners both under the auspices of the Mental Health Act Commission and those which took place after 1 April 2009 when the functions of the Mental Health Act Commission were taken over by the Care Quality Commission.

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.

During the reporting period, all inpatient services were seriously affected by the after effects of the fire which took place at Camlet 3 in October 2008. Although the immediate consequences of the fire were discussed in the 2008 report, the plans of the Trust to refurbish other parts of the hospital have been constrained by the loss of these forensic beds and the need to treat the Camlet 3 patients elsewhere. The Trust is to be commended on the progress it has made in improving the fabric of the rest of its buildings despite these extra challenges.

Main Findings

The relationship between Mental Health Act Commissioners and senior managers of the Trust has remained constructive throughout the reporting period. The Lead Commissioner for the Trust has welcomed the opportunity to meet with a number of the Trust's senior managers to foster a collaborative approach to the resolution of specific issues.

The final Annual Report of the Mental Health Act Commission was received positively by the Board and an extensive action plan published. This has been monitored by visiting Mental Health Act Commissioners on their visits during the reporting period and considerable progress noted in a number of areas. Particularly notable has been the improvement in response times to the Commission's visit feedback summaries, improvements in both the recording and facilitation of Section 17 leave and progress on refurbishment of ward environments at both St Ann's and Chase Farm. Considerable work has been done to move towards a ligature free environment though weight bearing taps and window fastenings still remain in bedrooms on some wards. The Trust has requested advice from the Commission on how to prioritise work to reduce ligature risks across all services, within the constraints of existing budgets. Further advice on this issue will follow from the Commission.

Also notable has been the work done by the Trust to reduce inpatient occupancy levels across all sites, particularly at St Ann's.

The Trust's administration of the Mental Health Act continues, in most instances, to be of a high standard – particularly at St Ann's. Visiting Commissioners unfailingly find the Mental Health Act administrators to be helpful and responsive in facilitating visits and addressing issues highlighted.

The ongoing issues of major concern for visiting Commissioners are those surrounding capacity and consent, information for patients, care planning/Care

Programme Approach (CPA) and an overarching concern about implementation of the Code of Practice's Participation Principle.

The Commission has noted the results of the recently published 2009 patient survey of acute inpatient services for the Trust. The Commission recognises that the sample for this survey was drawn from patients using the Trust's services in late 2008 – i.e. prior to the implementation of many of the improvements recognised in this report. Nevertheless, it is striking that many of the findings in the patient survey strongly echo the Commission's ongoing concerns, particularly in respect of involving patients in decisions and plans about their treatment, interaction between staff and patients and the provision of information in a form that is understandable and meaningful to patients.

Mental Health Act and Code of Practice
The following points highlight those Mental Health Act issues raised by Commissioners on visits that the Commission considers most serious. The detailed evidence to support them has already been shared with the Trust and is not rehearsed here. For further discussions about these findings please contact the author of this report via the Care Quality Commission at the Nottingham office.

Detention
The Care Quality Commission is impressed with the diligence of the Mental Health Act Managers in ensuring that all detentions are lawful. On the rare occasions where errors have been found, they have quickly been corrected and steps taken to ensure that they are not repeated.

Section 58
The Trust will be aware that the Commission scrutinises clinical practice under this section of the Act, and the accompanying sections of the Code of practice, with particular care. There are a number of reasons for this:

- In the one circumstance where compulsion is permitted in healthcare, it is fundamental to the human rights of patients (as protected by the Human Rights Act 1998) that all safeguards written into the legislation are met.

- In interviews with Commissioners, patients frequently raise concerns about their medication with regard to side effects, information and possible alternative treatments.

- It is the Commission's view that the recording of a patient's attitude to medication over time provides vital evidence of progress and significant data helpful in predicting future compliance.

- A growing body of research on informed decision making and consent shows that both patients and providers benefit when patients are well informed and play a significant role in deciding how they are going to treat or manage their health conditions. Informed patients are more likely to stick with the regimes the

treatment requires, and they often end up rating their health after treatment as better.[1]

- Where patients are not provided with adequate information about their treatment, genuine consent, and any opportunity to develop treatment models of partnership between patients and doctors as required under GMC Guidance, will remain an unachievable ideal[2].

