Mental Health Act Annual Statement December 2009

Derbyshire Mental Health Services NHS Trust

Introduction
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. 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, patient privacy and dignity, safety, choice/access to services/therapies, physical health checks, food, and staff/patient.

- 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
The Derbyshire Mental Health Mental Health Services NHS Trust provides specialist NHS Mental Health and Learning Disability care for the people of the county. This report is based on findings of visits to 14 psychiatric wards, 32 patients seen and 36 documents inspected.

The visits were undertaken by Mental Health Act Commissioners both under the auspices of the Mental Health Act Commission and those which took place after April
1 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.

**Main findings**

There are satisfactory arrangements and procedures in the Hartington Wing and in Wards 41 and 45 at Derbyshire Royal Infirmary with regard to staffing levels and skill mix, advocacy input, access to fresh air, Occupational Therapy (OT) input, visiting arrangements and training and updates, including awareness of changes in the Mental Health Act.

The acute admission wards at the Radbourne Unit were under pressure because of high occupancy levels and the high proportion of detained patients. Despite this, it was noted that a calm atmosphere was being maintained on the ward.

The environment and quality of care in all the units on the Kingsway site were found to reach high standards.

There were concerns about consent to treatment matters, which are being addressed in new guidance issued by the Chief Pharmacist.

**Mental Health Act and Code of Practice**

The following points highlight those Mental Health Act Issues raised by Commissioners on visits. 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 medical files and statutory documentation are kept in good order (on all wards visited). The outline reports left by Approved Mental Health Professionals (AMHPs) are mostly very helpful.

One joint medical recommendation for Section 3 was found not to have been completed correctly in accordance with the new requirement that the hospital where appropriate treatment is to be provided was not named on the form. The Trust sought legal advice on the validity of the form and decided to end the detention.

Patients on the highest level of observation on Ward 36 cannot go outside for fresh air or a cigarette. This is because the outside area is not secure. The hospital was reminded that increased levels of observation can be used for short term management of disturbed behaviour or to prevent suicide or serious self harm, but there should be regular reviews of levels of observation (Code of Practice 15.40-42).
Seclusion
Following observations about poor maintenance of seclusion records made by the visiting Commissioner in 2008, seclusion was found to be properly recorded on a visit to an acute admission ward. A comprehensive audit of seclusion has been completed, identifying improvements in practice between 2007 and 2008. An action plan, incorporating recommendations from the audit, was produced in April 2009.

Information for patients
On visits to Ward 36 (Radbourne Unit) and Wards 41 and 45 (Derbyshire Royal Infirmary), forms recording the giving of information under Section 132 did not appear to be consistently completed. The Commissioner was informed that reminders are sent out by the Mental Health Act office to all wards periodically to advise nursing staff of the requirement to provide an explanation of rights to patients immediately after start of detention with regular follow-ups. There was good recording of Section 132 rights having been regularly given in the Keddleston Unit and Cherry Tree Close.

The files were found to be in good order on the Hartington Unit with full compliance by nursing staff of Section 132 with Trust forms timely and correctly completed.

Advocacy
There is a lack of awareness of the new Independent Mental Health Advocacy (IMHA) service, which may be due to the lateness in the commissioning of the service. The contract has been awarded to Derbyshire Mind Advocacy Service, who have agreed to organise briefing sessions for each ward. However, there has been difficulty in making these happen.

Regular meetings are held with patients, some of which are convened by PALS. The records of these meetings show that patients are able to put forward their views about the ward regime.

Leave and Absence without leave
The Trust is in the process of reviewing its policy on leave, taking into account the recommendations of a coroner about making explicit reference to restricted patients. The coroner had recorded a verdict of accidental death while a patient was Absent Without Leave (AWOL).

Section 58
There is potential for confusion in the recording of dosage on Form T2 where more than one medication is being authorised within a single BNF category. It is important to ensure clarity so that both nurses and the patient understand what has been authorised. The Chief Pharmacist has confirmed that the Trust’s guidance will be amended so that the wording on Form T2 complies with the Commissioner’s recommendations.

The Commissioner drew attention to multiple legal and practice issues with regard to capacity to consent and a Form T2 for one patient on Tissington House. The Responsible Clinician, who had only recently taken responsibility for the patient took immediate steps to deal with the concerns, including making a referral for a Second Opinion Appointed Doctor (SOAD) and ensuring that the medication for which the
patient was not consenting was authorised under Section 62 urgent treatment provisions. The Trust was reminded that nurses have professional responsibilities with regard to the consent to treatment provisions and their attention was drawn to the CQC’s Guidance “Nurse, the Administration of Medication for Mental Disorder and the Mental Health Act.

When making a record about whether patients consent to medication and their capacity to do so, the Commissioner has advised that Responsible Clinicians should give a brief narrative account of the discussion with the patient, which might refer, for example, to the patient’s attitude toward the proposed treatment (see Code of Practice, 23.31 – 36).

Community Treatment Orders (CTOs)
The Trust has a high use of CTOs. An issue has been raised about the difficulty for the SOAD to consult with two people professionally concerned with the patient’s medical treatment, other than the RC or AC, in cases where there may only be a Responsible Clinician (RC) and community nurse maintaining contact with the patient in the community. Another issue concerns changing the medication of a patient on a Community Treatment Order (CTO), even if the patient consents, beyond that which has been authorised by a SOAD. This would require a repeat SOAD visit and further complication given the current delay in the CQC arranging these visits.

