

# **Mental Health Act Annual Statement January 2011**

## **Mersey Care NHS Trust**

### **Executive Summary**

This statement reflects the findings of visiting Mental Health Act (MHA) Commissioners in the period between October 2009 and 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 Mersey Care NHS Trust on 29 occasions, visiting 28 wards, interviewing 77 patients in private and scrutinising 97 sets of records.

In general MHA Commissioners found good practice in regard to legality of detention and the recording of section 132. Where there have been errors or omissions identified they have been promptly rectified.

Good practice is also evident in the provision of advocacy, gender separation and the protection of patient privacy and dignity. Environmental maintenance and improvements include the provision of a psychology suite in The Exchange building at Ashworth Hospital. Health promotion is now evident throughout the trust with regular physical health checks clearly recorded.

The majority of patients are positive about staff and the care they receive. Occupational Therapy (OT) and ward based activities supported by activity workers are valued by patients.

In high secure services, the seclusion monitoring group and the PIPs service ensure a considered use of seclusion with regular scrutiny. Johnson Ward provides an example of good practice in the use of seclusion. A seclusion and isolation monitoring group is now in place in the Hesketh Centre.

The trust continues to support the delivery of an inclusive user and carer model and the building of cultural partnerships. Reading and music groups continue to be well received by patients. The Touchstone Group assisted in planning accommodation in the psychiatric intensive care unit (PICU) at Rathbone Hospital. Patients at Ashworth Hospital contributed to the development and planning of the new psychology facilities.

Concerns remain in regard to section 58 and care planning (highlighted in the previous statement) although areas of excellent practice were noted. Also, in the provision of information to patients regarding their rights to an Independent Mental Health Advocate (IMHA) and the provision of Approved Mental Health Professional (AMPH) reports following detention.

## **Main findings**

Mersey Care NHS Trust provides specialist mental health and learning disability services for the people of Liverpool, Sefton and Kirkby including acute inpatient care, home treatment and community care and treatment. It also offers medium secure services for Merseyside and Cheshire and high secure services covering England and Wales. Liverpool, Sefton and Knowsley Primary Care Trusts have approved proposals to improve mental health in-patient environments by developing five new purpose-built centres with a total of 285 beds covering adult, older people, learning disability and addiction services. The first phase, providing two new centres is to commence in 2011.

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 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.

A number of constructive meetings with the Assistant Chief Executive (Complaints , Incidents and Legal Management ) and Mental Health Act managers have taken place regularly throughout the 12 month period. Commissioners have had the opportunity to attend Seclusion Monitoring meetings, to meet with the director responsible for service user and carer involvement, to meet with project lead for the TIME project and to meet with the leads for both Social Care and Psychology Services in the high secure hospital.

The trust also hosted a very successful visit to secure services at the request of the newly appointed CQC Chair, Dame Jo Williams. The CQC would like to thank all patients and staff who met with Dame Jo Williams on her visit to Ashworth Hospital.

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

#### **AMHP Reports**

Commissioners found no evidence that AMHP reports were provided to the hospital managers, nor were they found in the majority of patient files examined. The trust has responded to MHA Commissioners concerns by reminding local social services of their responsibilities in this regard. Rathbone Rehabilitation Services are seeking agreement with local social services regarding standardisation of AMHP reports.

## **Leave – Section 17**

A lack of clarity regarding the recording of patient signatures and the provision of a copy to patients was noted. A revised form is currently in consultation in acute services. Good practice is evident in the Scott Clinic and on Boothroyd and Sandon Wards.

## **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 Responsible Clinicians' (RCs) recording of capacity and the discussion with the patient regarding consent or following the visit of a Second Opinion Appointed Doctor (SOAD) continues to cause concern. Although areas of excellent practice were noted e.g. Windsor House, Scott Clinic, Boothroyd and Oak Wards and Eliot and Blake Wards in high secure services, recording omissions were noted across both high secure services and local services. Trust managers have continued to remind RCs of their responsibilities. A monthly audit has been initiated in some areas to ensure issues relating to medication and consent are regularly checked.

## **Section 130A – Independent Mental Health Advocacy (IMHA)**

*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*

The responsibility of Hospital Managers to inform patients of their right to an IMHA has been in place since April 2009. Whilst the provision of an IMHA service has, in the main, been effected throughout the trust, the provision of information has been problematic.

Trust managers have however, demonstrated a commitment to resolving this issue. Gaps in current recording systems have been recognised. New systems have been developed to ensure patients have the necessary information and that this is recorded.

