Care Quality Commission

Mental Health Act Annual Statement January 2010

Broadmoor Hospital
West London Mental Health 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 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 Act and records relating to the care and treatment of detained patients.
- Commissioners use the Guiding Principles in the Code of Practice (Published 2008) to inform opinions about the quality of care provided by the hospital. All decisions must be lawful informed by good practice and consistent with the Human rights Act 1998. 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 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 when verifying the NHS Annual Healthcheck 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 Care Quality Commission’s assessments of organisations in relation to registration requirements, through evidencing ongoing compliance with the Mental Health Act and the Code of Practice.

During the reporting period a number of changes took place in the Commission team visiting Broadmoor Hospital. The previous Area Commissioner was appointed to Chair the Board of the Mental Health Act Commission from November 2008 until the Commission became part of the Care Quality Commission on 1 April 2009. This had the result that he was no longer able to act as Area Commissioner. During this period the Mental Health Act Commission's Regional Director took on the responsibilities of the Area Commissioner.

Since the inception of the Care Quality Commission the previous Area Commissioner has returned to his responsibilities at Broadmoor Hospital as the Named Commissioner. In addition, part of the allocated time of two other Commissioners has been devoted to visits to Broadmoor Hospital resulting in a total allocation of funding to cover three days of visiting per month to this hospital.

A list of the wards visited within the hospital during the reporting period is provided at the Appendix A.

Background
Broadmoor Hospital provides specialist high secure care for male patients from London and the South of England, it also has one of the units that provides a service for the treatment on a national basis of Dangerous and Severe Personality Disorder (DSPD).

This statement draws on findings from visits 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.

In contrast to Annual Reports of the previous Mental Health Act Commission, this Annual Statement aims to address issues at a higher level rather than to deal with specific matters in detail. This is on the basis, as noted above, that at the end of each Commissioner visit a Feedback Summary is issued dealing with detailed points that have arisen during the visit.

In addition to taking part in undertaking the programme of visits to wards and departments as set out in the appendix to this report, the Named Commissioner has also undertaken the following:

- Attended meetings of the Seclusion Monitoring Advisory Group.
- Attended a meeting of the National Forensic Audit Group.
- Attended meetings of the Incident Monitoring and Review Group.
- Held a discussion with the Chair of the Trust.
- Held a discussion with the Chief Executive of Trust.
- Held discussions with the Clinical Director (Broadmoor SDU).
- Held discussions with the hospital's Performance Improvement Manager.

- Held discussions with Service Directors for the London, South of England and DSPD services.
- Held discussions with Independent Mental Health Advocates concerning specific patient issues.
- Attended a number of ward community meetings.
- Provided an interview to the Editor of the Broadmoor Chronicle.
- Attended an Inquest into the death of a Broadmoor patient.

Main findings
Relations between Mental Health Act Commissioners and senior managers of the hospital have remained constructive throughout the reporting period. The final Annual Report of the Mental Health Act Commission was received positively by the Trust Board and an appropriate action plan published. This has been monitored by Mental Health Act Commissioners on their visits during the reporting period and progress has been noted in a number of areas.

Detention
The Care Quality Commission is impressed with the diligence of the Mental Health Act Managers and the staff of the Mental Health Act office in ensuring that all detentions are lawful. On the rare occasions where errors in the recording of detention have been found, they have quickly been corrected and steps taken to ensure that they are not repeated. There still appears to be a less than complete recording of ethnicity in patient notes.

Section 58
Responsible Clinicians continue to fail to record systematically 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 compliance of Responsible Clinicians 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 as does entry in the patients' notes by statutory consultees.

A serious error concerning the use of Section 62 was drawn to the attention of the Trust resulting in the instigation of a level 3 investigation, the outcome of which is awaited.

Purposeful Activity
The Commission continues to be concerned about the limited extent to which some patients appear to be engaged in purposeful activity. Whilst it is recognised that patients in some wards (especially the higher dependency wards) will not be able to have access to the same range of activities that may be available to patients in other parts of the hospital, the Commission considers it inappropriate that some patients on assertive rehabilitation wards are not more actively encouraged to rise from their beds before the middle of the day and become involved with activity.