Other issues raised from MHA visiting activity

Patient activities
There is a good supply of activities and games kept on the wards. There is very good gym equipment and Nintendo Wii games on the Keddleston Unit. The Psychiatric Intensive Care Unit (PICU) staff were not using the gym equipment as much as they could, because of a misunderstanding about safety.

The Occupational Therapists (OTs) on Cherry Tree work as part of an integrated team with the nursing staff. An excellent training package on recovery has been jointly developed on the ward.

Smoking
A no smoking policy has been introduced both within hospital buildings and in the grounds. It has been clarified that there are exceptions:-

- Where patient’s freedom is restricted due to application of the Mental Health Act.
- While levels of observation make leaving the grounds unsafe / unreasonable.

Mental Capacity Act - Deprivation of Liberty Safeguards (DoLS)
There is a lack of awareness of the Deprivation of Liberty Safeguards. Staff, working on longer stay wards and wards which cater for patients with organic disorders, should know about these safeguards, as there may be patients, who are compliant and not subject to the Mental Health Act, but where the care arrangements may amount to a deprivation of liberty.
The Ward Environment
The acute admission wards in the Radbourne Unit are under pressure. There were 28 patients allocated to the 24 beds on Ward 35 with a further nine placed on other wards on a visit made on 1 October 2008. Ward 36 was fully occupied with a high number of detained patients when visited on 20 April 2009. Despite being under pressure, the Commissioner observed that there was a calm atmosphere on Ward 36 with staff and patients holding each other in respect. The ward is spacious, clean and pleasant, but there is no outside secure space for patients, under high levels of observation, to gain access to fresh air.

The Beeches Motherhood and Baby Unit was found to be a very well maintained, spacious ward that was appropriately decorated to meet the needs of the mothers and their babies. The Trust was asked to undertake a risk assessment of potential ligature points on all doors and window handles as well as bathroom taps.

The intensive care and low secure wards are located in the same unit (Keddleston) on the Kingsway site. They are spacious, clean and comfortably furnished with attractive outside areas. Each patient has their own bedroom. There is a considered approach towards risk taking. For example, patients are allowed to use their mobile phones. It is to be hoped that the commissioning criteria being developed by the East Midlands Secure Commissioning Team will not be too restrictive, for example, by limiting the open access which low secure patients currently have to the garden area.

The Commissioner was very impressed with the high standards of facilities, which the patients enjoy in the Cherry Tree Recovery Unit bungalows and the surrounding garden areas, the quality of care delivered by staff and the strong emphasis on the Recovery Approach.

There are excellent new facilities for older patients with organic mental disorders on the Kingsway Hospital site on both Tissington House and the Cubley Unit. On a visit to Tissington House, patients were observed to be making good use of the space in the unit - sitting in different areas and lounges and walking inside and outside the building. The staff, including the OT team, are committed to good quality care and a good level of staff / patient interaction was observed. Patients have en suite bedrooms, which it is possible to lock from the outside. The Commissioner asked the Trust to look into patients being able to lock the door from the inside to enhance feelings of safety and security, particularly when the rooms of male and female patients are next to each other.

The environment, staff and services on the acute admission wards in the Hartington Unit were found to meet the needs of the patients. The Commission looks forward to the improvements which are anticipated from the PICU becoming part of Pleasley Ward. This will greatly increase the space and privacy and improve gender separation.

Access for Carers
Tissington House has a family room and a bedroom for visitors to stay overnight.
The Commissioner was pleased to hear about the carers group, which meets one Sunday afternoon per month on Cubley Court. A carers group was also being set up at Tissington House.

**Recommendations for Action**

- The lack of an outside secure space for patients on Ward 36 is a particular issue which needs attention.

- Consideration should be given to conducting an audit to ensure compliance with the new guidance on consent to treatment being issued by the Chief Pharmacist. This should include the recording by Responsible Clinicians of their discussion about capacity and consent to treatment with the patient.

- The Trust should ensure that there is greater awareness of the staff’s responsibilities with regard to patient access to the Independent Mental Health Advocacy following the implementation on 1 April 2009 of the new statutory right.

- There should be further training on DoLS for medical and nursing staff on wards where there is a potential need for the safeguards.

**Forward Plan**

- Mental Health Act Commissioners will continue to visit the Derbyshire Mental Health 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 the Commissioner plans to meet members of the Mental Health Act committee to review progress on the issues raised in this report.
## Appendix A

**Commission Visit Information for Derbyshire Mental Health Services NHS Trust covering the period between 1 October 2008 and 23 October 2009**

<table>
<thead>
<tr>
<th>Date</th>
<th>Ward</th>
<th>Det. Pats. seen</th>
<th>Records checked</th>
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<tbody>
<tr>
<td></td>
<td>Derbyshire Royal Infirmary</td>
<td></td>
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<tr>
<td>13 Feb 2009</td>
<td>Ward 41</td>
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<td>Ward 45</td>
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Total Number of Visits: 10  
Total Number of Wards visited: 14  
Total number of Patients seen: 30  
Total Number of documents checked: 36