The Commission has found a few examples of improving practice and is aware that the Trust's Mental Health Act Administration has issued Responsible Clinicians with cards that detail the requirements of the Code of Practice around recording. However, despite the commitment in the Trust's Action Plan, responding to the Commissions' 2008 Annual Report, to strengthening clinicians' practice under Section 58, evidence from our visits this year continues to demonstrate that medical practice in this area remains extremely inconsistent across the Trust. Since the start of this reporting period (1 December 2008 – 31 August 2009) the Commission has recorded 25 instances of breaches of Section 58 and/or the associated Code of Practice guidance. Some of these instances related to numbers of patients on one ward. It seems safe to surmise therefore that the actual number of breaches is very much higher than this.

Responsible Clinicians continue to fail to record assessments of capacity when negotiating consent to treatment. They also do not regularly demonstrate that they have discussed consent and assessed capacity during the first three months of detention. It is still very rare indeed to find a record of the patient's views on the proposed treatment. 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 patchy as does statutory consultees' record of their consultation with the SOAD.

It may be that clinical practice has improved in this regard and this is simply a matter of record keeping – although evidence from Commissioners' meetings with patients is very mixed in this regard. However, clinicians must recognise that if the practice is not recorded, then as far as the audit trail is concerned, it did not happen. On the basis of the patients interviewed and records scrutinised by Commissioners in this reporting period, it is difficult to escape the conclusion that, at least in some parts of the Trust's service, there remain instances of clinical practice that compound the disempowerment experienced by people with serious mental health problems, detained under the Mental Health Act.

In the coming year the Care Quality Commission will be introducing its Compliance Guidance for the new system of registration of NHS services. Continuing failure to improve the consistency of compliance with the requirements of Section 58 will inevitably have consequences for the Trust's registration process.

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[1] Eg Weston W(2001) Informed and shared decision making: the crux of patient care Canadian Medical Association Journal 165 (4). Foundation for Informed Medical Decision Making – see www.informedmedicaldecisions.org

[2] Coercion and Consent. The Mental Health Act Commission Thirteenth Biennial Report 2007-09 para 3.16

It is not within the Commission's remit to identify the extent to which continuing poor practice may be linked to individuals. However, the Commission would support strongly any measures taken by the Trust, such as peer review, to involve its consultant psychiatrists in identifying and addressing individual deficits in this area.

Section 17 – Leave for detained patients

As acknowledged above, there has been a noticeable improvement in administrative and clinical practice regarding Section 17 this year. However, there is still scope for improvement in both respects. As previously advised by the Commission, it is essential that old Section 17 authorisation forms are scored through and, ideally, filed separately to the current authorisation in order to avoid confusion for ward staff facilitating requests for leave. This issue has significant governance implications – it is not just a matter of administration. The Trust is further reminded that paragraph 21.21 of the Code of Practice states that copies of the authorisation should be given to the patient as well as any others who may need to know. This has been an ongoing concern for some patients this year

Section 132 – Information to Detained Patients

Visiting Commissioners have found much evidence of good administration of Section 132. It is apparent that this is an area of practice that has been considerably strengthened not least through the audit tools and active monitoring efforts of the MHA administrative staff. In many cases it is evident that attempts to give patients information about their rights and access to advocacy are clearly documented in patient notes. However, there have remained a number of instances where either patients interviewed by the visiting Commissioner evidently do not understand their rights .and/or where it is clear from the Section 132 documentation on the patient's notes that repeated attempts to convey information have not been made even when the patient was recorded as not having understood the information on the first attempt.

This issue is about much more than good administration. It is fundamental to implementation of the respect and participation principles of the Code of Practice. Furthermore, the Code of Practice (paragraphs 2.24-25) states that patients should be reminded of their rights and the effects of the Act from time to time, in particular under certain circumstances, regardless of whether or not they understood the information on the first or subsequent attempts.

Care Programme Approach (CPA) / Section 117

It is evident from patient records on RiO that in many cases care planning is being approached in a detailed way. Commissioners have observed positive examples of multidisciplinary models of care. However, in interview with Commissioners, patients often say they have no knowledge of their care plans and the case records rarely document the involvement that the patient may have had in formulating an appropriate care plan. Plans were frequently not signed by the service user and their views on the care plan were frequently absent. It is not uncommon that Commissioners talk to patients who have little understanding of CPA and its processes and are somewhat bewildered by the operations of the system they find themselves detained within.

