

Mental Health Legislation Committee
Annual Report
1 April 2018 – 31 March 2019

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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 2018 to 31 March 2019.

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 (MHAMs), who ensures any concerns relating to service users and their rights are raised. The committee may also invite other individuals to attend to provide advice 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. 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. 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 March 2018 meeting. They were ratified by the Board of Directors and are attached for information at Appendix 2.

4 MEETINGS OF THE GROUP / COMMITTEE

In respect of the period covered by this report the committee met on three occasions:

- 16 May 2018
- 30 October 2018
- 13 February 2019

5 MEMBERSHIP OF THE COMMITTEE AND ATTENDANCE AT MEETINGS

Margaret Sentamu became Chair of the Mental Health Legislation Committee following the May 2018 meeting. The previous Chair, Sue White continues to attend the committee as a Non-Executive Director and deputy Chair. Jeffrey Tee, the lead Mental Health Act Manager has continued his role of Deputy Chair of the Mental Health Act Managers Forum during the reporting period.

The Director of Nursing, Cathy Woffendin holds portfolio responsibility for the administration of the application of mental health legislation and is a substantive member of the Committee. If the Director of Nursing 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. The meetings on 16 May 2018, 30 October 2018 and 21 March 2019 were quorate and attended by the Director of Nursing. The Deputy Director of Nursing attended meetings on 16 May 2018 and 21 March 2019.

The table below shows attendance for members of the committee for the period 1 April 2018 to 31 March 2019.

Name	16 May 2018	30 October 2018	21 March 2019
Sue White (Chair)	✓		
Margaret Sentamu (Chair)		✓	✓
Cathy Woffendin (Director of Nursing)	✓	✓	✓
Margaret Sentamu (Non-Executive Director)	✓		
Sue White (Non-Executive Director)		✓	✓
Nichola Sanderson (Deputy Director of Nursing)	✓		✓

The Mental Health Legislation Committee may also invite other members of the Trust's staff or its non-executive directors to attend at the discretion of the chair and may request individuals to attend to provide advice and support for specific items from its work plan when these are discussed in the committee meetings. Mental Health Act Managers may be invited to attend for specific agenda items, and governors are invited to observe the meetings, but have no power to comment at the meeting unless invited by the chair of the committee to do so. A representative from Leeds City Council with responsibility for Deprivation of Liberty Safeguards is also invited to attend.

6 REPORTS MADE TO THE BOARD OF DIRECTORS

The Chair of the Mental Health Legislation Committee provides a written Chairs report at the Board of Directors' meetings to assure 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.

Following the Mental Health Legislation Committee on 21 March 2019 – the Board of Directors were asked to approve changes to the remuneration rates to the Mental Health Act Managers and to update the Committees Terms of Reference. The proposed changes to remuneration rates were to provide remuneration to Mental Health Act Managers on completion of compulsory training. A request was made to the Trust Board to delegate powers to the Mental Health Legislation committee in respect of future remuneration to Mental Health Act Managers. The recommendations were approved by the Trust Board during March 2019 and the Committees Terms of Reference have been updated and submitted to the May 2019 Committee for final approval prior to Board ratification.

In addition to the Chairs report, the Board of Directors receives the Annual Report.

7 THE WORK OF THE COMMITTEE DURING 1 April 2018 – 31 March 2019

During 2018/2019 the Chair of the Mental Health Legislation Committee confirmed that the committee has fulfilled its role, in accordance with its Terms of Reference, (attached at Appendix 2 for information). The Committee's work plan is under review. Further details of all of these areas of work can be found in the minutes of the committee.

The Committee is committed to ensuring that service user experience informs its work. This is achieved indirectly via case studies brought to the Mental Health Act Managers Forum.

Other areas of work on which the Committee has received assurance during 2018/19 are set out below:

Mental Health Legislation

During the reporting period the Committee has been cited on a number of complex Mental Health Act Managers hearings requiring investigation. During the investigation process a joint training need was identified to support both Mental Health Act Managers and clinical staff to understand their roles and responsibilities with regards to the hearings. A joint training session was held during September 2018. The Committee received positive feedback from those in attendance who were supportive this session being provided on an annual basis.

