



Leeds and York Partnership
NHS Foundation Trust

Mental Health Legislation Committee

Annual Report

2020/2021

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1 PERIOD COVERED BY THIS REPORT

This report covers the work of the Mental Health Legislation Committee for the financial year 1 April 2020 to 31 March 2021.

2 INTRODUCTION

The Mental Health Legislation Committee is a sub-committee of the Board of Directors and provides assurance to the Board of Directors on compliance with all aspects of mental health legislation. It receives assurance through reports, both regular and bespoke, to ensure compliance is regularly monitored. These include reports from the Mental Health Legislation Operational Steering Group and the Mental Health Managers Forum. Assurance is also brought to the committee through the chair's contact with Mental Health Act Managers, who ensures any concerns relating to service users and their rights are raised. The committee may also invite other individuals to attend to advise on specific items for consideration.

Membership of the Mental Health Legislation Committee is currently made up of two non-executive directors (including the Chair of the Committee) and the Director of Nursing, Quality and Professions. Whilst only two non-executive directors are substantive members of the committee, the other non-executive directors are invited to attend on an ad-hoc basis as and when they feel it appropriate, or to ensure quoracy. A member of the Council of Governors and the deputy Chair of the MHAMs Forum attends the committee. Further information about the membership of the committee can be found in section 5 below.

3 TERMS OF REFERENCE

The Terms of Reference were presented at the August 2020 meeting. They were ratified by the Board of Directors and are attached for information at Appendix 2.

The Terms of Reference were amended to authorise the Mental Health Legislation Committee to approve the appointment, re-appointment and make decisions in respect of remuneration to the Trusts Mental Health Act Managers. The Board will be cited on any decisions taken in respect of Mental Health Act Managers via the Chairs report. The delegated powers will be reviewed by the Board at a minimum of three yearly intervals.

4 MEETINGS OF THE GROUP / COMMITTEE

During the reporting period the Mental Health Legislation Committee met on four occasions.

5 May 2020
3 November 2020

4 August 2020
2 February 2021

5 MEMBERSHIP OF THE COMMITTEE AND ATTENDANCE AT MEETINGS

Andrew Marran was Chair of the committee during the reporting period. Andrew Marran also Chaired the Mental Health Act Managers' Forum together with Sue White. Non-Executive Director and Deputy Chair of the Mental Health Legislation Committee and Marilyn Bryan, the lead Mental Health Act Manager, during the reporting period.

The Director of Nursing, Quality and Professions is also a substantive member of the Committee, because this Executive Director has portfolio responsibility for the administration of the application of mental health legislation. In November 2020 this responsibility transferred to the Medical Director, the Director of Nursing, Quality and Professions will continue to attend the Mental Health legislation Committee to maintain close links with CQC project works. If the Medical Director is not available to attend the meeting, another executive director (ideally with knowledge and experience of mental health legislation) can be called upon to provide representation and to ensure quoracy all meetings held during the report period were quorate.

Name	5 May 2020	4 August 2020	3 November 2020	2 February 2021
Substantive members				
Andrew Marran (Non-executive Director)	✓	x	✓	x
Sue White (Non-executive Director)	✓	✓	✓	✓
Others in attendance				
Chris Hosker (Medical Director)	x	✓	X	X
Cathy Woffendin (Director of Nursing, Quality and Professions)	✓	✓	✓	✓
Andy Weir (Deputy Chief Operating Officer)	x	x	✓	✓

6 REPORTS MADE TO THE TRUST BOARD

The Chair of the Mental Health Legislation Committee provides a Chairs report at the Trust Board. This report assures the Board of the main items discussed by the committee. Should it be necessary to make the Board aware of any matters of concern, this will be done by the Chair of the Committee in that report, and an outline given of how the Committee will take this forward. Where the matter is of significant concern the Chair of the Committee will ask for direction from the Board, or it may be

that the Board takes a decision to receive reports directly.

In addition to these reports the Trust Board receives minutes of Committee meetings and the Annual Report.