The Commission recognises that fluctuations in a patient's mental state may impede their ability to retain or recall information about care planning discussions. Nevertheless, the evidence from Commissioner visits, and from the national patient survey, is such that we believe the Trust needs to do much more to facilitate genuine user participation in the care planning process – '*building confidence in their strengths, goals and aspirations as well as their needs and difficulties; and recognise the individual as a person first and patient second'*[3].

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.

Advocacy

The Commission understands that an Independent Mental Health Advocacy (IMHA) service is now in place in across all three boroughs of the Trust's catchment and recognises that the funding of these services is the responsibility of Primary Care Trusts (PCTs). There was some delay in the start date following the statutory deadline for implementation on 1 April 2009. The Commission has no information from the Trust's commissioning PCTs on the assessment undertaken to assess the staffing required to fulfil the requirements of the Act. The Commission will continue to monitor the extent to which the current provision is sufficient to meet the statutory duties placed upon PCTs to commission this service.

Throughout this reporting period, in interviews with Commissioners, many patients have seemingly had no knowledge either of the role of an advocate nor of their right to access such. The provision of explanatory information about access to advocacy services for patients on ward notice boards is patchy. The Trust is reminded that under Section 130D of the Mental Health Act, hospital managers have a duty to '*ensure that the patient understands a) that help is available to him from an IMHA and b) how he can obtain that help.'*

Ethnicity Recording and Cultural Assessment

On a number of Commission visits inconsistencies have been noted in the recording of patients' ethnicity against Department of Health categories, for example through a recorded ethnicity that differs from the patient's own identification. In the case of patients whose state of mind is acutely disturbed on admission, this may take repeat attempts to establish. The Commission has observed continuing use of the word 'Caucasian' in records of some medical assessments - a word that is both culturally and statutorily redundant.

The Commission is aware that the Trust monitors the use of the Act in relation to people from black and minority ethnic groups through its Mental Health Act governance framework, within the context of Delivering Race Equality. The Code of Practice's respect principle is also significant here. An audit process might be

[3] Department of Health (2008) Refocusing the Care Programme Approach: Policy and positive practice guidance

established by the corporate Mental Health Act management to support this effort, possibly aligned to existing Section 132 audit processes.

The Commission is also aware, through its meetings with patients, that patients' cultural, language and religious needs are not always either assessed or understood in terms of the implications for their care. This has been particularly apparent in terms of language needs – Commissioners have met with a number of patients whose first language was not English but who had not been offered an interpreter service to support communication with treating clinicians and ward staff. The Commission would expect to see evidence of cultural needs assessments in specific cases, together with facilitated access to linguistically appropriate media, nursing staff and other services – drawn if necessary from across the Trust's services.

Privacy and Dignity

The Commission is pleased that recent inspections by its Investigations team reached a satisfactory conclusion in respect of concerns raised earlier this year regarding patients' privacy and dignity. One further issue of concern has been raised on several occasions by Mental Health Act Commissioners this year and that is the matter of coverings for patient bedroom windows and/or observations panels in bedroom doors. This is a particular concern in those wards that are still mixed sex.

Occupancy

The Commission notes the work done by the Trust this year to address over occupancy. However, evidence of continuing over occupancy both at St Ann's and at Ken Porter Ward in the Springfield Centre during recent months demonstrates that challenges remain. The Commission understands from a recent meeting with senior staff that a number of initiatives are underway that are expected to have an impact on occupancy levels. These include the introduction of Lean methodology and the productive ward programme, changes in medical roles and development work to optimise the effectiveness of key community teams. The Commission commends all these initiatives but recognises that the impact on admissions and length of stay may take some time to work through the system. The Trust is therefore urged to exercise caution in taking any decisions on bed closures in the coming months.

Recommendations for Action

- Section 58. The Trust should take further steps, as a matter of urgency, to ensure there is consistent improvement in clinical practice in accordance with the Act and the Code of Practice and in line with the evidence base on informed decision making and consent.

- Section 132. The administrative audit tools are now in place across the Trust to support practice under Section 132 – with the exception of the requirement to remind patients of their rights from time to time. This issue could easily be incorporated into the Trust's existing Section 132 forms. Please advise the Commission of the further steps the Trust will take to strengthen the practice of ward staff regarding the communication of information to patients in the context of the Code of Practice principles.

