Mental Health Act Annual Statement January 2010

Coventry and Warwickshire Partnership 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 Mental Health Act and records relating to the care and treatment of detained patients.
- Mental Health Act Commissioners use the Guiding principles in the Code of Practice (Published 2008) to inform opinions about the quality of care provided by the Trust. All decisions must be lawful informed by good practice and consistent with the Human rights Act 1998. Mental Health Act Commissioners expect these principles to underpin all decisions and clinicians and managers and all those involved in providing care balance application of the principles to provide the most effective and sensitive care to individuals.

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 Annual Health check and making decisions about the inspection programme in both the NHS and Independent Sector. From April 2010, the Mental Health Act Commissioners’ findings will inform the CQC’s assessments of organisations in relation to registration requirements, through evidencing ongoing compliance with the Mental Health Act and the Code of Practice.
Coventry and Warwickshire Partnership NHS Trust was visited 16 times during the period of this Annual Statement at which time 25 wards were visited. The records of 60 detained patients were examined and 45 detained patients were seen in private and many more in open conversation.

**Background**
The Coventry and Warwickshire Partnership Trust provides Mental Health, Learning Disability and Substance Misuse services for the people of Coventry and Warwickshire. The Coventry and Warwickshire NHS Partnership Trust replaces the mental health, learning disability and substance misuse services previously provided by South Warwickshire PCT, North Warwickshire PCT, Rugby PCT and Coventry PCT.

This Annual Statement draws on findings from the visit by Mental Health Act Commissioner both under the auspices of the Mental Health Act Commission (MHAC) and those which took place after 1 April 2009 when the functions of the MHAC were taken over by the CQC.

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**
Last year’s Annual Report of the MHAC was received by the Trust and a positive action plan published. This has been monitored by the visiting Mental Health Act Commissioner during the reporting period and good progress noted. In particular the Mental Health Act Commissioner was particularly pleased to note an improvement in the way in which care planning was happening and in particularly the involvement of both service users and carers in the plan development.

There has been a great improvement in the recording of ethnicity and preferred language in all areas of the Trust. Advocacy services still remain limited across all parts of the Trust.

It is reassuring to note that the majority of patients spoken with during the ward visits were happy with both the environment and of the staff who looked after them.

Relations between Mental Health Act Commissioners, the Ward Managers and Mental Health Act Managers of Coventry and Warwickshire Partnership NHS Trust have remained constructive and informative throughout the reporting period.

**Mental Health Act and Code of Practice**
The following points highlight those Mental Health Act issues raised by Mental Health Act Commissioner on his visit. The detailed evidence to support them has already been shared with the unit and is not rehearsed here.
Detention
The CQC is impressed with the diligence of all 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.

The majority of clinical notes were also well maintained and both the mental health act paperwork and patient’s progress by the multi-disciplinary team were easy to follow.

Section 58
Responsible Clinicians (RC) have made some improvements to the process of recording assessments of capacity when negotiating consent to treatment, but the Mental Health Act Commissioner noted that the RCs for patients were not noting the extent of their consent or capacity, including during the first three months of detention.

The Code of Practice paragraph 23.37 refers

“Although the Mental Health Act permits some medical treatment for mental disorder to be given without consent, the patient's consent should still be sought before treatment is given, wherever practicable. The patient's consent or refusal should be recorded in their notes, as should the treating clinician's assessment of the patient's capacity to consent”.

The other major concerns were the compliance of the RCs with their requirement to record the conversation they have with a detained patient following the visit of a Second opinion Appointed Doctor (SOAD) remains patchy across the Trust.

The use of Form 39 was raised as several patients had forms that were over 12 months old and some nearly 2 years old and it is seen as good practice to renew annually.

Section 132
There was variance in the quality of rights presentation across the Trust in some areas it was good but in others poor and many examples were given at the time of visits but many problems remain. As a matter of urgency, the Trust is to ensure a consistent organisational-wide approach to rights presentation, which currently ranges from excellent to poor, in order to comply with legislative requirements.

The Code of Practice paragraph 2.24 refers

"those with responsibility for patient care should ensure that patients are reminded from time to time of their rights and the effects of the act it may be necessary to convey on a number of different occasions, or in different formats and to check regularly that the patient has understood. The information given to a patient who is unwell may need to be repeated when their condition had improved”.

Section 2.25 highlights the need for a fresh explanation in certain circumstances.
The Trust is asked to ensure that all staff are aware of the need for regular rights presentation and that they are provided with clear guidance about frequency of presentation and re-presentation.

**Care Programme Approach (CPA)/Section 117**
The frequency of review of nursing care plans was rather variable, possibly due to staffing issues. There was some variability in written evidence of patient involvement in the development and review of nursing care plans and the Mental Health Act Commissioner recommends that the ward ensure that their involvement becomes standard. In one service area there was some good practice in that information was provided about the reasons for patients' non-involvement in the development of their nursing care plans. However, the form does not permit their subsequent involvement in the review of nursing care plans (if this occurs) to be recorded and the CQC recommends that the Trust establish a process to allow this to happen and be recorded. It is also recommended that patient's co-sign pre-ward round review forms.

The Code of Practice paragraph 1.5 refers to the participation principle:

"Patients must be given the opportunity to be involved, as far as is practicable in the circumstances, in planning, developing and reviewing their own treatment and care to help ensure that it is delivered in a way that is as appropriate and effective for them as possible. The involvement of carers, family members and other people who have an interest in the patient's welfare should be encouraged (unless there are particular reasons to the contrary) and their views taken seriously".

