

Mental Health Act Annual Statement December 2010

Barnet, Enfield and Haringey Mental Health NHS 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 Barnet, Enfield and Haringey Mental Health Trust on 26 occasions, visiting 23 wards, interviewing 107 patients in private and scrutinising 95 sets of records.

In general the Mental Health Act Commissioners found that during the last year, improvements have continued in a number of areas such as the recording of capacity and consent and, in general, the participation of service users in their care. The trust's administration of the Mental Health Act continues to be of an extremely high standard. The refurbishment of the Camlet buildings in the North London Forensic Service (NLFS) has continued throughout this reporting period following the fire in 2008 and all wards have now been fully refurbished and reopened, the last being Camlet 3 which reopened fully in August 2010. The 'Productive Ward Environment' programme is established with both staff and patients reporting positive feedback in terms of its implementation, particularly in terms of protected engagement time. Regarding response times to Commission visit feedback summaries which were highlighted in the last statement, there continues to be improvements. Bed over occupancy has once again become an issue during recent Commissioner visits, which has been raised with the Chief Executive of the trust. Issues regarding section 58 type treatments have continued to be raised by the Commission as have issues surrounding rights of detained patients. In particular and of concern is the apparent lack of knowledge in some wards regarding the patients' right to access the statutory Independent Mental Health Advocacy Service.

Main findings

Barnet, Enfield and Haringey Mental Health Trust provides NHS Mental Health care principally for the people of Barnet, Enfield and Haringey although it also provides some specialist services for the whole of North London and some national specialist services. It provides both in-patient care and community services for adults and older people with specialist services including Child and Adolescent Mental Health Services (CAMHS), substance misuse, forensic and eating disorders services. The trust is currently in the process of applying for Foundation trust status.

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 an extensive action plan published to address each recommendation from the previous statement. 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. Relationships between the Mental Health Act Commissioners and senior managers of the trust remain positive and constructive meetings between the Commissioners and the Chief Executive of the trust continue. Commissioners have found clinical and administration staff to be helpful and accommodating in facilitating visits and responding positively to feedback.

Mental Health Act and Code of Practice issues

Detention

The high standard which the Mental Health Act administration department maintains in terms of ensuring lawful detention has continued throughout the reporting period; errors such as a lack of evidence of statutory documentation that have been noted have been dealt with quickly and efficiently. In terms of detention, what was of particular concern during one visit was the lack of clarity regarding whether a patient was detained under the Act or whether they were an informal patient. Upon investigation by the Commissioners, it transpired that the patient had been discharged from his section the previous day, highlighting an issue of communication and documentation surrounding the legal status of the patient. This reinforces the need for statutory documentation to be immediately accessible to clinical staff.

Leave – Section 17 and Absence without leave Section 18

With regard to section 17, a number of issues were found such as an inability to access escorted leave due to staff shortage (this was raised as an issue on six separate occasions); in addition, it was noted that in some files there were several forms with overlapping dates, or undated, creating confusion about the current leave status. Occasionally, expired section 17 leave documents were not crossed through. These issues were raised at the time with each of the wards but have been raised here as they continued to occur on wards across the trust.

Consent to Treatment – Section 58

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

During the reporting period, visiting Mental Health Act Commissioners came across some good innovative practices in relation to consent to treatment issues, such as encouraging patients to complete side effect monitoring forms and the implementation on Alexandra Ward of 'medication with a smile', an innovation whereby administration of medication is encouraged via individual patient requests

rather than standard medication times. Documentation of consent and capacity assessments both at admission and at three months continues to show signs of general improvement. However, a range of non-compliance with the requirements under this section of the Act was also noted. During the reporting period, Commissioners identified 36 issues relating to section 58 type treatment.

Of especial concern to the visiting Mental Health Act Commissioners were six incidences where it appeared that the patient was being treated unlawfully, mainly due to medication being prescribed and administered which was not authorised on the accompanying certificate. Other issues included lack of evidence in some instances regarding the assessment of capacity or the obtaining of consent, both during and after the first three months of detention and occasionally no records of communication of the Second Opinion Appointed Doctor (SOAD) decisions to patients or the statutory consultees' discussions with the SOAD.

The Commission is aware of the trust's action plan for 2010 in response to the last Annual Statement deals with the issue of capacity and consent and although improvements can be seen with some examples of excellent practice being noted in some wards (Dhaniala Ward, Phoenix Wing, Paprika), it seems that practice to ensure compliance with section 58 and the Code of Practice still presents challenges on a few of the wards.