- Clinical staff should be reminded of the importance of providing patients with information about advocacy on a regular basis as part of good practice under Section 132.

- With regard to the Code of Practice and the revised Care Programme Approach (CPA) guidance, the Trust should strengthen its training and development efforts with clinical staff to improve practice in relation to patient participation in the care planning process.

- The Trust should ensure that information for detained patients regarding their statutory right to an Independent Mental Health Advocacy (IMHA) service is 'user friendly' and visible on all ward notice boards where patients are detained, and that patients are routinely reminded of this right and of how they may access these services.

- The Trust should take steps to ensure that patients' ethnicity is recorded in a way that is both consistent with Department of Health categories and accords with the patient's own identification of ethnicity.

- The participation in care planning by patients whose first language is not English should be supported by appropriate, cultural assessments and facilitated access to interpreters on a routine basis.

- The Trust should take steps to ensure that all patient bedrooms provide adequate safeguarding of privacy and dignity at both doors and windows, giving particular priority to facilities in the Trust's remaining mixed sex wards.

Forward Plan

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

- They will work with other colleagues in the Care Quality Commission to develop an integrated approach to the regulation of the Trust's services.

- During the year they plan to meet members of the Mental Health Law committee and other senior managers to review progress on the issues raised in this report.

- The Care Quality Commission is developing a visit/inspection methodology for patients on Community Treatment Orders. Mental Health Act Commissioners will begin a programme of visits to focus on the rights and the care of these patients.

The Commission will continue to monitor the extent to which the current provision of Independent Mental Health Advocacy across the Trust's catchment is sufficient to meet the statutory duties placed upon PCTs to commission this service.

Appendix A

Commission Visit Information for Barnet, Enfield and Haringey Mental Health NHS Trust Covering the period between 1 October 2008 and 30 September 2009

Date	Ward	Det. Pats. seen	Records checked
St Anns Hospital (Acute Wards)			
17 Nov 2008	Haringey - Ex Camlet 3 (Now Closed)	4	0
19 Nov 2008	Finsbury	3	4
9 Dec 2008	Phoenix Wing	1	2
22 Dec 2008	Orchard Unit	2	2
17 Feb 2009	Lordship Ward	3	6
17 Mar 2009	Laseron (Now Closed)	1	4
7 Apr 2009	Alexandra	3	5
21 May 2009	Downhills	5	4
15 Jul 2009	Finsbury	5	4
	Phoenix Wing	1	2
21 Jul 2009	Haringey - Ex Camlet 3 (Now Closed)	7	3
Total for St Anns Hospital (Acute Wards)		**35**	**36**
Edgware Community Hospital			
17 Dec 2008	Thames	4	3
27 Apr 2009	New Beginning Unit	0	2
29 Apr 2009	Avon	5	4
22 May 2009	Hollyoaks	3	2
13 Jul 2009	Dove	2	2
Total for Edgware Community Hospital		**14**	**13**
Chase Farm Hospital			
2 Oct 2008	Sommerset Villa	0	2
17 Nov 2008	Keats (At Nlc)	6	3
17 Dec 2008	Suffolk	5	4
16 Jan 2009	Sussex (Re-Opened 2009)	4	4
22 Jan 2009	Cornwall Villa	1	3
21 Apr 2009	Dorset	6	6
17 Jun 2009	Devon	2	3
25 Aug 2009	Sommerset Villa	3	4
27 Aug 2009	Seacole Centre East (Lea Villa)	1	4
24 Sep 2009	Cornwall Villa	0	0
	Sussex (Re-Opened 2009)	0	0
Total for Chase Farm Hospital		**28**	**33**

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Date	Ward	Det. Pats. seen	Records checked
Camlet Lodge 2			
21 Nov 2008	Hadley	3	3
3 Dec 2008	Ashmore (Formerly Clifford)	3	3
25 Jul 2009	Hadley	7	7
Total for Camlet Lodge 2		**13**	**13**
Camlet Lodge 1			
21 Oct 2008	Mandeville	2	2
Total for Camlet Lodge 1		**2**	**2**
Springwell Centre			
3 Oct 2008	Ken Porter	6	3
27 Jul 2009	Dolphin	0	0
	Ken Porter	3	6
Total for Springwell Centre		**9**	**9**

Total Number of Visits: 31
Total Number of Wards visited: 26
Total number of Patients seen: 101
Total Number of documents checked: 106