

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

## **Hertfordshire Partnership NHS Foundation Trust**

### **Executive Summary**

This statement reflects the findings of visiting Mental Health Act (MHA) Commissioners in the period between 1 October 2009 and 30 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 Hertfordshire Partnership NHS Foundation Trust on 30 occasions, visiting 35 wards, interviewing 117 patients in private and scrutinising 92 sets of records.

### **Main findings**

The Hertfordshire Partnership Foundation Trust provides all specialist NHS Mental Health and Learning Disability care for the people of the county of Hertfordshire. It provides both in-patient care and community services, with specialist community teams for Assertive Outreach, Crisis Intervention, Child and Adolescent Mental Health Services (CAMHS), substance abuse and eating disorders.

The trust also provides Medium Secure Services for people with a Learning Disability at Little Plumstead Hospital in Norfolk. The trust has managed these services for 18 months.

In April 2010, the trust took the management of six units from North East Essex Primary Care Trust at the Lexden site. These units provide either assessment and treatment or rehabilitation for adults with a Learning Disability.

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.

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 Care Quality Commission's Mental Health Operations Office located at The Belgrave Centre, Nottingham.

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

Relations between Mental Health Act Commissioners and senior managers of the trust have remained constructive throughout the reporting period. The Commissioner has met regularly with the Directorate Manager, Mental Health Legislation and concerns have been raised with the Head of Service Delivery throughout the year. The trust put in place a system for managing responses to Commission visits and

this has improved the quality of responses. However, there have been particular problems in the timeliness of responses with responses from two sites being notably late. The worst example being six months late.

The 2009 Annual Statement was again received positively by the board. This has been monitored by visiting Mental Health Act Commissioners on their visits during the reporting period. Practice across the trust in the administration of Section 58 remains patchy and this is again discussed in this statement. The trust has made considerable improvements to a number of units to ensure gender separation, but struggles to maintain a high standard of ward environment across the services. The trust has made considerable effort to improve the management of seclusion on the Harpurbury site, and have invested in staff training to ensure appropriate practice.

The trust have taken responsibility for the Lexden site and are in the process of responding the concerns raised at this site by Commissioners including issues from a complaint to the CQC and issues raised on visits. This is not discussed in this statement as it is acknowledged that the trust require time to make the necessary improvements to the service. The trust have responded with a management of change plan for the Lexden site and are being proactive in making changes.

In general, patients are positive about the support and care they receive from the trust. Patients have raised concerns to Commissioners about their care and treatment, these tend to either be isolated to individual issues, or have related to change management. For example, where a service has been re-designed or relocated and it has taken time for culture and practice to be established on the ward. Commissioners have found that on follow up visits, action has been taken and improvements made to the service.

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

### **Detention**

The Care Quality Commission is impressed with the diligence of the Mental Health Act Managers in ensuring that all detentions sampled are lawful. This year, following a visit to the Eric Shepherd Unit, 11 unlawful detentions were found. The trust quickly corrected the errors and steps were taken to ensure that they were not repeated.

### **Leave – Section 17 and Absence without leave Section 18**

Practice of recording Section 17 leave varies across the trust. On a number of units, it has been found that the forms lacked the detail required by the Code of Practice. It has also been found that the practice of consulting with the patient and their carers is inconsistent. The trust have taken steps to improve practice at those units where concern was expressed via visits.

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.

### **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 practice and knowledge within Section 58 of both Responsible Clinicians (RCs) and Nursing staff who dispense medication varies across the trust. The Commission regularly find examples of good practice. However, several 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. The Commissioner found on three visits that patients had been administered medication without the correct legal authority.

The trust have provided additional training to units where particular problems concerning consent to treatment arose. The trust has now taken steps to improve the governance of Section 58, linking practice to appraisal and supervision. The effects of this are likely to take effect in the next reporting period.

### **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*

The Commission has found both excellent and poor practice in the reading and recording of patients rights. Section 132 has featured in a number of Annual Reports of the Mental Health Act Commission, and the trust has undertaken audits of practice in the past. It clearly still presents a challenge to the trust to ensure a high standard across all services.

### **Seclusion and the management of Violence**

*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 4Q, 7F and 7H*

The trust has made considerable effort to improve the management and use of seclusion across the trust. Seclusion remains a challenging and complex area and where issues have been found, this often relates to the interpretation of trust policy and the Act. The trust responded positively to feedback to improve areas of practice of seclusion and will discuss openly the care and treatment of individuals with unique and complex needs who at times will be subject to seclusion.

### **Other Patient Issues**

#### **Patient and Staff Safety**

Following a number of visits to the Eric Shepherd Unit earlier in the year, the concerns about the culture and approach of staff to managing aggression and violence were highlighted. This unit has been reviewed and there has been a management re-structure to ensure a robust approach to this unit. Monitoring will continue to occur in the next round of visits to ensure improvements to the management of violence and aggression at the unit have occurred.

### **Environment & Gender Separation**

The trust have committed to refurbishment and redevelopment of a number of units to ensure the ward environment is fit for purpose. However, there still exists inadequate gender separation at the Older Person's assessment unit.

The trust intends to undertake major capital works to Little Plumstead Hospital, Eric Shepherd Unit, Queen Elizabeth II Hospital and Shrodells Unit. All of these units present with challenging environments, limited by the current accommodation.