7 THE WORK OF THE COMMITTEE DURING MENTAL HEALTH LEGISLATION COMMITTEE

During 2020/2021 the Chair of the Mental Health Legislation Committee confirmed that the Committee has fulfilled its role in accordance with the Terms of Reference which are attached.

The Committee received assurance during the past year in the following ways:

In May 2020 a members only meeting of the MHL Committee was held, due to C-19 pandemic the purpose of the meeting was to provide an update regarding current working practices and highlight pertinent issues and challenges. In response to Government guidance relating to working practices in March 2020 the MHL Team moved to working largely from home with x1 staff member attending the office / day in order to receive and distribute original papers. Prior to lock down coming into effect a large amount of preparatory work was completed to process map procedures to understand how these could be completed remotely. The team adapted very well and supported each other as much as possible. Team meetings are now held weekly via zoom to review process and update where necessary. The team moved to operate a seven day service.

The MHL team updated regarding the impact of the Coronavirus Act and the preparatory work being completed should these changes come into effect.

The MHL Team were involved in the development of guidance regarding enforced isolation and cohorting of patients and the impact of blanket restrictions including the process for regular review.

During the pandemic compulsory training has been offered via Zoom.

In August 2020 the committee received the Annual Mental Health Legislation activity report and confirmed assurance that plans in place are sufficient to ensure on-going compliance with all mental health legislation.

Limited assurance was provided in relation to the Quarterly report due to data issues following the Trusts move to Care Director, a member of the Trusts informatics team was invited to the November meeting to provide an update regarding data collection and provide assurance regarding the Trusts ability to fulfil reporting requirements.

The Committee noted positive improvements in reporting from Advonet (Leeds advocacy reporting), the Committee and provided with comprehensive quarterly reports. The committee were provided with assurance of the support of alternative provision in terms of enabling access to advocacy services during the pandemic when face to face attendance at Trust sites was not possible.

The Committee received assurance that actions in response to concerns raised at Mill Lodge during a CQC inspection has been successfully in addressing the concerns raised – this was further confirmed when CQC completed a virtual visit of the service.

The committee were updated on the Service Level Agreement agreed with Little Woodhouse Hall to provide Mental Health Act Administrative support to the CAMHS service.

The Committee received assurance for the Mental Health Act Managers that the move to remote hearings was working well and that on the whole MHAMs had adapted well to changes in process, namely the initial move to telephone hearing as and then to video hearings.

Written reports from the Mental Health Operational Steering Group alongside verbal updates relating to issues of concern and/or good practice. Reports include analysis of CQC Provider Action Statements and also regular review of the Mental Health Legislation Risk Register which is held by this group. The Committee sought specific assurance following a CQC Provider Action Statement relating to an inspection at Mill Lodge where some sub-optimal practice was identified. The Committee received regular updates on ways in which the issues identified were being addressed. The Committee received updates on guidance prepared for staff if there were delays in detaining service users in the Section 136 suite, and were assured that should this occur, staff was implementing best practices guidelines.

Regular reports on preparedness for implantation of new legislation relating to Deprivation of Liberty Safeguards and plans to transition to Liberty Protection Safeguards, and proposed MHA Reforms.

The Committee received information about steps being taken to investigate issues around serial over-representation of service users from a BAME background in crisis and detention. The Committee continues to receive updates on the progress of the Synergi Committee.

The Committee monitored progress on implementation of the new Patient Administration System, Care Director. As a result of careful planning and preparation data migration was completed successful and the Committee have been informed on ongoing work wo improve interaction with the new system including data outputs.

The Committee continued to encourage meaningful service user representation in its work. It agreed this might be achieved via peer support representatives at the Operational Steering Group. The Committee will be monitoring the effectiveness of these arrangements going forward.

8 CONCLUSION

As a governance Committee of the Board of Directors, the Mental Health Legislation Committee has provided assurance to the Trust Board regarding compliance with all aspects of the Mental Health Act 1983 and subsequent amendments; and that it has

complied with all aspects of mental health legislation including the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards. It carried out its work diligently; discussed issues openly and robustly; and kept the Board of Directors apprised of any possible issues or risks.

