



Terms of Reference

Post MHLC June 2023

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Name of Committee	Mental Health Legislation Committee
Type of Committee	Board Assurance Committee reporting to Board of Directors (the “Board”)

1.	Purpose of Committee
	<p>The Mental Health Legislation Committee (the “Committee”) has been established to ensure of effective application and administration of mental health legislation.</p> <p>For the purposes of the Committee, mental health legislation means (but is not exclusive to):</p> <ul style="list-style-type: none"> • The Mental Health Act 1983 (as amended) • The Mental Capacity Act 2005 • The Human Rights Act 1998 • The Mental Health Units (Use of Force) Act 2018 • The Deprivation of Liberty Safeguards (DOLS) <p>and any associated secondary pieces of legislation eg. Codes of Practice.</p> <p>The Committee shall provide assurance to the Board on the probity of the Trust and support the other Board Committees in the achievement of clinical effectiveness and safe outcomes for service users, maintaining positive service user and carer experience and equality and inclusion.</p>
2.	Scope
	<p>The scope of the Committee is Trust-wide. It will review and monitor arrangements for systems and processes in place to oversee compliance with mental health legislation following an annual programme of work.</p>
3.	Authority/Accountability

The Committee is an assurance Committee of the Board of Directors, for matters of statutory and regulatory compliance in respect of mental health legislation. It is authorised to establish and delegate powers to sub committee(s) and work groups. The Committee will oversee the work of those sub-committee(s) and work groups.

The Committee is authorised by the 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.

The Committee is authorised by the Board to establish and delegate powers to sub-committee(s) and work groups. The Committee will oversee the work of those sub-committee(s) and work groups.

The Committee is authorised by the Board to obtain outside legal or other independent professional advice and expertise as required to support it in discharging its duties. The budget for such advice must be within agreed financial constraints.

The Committee will advise the Board of Directors of any investigation being undertaken that instructs professional advisors and update the Board on progress.

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.

The following matters that must be referred to the Board:

- 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

The Committee will

Receive assurance of performance, from across the Trust, against Key Performance Indicators which reflect respect for:
service users' rights;
compliance with mental health and mental health related legislation and associated codes of practice (eg. Mental Health Act, Mental Capacity Act, Human Rights Act, Use of Force Act);
adherence to the regulatory requirements of the CQC;
the use of restrictive practice within the Trust in particular meeting the aim of the Trust with regards to reducing restrictive practice;
the performance and activity of the Trust's Associate Mental Health Act Managers.

Assurance oversight will include overseeing the completion and embedding of any necessary corrective action(s), escalating concerns, identifying trends and themes, and overseeing recommendations.

(ii) Ensure the development, implementation and timely review of policies in relation to Mental Health and Human Rights Legislation (e.g Mental Health Act, Human Rights

Act, Use of Force Act) by receiving updates from the Mental Health Legislation Operational Group (MHLOG) Least Restrictive Practice Oversight Group (LRPROG) ensuring there is adequate engagement and involvement and timely approval by the MHLC for submission of policies through the Policy Governance Group. Ratifying these, following approval by the Policy Governance Group.

- (iii) Receive assurance from the Reducing Restrictive Practice Group on implementing the Trust's aim of reducing restrictive practice.
- (iv) Receive assurance in respect of the performance and functions of the Associate MHA Managers.
- (v) Ensure that the Trust actively listens to the experiences of the service user, family and carer(s) feedback in the application of mental health legislation so that good practice can be built upon, shared and learning developed.
- (vi) Seek assurance that inequalities are recognised where they occur in relation to the use of mental health related legislation and associated policies and that remedial action and reasonable adjustments are utilised to address them.
- (vii) Ensure a coordinated organisational response to the introduction of changes to or new law, regulations, guidance etc
- (viii) Receive assurance that appropriate training and continuous professional development in subjects related to mental health legislation is being made available and accessed (this includes both mandatory and non-mandatory training, along with any significant updates related to mental health legislation).
- (ix) To commission reviews and/or audits of standards and practice as required
- (x) Seek assurance on effective implementation of action plans developed in response to reviews and audits to improve legislative compliance and service user experience.
- (xi) Oversee all risks delegated to the Committee via the Corporate Risk Register (CRR) and Board Assurance Framework (BAF) and will receive assurance risks are being appropriately managed and mitigated. The Committee will receive and oversee the mental health legislation risk register to support onward assurance reporting to the Board of Directors.

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.

5. Membership

The Membership of the Committee will be:

- Three Non-Executive Directors (one of which will be appointed chair).
- Medical Director (Executive Lead)
- Executive Director of Nursing, Professions and Quality
- Director of Corporate Governance

Other Non-Executive Directors / Associate Non-Executive Directors and Executive Directors can attend as desired but will not form part of the committee unless formally deputising for a committee member.

Membership will be reviewed annually.

6. Attendees

Meetings will normally be attended by:

- 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, Human Rights and Chaplaincy
- Human Rights Officer
- Head of Nursing
- Nurse Consultant for Restrictive Practice
- Head of Safeguarding
- Service user/Carer representative
- Committee Administrator
- Governor Observer

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.

The Director of Corporate Governance (Board 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.

7. Chair, Quorum, Attendance and Meetings

Chair

The Non-Executive Director Chair will preside at all meetings having been approved as the Chair by the Trust Board or appointed as such by the Trust Board Chair. 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.

Deputies may attend, with the agreement of the Chair. This will be by exception; they must be fully briefed and if formally deputising will count towards the quorum.

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.

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 generally 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 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.	<p>Minutes and Reporting Arrangements</p> <p>The Committee will report to the Board on how it discharges its responsibilities.</p> <p>The minutes of Committee meetings will be formally recorded and submitted to the parent body by the Chair of the Committee (supported in this by the Corporate Governance Team).</p> <p>The Chair of the Committee will draw to the attention of the Board of Directors any issues or decisions that require disclosure to the Trust Board, or require executive action via the Alert, Advise, Assure (AAA) report.</p> <p>Tier II groups will provide assurance to the committee as agreed within the governance structure.</p> <p>The Trust Board will receive standing reports following each meeting and additional reports as part of the scheduled programme of annual reports.</p> <p>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.</p> <p>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.</p>
10.	<p>Administrative arrangements</p> <p>The Committee will be supported by a nominated Administrator who will:</p> <ul style="list-style-type: none"> • produce a schedule of meetings and maintain the annual work plan for the Committee • prepare the agenda and papers with the Chair and circulate ideally five working days prior to the meeting and no less than 3 working days; • 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.	<p>Meeting effectiveness review</p>

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 Board for approval.

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	
	Date Committee established	1 April 2021
	Terms of Reference to be reviewed	Annually
	Date of last review	July 2023
	Date of next review	July 2024

Sheffield Health and Social Care NHS FT Corporate Governance Structure

Board & Committee Governance Structure – Mental Health Legislation Committee

