

Mental Health Legislation Committee
Tuesday 2 November 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
Prof Sue Proctor	Chair of the Trust
Mrs Cathy Woffendin	Director of Nursing, Quality and Professions

In attendance

Mrs Marilyn Bryan	Mental Health Act Manager
Ms Emily Glover Bengtsson	Manager: Deloitte (observing the meeting)
Ms Hazel Griffiths	Elected Governor: Leeds, carer (observing the meeting)
Ms Bea King	Corporate Governance Assistant (Meeting support)
Mrs Charlotte Martin	Mental Health Legislation Team Leader
Mr Graham Quinn	Mental Health Act Manager: CQC (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.
21/044	<p>Apologies for absence (agenda item 1)</p> <p>Apologies were received from Dr N Dissanayaka, Associate Medical Director, Mental Health Legislation (MHL), who is an attendee of the Committee.</p> <p>The meeting was quorate.</p>
21/045	<p>Declaration of any conflict of interest in respect of any agenda item (agenda item 2)</p> <p>Mrs Bryan declared a conflict of interest in relation to agenda item 10. The Committee agreed that Mrs Bryan should remain in the meeting to discuss rolling forward the Mental Health Act (MHA) Manager contracts.</p> <p>The Committee noted Mrs Bryan's declaration of interest regarding agenda item 10, and it was agreed that Mrs Bryan would remain in the meeting.</p>
21/046	<p>Minutes of the meeting held on 3 August 2021 (agenda item 3)</p> <p>Mrs White drew the Committee's attention to minute 21/035. She highlighted that the narrative should reflect 'complexity' rather than 'complicity'. Miss King agreed to make all the necessary change after the meeting.</p>

The minutes of the meeting held on the 3 August 2021 were **accepted** as a true record, subject to one minor amendment.

21/047 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 3 August 2021 were suitable to be uploaded to the Trust's external website.

21/048 Matters arising: CareDirector Governance update (agenda item 4.1)

Dr Hosker presented an update on the governance arrangements for CareDirector and explained that the report had been presented to all Board sub-committees. He assured the Committee that the gaps in the data had been closed.

Mrs White questioned whether the new system in place was reducing the need for the manual collection of data. Mr Wyatt informed the Committee that certain data was still being collected manually, including the tribunal data. He assured the Committee that there were plans in place to carry out a manual audit which would cross-reference CareDirector.

The Committee **received** an update on the governance arrangements for CareDirector and **noted** the information provided.

21/049 Cumulative action log (agenda item 5)

The Committee agreed to close the actions on the cumulative action log that had been completed. It was agreed that the **log number 045 would be picked up as part of the Mental Health Legislation Operational Group Report**. Mrs White asked Mr Wyatt to provide an update on **log number 031, regarding the absence of Advocacy data from York**. Mr Wyatt explained that he had a meeting with York Advocacy in November 2021 to determine the information around their contracts. He went on to add that he had received contact details for a member of staff at the York Advocacy Hub and was able to request from them that the Trust receives the same data. It was agreed that Mr Wyatt should **provide a further update on the advocacy data to the meeting in February 2022**.

The Committee discussed log number 043, regarding the remuneration of the Mental Health Act Managers (MHAMs). Dr Hosker explained that Mrs Bryan had provided benchmarking data on the remuneration of MHAMs at other Trust's for the organisation to review. He went on to add that Mr Darren Skinner, Interim Director of Human Resources, was working through the framework and had a

OW

meeting with South-West Yorkshire Partnership NHS Foundation Trust to establish a consistent approach. It was agreed that Mr Skinner and Dr Hosker should provide an update on the proposal to Committee members outside of the meeting. Mrs Bryan agreed to report the proposal to the MHA Managers Forum on 18 November 2021.

**CH /
DS

MB**

Mrs White asked Mr Wyatt to provide an update on log number 042. Mrs Woffendin informed the Committee that Mrs Sam Marshall, Legal Services & Complaints Lead, had escalated the issue to Advonet and contacted Healthwatch to ensure the individual was supported.

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

21/050

Mental Health Legislation Operational Steering Group Feedback Report
(agenda Item 6)

Mr Weir presented the Mental Health Legislation Operational Steering Group Feedback Report and highlighted the main areas of the report. Mr Weir drew attention to the engagement with the police and their approach to detained patients. He added that he was meeting with the Liaison Detective Chief Inspector in November 2021 and other inspectors to address the issue. The Committee agreed that Mr Weir should provide an update on the outcome of the meeting at the next MHL committee meeting in February 2022.