The Mental Health Legislation has fulfilled its role as a Trust Board governance committee in accordance with its Terms of Reference. This enables the Trust Board to comment on the adequacy and effective operation of the organisation's internal control systems and compliance with the law and regulations.

The focus of the Committee over the next 12 months includes managing the challenges and opportunities arising from implementation of new legislation including Liberty Protection Safeguards, and the review of the Mental Health Act 1983.

The members of the Mental Health Legislation Committee would like to thank all those who have responded to its requests during the year and who have supported it in carrying out its duties, and in particular the Mental Health Legislation Team and Dr Nuwan Dissanayaka, lead clinician.

20 April 2021

Andrew Marran

Chair of the Mental Health Legislation Committee

Appendix 1

MENTAL HEALTH ACT MANAGERS ANNUAL REPORT

1 April 2020- 31 March 2021

The role and remit of the Mental Health Act Managers

Mental Health Act Managers (MHAMs) are members of the public, appointed by the Board of Directors, together with a number of non-executive directors who act in this role. Their key responsibilities are to:

- Review the detention of service users who are either detained under the Mental Health Act or who have been placed on Community Treatment Orders (CTO)
- Discharge those service users who no longer meet the criteria to be detained or are subject to a Community Treatment Order.

The Trust Board has established a Mental Health Legislation Committee as a sub-committee of the Board. During 2019/20 this committee was chaired by a non-executive director (Margaret Sentamu). It met four times during 2019/20. Reporting into the committee is the Mental Health Act manager's Forum. This seeks to provide a forum for communication between the Trust Board, the Mental Health Act Managers and the Officers of the Trust and provides a mechanism for assurance on, the robustness of arrangements in place for the Trust to meet its duties in respect of the Mental Health Act 1983. The forum is also chaired by a non-executive director to ensure a direct link to the Board of Directors in accordance with the Mental Health Act Code of Practice.

The Mental Health Act Managers Forum was chaired jointly by Andrew Marran, a Non-Executive Director, and Marilyn Bryan, lead Mental Health Act Manager and Deputy Chair of the Forum. In 2019/20 the Forum met 3 times on 14 August 2019, and 9 November 2020 and 16 February 2021.

Training of Mental Health Act Managers

During 2020 no formal training sessions were held with the Mental Health Act Managers due to the impact of the COVID-19 pandemic. During December 2020 – February 2021 all managers took part in development review meetings following which an action plan including training priorities has been developed for the year 2021/2022.

During 2020/2021 the Managers have experienced great change. Due to the impact of COVID-19 all Mental Hearing Act Managers hearing have moved to virtual platforms. Initially hearings were held via teleconference and have since moved to video platforms (Zoom). The Mental Health Act Managers should be commended for how they have adapted and embraced the change and challenges this has brought and the commitment to ensure patients have the opportunity to be heard.

Remuneration, Monitoring, Effectiveness and Appraisals

Remuneration payments for MHAMs were reviewed by the Trust Board and it was agreed to retain current levels as they compared favourably with other Trusts. It was agreed that Non-Executive Directors should be remunerated for MHAM duties on a par with MHAMs generally.

In 2020/2021, there were 37 appeal hearings, of which 33 were heard within our standard of 10 days. The MHAMs reviewed 256 renewals / extensions of detention and CTOs. A total of 12 nearest relative barring orders were heard. . The MHL Committee monitors hearing data at its quarterly meetings and seeks assurance as to how processes can be made more effective.

We currently have 32 acting Mental Health Act Managers and the table below shows those people who have acted in this capacity during 2020/2021.

