

**Minutes of the Mental Health Legislation Committee
Tuesday 6 February 2024 at 10:00am
Held via Microsoft Teams**

Present:

Ms Kaneez Khan	Non-executive Director (Chair)
Dr Chris Hosker	Medical Director
Ms Katy Wilburn	Non-executive Director

In attendance:

Mr Kieran Betts	Corporate Governance Officer (meeting support)
Dr Nuwan Dissanayaka	Associate Medical Director
Mr Jonathan Hodgson	Internal Audit Manager (for item 13)
Ms Sarah Layton	Mental Health Legislation Team Leader
Ms Maxine Naismith	Head of Service for Adult Social Care Leeds
Ms Janet Smith	Head of Safeguarding and Public Protection
Ms Viv Uttley	Mental Health Act Manager
Mr Oliver Wyatt	Head of Mental Health Legislation

Minute

Action

	Ms Khan opened the meeting at 10:00am and welcomed members of the Mental Health Legislation Committee.	
24/001	<p>Apologies for absence (agenda item 1)</p> <p>Apologies were received from Ms Nichola Sanderson, Director of Nursing and Professions, who is a member of the Committee.</p> <p>Apologies were also received from Mrs Clare Edwards, Associate Director of Corporate Governance, who is an attendee of the Committee.</p> <p>The Group noted that Ms Smith was deputising for Ms Sanderson.</p> <p>The meeting was quorate.</p>	
24/002	<p>Declaration of any conflict of interest in respect of any agenda item (agenda item 2)</p> <p>No one present at the meeting declared a conflict of interest in any of the items to be discussed.</p>	
24/003	<p>Minutes of the meeting held on 7 November 2023 (agenda item 3)</p>	

The minutes of the Mental Health Legislation Committee meeting held on the 7 November 2023 were **accepted** as a true record.

24/004 Approval for the minutes above to be uploaded to the Trust's external website (agenda item 3.1)

The Committee **agreed** that the minutes of the Mental Health Legislation Committee meeting held on the 7 November 2023 were suitable to be uploaded to the Trust's external website.

24/005 Matters arising (agenda item 4)

The Committee **noted** that there were no matters arising that were not either on the agenda or on the action log.

24/006 Cumulative action log (agenda item 5)

The Committee confirmed that actions 104, and 105 were complete and could be removed from the log. The Group noted that the update provided for action 104 stated that a trial of Mental Health Act (MHA) alerts being provided on the Electronic Prescribing and Medicines Administration system through CareDirector had commenced. The Group commended this outcome after previous updates received for this action had suggested that this would not be possible. The Committee noted that this was a recommendation of the audit on the Consent to Treatment and use of S62 powers by the Trust, and that it was planned for this area to be reaudited to ensure that these recommendations had been implemented correctly and improvements could be observed.

The Committee also confirmed that action 086 related to an item on the agenda and could be marked as complete. The Committee then discussed the open actions and received the following updates:

Action 052: Mr Wyatt reported to the Group that work to reduce the time between Approved Mental Health Professional referral and a S12 approved Doctor assessment continued with the Adult Social Care team. He added that this was a complicated issue as it involved multiple factors such as bed availability, S12 Doctor availability, and working with the local authority.

Action 074: Ms Layton informed the Committee that she had met with the CareDirector Team who had confirmed that it would not be possible to record Mental Health Tribunal outcomes on CareDirector. She reported that she had also met with the Digital Change Team and a workaround had been suggested to amend the way this was recorded locally so that ethnicity data could be captured and reported back to the Committee, and that this would be available in future quarterly Mental Health Legislation (MHL) Activity Reports.

Action 085: The Committee noted that the report which evaluated the outcomes of the Human Rights training undertaken by staff at the Trust had been received from the British Institute of Human Rights by the MHL Team a few days prior to the meeting. Mr Wyatt confirmed that the report demonstrated that this training had a positive impact. The Committee noted that the MHL Team would write their own report based on this review and would present this at the Committee's next meeting.