**Section 17 Leave**
The Mental Health Act Commissioner found that the use of Section 17 Leave was inconsistent across the Trust. The issues were:-

1. The conditions and parameters of leave are made explicit so that "staff discretion" is underpinned with agreed indicators that would or would not allow leave. This would also indicate the careful investigation and analysis of risk issues that were conducted by ward and community based staff. The Mental Health Act Commissioner also suggests that the evaluation of leave is made more explicit within patients' files.

2. Greater specificity concerning conditions and parameters in relating to some of the leave forms viewed. One form stated that leave was permitted "if the patients mental state was settled" and another indicated "for appropriate activities if the patients mental state is settled" or "escort by" experienced nurse.

However, in other areas good practice was observed in relation to several aspects of Section 17 leave. Leave forms were signed by patients and in addition to the leave form there is a risk form. This also prompts regular review of detailed risk assessment. The Mental Health Act Commissioner was pleased to note that patients sign their own leave forms and receive copies, but understands that this is not the same for relatives, as stated in the Code of Practice guidelines 21.21.
**Advocacy**

The limited availability of advocacy was again noted and significant delays in acquiring an advocate were also noted by staff and service users was raised with commissioners and the Mental Health Act Commissioner would like an update on the review of advocacy services. This is an important service for detained patients and the Trust is asked to continue to work to seek ways of further developing advocacy services.

The Mental Health Act Commissioner was pleased to note that the ward had arranged for the two patients who had no nearest relative to have the support of an advocate. The Mental Health Act Commissioner would like information from the Trust concerning its policy in relation to patients who lack a nearest relative, given that this situation is not an uncommon one.

**Other Issues Raised from Mental Health Act Visiting Activity**

**Deprivation of Liberty Safeguards (DOLS)**

The Mental Health Act Commissioner noted that the most areas of the Trust had a fair understanding of the issues relating to the Deprivation of Liberty Safeguards required under the Mental Capacity Act.

**The Physical Environment**

The Trust has improved the overall décor of most of the wards and many wards have now got positive environments.

**Choice and Access**

Many of the Trust’s wards have designated smoking shelters whilst others do not. The Mental Health Act Commissioner would like information about whether the Trust’s plans to develop smoking shelters for all wards.

**Staff Patient interaction**

Staff patient interactions were noted on every visit and the Mental Health Act Commissioner was pleased to note good levels of interaction taking place in all clinical areas and was impressed by the high level of positive interactions in many community houses/homes visited as well as Brooklands.

**Equality and Human Rights**

Areas considered were:

- Ethnicity.
- Cultural and religious issues being observed appropriately.
- Patient’s privacy, respect and dignity.

The Mental Health Act Commissioner was pleased to note that there were no issues of equality or Human Rights raised by either any detained patients or observed by Mental Health Commissioners during this period.
Ethnicity
Mental Health Act Commissioners noted that on the majority of all records reviewed the recording of patients’ ethnicity is being completed in accordance with Department of Health [DoH] guidelines.

Recommendations for Action
1. The Trust is asked to ensure that all staff are aware of the need for regular rights presentation and that they are provided with clear guidance about frequency of presentation to ensure a consistent organisational-wide approach to rights presentation, which currently ranges from excellent to poor, in order to comply with legislative requirements. The Code of Practice paragraph 2.24 refers to keeping patients informed of their rights.

2. The Trust is asked to continue to review the level of advocacy available and to seek ways to further develop it so that all patients are able to benefit from the service.

3. The Mental Health Act Commissioner was pleased to note that the Trust had arranged for the patients who had no nearest relative to have the support of an advocate. The Mental Health Act Commissioner would like information from the Trust concerning its policy in relation to patients who lack a nearest relative, given that this situation is not an uncommon one.

4. The service needs to review the process by which Section 17 leave forms are completed, the RC must be clearer on time, address and style of leave and make sure that the leave details can be complied with and more understandable for patients, carers and staff.

   Code of Practice paragraph 21.21   "Hospital managers should establish a standardised system by which RCs can record the leave they authorise and specify the conditions attached to it. Copies of this should be given to the patient and any carers, professionals and other people in the community who need to know".

   Code of Practice paragraph 21.27   “While it may often be appropriate to authorise leave subject to the condition that the patient is accompanied by a friend or relative, (e.g. a pre-arranged day out from the hospital) RCs should specify that the patient should be in legal custody of a friend or relative only if it is appropriate for that person to be legally responsible for that patient, and if that person understands and accepts the consequent responsibility."

5. The service needs to review Section 58, Forms 39 on a regular basis as several were noted to be over 12 months old. It is good practice to renew this form every 12 months.

6. The RC need to be more aware that they are required to record their conversation they have with the detained patient informing him of the outcome of the visit of a SOAD.
7. The Trust has made good efforts in improving the environment of many wards /clinical areas across the different services. It should continue to ensure that adequate financial resources are allocated to maintain the fabric and soft furnishings of all wards consistently.

8. Designated smoking shelters. The CQC would like information about whether the Trust's plans to develop smoking shelters for all wards and community homes.

**Forward Plan**

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.

Mental Health Act Commissioners will work with other colleagues in the CQC to develop an integrated approach to the regulation of the Trust's services.