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

Although, there continues to be a general improvement in the participation of patients in their care, issues have still arisen during the course of visits where patients have complained that they do not have awareness or a say in their planned care. Commissioners noted that detailed documentation regarding care pathways on the RiO system is continuing but on occasions there is little reference to the views of the patient included in the care plans. Similarly, Commissioners are often advised by staff that patients had copies of their care plans but during interviews, patients told Commissioners that although they had been given copies in advance of the Commissioners' visits, they had not been given the opportunity to participate in the formulation of their care plans. Of concern, some patients complained they were unaware of outcomes that needed to be achieved to facilitate discharge from the ward, thereby leaving them confused and frustrated. The Commission has noted the excellent practice seen at Alexandra Ward where many patients who saw the Commissioner stated they were fully aware of and participated in their care and commended the clinical staff for fostering this collaborative approach to care.

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

Practice under section 132 is good on many wards with clear evidence that patients are receiving good levels of information about their detention and associated rights. However, visiting Mental Health Act Commissioners heard from patients on several wards that they had not received an explanation of their rights, nor did they seem to

understand their rights under detention, including the right of appeal. A scrutiny of patient files on these wards also found that they did not evidence the discussion of patients' rights whilst they were detained, as there were no section 132 forms available or unsuccessful attempts were recorded with no further documentation available to evidence further attempts to explain rights. Some files that did have the completed forms were dated on or soon after detention when the patients were possibly too unwell to take in the information; in other files it appeared that rights had not been explained for a significant period of time. It is fundamental that patients are advised of their rights on a regular basis and understand the implications of their detention status including their rights of appeal and their right to access an Independent Mental Health Advocate (IMHA)

Section 130A – Independent Mental Health Advocacy

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

Of particular concern on some wards, is the apparent lack of knowledge expressed by patients regarding their right to access the Independent Mental Health Advocacy service. In such cases patients have either been advised of their right to this service by the visiting Commissioners or have requested to see an advocate via the Commissioner rather than accessing the service directly from the ward. Some patients were aware of this service but said attendance on the ward by the advocate was not always regular, this seemed to be a particular issue on those wards which have recently moved into refurbished accommodation. Some wards visited did not have information about the IMHA service displayed and some staff seemed unaware of how this service operated. On occasions, the section 132 monitoring form used did not have any reference to the advocacy service.

Other Patient Issues

Bed Occupancy

The Commission notes that the issue of bed over occupancy has continued to be a focus of positive action by the trust, however challenges still remain. Over occupancy has been noted to be a problem on recent visits to St Ann's and Edgware hospitals which have presented a challenge to staff and patients alike, due to 'quiet rooms' being converted into temporary bedrooms or patients being 'slept out' at different wards or hospitals. This issue was raised with the Chief Executive at a recent meeting and is felt to be an acute situation exacerbated by a lack of suitable accommodation to which patients can be moved to when they are ready to be discharged. This situation will hopefully ease with the opening of further low support accommodation in the New Year.

Environment - Smoking

The Commission notes that the trust is moving to becoming a total non smoking environment, with smoking banned in all areas of the trust including the hospital grounds. The trust is to be commended on the measures that are already in place to support patients to give up smoking through the use of nicotine replacement therapy and trained 'smoking cessation' staff. However, this issue has been raised as a

concern on a number of occasions by patients who are concerned about this forthcoming total ban and the implications they believe it will have in terms of illicit smoking on wards, raised frustrations at not being able to smoke and how this will be expressed.

Recommendations and Actions Required

1. The trust should as a matter of urgency institute effective governance arrangements to ensure that there is a further consistent improvement in compliance with section 58 of the Mental Health Act, especially with regard to capacity, consent and lawful treatment of patients.
2. The trust should review its care planning processes to consider how best to ensure further compliance with the participation principle laid out in the Code of Practice and associated guidance relating to the Care Programme Approach. The aim should be to ensure that the high standard of practice apparent on some wards is rolled out across the trust.
3. The trust should ensure that information for detained patients is regularly given and all attempts are recorded, including attempts at repetition of rights at regular intervals.
4. The trust should ensure that the Independent Mental Health Advocacy Service is widely advertised, is easily accessible to patients and any issues that arise in the delivery of this service are raised with service commissioners in a timely manner. The trust must ensure that all qualifying patients are fully aware of their right to this service