Action 090: The Committee noted that a formal letter requesting access to the York Advocacy Group data would be drafted next week and an update on the outcomes of this would be available at the Committee's next meeting.

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

24/007 **Mental Health Legislation Operational Steering Group Feedback** (agenda item 6)

Ms Smith provided the Committee with an overview of the main issues which had been raised at the Mental Health Legislation Operational Steering Group (MHLOGS) meetings held on 9 November 2023, 14 December 2023, and 11 January 2024. The Committee heard that a risk relating to Community Treatment Order (CTO) patients recall and bed availability had been removed from the Trust's risk register, that an overall reduction of the use of restrictive interventions had been recorded across the Trust, that Ward 2 at the Newsam Centre had been visited for inspection by the CQC and that the Trust had responded to the outcomes of this inspection, and that a working group to monitor issues which may emerge from the implementation of the "Right Care, Right Person" operational model had been set-up, among other updates.

The Committee discussed the recorded increase in use of restraint being used at Ward 2 The Mount as noted in the November MHLOGS minutes. Mr Wyatt clarified that this increase related to the care of an individual patient in this quarter and that all restraint use was monitored by the Positive and Safe Working Group to ensure that it was proportionate and in the patients' best interests.

Next the Committee reflected on comments recorded in the minutes of the January 2024 MHLOGS which stated that in one person's opinion there was not adequate supervision to ensure that medicines were being lawfully administered with proper authorisation from a T2, T3, or S62 form being completed. Mr Wyatt reassured the Committee that this was the opinion of a single individual as recorded in these minutes, and that this issue had been picked up outside of the meeting with the Lead Practice Developer. Dr Hosker added that this related to work from the Quality Committee to establish a 'Just Culture' at the Trust, so that there was a balance between punitive measures being taken where sub-optimal behaviours had been observed whilst also creating a culture which encouraged individuals to report and correct mistakes. The Committee was assured that this challenge had been noted and managed by work led by the Lead Practice Developer.

Next the Committee discussed the issue of the legal ruling made in relation to a case at a neighbouring Trust which had determined that MHA assessments or renewals and CTO extensions which had been issued following a remote assessment of a service user were unlawful. The Committee noted that this legal precedent had impacted a small number of service users at the Trust who had been admitted through CTO recalls. Mr Wyatt informed the Committee that eight of these service users had now been discharged and that work had commenced with the clinical teams to ensure that the Trust was fulfilling its Duty of Candour obligations in a compassionate and pragmatic manner.

Finally, Ms Wilburn questioned Ms Smith regarding a deaf service user who was detained in an out of area placement where it had been recorded that there had been no British Sign Language interpreter provided during their admission. It was agreed that Ms Smith would clarify whether the issue of no interpreter being provided for this service user had been raised with the out of area hospital at an upcoming meeting.

JS

The Committee **received** feedback from the Mental Health Legislation Operational Steering Group and **discussed** the updates provided.

24/008 Mental Health Act Managers Forum Feedback (agenda item 7)

Ms Uttley highlighted the main topics which had been discussed at the Mental Health Act Managers (MHAMs) Forum meeting held on the 18 January 2024. She informed the Committee that seven MHAMs had left the Trust at the end of January 2024 following the end of their placements. The Committee noted that the Trust had conducted interviews towards the end of 2023 for new managers and had successfully recruited nine new MHAMs to join the Trust, and that additional interviews were scheduled to be held later in February 2024. Next she reported to the Committee that a comprehensive survey had been sent out to all MHAMs on a wide variety of topics including training, management, support, fairness, and MHA hearing standards. The Committee heard that overall, the feedback had been positive with additional learning points noted where appropriate, and that an action plan would be drafted and submitted to the next Forum meeting on the 16 April 2024. Finally, Ms Uttley reported that training sessions on the roles for new MHAMs and Good MHA Hearing Standards had been conducted and the presentations from these sessions had been circulated to all MHAMs with the Trust. The Committee noted these updates.

