

**Mental Health Legislation Committee**  
**Tuesday 3 August 2021 at 10:00am until 12.00pm via Zoom**

**Members of the Mental Health Legislation Committee**

Mrs Sue White	Non-Executive Director (Chair)
Dr Chris Hosker	Medical Director
Mrs Cathy Woffendin	Director of Nursing, Quality and Professions

**In attendance**

Mrs Marilyn Bryan	Mental Health Act Manager
Dr Nuwan Dissanayaka	Associate Medical Director, Mental Health Legislation
Miss Bea King	Corporate Governance Assistant (Meeting support)
Mrs Charlotte Martin	Mental Health Legislation Team Leader
Miss Kerry McMann	Acting Head of Corporate Governance (Observing the meeting)
Mr Andy Weir	Deputy Chief Operating Officer
Mr Oliver Wyatt	Head of Mental Health Legislation

**Minute**

**Action**

Mrs White opened the meeting at 10:00am and welcomed members of the Mental Health Legislation Committee.

**21/028**

**Apologies for absence** (agenda item 1)

Apologies were received from Mr A Marran, Non-executive Director, who is a member of the Committee.

Apologies were also received from Mrs C Hill, Associate Director for Corporate Governance, who is an attendee of the Committee.

Mrs White informed the Committee that Mr Marran would be leaving the Trust in September 2021 and would stand down from his role of Chair of the Mental Health Legislation Committee. She explained that she would chair the Committee in Mr Marran's absence. Mrs White notified the Committee that Professor Sue Proctor, Chair of the Trust, would become a member of the Mental Health Legislation Committee from November 2021.

The meeting was quorate.

**21/029**

**Declaration of any conflict of interest in respect of any agenda item** (agenda item 2)

Mrs Bryan declared a conflict of interest in agenda item 7. The Committee agreed that Mrs Bryan should remain in the meeting to discuss the proposed variation to Mental Health Act Manager (MHAM) remuneration.

The Committee **noted** Mrs Bryan's declaration of interest in agenda item 7 and it was **agreed** that Mrs Bryan would remain in the meeting.

**21/030 Minutes of the meeting held on 4 May 2021** (agenda item 3)

Mrs White noted a number of typing errors from the minutes of the meeting held on 4 May 2021. Miss King agreed to make all the necessary changes after the meeting.

**BK**

The minutes of the meeting held on the 4 May 2021 were **accepted** as a true record, subject to a number of minor amendments.

**21/031 Approval for the minutes above to be uploaded to the Trusts external website** (agenda item 3.1)

The Committee **agreed** that the minutes of the Mental Health Legislation Committee meeting held on the 4 May 2021 were suitable to be uploaded to the Trust's external website.

**21/032 Matters arising** (agenda item 4)

Mrs White drew attention to minute 21/027 and asked Mr Wyatt to confirm whether the new Liberty Protection Safeguards regulations and guidance had been published in June 2021. Mr Wyatt informed the Committee that this had been deferred until August 2021.

The Committee **discussed** and **noted** the matters arising from the minutes of the meeting held on the 4 May 2021

**21/033 Cumulative action log** (agenda item 5)

The Committee agreed to close the actions on the cumulative action log that had been completed. Mrs White asked Mr Wyatt to provide an update on log number 031, regarding the absence of Advocacy data from York. Mr Wyatt agreed to provide an update up at the next meeting in November 2021.

**OW**

The Committee discussed log number 032, regarding the Mental Health Act Managers request to receive a one-off payment in lieu of tax relief and questioned whether the expense guidance had been issued. Dr Hosker assured the Committee that Mr Darren Skinner, Interim Director of Human Resources, had agreed to review the guidance.

The Committee was **assured** on the progress made on the actions on the cumulative log and **agreed** on which actions should be closed.

21/034

**Mental Health Legislation Report** (agenda Item 6)

Dr Dissanayaka presented the Mental Health Legislation Report and outlined the key areas of the report. He explained that there continued to be ethnic disparities within the detentions and highlighted a spike of ward admissions in June 2021. Mr Weir informed the Committee that the Trust was working with Public Health England and Touchstone to establish a detailed analysis of the service users who had been admitted. Dr Hosker questioned whether the Touchstone review would be fed into an action plan. Mr Weir confirmed that the review was part of the Mental Health Strategy and was also included as part of the Synergi work.