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
<u>Camlet Lodge 1</u>				
16/12/2009	Fennel	4	0	3
12/01/2010	Paprika	4	0	4
12/01/2010	Mint	7	0	2
15/06/2010	Paprika	2	0	2
27/09/2010	Fennel	4	0	6
Totals for Camlet Lodge 1		21	0	17
<u>Camlet Lodge 2</u>				
23/02/2010	Dhania	1	0	9
21/06/2010	Saffron	7	0	6
Totals for Camlet Lodge 2		8	0	15
<u>Chase Farm Hospital</u>				
02/11/2009	Suffolk	5	0	4
23/01/2010	Elstar (At Orchard Unit)	5	0	5
27/01/2010	Dorset	3	0	5
30/01/2010	Damson (At Orchard Unit)	5	0	5
11/03/2010	Sussex (Re-Opened 2009)	4	0	4
17/03/2010	Devon	7	0	0
12/04/2010	Baytree House	0	0	1
11/05/2010	Cornwall Villa	1	0	3
Totals for Chase Farm Hospital		30	0	27
<u>Colindale Hospital Site</u>				
03/02/2010	Elysian House	1	0	2
Totals for Colindale Hospital Site		1	0	2
<u>Edgware Community Hospital</u>				
12/11/2009	Thames	7	0	1
12/02/2010	Avon	4	0	4
24/09/2010	Thames	5	0	5
Totals for Edgware Community Hospital		16	0	10
<u>Springwell Centre</u>				
23/03/2010	Ken Porter	5	0	4
Totals for Springwell Centre		5	0	4

Date	Ward	Det. Pats seen	Pats in groups	Records checked
St Anns Hospital (Acute Wards)				
17/11/2009	Beech	0	0	1
17/11/2009	Cedar	2	0	4
18/01/2010	Alexandra	5	0	3
18/01/2010	Downhills	4	0	4
01/04/2010	Finsbury	4	0	4
13/04/2010	Phoenix Wing	3	0	4
07/10/2010	Alexandra	8	0	0
Totals for St Anns Hospital (Acute Wards)		26	0	20

Total Number of Visits: 26
 Total Number of Patients Seen: 107
 Total Number of Documents Checked: 95
 Total Number of Wards Visited: 23

Findings from Visits - Environment and Culture:	YES	NO	N/A
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	0	3
Are you satisfied that there is evidence that informal patients are free to leave the ward in line with legal requirements?	2	5	3
Do patients have the ability to lock their rooms securely and the means to do so? [answer no if in dormitories]	5	5	0
Do patients have lockable space which they can control?	6	2	2
Are arrangements to cover viewing panels in bedroom doors adequate to protect patient privacy?	9	1	0
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?	8	1	1
Is there a ward phone for patients' use?	10	0	0
Is it placed in a location which provides privacy?	4	6	0
Are there any circumstances under which patients may have their mobile phones? [answer N/A if HSH]	10	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?	3	0	7

Findings From Document Checks	YES	NO	N/A	
Were the detention papers available for inspection? Did the detention appear lawful	32	1	2	
Was there either an interim or a full AMHP report on file?	22	1	12	
If the NR was identified was s/he consulted, If there was no consultation, were reasons given?	19	3	13	
Where appropriate was all psychotropic medication covered by a T2 and/or T3?	22	6	7	
Was there evidence a capacity assessment at the time of first administration of medication following detention?	14	10	11	
Was there evidence a discussion about consent at the time of first administration of medication following detention?	11	10	14	
Was there a record of the patient's capacity to consent at 3 months?	13	7	15	
Was there a record of a meaningful discussion about consent between the AC and the patient at 3 months?	16	5	14	
Was there evidence that the RC had advised the patient of the outcome of the SOAD visit or an explanation why not?	6	6	23	
Was there evidence of discussions about rights on first detention and an assessment of the patient's level of understanding?	27	4	4	
Was there evidence of further attempts to explain rights where necessary?	21	5	9	
Was there evidence of continuing explanations for longer stay patients?	18	4	13	
Is there evidence that the patient was informed of his/her right to an IMHA?	35	0	0	
Are the patient's own views recorded on a range of care planning tools?	21	14	0	
Was there evidence that the patient was given a copy of their care plan?	16	10	1	
Is there evidence that the patient signed / refused to sign their care plan	9	0	26	
Was there evidence of care plans being individualised, holistic, regularly reviewed and evaluated?	24	7	4	
Is there evidence of an up to date risk assessment and risk management plan?	34	0	1	
Is there evidence that discharge planning is included in the care plan?	21	10	4	
Were all superseded Section 17 leave forms struck through or removed?	18	7	10	
Was there evidence that the patient had been given a copy of the section 17 leave form?	20	5	10	
Are the timescales, frequency and conditions for the use of leave unambiguously specified?	20	3	12	
For patients in hospital less than a year, is there evidence of a physical health check on admission?	23	0	12	
For patients in hospital over than a year, is there evidence of a physical health check within the last 12 months?	16	2	17	
	0	1	2	N/A
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]?	8	3	1	22

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.