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| **MENTAL HEALTH LAW COMMITTEE** | |
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| **Name of Committee:** | Mental Health Law Committee |
| **Chair:** | The Chair of the Committee shall be a Non-Executive Director with MHA responsibility, appointed by the Trust Board. |
| **Other Members :** | In addition to the Chair of the Committee the membership of the Committee shall include:   * Two MHA Associate Hospital Managers * Executive Director of Nursing, Quality and Governance * Medical Director * Corporate Mental Health Law Manager * Service Line Clinical Directors * Consultant Nurse * Local LSSA Mental Health Service Managers / Leads * Service User Representatives * Representatives of the Trust’s IMHA and IMCA service providers.   The Board will review Committee membership annually as part of the Committee Effectiveness Review.  Additional members may be co-opted as required.  Other Directors or Officers of the Trust may attend by invitation. |
| **Quorum:** | Four members to include:   * the Non-Executive Director with MHA responsibility * one Executive Director * one MHA Associate Hospital Manager * the Corporate MHA Manager or Representative |
| **Deputies:** | A member of the committee may appoint a named deputy to attend a particular meeting in their place. A deputy should be nominated only in exceptional circumstances, for a particular meeting and not as a way of a committee member regularly avoiding attendance at a committee meeting.  On each occasion the member should approach the Committee Chairman, cc the Corporate Mental Health Law Manager, to ask agreement for the named deputy to attend in their stead, to count towards the quorum and to have full voting rights.  If it appears that the meeting will have a minority of full members, the Chairman will confer with the Corporate Mental Health Law Manager as to whether the meeting should be re arranged. |
| **Frequency of Meetings:** | Meetings to be held quarterly, with additional meetings to be convened as required. |
| **Inputs:** | Inter-Agency Joint Monitoring Group  Care Quality Commission  MHA Associate Members  Mental Health Law Department  MHA Officers |
| **Outputs:** | The confirmed minutes of each meeting to be presented to the next available meeting of the Trust Board.  The Chair of the Committee to provide an oral or written report to the next available meeting of the Trust Board.  Annual committee review and annual report by Chair to the Trust Board (March).  Ratification of MHL Policy  Scrutiny response |
| **Frequency of Review of the Committee’s terms of reference:** | The terms of reference of the Committee shall be reviewed by the Trust Board at least annually. |
| **Committee Secretary:** | PA to the Corporate Mental Health Law Manager |

**1. Purpose**

1.1 The Mental Health Law Committee is a sub-committee of the Trust Board.

1.2 The overall aim is to provide assurance to the Board on all matters relating to the functions of Hospital Managers (MHA Associate Hospital Managers) and all aspects of the Mental Health Act 1983, its subsequent amendments and the Mental Capacity Act 2005.

1.3 The Committee will monitor, review the adequacy of the Trust’s processes for administering the Mental Health Act and guiding professionals in relation to the Mental Capacity Act, and formally submit an annual report on its activities and findings to the Trust Board.

1.4 The Mental Health Act Code of Practice provides that:

*“Organisations in charge of hospitals retain responsibility for the performance of all hospital managers’ functions exercised on their behalf and must ensure that the people acting on their behalf are competent to do so. It is for the organisation concerned to decide what arrangements to put in place to monitor and review the way that the functions under the Act are exercised on its behalf – but many organisations establish a Mental Health Act steering or scrutiny group especially for that task.”*

Code of Practice (2008) – para 30.10

Mental Health Act 1983 as amended by MHA 2007

The Mental Capacity Act 2005 provides that:

*“It is the duty of a person to have regard to any relevant code if he is acting in relation to a person who lacks capacity and is doing so in [….] a professional capacity.”*

Mental Capacity Act 2005 s.42(4)(e)

**2. Duties**

2.1 To oversee all the duties of the Hospital Managers as set out in Chapter 30 of the Mental Health Act Code of Practice. This will include:

* the scheme of delegation of Mental Health Act duties
* to make recommendations to the Board regarding the Trust’s MHA compliance
* to approve the appointment/reappointment of Associate Hospital Managers
* to approve Mental Health Act policies
* to give direction to the bi-annual MHA Associate Hospital Managers meeting
* to review the CQC’s Mental Health Act visit summaries and resulting action plans
* to approve the Trust’s Mental Health Act training framework

**3. Objectives**

3.1 To ensure that the statutory duties of the Trust Board under the Mental Health Act (1983) and subsequent amendments are exercised reasonably, fairly and lawfully, and to oversee the provision of guidance to Trust staff in implementing the Mental Capacity Act with regard to its Code of Practice. To satisfy itself of this, the committee will:

* be assured that procedures to inform detained patients and nearest relatives about the applicable provisions of the Mental Health Act (1983) and of their rights are in place and operating properly
* regularly receive and consider relevant statistical information relating to compulsory admission and detention of patients (including data regarding ethnicity, age and gender)
* to monitor the application of the Mental Health Act (1983) as amended by the Mental Health Act (2007) and Mental Capacity Act (2005) against local and national benchmarks and relevant CQC regulatory standards as detailed in the appendices to CQC Handbook for Mental Health Service Providers
* to ensure that appropriate arrangements are in place and are operating satisfactorily, for the completion and review of relevant legal documentation relating to the compulsory admission and detention of patients and automatic referrals to the Mental Health Tribunal
* to ensure the organisation supports the CQC Mental Health Act Reviewers in visits to Trust facilities and that it responds appropriately to any reports following such visits
* to provide information to the Trust Board relating to Associate Hospital Managers’ Hearings and Mental Health Tribunals, including issues relating to the service provision
* to commission a programme of training and on-going development for MHA Associate Hospital Managers
* to recommend to the Trust Board the appointment of new MHA Associate Hospital Managers (MHA Associate Members)
* to ensure a process is in place to maintain high standards and to review the competencies of MHA Associate Hospital Managers
* to audit the process and outcomes of Mental Health Act hearings/appeals
* to ensure appropriate processes are in place to check the quality of relevant documentation through planned and random auditing and checking
* to consider comments and recommendations relating to Serious Untoward Incidents and complaints involving people detained under the MHA or subject to the provisions of the Mental Capacity Act (2005)
* to take account of the delegated functions in respect to Approved Mental Health Professionals (AMHPs) within the context of secondment agreements with relevant local authorities