## **Other Patient Issues**

### **Care Planning**

Patients have told Commissioners that they are aware of their care plan. However, many patients did not have a copy and did not know how it could be accessed. The trust launched new care programme approach (CPA) documents in April 2010 and they include statements regarding the service user's input into the planning of their care and their acceptance or refusal of a copy of the document. In many cases the forms are not completed.

Albert, Boothroyd and Windsor House are examples of wards that have responded to these concerns for example, undertaking a monthly audit of care plans, reviewing the role of the named nurse and providing written guidance to all qualified staff outlining their responsibilities regarding patient involvement in the care plan.

## **Environment**

It is evident that, within the limitations of the existing estate, trust managers continue to improve and upgrade wards. However, concerns remain in regard to some wards. For example, Eliot, Owen and Carlyle in high secure services which are in need of improvements. It is understood that capital bids have been made and a regular forum initiated re maintenance of the environment.

## **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 management of observations and patient privacy and security remains inconsistent across the trust. The PICU service at Rathbone Hospital is an example of good practice in this regard. All bedrooms are internally lockable and en-suite, with a personal safe. Doors have vista screen panels with internal closing. Also, external light dimmers minimise sleep disturbance during night time observations.

## **Gender Separation**

Older peoples' services continue to progress work towards achieving suitable arrangements for mixed sex wards.

## **Section 134: Monitoring of telephone calls and with holding of mail in high secure hospitals**

The CQC has a statutory duty to review the process whereby mail is withheld and telephone calls are monitored in Ashworth Hospital. During this reporting period, these matters were reviewed twice. The hospital has robust systems in place for the monitoring of mail and telephone calls. Patients are informed of these processes when it affects them. Record keeping of the rationale for these measures was clear and well organised.

## **Recommendations and Actions Required**

1. In partnership with local social services, the trust should continue to work towards best practice in the provision of AMHP reports following detention.
2. The trust should continue to audit the operation and recording of section 17 leave.
3. The trust should continue to regularly audit the operation of section 58 to pursue full compliance with the Code of Practice.
4. The trust should ensure that systems in place to inform patients about their rights to an IMHA and recording that information provision are robust and are monitored.
5. The trust should prioritise patient involvement with a strong emphasis on ensuring patient ownership of their care plans.

6. The trust should endeavour to provide, in every area of service provision, an environment which supports the physical comfort and well being of patients and their privacy and security.

### **Forward Plan**

Commissioners will continue to visit Mersey Care NHS Trust in the coming year to monitor the operation of the Act and to meet with detained patients in private.

Progress against issues raised in this statement will be actively followed up by Commissioners in the forthcoming 12 months.

Commissioners will work with colleagues in the Care Quality Commission to develop an integrated approach to the regulation of trust services.

## 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	Patients seen in groups	Records checked
<b><u>Ashworth Hospital</u></b>				
23/10/2009	Dickens Ward	2	0	3
23/10/2009	Gibbon Ward	5	0	3
23/10/2009	Tennyson Ward	3	0	1
29/12/2009	Forster Ward	2	0	6
05/03/2010	Macauley Ward	5	0	4
05/03/2010	Hazlitt Ward	3	0	2
23/04/2010	Keats Ward	4	0	3
23/04/2010	Owen Ward	2	0	2
23/07/2010	Johnson	0	0	3
23/07/2010	Carlyle Ward	2	0	3
23/07/2010	Ruskin Ward	5	0	5
23/07/2010	Eliot Ward	4	0	3
23/08/2010	Arnold Ward	4	0	2
23/08/2010	Blake Ward	1	0	3
<b>Totals for Ashworth Hospital</b>		<b>42</b>	<b>0</b>	<b>43</b>
<b><u>Broadoak Unit</u></b>				
12/04/2010	Albert Ward	4	0	3
08/06/2010	Albert Ward	4	0	3
<b>Totals for Broadoak Unit</b>		<b>8</b>	<b>0</b>	<b>6</b>
<b><u>Heys Court</u></b>				
20/04/2010	Continuing Care Unit	1	0	3
<b>Totals for Heys Court</b>		<b>1</b>	<b>0</b>	<b>3</b>
<b><u>Mossley Hill Hospital</u></b>				
03/02/2010	Acorn	1	0	3
17/08/2010	Acorn	0	0	2
30/09/2010	Ward 9 - Oak	2	0	3
<b>Totals for Mossley Hill Hospital</b>		<b>3</b>	<b>0</b>	<b>8</b>
<b><u>Rathbone Unit</u></b>				
19/04/2010	Childwall	0	0	3
25/08/2010	Rathbone Rehabilitation Centre	3	0	6
26/08/2010	PICU	4	0	6
<b>Totals for Rathbone Unit</b>		<b>7</b>	<b>0</b>	<b>15</b>
<b><u>Scott Clinic</u></b>				
07/12/2009	Hawthorne Ward	3	0	3
<b>Totals for Scott Clinic</b>		<b>3</b>	<b>0</b>	<b>3</b>