The Commission has been impressed with work done by the Occupational Therapy Department, together with the active involvement of a number of patients, to

undertake an audit of the actual amount of purposeful activity engaged in by patients in assertive rehabilitation wards. The results appear to demonstrate that this is an area that requires further attention and investment. The Commission is equally impressed with the attempts that are in the process of being made, again with the active participation of a number of patients, to ascertain the views and wishes of all patients on assertive rehabilitation wards in determining the nature and range of activity options that are available.

Patient Deaths

The Commission shares the concern shown by the hospital management about the recent high incidence of patient deaths. The Commission welcomes the preparation of the thematic review of four of these deaths and hopes to be able to join with the hospital management in giving this challenging matter further attention in the hope that learning may be acquired so as to lead to a reduction of deaths of this nature in the future. The Commission is pleased to note that the hospital is cooperating with the work of the Independent Advisory Panel to the Ministerial Council on Deaths in Custody.

The Commission also welcomes its continuing involvement in the hospital's Incident Monitoring and Review Group where each incident that occurs is scrutinised and the implementation of action plans is monitored. The Commission is pleased to see the investment being made into suicide awareness training and the work towards the provision of links with the Samaritans. In this respect it is encouraging to note the way in which the hospital is prepared to work with other organisations in the local community, clearly there is a good deal of mutual benefit that can accrue from such cooperation.

Patient Community Meetings

The Commission is pleased to have been invited to attend meetings of the Hospital Users' Forum. Whilst it will not be possible to attend every meeting, it will provide an important opportunity to assess the 'temperature' of patients' views about issues that affect the way in which their lives can be lived whilst in hospital.

The Commission has noted the results of a recent audit of ward community meetings and welcomes the action plan that emerged from this work and in particular the finding that this had been a 'rich and positive experience from service user experience'. It is the Commission's firm view that it is vital to give to patients the opportunity and responsibility to take an active part in shaping the way in which their respective ward communities are run.

The impact of the publication of recent adverse reports

It is recognised that the Trust has had to deal with the consequences of the publication of the Care Quality Commission report of the investigation into the West London Mental Health Trust and the publication of the Report of the Independent Inquiry into the Care and Treatment of PB and RL. The findings of each of these reports raise serious concerns about aspects of the way in which Broadmoor Hospital is run. The Commission will monitor with interest the responses that are made to the recommendations contained in these reports.

It is evident that these publications have the potential to seriously to undermine the confidence and morale of staff at all levels within the hospital. Whilst recognising the seriousness of the issues that have been raised, the Commission will want to play its part in counteracting any such lack of confidence and helping the hospital management to address the issues that require attention.

In this context it was gratifying on a recent visit to Luton Ward, the scene of the homicide which was the subject of one of the reports, to be able to say in the Feedback Summary:

"The visiting Commissioner would like to commend the ward staff and in particular the Clinical Nurse Manager for the very positive attitude that is apparent on the ward... It is clear that there is a great deal of energy on the ward which evidently is the result of positive and motivational leadership. It is understood that the ward has been the focus of attention both within the hospital and also beyond in recent times, especially with the publication of the homicide report; the way that this has been engaged with and used as a positive force rather than a negative influence is to be commended..."

It is hoped that good practice such as this can be appropriately recognised by hospital management.

Staffing issues
It is evident that all too often there is very considerable pressure on ward staff resulting from staff shortages. It is understood that the hospital is making a concerted effort to recruit additional staff up to the proper and necessary establishment. Visiting Commissioners all too often are confronted by patients and ward staff alike with concerns about the extent to which patient and staff safety is in danger of being compromised as a result of inadequate staffing. The Trust is urged to redouble its efforts to address this vitally important issue.

Security issues
It is, of course, recognised that matters of security are of primary concern at Broadmoor Hospital and the Commission would not in any way wish to detract from the importance of this. However, visiting Commissioners do find on occasion that at ward level there can be a very rigid adherence to the letter of the law rather than, when appropriate, the possibility of being guided more by the spirit of the law. This inevitably leads to frustration and tension resulting in greater difficulty in managing volatile situations. The Commission hopes that ward staff take particular care to ensure that over zealousness in this respect is avoided and that proper discussion takes place with patients so that there is a clear understanding of the rationale behind the implementation of security measures. This is perhaps of greatest significance in the Dangerous and Severe Personality Disorder (DSPD) Unit.