The Committee was informed of the Trusts 'requires improvement' rating following inspection by the Care Quality Committee (CQC) in January 2018. Mental Health Act Administration was rated as good overall, demonstrating a significant improvement from previous inspections. Assurance was provided to the Trust Board regarding the effectiveness of mental health legislation processes and procedures. The Committee receives feedback from the Mental Health Legislation Operational steering Group at each meeting via the Chairs report and this includes oversight of provider action statements monitoring following CQC Mental Health Act inspections.

The Committee continues to receive reports from the mental health legislation team following monthly documentation audits. The Committee is pleased to note that no fundamentally defective or challengeable detentions have been identified during the audits for the reporting period. The audits provide robust assurance to the Committee that statutory and internal processes and procedures are managed effectively to meet legislative requirements.

During the reporting period the Trusts Advocacy provider in Leeds (Advonet) which is commissioned by the Local Authority underwent a change in management. The Committee has expressed concerns that this has led to an absence of activity data. The Committees local authority representative agreed to raise this with the Advocacy provider as part of commissioning discussions. The committee will continue to monitor to ensure appropriate data is received.

Throughout the reporting period the Committee has continued to express concern regarding compliance with compulsory mental health legislation training. The

committee is pleased to note that training compliance has improved to meet Trust targets.

The Committee welcomes proposed changes to the training provision following review which includes service specific initial and refresher training which will focus on CQC issues and take a case study approach.

The Committee previously expressed concern about the continuing challenge of disproportionately high rates of crisis access by people from a BAME background and has throughout the year monitored actions being taken by the operational group to address this challenge.

The Committee received assurance on operational matters from the Mental Health Legislation Operational Steering Group. This is presented to the Committee via the Chairs report. The Mental Health Operational Steering Group meetings monthly.

The Committee has received information following the Mental Health Act Review and welcomes the recommendations made; the Committee will continue to monitor the legislative changes to ensure compliance.

The Committee has expressed concern regarding the number of Deprivation of Liberty Safeguard (DoLS) applications outstanding but has been assured that the Trust's responsibilities as managing authority have been complied with. The Committee noted that legislative changes to the DoLS system expected to take effect during 2020 may have an impact on service demand and resource and have been assured that these will be considered when the Trust completes its impact review following confirmation of the legislative changes.

8 CONCLUSION

As a governance Committee of the Board of Directors, the Mental Health Legislation Committee has provided assurance to the 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 Board of Directors' governance committee in accordance with its Terms of Reference. This enables the Board of Directors to comment on the adequacy and effective operation of the organisation's internal control systems and compliance with the law and regulations.

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 particularly recognises the valuable contribution made by staff in the MHL Team.

1 May 2019

Margaret Sentamu

Chair of the Mental Health Legislation Committee

Appendix 1

MENTAL HEALTH ACT MANAGERS ANNUAL REPORT 1 April 2018- 31 March 2019

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 Board of Directors' has established a Mental Health Legislation Committee as a sub-committee of the Board. During 2018/19 this committee was chaired by a non-executive director. Margaret Sentamu took over Chair responsibilities from Sue White in August 2018. Sue White continues to attend as a non-executive director (Margaret Sentamu). The Forum met four times during 2018/19. The Managers Forum reports directly to the Mental Health Legislation Committee 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.

In 2018/19 the Forum met 4 times;

- 9 May 2018
- 16 August 2018
- 12 November 2018
- 20 February 2019

The recruitment of further MHAMs continued during 2018/19 and eleven new MHAMs were appointed. The regular recruitment drives ensure diversity is addressed within the group and that the organisation retains sufficient panel members to review detention and CTOs, in accordance with the Trust's own standard. Eight Managers reached the end of their fixed term appointment on 31 March 2018 which reinforces the need to constantly refresh our group of MHAMs. The Trust is extremely grateful to the retiring MHAMs for their hard work and commitment over many years.