Table 1H – Mental Health Act Managers during 2019/20

Mental Health Act Managers during the period 1 April 2019 to 31 March 2020		
Bernadette Addyman	Nasar Ahmed	Marilyn Bryan
Rebecca Casson	Aqila Choudhry	Judith Devine
John Devine	Michael Hartlebury	Ian Hughes
Peter Jones	Trevor Jones	Andrea Kirkbride
Harold Kolawole	Andrew Marran	Graham Martin
Claire Morris	Susan Mosley	Gillian Nelson
Shamaila Qureshi	Ismail Patel	Debra Pearlman
Susan Smith	Andrea Robinson	Alex Sangster
Claire Turvill	Nicola Swan	Jeffrey Tee
Janice Wilson	Viv Uttley	Tom White
	Michael Yates	Paul Yeomans

* retried during 2020/2021

Non-executive directors also acting as Mental Health Act Managers during 2019/2020
Andrew Marran

We are appreciative of the time and commitment that Mental Health Act Managers and non-executive directors acting as Mental Health Act Managers have given this year. Once again we wish to thank our Mental Health Act Managers for their dedication and the skill they apply when undertaking this vital role.

April 2021

Andrew Marran

Deputy Chair of the Mental Health Legislation Committee

Appendix 2

Mental Health Legislation Committee

Terms of Reference

1 NAME OF GROUP / COMMITTEE

The name of this committee is the Mental Health Legislation Committee.

2 COMPOSITION OF THE GROUP / COMMITTEE

The members of the committee and those who are required to attend are shown below together with their role in the operation of the committee.

Members: full rights

Title	Role in the group / committee
Non-executive Director	Committee Chair
Non-executive Director	Deputy Chair
Medical Director	Executive Director with MHL Knowledge
Executive Director of Nursing, Quality and Professions	Executive Director with links to CQC

Attendees:

Title	Role in the group / committee	Attendance guide
Associate Medical Director for Mental Health Legislation	Advisory and technical expertise	Every meeting
Head of Service (Adult Social Care, Leeds)	Linkage to Local Authority	Every meeting
Associate Director for Corporate Governance	Linkage to Board and other sub-committees	As required
Head of Mental Health Legislation	Advisory and technical expertise	Every meeting
Deputy Chair of Mental Health Act Managers Forum	MHAM's perspective, experience and concerns	Every meeting
Associate Director for Leeds Care Group	Linkage to care services	Every meeting
Associate Director for Specialist Services	Linkage to specialist services	Every meeting

Title	Role in the group / committee	Attendance guide
Deputy Chief Operating Officer	Linkage to Care Services, Chair of the MHL Operational Steering Group	Every Meeting

In addition to anyone listed above as a member, at the discretion of the chair of the committee the committee may also request individuals to attend on an ad-hoc basis to provide advice and support for specific items from its work plan when these are discussed in the meetings.

2.1 Governor Observers

The role of the governor at Board sub-committee meetings is to observe the work of the Committee, rather than to be part of its work as they are not part of the formal membership of the Committee. The governor observes Board sub-committee meetings in order to get a better understanding of the work of the Trust and to observe non-executive directors appropriately challenging the executive directors for the operational performance of the Trust.

At the meeting the governor observer will be required to declare any interest they may have in respect of any of the items to be discussed (even-though they are not formally part for the discussion). Papers for governors will be available at the meeting Governor observers will be invited to the meeting by the Corporate Governance Team.

3 QUORACY

Number: The minimum number of members for a meeting to be quorate is 4. This must include the Chair / Deputy Chair of the meeting, the Medical Director and two nominated individuals (or their deputies), one to represent each care group. Attendees do not count towards quoracy. If the chair is unable to attend the meeting, and if otherwise quorate, the meeting will be chaired by the Deputy Chair.

Deputies: Where appropriate members may nominate deputies to represent them at a meeting. Deputies do not count towards the calculation of whether the meeting is quorate except if the deputy is representing the member under formal “acting up” arrangements. In this case the deputy will be deemed a full member of the group / committee.

It may also be appropriate for attendees to nominate a deputy to attend in their absence.

A schedule of deputies, attached at appendix 1, should be reviewed at least annually to ensure adequate cover exists.

Non-quorate meeting: Non-quorate meetings may go ahead unless the chair decides not to proceed. Any decisions made by the non-quorate meeting must be reviewed at the next quorate meeting.