The Committee **received** and **noted** the feedback from the Mental Health Act Managers Forum.

24/009 Mental Health Legislation Activity Report (agenda item 8)

The Committee received the MHL Activity Report which covered Quarter 3 of the 2023-24 financial year. The Committee noted that for a number of detentions in this quarter, there was an inability to identify the admitting ward. Ms Layton

confirmed that this was a known data quality issue when extracting the data on CareDirector.

Dr Hosker pointed out to the Committee that the data in the report seemed to indicate that the number of individuals detained in out of area placements was declining, whereas based on his experience and data available elsewhere this was increasing. Ms Layton reported that the information contained in the report was based on the available information which had been extracted from CareDirector. It was agreed that Ms Layton would contact the Informatics Team to check that the Committee was receiving accurate data, and also to meet with the Out of Area Team to additionally clarify the situation. The Committee highlighted the importance of this issue given the amount of focus on the use of out of area placements and bed availability throughout the Trust, and how low availability was potentially impacting clinical decisions. It noted that this would be discussed further by the MHLOSG.

SL

The Committee questioned Ms Layton regarding some of the data provided in the report as both the Deprivation of Liberty Safeguards applications and the MHAMs Hearing Data were both labelled as being quarter 2 data. Ms Layton clarified that these data sets were mislabelled as they did correctly contain the updated Quarter 3 data as required. It was agreed that Ms Layton would circulate an amended report with a corrected title for these data sets.

SL

The Committee drew attention to the fact that approximately only 80% of staff were compliant with compulsory training. Mr Wyatt explained to the Committee that the MHL Team had introduced various methods to improve compliance such as offering both face-to-face and virtual training, offering training at different times to fit with different staff rotas, and increasing the available spaces for each training session. He added that these compliance figures were partly as a consequence of the disruption experienced during the COVID-19 pandemic. The Committee noted that only 85% of staff were required to be compliant with their compulsory training in order for this key performance indicator to be rated green, as this percentage did not account for staff that were absent from work and therefore unable to complete this training.

Finally, the Committee considered the detention by ethnicity data included in the report, noting that there was a particular overrepresentation of BME Groups with the CTO patient population. The Committee discussed the potential risk that the new Provider Selection Regime could it easier for existing health providers to be re-awarded contracts, which may result in less innovation emerging from this sector from an equality of health outcome perspective. Dr Hosker informed the Committee that there was a historically more disproportionate CTO population in Leeds compared with the rest of the country. He added that work had begun in cooperation with the Integrated Care Board on the Healthy Leeds Plan which would examine the data of patient journeys experienced by inpatients, CTO population service users, and service users who had never been detained in order to better understand their diverging health outcomes and help develop preventative health strategies. The Committee discussed strategies which had been implemented in other regions of the country, for example, the introduction of an assertive outreach team in Wandsworth which focused on community-based interventions for a small number of ethnic minority service users with

serious mental illnesses who had previously been repeatedly detained. The Committee welcomed work in this area, noting that it would be important to understand this and benchmark it against experiences in other large UK cities with a similar ethnic composition.

The Committee **received** the Mental Health Legislation Report and was **assured** that the plans in place were sufficient to ensure ongoing compliance with all mental health legislation.

24/010 **Representation at Mental Health Act Managers Hearings** (agenda item 9)

Ms Layton outlined the findings of the report that looked into the number of Independent Mental Health Advocates (IMHA) attending MHAMs hearings. Ms Layton reported to the Committee that actions would be taken to improve the recording systems so that it would be possible to check what support was requested by and made available for each service user at each hearing. She added that the decision form used for these hearings had been updated to confirm next relative invitation, or the rationale as to why they were not invited. She confirmed that this review would be repeated for the MHAM hearings scheduled to take place over Quarter 1 for 2024/25 where it was hoped the new recording system would be able to more accurately determine why IMHAs did or did not attend hearings, and the results of this would be shared with the Committee at its next meeting.

