

COMMITTEE ALERT, ADVICE, ASSURANCE REPORT TO BOARD

Committee:	MENTAL HEALTH ACT LEGISLATION COMMITTEE
Meeting Date:	21ST MAY 2021
Chair/Report Author:	Andy Guy

KEY ITEMS DISCUSSED AT THE MEETING

1. S 115 Mental Health Act

Section 115 of the Mental Health Act 1998 ('the Act') places an obligation on the Department (Manx Care) to provide aftercare services for persons detained under Section 3, as well as patients subject to section 53 & 54 of the Criminal Jurisdiction Act. The equivalent section in the UK (England & Wales) 1983 Mental Health Act is section 117 ('s.117'). Whilst the Act is 'silent' concerning funding obligations, UK case law has developed over many years and has determined that statutory services responsible for the provision of aftercare are also responsible for the funding of any aftercare linked to the patient's mental health (the reason why they were subject to detention under the Act).

- the establishment of a s.115 working group to develop local policy in deciding what is and is not included in the aftercare services as well as including who and the meaning of 'ordinarily resident';
 - the options for reducing the cost of s.115 aftercare by creating a 'think tank' for finding new creative ways to develop mental health care in the community; and
 - A 5 to 10 year strategic plan for mental health services.

2. Mental Health Act Positional Report

It is noted that Manx Care is responsible for, inter alia, the provision of health and social care in the Isle of Man, and the DHSC is responsible for, inter alia, Health Policy, strategy, and legislation – nevertheless it was noted by the committee that It is recommended that Manx Care seek to support a fast and effective approach to revising the Mental Health Act 1998 (the Act) & Code of Practice 2011 (CoP 11) as the current Act and Code of Practice are considered very outdated.

.If the Act is not updated it will move too far from other jurisdictions and reciprocal agreements may no longer be viable.

- The Mental Health Act 1998 should be repealed and replaced with a new Act & a new Code of Practice. That the new Act should be consistent with the new pending Capacity Act and to be consolidated into a single Act.
- Development of a MHA policy and procedure for detained patients already admitted to Noble’s Hospital.
- The acquisition of three additional Second Opinion Approved Doctors (SOADs.)
- The development and introduction of an Independent Advocacy Service.
- Amendments to the Act to allow other professionals to undertake the role of an Approved Social Worker (ASW.)
- Adequate resources are allocated to enable Manx Care to fulfil statutory obligations in providing sufficient ASW’s as per s.112 MHA 98

That the Committee recommend for action that a new ‘Nearest Relative’ policy and procedure is drawn up and initiated to further meet the rights of patients.

TO ALERT (Alert the Board to areas of non-compliance or urgent matters or new risks or issues that need to be escalated to DHSC or other IoM departments)

Issue	Committee concern	Action required	Timescale

ASSURE (Detail here any areas of assurance that the Committee has received)

Assurance Received	Action	Timescale
Medical lead attendance	Sree to negotiate with Chris Leger	Next meeting

The following existing risks were identified during the meeting: (if none please state “none”)	Risk: None	CRR/BAF N°:	Risk Score: L x C =
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