<b><u>Southport General Infirmary</u></b>				
23/06/2010	Boothroyd	0	0	3
<b>Totals for Southport General Infirmary</b>		<b>0</b>	<b>0</b>	<b>3</b>
<b><u>Stoddart House (Aintree Hospital Site)</u></b>				
05/10/2009	Sandon Ward	4	0	3
02/08/2010	Gladstone Ward	3	0	3
23/09/2010	Clarence Ward	1	0	4
<b>Totals for Stoddart House (Aintree Hospital Site)</b>		<b>8</b>	<b>0</b>	<b>10</b>
<b><u>The Hesketh Centre</u></b>				
25/06/2010	Park Unit	3	0	3
<b>Totals for The Hesketh Centre</b>		<b>3</b>	<b>0</b>	<b>3</b>
<b><u>Windsor House</u></b>				
01/09/2010	Windsor House	2	0	3
<b>Totals for Windsor House</b>		<b>2</b>	<b>0</b>	<b>3</b>
Total Number of Visits:		29		
Total Number of Patients Seen:		77		
Total Number of Documents Checked:		97		
Total Number of Wards Visited:		28		

<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?	12	3	8
Are you satisfied that there is evidence that informal patients are free to leave the ward in line with legal requirements?	8	2	13
Do patients have the ability to lock their rooms securely and the means to do so? [answer no if in dormitories]	10	11	2
Do patients have lockable space which they can control?	16	7	0
Are arrangements to cover viewing panels in bedroom doors adequate to protect patient privacy?	14	4	5
Are curtains or other window coverings in patient bedrooms adequate to protect privacy from people outside the ward?	16	1	6
Does the ward provide single gender sleeping areas, toilets, bathrooms and lounges?	18	0	5
Is there a ward phone for patients' use?	22	1	0
Is it placed in a location which provides privacy?	13	8	2
Are there any circumstances under which patients may have their mobile phones? [answer N/A if HSH]	10	5	8
Do patients have an opportunity to participate in influencing the ward they are on via such mechanisms as community meetings, patients' councils etc?	18	2	3

<b>Findings From Document Checks</b>	<b>YES</b>	<b>NO</b>	<b>NA</b>	
Were the detention papers available for inspection? Did the detention appear lawful	55	10	10	
Was there either an interim or a full AMHP report on file?	55	10	10	
If the NR was identified was s/he consulted, If there was no consultation, were reasons given?	34	12	29	
Where appropriate was all psychotropic medication covered by a T2 and/or T3?	41	6	28	
Was there evidence a capacity assessment at the time of first administration of medication following detention?	12	22	35	
Was there evidence a discussion about consent at the time of first administration of medication following detention?	17	22	36	
Was there a record of the patient's capacity to consent at 3 months?	21	17	37	
Was there a record of a meaningful discussion about consent between the AC and the patient at 3 months?	18	19	38	
Was there evidence that the RC had advised the patient of the outcome of the SOAD visit or an explanation why not?	5	14	56	
Was there evidence of discussions about rights on first detention and an assessment of the patient's level of understanding?	49	9	17	
Was there evidence of further attempts to explain rights where necessary?	29	14	32	
Was there evidence of continuing explanations for longer stay patients?	28	14	33	
Is there evidence that the patient was informed of his/her right to an IMHA?	15	51	9	
Are the patient's own views recorded on a range of care planning tools?	55	15	5	
Was there evidence that the patient was given a copy of their care plan?	30	12	5	
Is there evidence that the patient signed / refused to sign their care plan	23	36	16	
Was there evidence of care plans being individualised, holistic, regularly reviewed and evaluated?	66	3	6	
Is there evidence of an up to date risk assessment and risk management plan?	66	3	6	
Is there evidence that discharge planning is included in the care plan?	49	12	14	
Were all superseded Section 17 leave forms struck through or removed?	11	21	43	
Was there evidence that the patient had been given a copy of the section 17 leave form?	2	30	43	
Are the timescales, frequency and conditions for the use of leave unambiguously specified?	30	5	40	
For patients in hospital less than a year, is there evidence of a physical health check on admission?	35	8	32	
For patients in hospital over than a year, is there evidence of a physical health check within the last 12 months?	17	0	58	
	<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]?	4	7	6	58

## **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.