The Commission is aware that its predecessor body had made previous comments about the balance between therapeutic input and custodial care. Clearly in a high secure hospital both considerations need to be accommodated. However it is hoped that the welcome trend towards a greater emphasis on the therapeutic value of time spent at Broadmoor Hospital can continue. It is clear that for some patients, especially in the DSPD unit, the considerable value of the therapeutic programmes

can sometimes be eroded by all that is necessary in the provision of high secure care.

The physical environment
The old Victorian wards of the hospital are recognised by all as no longer fit for purpose. Visiting Commissioners are aware of the programme of work to upgrade the older parts of the building stock. However it is apparent that there is only so much that can be done in this respect and it is often only work of a relatively superficial nature is possible. This means that more major work, for example the provision of en-suite facilities in bedrooms, is not tackled. The Commission has been pleased, however to note progress on the long overdue work to remove ligature points in patient areas in the older parts of the hospital.

The Commission continues to note the progress, slow as it inevitably is, towards obtaining approval for the redevelopment of the hospital as a whole. However the Commission is concerned that the prospect of this will be the cause a 'planning blight' on more substantial upgrading work for the considerable period of time before a new hospital is commissioned. It is unacceptable to continue to house patients in accommodation that is not fit for purpose.

Recommendations for Action

- The Trust should as a matter of urgency institute effective governance arrangements to ensure that there is an improvement in compliance with Section 58 of the Mental Health Act at Broadmoor Hospital.

- The Trust should ensure that adequate financial resources are allocated to maintain the fabric of Broadmoor Hospital at levels consistent with ensuring patient safety until it is redeveloped.

- The Trust should ensure that the current staff recruitment campaign is maintained, and if necessary stepped up, until all wards and departments at Broadmoor Hospital are properly and safely staffed, however care should be taken to avoid the risk of sacrificing the quality of the staff recruited simply in order to acquire the right quantity.

- The Trust should ensure that the work on seeking to understand and reduce the incidence of suicide of patients is continued and that the findings are promulgated as soon as possible.

Forward Plan

- Mental Health Act Commissioners will continue to visit Broadmoor Hospital 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 members of the hospital's staff to review progress on the issues raised in this report.

Appendix A

Commission Visit Information for West London Mental Health NHS Trust Forensic Services Covering the period between 1 November 2008 and 19 January 2010

Date	Ward	Det. Pats. seen	Records checked
Broadmoor Hospital			
4 Nov 2008	Kempton	1	3
5 Nov 2008	Dunstable Ward	0	5
10 Nov 2008	Churchill	4	3
22 Nov 2008	Ascot	7	4
9 Dec 2008	Luton Ward	5	5
30 Dec 2008	Henley Ward	3	3
17 Feb 2009	Chepstow	4	4
19 Feb 2009	Windsor Ward	2	3
24 Feb 2009	Dorchester Ward (Now Closed)	6	5
10 Mar 2009	Harrogate	6	6
11 Apr 2009	Taunton Ward (Now Closed)	6	7
12 May 2009	Dover Ward (On Leeds)	6	6
16 May 2009	Isis Ward	6	6
27 May 2009	Sheffield Ward	2	2
3 Jun 2009	Ascot	3	5
15 Jun 2009	Banbury Ward	4	4
7 Jul 2009	Churchill	4	4
27 Jul 2009	Chepstow	3	3
7 Aug 2009	Oakley	2	2
14 Sep 2009	Henley Ward	4	4
28 Sep 2009	Milton	6	4
9 Oct 2009	Luton Ward	7	7
	Sunningdale Ward	3	4
24 Oct 2009	Harrogate	5	4
2 Nov 2009	Dunstable Ward	3	3
27 Nov 2009	Epsom	13	0
Total for Broadmoor Hospital		**115**	**106**

Total Number of Visits: 25
Total Number of Wards visited: 26
Total number of Patients seen: 115
Total Number of documents checked: 106