**AW**

The Committee expressed a concern regarding the low compliance rate for compulsory training data. Mr Wyatt informed the Committee that the virtual training sessions were limited to a maximum of 15 people and highlighted difficulties in encouraging staff members to attend the sessions. He assured the members of the Committee that the Trust was working with Matrons and Clinical Services Leads to encourage staff to book onto the sessions. Mr Wyatt informed the Committee of capacity issues within the Mental Health Legislation Team but confirmed that recruitment processes were underway. He explained that when the Team had more capacity it would allow them to provide more sessions for staff. Mrs White questioned what the compliance target was for this training. Mr Wyatt confirmed that the target was 85%. The Committee agreed that the training session providers should collate a list those staff who did not attend the sessions and this list should be shared with managers.

**OW**

Mrs Woffendin questioned the lack of data regarding tribunal hearings following the implementation of CareDirector. The Committee noted a lack of assurance due to the lack of information which was available. Dr Hosker assured the Committee that he would escalate the issues raised to the CareDirector Governance Group on the 3 August 2021.

**CHos**

Mrs White drew attention to the average wait time for re-admission following a Community treatment Order (CTO) recall. Dr Dissanayaka clarified that the time period did not consider the time taken for the service user to be offered a bed – the clock started ticking when a bed had been found. He explained to the Committee that staff members were unable to recall until there was a bed available. It was agreed that the Mental Health Legislation Operational Steering Group would examine the issue of recording on Datix and provide feedback to the Committee in November 2021. Mrs White highlighted the progress made with tackling the Black, Asian, and Minority Ethnic (BAME) disproportionate presentation including: the work carried out with Touchstone; and the potential NIHR research project which would evaluate patient experience. It was agreed that an update on this work would be provided at the Mental Health Legislation Committee in February 2022.

**AW**

**AW /  
ND**

The Committee next discussed the Advocacy Report from Leeds. It noted that there had been capacity and access issues and that plans had been put in place to address the issues. Mrs White informed the Committee that the Trust's Annual Members' Meeting had taken place on 28 July 2021. She explained that a member of the public had expressed a concern regarding the delay in availability of Advocacy support. Mr Wyatt assured the Committee that he met regularly with Advonet and explained that Advonet had recruited more staff to address the pressures highlighted by the member. It was agreed that Mr Wyatt would escalate the issues that had been raised at the Annual Member's Meeting to Advonet. Ms King agreed to share the details of this concern with Mr Wyatt.

BK /  
OW

The Committee **received** the report and **discussed** the report in detail.

21/035

**Proposed Variation to Mental Health Act Manager Remuneration** (agenda item 7)

Mr Wyatt presented a report which included a proposal emanating from the trust's MHAM. The proposal was that remuneration to the chair of a MHAM review panel should be increased to reflect the additional responsibilities of the chair's role. Mrs Bryan drew attention to page two of the report and questioned the accuracy of the average review time of 1.5 hours. Mrs Bryan questioned whether all the aspects of the review had been considered. Mr Wyatt clarified that the timescales included only the hearings themselves.

Mrs White clarified that the proposed additional remuneration for the Chair was in respect of virtual hearings only, reflecting that additional complexity and responsibility entailed. Mrs Woffendin questioned whether the Trust could offer additional support and training to those who chaired hearings virtually. Mrs White assured the Committee that the Trust had offered peer support training around chairing virtual hearings. The Committee agreed to seek professional advice from Human Resources and to provide feedback to the managers as soon as possible.

CHos /  
OW

Mrs White drew the Committee's attention to a paper around rolling forward final contracts. She outlined the key themes, and it was agreed that the paper would come to the Committee in November 2021.

OW

The Committee **considered** the request for the increase in remuneration for Mental Health Act Managers and **agreed** that advice was required from Human Resources.

21/036

**Mental Health Legislation Operational Steering Group Feedback** (agenda item 8)

Mr Weir presented the Mental Health Legislation Operational Steering Group Feedback and highlighted the main areas of the report. He explained that the joint workshop with the Leeds Teaching Hospital Trust had been delayed but

assured the Committee that it was due to be rescheduled. Mr Weir outlined a number of issues around section 136. These were: high levels of section 136 assessments; the gaps between the data collected locally and that available from CareDirector; and breaches of section 136 deadline for admission. Mr Weir assured the Committee that the issues would be addressed.

