

Mental Health Legislation Committee

Terms of Reference

Ratified by the Board of Director's on 30 November 2023

1 NAME OF COMMITTEE

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

2 COMPOSITION OF THE 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 committee |
|------------------------|---|
| Non-executive Director | <p>Committee Chair and responsible for evaluating the assurance given and identifying if further consideration / action is needed.</p> <p>Non-executive directors provide constructive challenge and strategic guidance, and lead in holding the executive to account. In particular, non-executive directors should scrutinise the performance of the executive management in meeting agreed goals and objectives, receive adequate information and monitor the reporting of performance. They should satisfy themselves as to the integrity of clinical and other information, and make sure that clinical quality controls, and systems of risk management and governance, are robust and implemented.</p> <p>(Code of Governance for NHS Provider Trusts, NHS England 2022)</p> |
| Non-executive Director | <p>Deputy Chair and responsible for evaluating the assurance given and identifying if further consideration / action is needed.</p> <p>Non-executive directors provide constructive challenge and strategic guidance, and lead in holding the executive to account. In particular, non-</p> |

| | |
|-------------------------------------|--|
| | <p>executive directors should scrutinise the performance of the executive management in meeting agreed goals and objectives, receive adequate information and monitor the reporting of performance. They should satisfy themselves as to the integrity of clinical and other information, and make sure that clinical quality controls, and systems of risk management and governance, are robust and implemented.</p> <p>(Code of Governance for NHS Provider Trusts, NHS England 2022)</p> |
| Medical Director | Executive Director with MHL Knowledge |
| Director of Nursing and Professions | Executive Director with links to CQC |

Attendees:

| Title | Role in the 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 |
| 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 |
| Chair of the MHL Operational Steering Group | Linkage to Services, Chair of the MHL Operational Steering Group | Every Meeting |
| Associate Director for Corporate Governance | Linkage to Board and other sub-committees | As required |

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). Governors will receive an information pack prior to the meeting. This will consist of the agenda, the minutes of the previous meeting and summaries of the business to be discussed. Governor observers will be invited to the meeting by the Corporate Governance Team. The chair of the meeting should ensure that there is an opportunity for governor observers to raise any points of clarification at the end of the meeting.

2.2 Associate Non-executive Directors

Associate Non-executive Directors will be invited to attend Board Sub-committee meetings as part of their induction. They will attend the meeting in the capacity of observer only, unless invited to contribute (in exceptional circumstances) by the Chair. This is so the accountability of the substantive members of the committee is maintained.

Associate NEDs will be invited to meetings by the Corporate Governance Team and will be sent copies of the meeting papers.

3 QUORACY

Number: The minimum number of members for a meeting to be quorate is three and must include one Non-executive Director and the Medical Director. 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 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

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.

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

Urgent meeting: Any 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.

Administrative support: The Corporate Governance Team will provide secretariat support to the committee.

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

Papers: Papers for the meeting will be distributed electronically by the Corporate Governance Team five working days prior to the meeting. Papers received after this date will only be included if decided upon by the chair.

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 Committee's 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 / Liberty Protection 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 Chair's report. The delegated powers will be reviewed by the Board at a minimum of three yearly intervals. In consultation with the Board of Directors, the committee is able to access independent professional advice and

secure the attendance of persons outside the Trust with relevant experience and expertise if it considers this necessary

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 was implemented as a part of the 2013 governance review.

6 ROLE OF THE COMMITTEE

6.1 Purpose of the Committee

| Objective | How the 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 / Liberty Protection Safeguards. |

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

In carrying out their duties, members of the committee and any attendees of the 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 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 / Liberty Protection 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 / Liberty Protection 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:
 - An Annual Mental Health Act report
 - Continuous monitoring arrangements
 - The 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.

