



## Terms of Reference

Document History:	
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Name of Committee	Mental Health Legislation Committee
Type of Committee	Board Committee reporting to Trust Board

<b>1.</b>	<b>Purpose of Committee</b>
	<p>To ensure of effective application and administration of the Mental Health Act (MHA), the Mental Capacity Act (MCA), including its Deprivation of Liberty Safeguards (DoLS) or, when they come into effect, Liberty Protection Safeguards (LPS) and any associated safeguarding matters, Human Rights Legislation and adherence to the associated Codes of Practice.</p>
<b>2.</b>	<b>Scope</b>
	<p>The scope of the Committee is Trust-wide</p>
<b>3.</b>	<b>Authority/Accountability</b>
	<p>The Committee is an assurance Committee for matters of statutory and regulatory compliance in respect of Mental Health and Human Rights Legislation.</p> <p>The Committee reports to the Trust Board and sits within the portfolio of the Executive Medical Director.</p> <p>The Committee is authorised by the Trust Board to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to co-operate with any request made by the Committee.</p> <p>The Committee is authorised by the Trust Board to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary. The budget for such advice must be within agreed financial constraints.</p> <p>The Committee is authorised to make decisions that are not reserved to the Trust Board. Reference should be made, as appropriate to the Standing Orders and Standing Financial Instructions of the Trust.</p> <p>The following matters that must be referred to the Trust Board:</p>

- Where there is significant revenue, capital or cash implications as determined by the Trust's Standing Financial Instructions
- Conflict with statutory obligations, or have significant governance implications
- Likely to arouse significant public or media interest.

#### 4. Objectives of Committee

To receive assurance of performance across the Trust against Key Performance Indicators which reflect respect for service users' human rights, effective implementation of the statutes and their Codes of Practice, the guiding principles of the MHA & the MCA, and the requirements of the CQC. To oversee completion and embedding of corrective action, escalating any concerns, identifying trends and themes and overseeing recommendations. KPIs to include, but not limited to:

- a. Progress against Provider Action Statements (PAS) following Monitoring Visits by the Care Quality Commission, including evidence of practice being embedded where necessary
- b. Practice in respect of capacity to consent to informal admission
- c. Practice in respect of capacity to consent to treatment
- d. Adherence to Consent to Treatment Requirements under Part IV and Part 4A of the MHA and/or the MCA
- e. Practice in respect of the explanation of Rights under section 132 MHA
- f. Practice in respect of Section 17 Leave
- g. Practice in respect of the use of short-term sections: MHA s4; 5(2); 5(4)
- h. Practice in respect of detention in the Health Based Place of Safety
- i. Compliance with mandatory training
- j. Practice in relation to the MCA Deprivation of Liberty Safeguards (DoLs – to be replaced by Liberty Protection Safeguards (LPS)).
- k. Timeliness of the production of reports to MHA hearings
- l. Human Rights Act training (this KPI will be added during 2021/22).

To ensure the development, implementation and timely review of policies in relation to Mental Health and Human Rights Legislation, ensuring there is adequate engagement and involvement. Ratifying these, following approval by the Policy Governance Group.

To receive assurance from the Reducing Restrictive Practice Group on implementing the Trust's aim of reducing restrictive practice.

To receive assurance in respect of the performance and functions of the Associate MHA Managers.

To ensure that the Trust actively listens to the experiences of the service user, family and carer feedback in the application of MHA/Mental Health and Human Rights legislation to identify good practice and learning.

To seek assurance that inequalities are recognised where they occur in relation to the use of Mental Health Legislation and associated policies and that remedial action and reasonable adjustments are utilised to address them.

To ensure a coordinated organisational response to the introduction of changes to or new law, regulations, guidance etc.

To oversee training in relevant subject areas, ensuring this is effective to ensure staff

	<p>are fully trained to implement relevant legislation as part of their work.</p> <p>To consider issues arising out of the “Delegated Authority” function for Mental Health Working Age Adults (formerly Section 75 partnership).</p> <p>To commission reviews and/or audits of standards and practice as required.</p> <p>To seek assurance on effective implementation of action plans developed in response to reviews and audit to improve legislative compliance and good practice in service user experience.</p> <p>The Committee will uphold the values of the Trust in the work it does. In particular it will look for assurances that these values are being delivered in the Trust, as part of its overall governance role on behalf of the Board.</p>
5.	<p><b>Membership</b></p> <p>Three Non-Executive Directors – one of which will be appointed chair.  Medical Director  Director of Quality  Director of Corporate Governance</p> <p><b>Attendees</b>  Director of Operations and Transformation  Clinical Director: Rehabilitation and Specialist Services  Clinical Director Community and Acute Services  Clinical Director Learning Disability Services  Lead Social Worker  Head of Mental Health Legislation  Head of Nursing  Nurse Consultant for Restrictive Practice  Safeguarding Lead  Service user/Carer representative</p> <p>Members are accountable for the Committee decisions and attending as per clause 7 below.</p> <p>Membership will be reviewed annually.</p>
6.	<p><b>Attendees</b></p> <p>Other directors or their deputies may be asked to attend meetings or part meetings for discussions on matters relating to their portfolio, if required. The provisions of the Trust’s Standing Orders relating to acting up arrangements and joint members will apply to this Committee with respect to decision making authority.</p> <p>The Trust Secretary will provide advice to the Chair and members to ensure that the Committee has the appropriate administrative and secretarial support (an Administrator). A minute taker will also attend all Committee meetings and be stated as in attendance.</p>
7.	<p><b>Chair, Quorum, Attendance and Meetings</b></p> <p><b>Chair</b></p>

The NED Chair will preside at all meetings having been approved as the Chair by the Trust Board. In extraordinary circumstances where the Chair cannot attend, one of the Non-Executive Director members will chair the meeting.