Alternate chair: The unique character of Board sub-committees is that they are non-executive director chaired. The Mental Health Legislation Committee has two non-executive director members hence the role of the chair will automatically fall to the other non-executive director if the chair is unable to attend.

4 MEETINGS OF THE COMMITTEE

Frequency: The Mental Health Legislation Committee will normally meet every three months or as agreed by the Committee.

Urgent meeting: Any member of the group / committee member may request an urgent meeting. The chair will normally agree to call an urgent meeting to discuss the specific matter, unless the opportunity exists to discuss the matter in a more expedient manner.

Minutes: Draft minutes will be sent to the Chair for review and approval within seven working dates of the meeting by the MHL Team Leader.

Meetings may be held face-to-face or remotely as is considered appropriate. Remote meetings may involve the use of the telephone and / or electronic conference facilities.

5 AUTHORITY

Establishment: The Mental Health Legislation Committee is a sub-committee of the Board of Directors and has been formally established by the Board of Directors.

Powers: The MHL Committees powers are detailed in the Trust's Scheme of Delegation. The Mental Health Legislation Committee has delegated authority to oversee the management and administration of the Mental Health Act 1983, the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards. The Committee is authorised by the Board to investigate and seek assurance on any activity within its terms of reference. The Committee is authorised by the Board to approve the appointment, re-appointment and make decisions in respect of remuneration to the Trusts Mental Health Act Managers. The Board will be cited on any decisions taken in respect of Mental Health Act Managers via the Chairs report. The delegated powers will be reviewed by the Board at a minimum of three yearly intervals.

Cessation: The MHL Committee is a standing committee in that its responsibilities and purpose are not time limited. However, the committee has a responsibility to review its effectiveness annually and on the basis of this review and if agreed by a majority of members the Chair of the committee may seek Board authority to end the Mental Health Legislation Committee's operation.

In addition, the Trust should periodically review its governance structure for continuing effectiveness and as a result of such a review the Board may seek the winding up of the Mental Health Legislation Committee.

This committee is implemented as a part of the 2013 governance review

ROLE OF THE COMMITTEE

6.1 Purpose of the Committee

Objective	How the group / committee will meet this objective
Governance and compliance	The MHL Committee provides assurance to the Board regarding compliance with all aspects of the Mental Health Act 1983 and subsequent amendments and on compliance with all aspects of mental health legislation including, but not limited to the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards.

6.2 Guiding principles for members (and attendees) when carrying out the duties of the group / committee

In carrying out their duties members of the group / committee and any attendees of the group / committee must ensure that they act in accordance with the values of the Trust, which are:

- We have integrity
- We are caring
- We keep it simple.

6.3 Duties of the group / committee

The MHL Committee has the following duties:

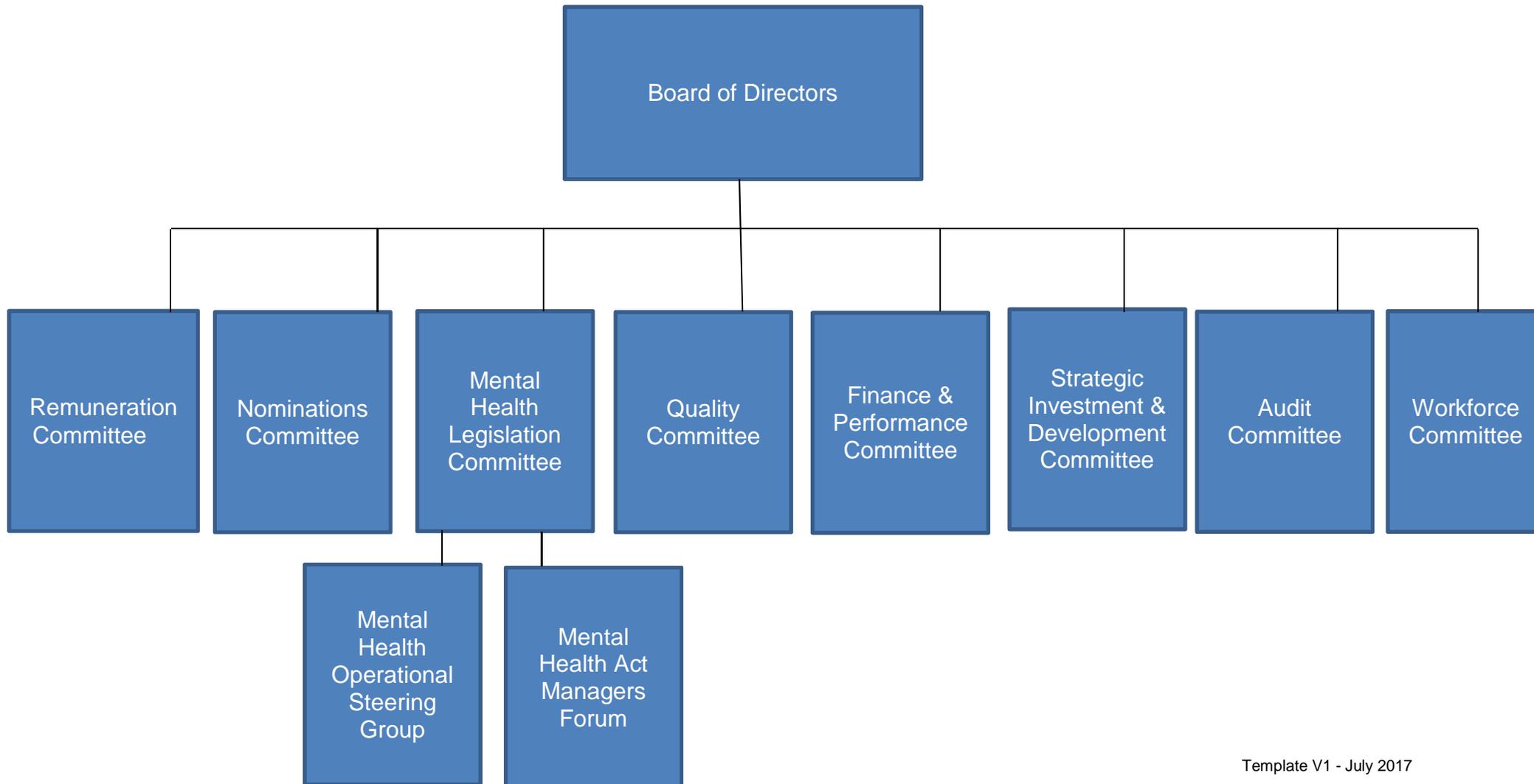
- Mental health legislation
 - The Committee will monitor and review the adequacy of the Trust's processes for administering the Mental Health Act 1983 and subsequent amendments and on compliance with all aspects of mental health legislation including the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards.
 - Formally submit an annual report on its activities and findings to the Board of Directors.
 - Consider and make recommendations on other issues and concerns in order to ensure compliance with the relevant mental health legislation and to promote best practice by adherence to the codes of practice.

- Review the findings of other relevant reports functions, both internal and external to the organisation, and consider the implications for the governance of the organisation
- Mental Health Act Managers' Forum
 - The Mental Health Legislation Committee will ensure that the Mental Health Act Managers' Forum is supported to share experience, promote shared learning and raise concerns, where appropriate both amongst themselves and, with the Trust Board and management
 - The Mental Health Legislation Committee will act as arbiter of any disputes in the work of Mental Health Act Managers arising either through the Mental Health Act Managers Forum or from individuals
- Performance and regulatory compliance
 - Will receive assurance from the MHL Operational Steering Group regarding the flow of Mental Health Act inspection reports and related Provider Action Statements.
 - Will receive assurance from the MHAMs Forum regarding training, learning and development.
 - To provide relevant assurance to the Board as to evidence of compliance with the Care Quality Commission registration and commissioning requirements related to Mental Health Act.
- Training, clinical development and guidance
 - To monitor and recommend action to ensure there are adequate staff members/skill mix trained in the application of mental health legislation and there is sufficient training provided to maintain the required competency levels within clinical teams.
 - To oversee the development and implementation of good clinical practice guidelines and effective administrative procedures in regard to the Mental Health Act and Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards and advise on any other matters pertinent to MCA within the Trust
- Assurance
 - To ensure adequate quality control arrangements are in place to enable:
 - Annual Mental Health Act report
 - Continuous monitoring arrangements
 - Agreed board reporting process