Mrs White questioned whether the section 136 suite beds could be re-designated as inpatient facilities to help overcome this challenge. Mr Weir outlined that the recommendations reflected guidance from the Care Quality Commission, suggesting that the beds should be designated as required with dual authority. He informed the Committee that a standard operating procedure (SOP) would be developed to address the issue. It was noted that the SOP would be sent to the executive director's for sign off and presented to the Committee in November 2021. The Committee explored how similar issues could be addressed in the future. Mr Weir informed the Committee that a hybrid approach had been suggested and provided further details on this.

AW

The Committee **discussed** and **noted** the contents of this report and was **assured** with the actions being taken regarding Section 136 usage.

**21/037 Mental Health Act Managers Forum Feedback** (agenda item 9)

The Committee **received** the contents of the Mental Health Act Managers Forum Feedback.

**21/038 Mental Health Legislation Audit Review update** (agenda item 10)

Mr Wyatt provided an update on the Mental Health Legislation Audit Review. He explained that the Mental Health Legislation Team had completed an audit of the administration of the Mental Health Act (MHA). The Committee noted that the audits of case work had re-commenced. It was agreed that a paper on the outcomes of the audits and proposals for new revised arrangements would come to the Committee in November 2021.

OW /  
CM

Mrs Woffendin highlighted that the nursing directorate had undertaken peer reviews with inpatient services staff. She questioned whether the peer reviews had entailed audits around MHA or Mental Health Legislation compliance. Mr Wyatt assured the Committee that the legislation had formed part of the peer review reports and action plans to ward managers.

The Committee **received** the Mental Health Legislation Audit Review update.

**21/039 Publications to consider / Legislative Changes** (agenda item 11)

Mr Wyatt informed the Committee of the publications to consider and legislative changes. He explained that the Regulations and Code of Practice for Liberty Protection Safeguards (LPS) would be finalised in August 2021 and January 2022 respectively. Mr Wyatt informed the Committee that the LPS was a standing item on the Safeguarding Adults Network. He went on to add that the Department of Health was introducing a front facing computer system for people to make LPS referrals.

Mr Wyatt explained that Mrs Emma Oldham-Fox, Positive and Safe Care Lead, had responded to the consultation around the Use of Force Act. He informed the Committee that the consultation regarding changes being made to the MHA had been published and that the issue of the continued role of the MHAMs remained uncertain. Mrs White queried whether the Mental Health Legislation Team had the capacity to implement the forthcoming legislative changes. Mr Wyatt assured the Committee that the team had sufficient support and outlined the plan to address the work around the LPS. It was agreed the Mr Wyatt would present a paper on the plans at the next Mental Health Legislation Committee meeting in November 2021.

OW

The Committee **received** an update on the publications to consider and legislative changes.

21/040

**Committee Effectiveness Questionnaire results** (agenda item 12)

The Committee received a report on the outcome of the effectiveness questionnaire and the comments that had been provided by members and attendees. Mrs White requested that the papers for the future meetings were submitted by the deadline. The Committee considered the scores and comments and concluded that there were no changes to be made to the way in which the Committee operates.

The Committee **noted** and **agreed** with the outcome of the Committee Effectiveness Questionnaire.

21/041

**Terms of Reference for the Mental Health Legislation Committee** (agenda item 13)

The Committee **reviewed** and **noted** the Terms of Reference.

21/042

**Any other business** (agenda item 15)

The Committee did not discuss any other business.

21/043

**Any risks or issues to be escalated to the Trust Board** (agenda item 14)

Mrs White noted that she would be raising the following points to the next Board meeting:

- **Mental Health Legislation and Capacity Act Training** – the Committee agreed to alert the Board of the low compliance rate and the assurances received about additional capacity going onstream. The Committee noted that the progress would be reviewed in November 2021.
- **CareDirector** – the Committee noted the issues in relation to the gaps in data reporting following the implementation of CareDirector. It was agreed that a list of the issues would be taken to the CareDirector Governance Group and would be reviewed in November 2021.
- **Section 136** – the Committee reviewed a detailed report on the increased demand for Section 136. It was noted that there was a number of issues including: high levels of section 136 assessments; the gaps between the data collected locally and that available from CareDirector; and breaches of section 136 deadline for admission.
- **BAME representation work** – the Committee noted the disproportionate presentation including: the work carried out with Touchstone; and the potential NIHR research project which would evaluate patient experience. The Committee noted that the progress would be reviewed in November 2021.

The Committee **agreed** the risks and issues to be escalated to the Board.

The Chair of the Committee thanked everyone for attending and closed the meeting at 12.00pm

**Date and time of next meeting:**

Tuesday 2 November 2021 at 10.00am until 12.00pm via Zoom.