SL

The Committee discussed the findings of the report. Mr Wyatt reassured the Committee that service users did have access to IMHAs in other settings such as in inpatient areas, and both pre and post MHAM hearings. He added that the Trust was committed to improving these figures but qualified that it was the Trust's responsibility to ensure that IMHAs were invited to relevant MHAM hearings as opposed to them being responsible for IMHAs attending when requested. He reported that work was being conducted by the Trust's Practice Development Lead and Older Peoples Services Team to ensure that IMHAs were consistently invited to attend MHAM hearings when requested by the service user. The Committee was reassured that this issue was being investigated by the Trust.

Dr Hosker noted the number of MHAM hearings where the service user did not have legal representation. Ms Layton clarified that as MHAM hearings do not meet the legal threshold for article 6 of the European Convention of Human Rights - the right to a fair trial, and as such there was no funding available to provide legal representation, nor did the Trust have the power to appoint a legal representative. She stated that nonetheless the amount of legal representation at MHAM hearings held in Leeds was relatively high compared to other areas in the country. The Committee acknowledged this clarification.

The Committee **received** the report on the review of IMHA representation available at MHAM hearings and was **assured** that patients were supported pre-hearing. It was **agreed** that the suggested improvements for recording

procedures should be implemented and that the review of IMHA representation at MHAM hearings should be repeated for the hearings held Q1 2024/25.

24/011 Human Rights Training Impact Evaluation (agenda item 10)

The Committee **noted** that the report of the Human Rights Training Impact Evaluation would be presented at the next Committee meeting.

24/012 Restrictive Interventions Annual Report 2022-23 (agenda item 11)

The Committee received the Restrictive Interventions Annual Report. It noted that this report was already received by the Quality Committee. It agreed that this report should also be regularly received by the Mental Health Legislation Committee, and it was agreed that it should be added to the Committee's Annual Cycle of Business. It also noted that additional work would be required in collaboration with members of the Quality Committee to determine which aspects of the report were relevant to the business of the Quality Committee, and which aspects were relevant to the business of the MHL Committee, and that Ms Khan would meet with Dr Frances Healey, Non-executive Director and Chair of the Quality Committee, to discuss this further.

KK

The Committee discussed the contents of the report. It noted that due to the addition of services provided at Red Kite View (RKV) in the time period looked at by the report that it was hard to determine the trends of restrictive intervention usage during this period. It suggested that future reports should try to filter the overall data into more data sets, for example separating the data from RKV, so that data trends over time would be more evident. It was agreed that Dr Hosker would provide this feedback at the upcoming Quality Committee meeting.

CH

The Committee **received** the Restrictive Interventions Annual Report for 2022-23. It **agreed** that this report should be received annually by the Committee, and that additional work should be conducted between members of it and the Quality Committee to determine which aspects of the report were relevant to the business of each respective Committee. It also **agreed** that some suggestions on how the data contained in the report should be represented in order to better demonstrate trends over time should be fed back to the author.

Mr Hodgson joined the meeting.

24/013 Publications to Consider / Legislative Changes (agenda item 12)

The Committee **noted** that there were no additional publications to consider, or updates on draft legislative changes since the previous Committee meeting.

24/014 Draft Strategic Internal Audit Plan 2024-25 (agenda item 13)

Mr Hodgson presented the Draft Strategic Internal Audit Plan to the Committee. He highlighted that he was revisiting the 2023-24 audit risk assessment with all executive colleagues in the Trust as well as seeking input from all Board Sub-Committees on all the areas which had been previously identified for audit. He drew the Committee's attention to three audit areas in particular, which were the "Integrated Governance – Committee relationships", the "Mental Capacity Act", and the "Mental Health Act". He added that given the size of the audit area relating to the Mental Health Act, that it would be impractical for the entire area to be audited, and therefore he would welcome the Committee's input in identifying the key areas of risk where assurance was needed. Mr Wyatt confirmed that he would be happy to discuss this further with Mr Hodgson outside of the meeting to better define the scope and overall objectives of these audits, in particular to look at Mental Health Capacity assessments on service users who were inpatients at the Trust. The Committee noted this update.