Training of Mental Health Act Managers

We are committed to ensuring that our MHAMs are appropriately trained for their role and that all new managers attend a one-day induction, followed by a period of observation with support from experienced MHAMs. On-going training is provided at forum meetings. This year, training information and discussion sessions were held;

- 9 May 2018
- 16 August 2018

- 12 November 2018
- 20 February 2019

MHAMs were invited to join the Trust's training event on equality, inclusion and diversity. MHAMs considered case studies, enabling shared learning and exchange of best practice. Information sessions provided during the reporting period have included representatives from Advonet to discuss the role of the Independent Mental Health Advocate (IMHA), particularly in relation to attendance at hearings. A session covering unconscious bias, and discussions around the needs of MHAMs in relation to cultural awareness have been delivered, as a result of which further training is planned during the next reporting period.

Training sessions taking place during the reporting period have included, a mental health legislation refresher session, including the recording of decisions and joint MHAMs and clinician training.

During April 2018 the forum completed a review of its effectiveness. The overall feedback was generally positive, with some suggestions for further training needs and smaller group work. The Forum also completed a critical review of the data provided, following the review, data has been streamlined to identify any themes of areas for action.

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.

During the reporting period all MHAMs have completed a development review – the overall process which was mainly done via telephone conference has been well received, with a number of actions and items for group discussion being highlighted. The development review process will continue on an annual basis.

At the March 2019 meeting of the Mental Health Legislation Committee, the re-appointment of nine MHAMs were confirmed; these MHAMs have completed their second term. The Committee reviewed the current level of MHAMs and confirmed sufficient numbers at this time, with no immediate plans to recruit. Consideration is being given regarding how to improve diversity of recruitment to the MHAMs panel in the future.

In 2018/2019, there were 76 appeal hearings (an increase of 16 from the previous year), of which 70 were heard within our standard of 10 days. The MHAMs reviewed 305 renewals / extensions of detention and CTOs (an increase of 57 from the previous year). A total of 11 (a reduction of 6 from the previous year) 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.

Following the Mental Health Legislation Committee on 21 March 2019 – the Board of Directors was asked to approve changes to the remuneration rates to the Mental Health Act Managers and to update the Committees Terms of Reference. The proposed changes to remuneration rates were to provide remuneration to Mental Health Act Managers on completion of compulsory training. A request was made to the Trust Board to delegate powers to the Mental Health Legislation committee in respect of future remuneration to Mental Health Act Managers. The recommendations were approved by the Trust Board during March 2019 and the Committees Terms of Reference have been updated and submitted to the May 2019 for final approval prior to Board ratification.

We currently have 45 Mental Health Act Managers and the table below shows those people who have acted in this capacity during 2018/2019.

Table 1 – Mental Health Act Managers during 2018/2019

Mental Health Act Managers during the period 1 April 2018 to 31 March 2019					
John	Devine	Andrea	Robinson	Graham	Martin
Michael	Hartlebury	Sarah	Smith	David	Mayes
Trevor	Jones	Susan	Smith	Ismail	Patel
Andrea	Kirkbride	Elisabeth	Sunley	Shamaila	Qureshi
Alex (William)	Sangster	Janice	Wilson	Mohammed	Hussain
Jennifer	Taylor	Paul	Yeomans	Harold	Kolawole
Viv	Uttley	Ian	Hughes	Susan	Mosley
Bernadette	Addyman	Andrew	Marran	Gillian	Nelson
Marilyn	Bryan	Michael	Yates	Lynsey	Nicholson
Deborah	Byatt	Nasar Ali	Ahmed	John	OHara
Aqila	Choudhry	Judith	Devine	Harold	Oluwaseun
Debra	Pearlman	Lorna	James		
Janis	Bottomley*				
Jeffrey	Tee	Peter	Jones		
Claire	Turvill	Claire	Morris		
Rebecca	Casson	Nicola	Swan		
Nicolle	Levine	Thomas	White		

* retired during 2018/19

Non-executive directors also acting as Mental Health Act Managers during 2018/19
Sue White Margaret Sentamu 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 them for their dedication and the skill they apply when undertaking this vital role.