- To ensure there is an agreed programme of clinical audit and mechanisms for following up actions arising
 - Receive the Board Assurance Framework and ensure that sufficient assurance is being received by the committee in respect of those strategic risks where it is listed as an assurance receiver
 - Receive the quarterly documentation audit to be assured of the findings, how these will be addressed and progress with actions.
- User and carer involvement
 - To ensure there is a mechanism for service users, carers and other groups with an interest to contribute to discussions and agreement on proper use of the relevant legislation, with particular regard to the experience of compulsory detention and its therapeutic impact
 - Consider any feedback received from service user surveys

The Committee will also review the draft Internal Audit Annual work plan so it can be assured on the sufficiency of the work the Auditors will carry out in respect of matters pertaining to the duties of the committee. Assurance on the plan's sufficiency (or comments on any matters that should be included) will be provided to the Audit Committee to allow it to approve the overall plan.

7 RELATIONSHIP WITH OTHER GROUPS AND COMMITTEES



8 DUTIES OF THE CHAIR

The chair of the group / committee shall be responsible for:

- Agreeing the agenda
- Directing the meeting ensuring it operates in accordance with the Trust's values
- Giving direction to the minute taker
- Ensuring everyone at the meeting has a reasonable chance to contribute to the discussion
- Ensuring discussions are productive, and when they are not productive they are efficiently brought to a conclusion
- Deciding when it is beneficial to vote on a motion or decision
- Checking the minutes
- Ensuring sufficient information is presented to the Trust Board of Directors in respect of the work of the group / committee.

It will be the responsibility of the chair of the committee to ensure that it (or any group that reports to it) carries out an assessment of effectiveness annually, and ensure the outcome is reported to the Trust Board along with any remedial action to address weaknesses. The chair will also be responsible for ensuring that the actions to address any areas of weakness are completed.

In the event of there being a dispute between any committees in the meeting structure it will be for the chairs of those committees to ensure there is an agreed process for resolution; that the dispute is reported to the committees concerned and brought to the attention of the Board of Directors; and that when a resolution is proposed that the outcome is reported back to all the committees concerned for agreement.

9 REVIEW OF THE TERMS OF REFERENCE AND EFFECTIVENESS

The terms of reference shall be reviewed by the committee at least annually, and be presented to the Board of Directors for ratification, where there has been a change.

In addition to this the chair must ensure the committee carries out an annual assessment of how effectively it is carrying out its duties and make a report to the Board of Directors including any recommendations for improvement.

Schedule of deputies

It may not be necessary or appropriate for all members (or attendees) to have a deputy attend in their absence. If this is the case please state below “no deputy required”.

Full member (by job title)	Deputy (by job title)
Non-executive Director (Chair)	Non-executive Director second member
Non-executive Director	None
Medical Director	Executive Director (ideally with knowledge and experience of MHL)
Executive Director of Nursing, Quality and Professions	Executive Director with links to CQC
Deputy Chief Operating Officer	Associate Director

Attendee (by job title)	Deputy (by job title)
Associate Medical Director for Mental Health Legislation	No deputy available to attend this Committee
Head of Service (Adult Social Care, Leeds)	Service Delivery Manager
Head of Corporate Governance	Governance Officer
Head of Mental Health Legislation	Mental Health Legislation Team Leader / Law Advisor
MHA managers' nominated individual	Another MHA Manager
Associate Director for Leeds Care Group	Another Associate Director / Deputy
Associate Director for Specialist Services	Another Associate Director / Deputy
Governor	