### **Recommendations and Actions Required**

The trust should consider how to ensure consistent practice across the organisation in these key areas:

- Section 58.
- Section 17.
- Section 132.

The trust has excellent systems, forms and policy to support the practice of practitioners in these areas. However, these are simply not followed in particular units and/or services.

### **Forward Plan**

The Commission will monitor through visits and liaison with the trust progress made to integrate the Lexden site into the trust and to address service development areas identified at the unit.

The trust should ensure that adequate human and financial resources are allocated to maintain the physical environment of units that are being decommissioned or developed.

Mental Health Act Commissioners will continue to visit the 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 with members of the Senior Management Team to review progress on the issues raised in this report.

## 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.

<i>Date</i>		<i>Det. Pats seen</i>	<i>Pats in groups</i>	<i>Records checked</i>
<b><u>Albany Lodge</u></b>				
14/01/2010	Albany Lodge	5	0	3
<b>Totals for Albany Lodge</b>		<b>5</b>	<b>0</b>	<b>3</b>
<b><u>Community Support Unit (Watford)</u></b>				
15/04/2010	Kassio	0	0	0
<b>Totals for Community Support Unit (Watford)</b>		<b>0</b>	<b>0</b>	<b>0</b>
<b><u>Eric Shepherd Unit</u></b>				
16/12/2009	5 Warren Court	6	0	3
12/02/2010	Crossways Ward	6	0	3
12/03/2010	1 Warren Court	3	0	3
12/03/2010	3 Warren Court	3	0	3
15/03/2010	4 Warren Court	2	0	3
<b>Totals for Eric Shepherd Unit</b>		<b>20</b>	<b>0</b>	<b>15</b>
<b><u>Gainsford House (Mental Health Services)</u></b>				
09/12/2009	Gainsford House	0	0	3
<b>Totals for Gainsford House (Mental Health Services)</b>		<b>0</b>	<b>0</b>	<b>3</b>
<b><u>Hampden House (Mental Health Services)</u></b>				
09/12/2009	Hampden House	5	0	3
<b>Totals for Hampden House (Mental Health Services)</b>		<b>5</b>	<b>0</b>	<b>3</b>
<b><u>Harperbury</u></b>				
21/10/2009	Beech	7	0	3
22/10/2009	Oak	9	0	3
10/11/2009	Forest House	3	0	3
04/01/2010	2 Bowlers Green	0	0	0
19/01/2010	1 Bowlers Green	5	0	3
31/01/2010	3 Bowlers Green	1	0	1
31/01/2010	4 Bowlers Green	2	0	3
30/03/2010	Oak	5	0	3
<b>Totals for Harperbury</b>		<b>32</b>	<b>0</b>	<b>19</b>
<b><u>Lambourn Grove</u></b>				
04/11/2009	Lambourn Grove	1	0	2
<b>Totals for Lambourn Grove</b>		<b>1</b>	<b>0</b>	<b>2</b>
<b><u>Lexden Hospital</u></b>				
26/02/2010	The Clover Centre	1	0	1
26/02/2010	Cymbeline Lodge	2	0	2
31/03/2010	William House	3	0	3
19/08/2010	William House	2	0	5
19/08/2010	The Clover Centre	0	0	1
19/08/2010	Elizabeth House	1	0	1
<b>Totals for Lexden Hospital</b>		<b>9</b>	<b>0</b>	<b>13</b>

**Lister Hospital**

13/01/2010	Aston Ward	7	0	3
<b>Totals for Lister Hospital</b>		<b>7</b>	<b>0</b>	<b>3</b>

**Little Plumstead Hospital**

26/01/2010	Poplar House	3	0	3
<b>Totals for Little Plumstead Hospital</b>		<b>3</b>	<b>0</b>	<b>3</b>

**Prospect House**

15/12/2009	Prospect House	1	0	3
<b>Totals for Prospect House</b>		<b>1</b>	<b>0</b>	<b>3</b>

**Queen Elizabeth li Hospital (Mental Health Unit)**

08/12/2009	Welwyn Ward	0	0	0
20/01/2010	Mymms Ward	3	0	2
20/01/2010	Thumbswood Ward	1	0	1
<b>Totals for Queen Elizabeth li Hospital (Mental Health Unit)</b>		<b>4</b>	<b>0</b>	<b>3</b>

**Seward Lodge**

26/11/2009	The Pines	0	0	0
26/11/2009	The Willows	3	0	3
<b>Totals for Seward Lodge</b>		<b>3</b>	<b>0</b>	<b>3</b>

**Shrodells Unit**

05/11/2009	Essex Ward	5	0	3
<b>Totals for Shrodells Unit</b>		<b>5</b>	<b>0</b>	<b>3</b>

**The Broadland Clinic**

02/10/2009	Oakview A	2	0	3
08/10/2009	Admissions Ward	5	0	3
07/10/2009	Oakview B	5	0	3
30/10/2009	The Firs	4	0	4
<b>Totals for The Broadland Clinic</b>		<b>16</b>	<b>0</b>	<b>13</b>

**The Meadows**

10/12/2009	The Meadows	6	0	3
15/12/2009	The Meadows	0	0	0
<b>Totals for The Meadows</b>		<b>6</b>	<b>0</b>	<b>3</b>

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Total Number of Visits:	30
Total Number of Patients Seen:	117
Total Number of Documents Checked:	92
Total Number of Wards Visited:	35

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

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

<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	2	2

## **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.