OW

Ms Wilburn questioned Mr Hodgson on where the results of these audits would be reported. Mr Hodgson confirmed that the audits would be first reported back to the Audit Committee, but that it was expected that the results of audits which fell within the remit of another Board Sub-Committee would be shared with that Sub-Committee. He additionally suggested that in the event that an audit was returned with an overall opinion of limited or low assurance, that the Executive lead responsible for oversight of this area should attend a relevant Board Sub-Committee meeting to provide additional assurance on how issues which had been identified in the audit would be addressed. He added that he would also be happy to attend these meetings if requested. The Committee noted this update.

The Committee **noted** the progress and development of the Draft Internal Audit Annual Plan 2024/25 and **discussed** the plan. It was **agreed** that Mr Wyatt would discuss the scope of the planned audit areas within the remit of the Committee in more detail with Mr Hodgson outside of the meeting.

24/015 Any risks or issues to be escalated to the Trust Board or other Sub-Committees (agenda item 14)

Ms Khan noted that she would be raising the following points at the next Board meeting:

- The Committee noted that a solution for recording the outcomes of Mental Health Legislation Tribunal Hearing outcomes had been developed, and that this process would enable ethnicity data of service users to be reported as part of the Mental Health Legislation Activity Reports going forward.
- The Committee noted that a working group had been set-up to the implementation of the "Right Care, Right Person" operational model.
- The Committee discussed a legal precedent which had been set which determined that Mental Health Act assessments or renewals and CTO extensions based on remote assessments were unlawful. The Committee noted that this had impacted a small number of service users at the Trust,

and that the Trust was conducting a Duty of Candour process to address the impacted service users.

- The Committee discussed the potential risk that the new Provider Selection Regime could it easier for existing health providers to be re-awarded contracts, which may result in less innovation emerging from this sector.
- The Committee discussed the overrepresentation of BME Groups in the CTO patient population. It noted that work was being conducted by the ICB to examine data to develop preventative health strategies. It also discussed innovative strategies being employed in other regions, such as the use of assertive outreach teams, to achieve this aim.
- The Committee received the Mental Health Legislation Activity Report for Q2 2023-24 and was assured the plans in place were sufficient to ensure ongoing compliance with all mental health legislation.
- The Committee received the representation at Mental Health Act Managers Hearings report and noted that no Independent Mental Health Advocate had attended a Hearing in Q2 2023. It was assured that service users received advocate support pre-hearing and that improvements in the recording of requests for IMHA support would be implemented and this area re-assessed to better determine the cause for low attendance of IMHAs at Hearings.
- The Committee received the Restrictive Interventions Annual Report 2022-23. It was agreed that this report would be added to the Committee's regular Cycle of Business and received alongside the Quality Committee. It was also agreed that more work was needed in order to determine which aspects of the report fell within the Quality Committee's purview, and which fell into the Mental Health Legislation Committee's purview.
- The Committee received an update on the progress and development of the Draft Internal Audit Annual Plan 2024/25.

24/016 **Any other Business** (agenda item 15)

Mr Wyatt informed the Committee that Ward 3, The Mount had recently been inspected by the Care Quality Commission (CQC) as part of a Mental Health Act review. The Committee heard that the feedback received from this report was very positive, in particular the feedback received from service users and their families. It also noted that the CQC had found that all previously recommended actions had been implemented. The Committee recognised the hard-work and commitment of colleagues working on this ward.

The Committee **noted** the positive feedback received from a CQC inspection at Ward 3, The Mount and **praised** colleagues working on this ward for this outcome.

The Chair of the Committee thanked everyone for attending and closed the meeting at 11:40am.

Date and time of next meeting:

Thursday 2 May 2024 at 1.30pm until 3pm via Microsoft Teams.