1 May 2019

Margaret Sentamu

Chair of the Mental Health Legislation Committee

Mental Health Legislation Committee

Terms of Reference

Approved by the Board of Directors – May 18

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
Director of Nursing	Executive Director with MHL Knowledge
Deputy Chief Operating Officer	Linkage to Care Services, Chair of the MHL Operational Steering Group
Associate Director for Leeds Care Group	Linkage to care services
Associate Director for Specialist Services	Linkage to specialist services

Attendees:

Title	Role in the group / committee	Attendance guide
Associate Medical Director for Mental Health Legislation	Advisory and technical expertise	Every meeting
Adult Social Care representatives (for Leeds,)	Linkage to social workers	Every meeting
Head of Corporate Governance	Linkage to Board and other sub-committees	As required
Mental Health Clinical Development Manager	Advisory and technical expertise	Every meeting
MHA managers' nominated individual	MHAM's perspective, experience and concerns	Every meeting
Governor	Observer with opportunity to contribute to discussions	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.

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 director of nursing 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.

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 and re-appointment of the Trusts Mental Health Act Managers, final ratification will be provided by the Trust Board.

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:

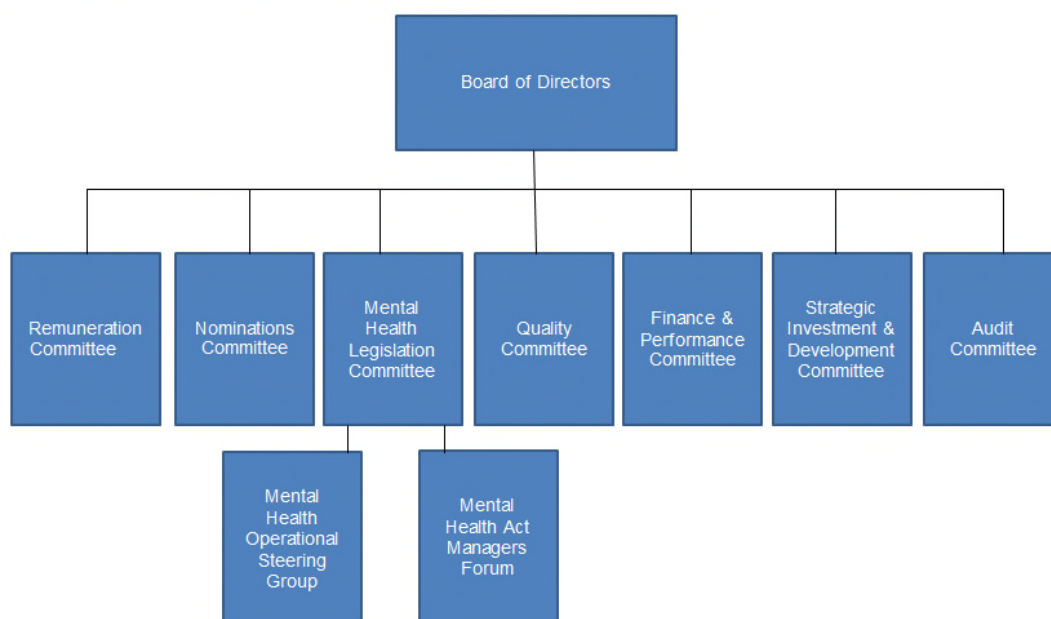
- Mental health legislation

- 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.

NHS Foundation Trust

7 RELATIONSHIP WITH OTHER GROUPS AND COMMITTEES



DUTIES OF THE CHAIRPERSON

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
Director of Nursing	Executive Director (ideally with knowledge and experience of MHL)
Deputy Chief Operating Officer	Associate Director
Associate Director for Leeds Care Group	Another Associate Director / Deputy
Associate Director for Specialist Services	Another Associate Director / Deputy

Attendee (by job title)	Deputy (by job title)
Associate Medical Director for Mental Health Legislation	No deputy available to attend this Committee
ASC representative (for Leeds,)	
Head of Corporate Governance	Governance Officer
Mental Health Clinical Development Manager	Mental Health Legislation Team Leader / Law Advisor
MHA managers' nominated individual	Another MHA Manager
Governor	