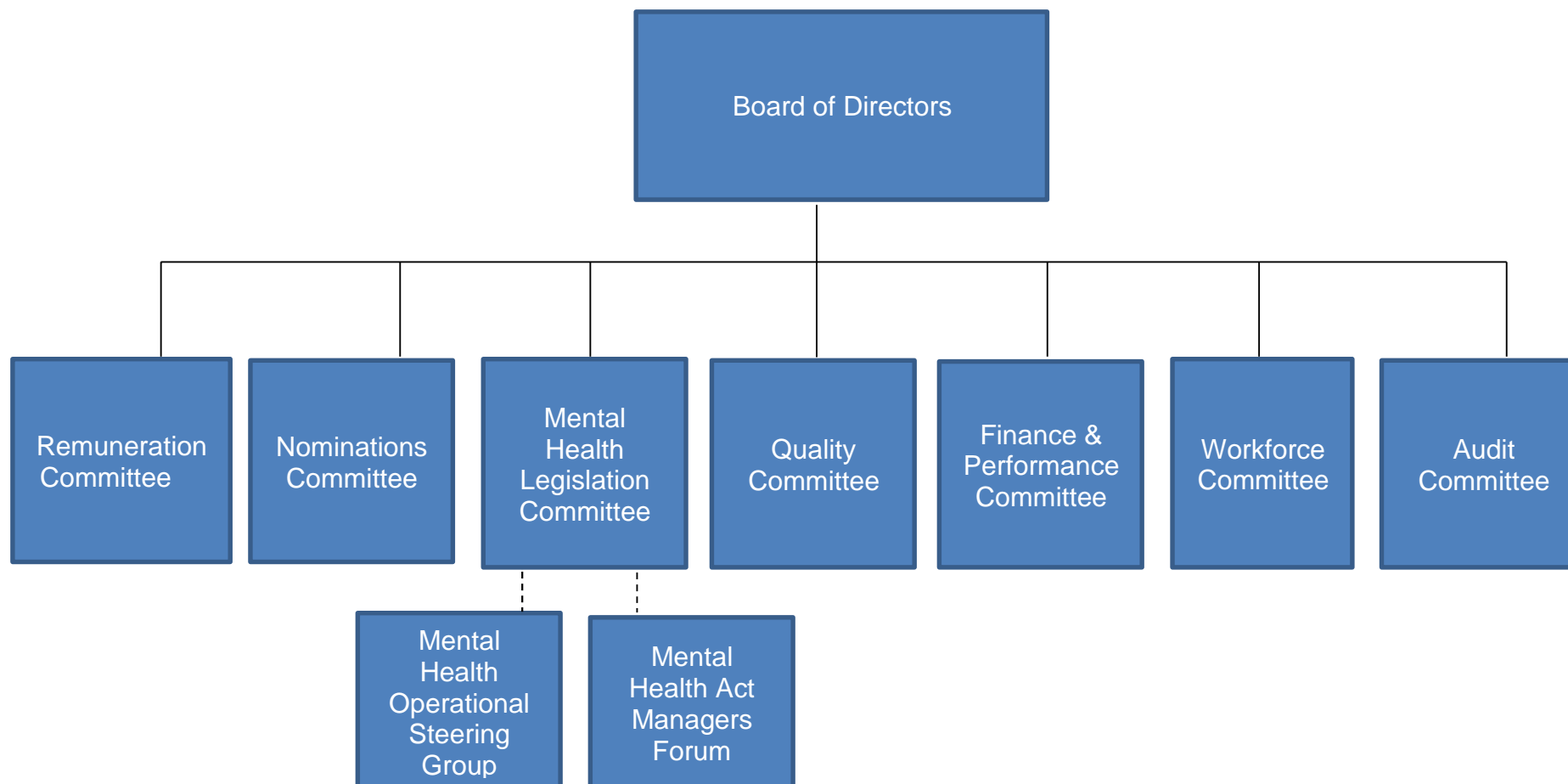
Service user and carer involvement

- 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

Internal audit

- The Committee will 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



The committee has a duty to work with other Board sub-committees to ensure matters are not duplicated.

8 DUTIES OF THE CHAIR

The chair of the 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 committee.
- Ensuring that governor observers are offered an opportunity at the end of the meeting to raise any points of clarification.

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 'groups' in the hierarchy (in the case of this Board sub-committee, this would be between the Board and the Mental Health Legislation Committee and, in recognition of the nature of matrix working between the work of all Board sub-committees, the Mental Health Legislation Committee and any other Board sub-committee) it will be for the chairs of those groups to ensure there is an agreed process for resolution; that the dispute is reported back to the 'groups' concerned; and that when a resolution is proposed the outcome this is also reported back to the 'groups' 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 |
| Non-executive Director | None |
| Medical Director | Executive Director (ideally with knowledge and experience of MHL) |
| Director of Nursing and Professions | Deputy Director of Nursing |

| 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 |
| Associate Director for Corporate Governance | Head of Corporate Governance |
| Head of Mental Health Legislation | Mental Health Legislation Team Leader / Law Advisor |
| MHA managers' nominated individual | Another MHA Manager |
| Chair of the Mental Health Legislation Operational Steering Group | Deputy Chair of the Mental Health Legislation Operational Steering Group |