#### **Quorum**

A quorum will be 3 members and must include 2 Non-Executive Directors and 1 Executive Director including the Chair or deputy chair.

If the Committee is not quorate the meeting may be postponed at the discretion of the Chair. If the meeting does take place and is not quorate no decisions shall be made at that meeting and such matters must be deferred until the next quorate meeting.

#### **Attendance**

Members are expected to attend all meetings. Apologies must be received by the Administrator in advance of the meetings. All members will be required to attend a **minimum** of two thirds of all meetings held annually. Members should not be absent for more than two consecutive meetings without the agreement of the Chair.

Any Committee member may participate in a meeting by way of telephone, computer or any other electronic means of communication provided that each person is able to hear and speak. A person participating in this way is deemed to be present in person although their actual location shall be noted in the minutes and is counted in a quorum and entitled to vote. The meeting is deemed to take place where the largest group of those participating is assembled, or if there is no such group, where the Chair of the meeting is located.

#### **Meetings**

Where a specific matter is deemed to be of a confidential or commercially sensitive nature the Chair has the authority to restrict attendance at the meeting to members only and to ask all invitees to leave the meeting.

If any member or invitee has an interest, pecuniary or otherwise, in any matter and is present at the meeting at which the matter is under discussion, they will declare that interest as early as possible and shall not participate in the discussions. The Chair will have the power to request that member or invitee to withdraw until its consideration has been completed.

### **8. Frequency and Notice of Meetings**

#### **Frequency**

The Committee will meet quarterly. Additional meetings can be arranged for specific purposes as necessary, with agreement by the Chair or Deputy Chair.

If a matter of urgent business arises and an extraordinary meeting is required, this may be convened by the Chair, subject to the agreement of a quorum number of members. Decisions will be subject to achieving quorum attendance.

Where a decision needs to be taken outside the normal cycle of meetings, and where the matter is not deemed by the Chair to require an additional meeting to be called, the decision may be made via e-mail. The preference is for decisions to be taken at meetings. The decisions via e-mail process will be used on an exceptions basis. The process for decision via e-mail will be as follows:

- a) An e-mail setting out the matter for decision will be sent to all members on the same working day. This shall include a statement setting out how the members

- should signify what their view on the matter is and the deadline for doing so.
- b) Members will be given no less than five working days in which to respond.
  - c) For a decision to be passed, all of the members must express the same view on the matter.
  - d) Where members have comments on the proposed decision or recommendation/s these will be circulated to other Committee members by the Administrator within one working day of receipt.
  - e) If any individual member wishes to debate an item proposed for decision via e-mail at a meeting instead they may ask the Chair to arrange an additional meeting or defer the item for decision until the next meeting (such agreement by the Chair not to be unreasonably withheld).
  - f) Decisions via e-mail will be reported to the next meeting and the wording of the decision minuted. Any decision made in this manner will be effective from the date of agreement of all of the members and confirmed by email by the Administrator.

### **Notice of meetings**

Meetings shall be called by the Administrator at the request of the Chair or any of its members.

Unless otherwise agreed, notice of each meeting and agenda of items to be discussed, shall be forwarded to each member, any other person required to attend no later than five full working days before the date of the meeting. Supporting papers shall be sent to members and to other attendees as appropriate, at the same time.

Notices, agendas and supporting papers can be sent in electronic form where the recipient has agreed to receive documents in such a way.

A meeting workplan will be agreed on an annual basis, setting out the main work items to be carried out at each meeting to ensure that adequate time is given to the main objectives of the Committee.

## **9. Minutes and Reporting Arrangements**

The Committee will report to the Trust Board on how it discharges its responsibilities. The Trust Board will report back if it has any concerns about its adherence to the Terms of Reference.

The minutes of Committee meetings will be formally recorded and submitted to the Trust Board by the Chair of the Committee. The Chair of the Committee will draw to the attention of the Trust Board any issues or decisions for disclosure or require executive action.

The Trust Board will receive standing reports following each meeting and additional reports as part of the scheduled programme of annual reports.

In addition, the Committee will receive thematic 'deep dive' reports or reviews as required to enable greater discussion about specific issues and to facilitate in depth discussions between the members and those staff providing services.

The Board has ultimate responsibility for the effectiveness of its governance below Board. The Board will rely on the work of its Committees to provide assurance on the

effectiveness of the governance structure.

#### 10. Administrative arrangements

The Committee will be supported by a nominated Administrator who will:

- produce a schedule of meetings and maintain the annual work plan for the Committee
- prepare the agenda and papers with the Chair and circulate five working days prior to the meeting;
- maintain accurate records of attendance, key discussion points and decisions taken and issue necessary action logs within five full working days of the meeting;
- draft minutes, recording where the Committee has delivered its purpose through relevant reports and subsequent discussion, debate and challenge, and where further information is required, for circulation to the meeting Chair within five full working days of the meeting;
- organise future meetings; and
- file and maintain records of the work of the Committee in the required corporate records folder.

#### 11. Meeting effectiveness review

The Committee shall at least once a year, review its own performance, constitution and terms of reference to ensure it is operating at maximum effectiveness and recommend any changes it considers necessary to the Trust Board for approval.

The Committee shall undertake appropriate and timely training, both in the form of an induction programme for new members and on an ongoing basis for all members.

A record of the frequency of attendance by members, quoracy and the frequency of meetings will be maintained. Any areas of concern will be highlighted to the Chair of the Committee.

#### 12. Review to be conducted by Committee Chair

<b>Date Committee established</b>	1 April 2021
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<b>Terms of Reference to be reviewed</b>	Annually
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<b>Date of last review</b>	-
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<b>Date of next review</b>	March 2022
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