AW

Mr Weir drew attention to the delays in MHA assessments and highlighted that there had been issues in relation to the rostering for Section 12 doctors and obtaining a second opinion doctor for the assessments. Mr Wyatt explained that he had met with Mr Eddie Devine, Head of Pathway Integration at Leeds Clinical Commissioning Group (CCG), and Mrs Roz Brown, Adult Social Care, to discuss the escalation process around Section 140. Prof Proctor questioned whether the Transition and Young Adult Services (TYAS) were involved in the discussions. Mr Weir confirmed that they had been involved at a West Yorkshire level. It was agreed that the TYAS should be involved at a local level.

AW

The Committee noted that the Whatsapp messenger platform was used to allocate Section 12 second opinion doctors and questioned the effectiveness this. Dr Hosker assured the Committee that there were Section 12 doctors on rota for the first assessments and highlighted that the responsibility for the second recommendations was with the local authority. He added that the use of the Whatsapp platform was effective for getting quick responses. The committee discussed the role of the local authorities and CCG in relation to the section 12 doctors.

Mrs Woffendin expressed concern around the mental capacity training compliance. She acknowledged staffing pressures and suggested implementing a trajectory to encourage staff to participate in the training. Mr Wyatt agreed to provide an update on the training trajectory at the next meeting in February 2022, to assess when the compliance rate would be back at 85%. It was also agreed

that Mr Wyatt should provide regular reports on the assessment delays and inability to access beds, as part of the Operational Group Report. Within the report, he agreed to include an update on the issues around Section 12 doctors.

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The Committee highlighted the progress made with the Section 136 beds. Mr Weir agreed to provide further assurance before the next meeting around the publication of the standard operating procedure and the support available for staff.

AW

Mrs White drew attention to the information on service user involvement in the report. She highlighted that the service users were represented via Advocacy support on the Operational Steering Group. Mrs White went on to add that there had been low attendance of the Advocacy representative at the Operational Steering Group meetings. Mr Wyatt agreed to look into alternative ways to address the issue and update the Committee with the progress made.

AW

The Committee **received** the Mental Health Legislation Operational Steering Group Feedback and **discussed** the report in detail.

21/051

Mental Health Act Managers Forum Feedback (agenda item 7)

Mrs Bryan provided feedback from the MHAM forum. She explained that training compliance was low but assured the Committee that plans had been put into place to address this. She explained that a number of Hospital Managers had requested additional training in cultural competence support, which Mr Wyatt had agreed to provide. Mrs Bryan went on to add that issues had been raised by the Interpreting Service, in relation to the quality of the interpreters provided. She assured the Committee that the issue was being looked into by the Ordinator of the service.

Mr Wyatt informed the Committee that he was seeking the appropriate representation to attend the next forum to address the issues around the cultural competence support and training for hospital managers. It was agreed the issues around supporting managers should be included in the report to the Board.

Mrs White questioned whether there was a method to quality assess the interpreter service. Mr Wyatt clarified that the MHL Team did not have oversight of the service but assured the Committee that they shared the concerns with the service directly. Mr Weir highlighted that the service was contracted through the Trust and advised Mr Wyatt to contact Mrs Alison Stubley, Support Service Manager, to express the concerns.

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The Committee **received** feedback from the Mental Health Act Managers Forum and discussed the information provided.

21/052

Mental Health Legislation Report (agenda item 8)

Mr Wyatt presented the Mental Health Legislation Report and outlined the key points. He highlighted that the data in relation to community treatment order recall was in relation to when the recall had been issued to a service user going into hospital.

Mrs Martin drew attention to the information around manager's hearings. She pointed out that a number of hearings had been adjourned due to questions around capacity and representation. She assured the Committee that the MHL Team had introduced a capacity assessment to address the issue. Mrs Martin highlighted that in the circumstance where the patient had limited capacity, the team would contact Advocacy directly for support. The Committee noted this.

The Committee **received** the Mental Health Legislation Report and **discussed** the report in detail.

21/053

Publications to consider / Legislative Changes (agenda item 9)

Mr Wyatt highlighted the MHA reform and explained that there had been no changes since the last meeting in August 2021. He went on to add that the final guidance for the Use of Force Act would be available in November 2021. Mr Wyatt agreed to provide an update on the progress of the guidance at the next meeting in February 2022.

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

21/054

Plans to address Liberty Protection Safeguarding (agenda item 12)

Mr Wyatt presented the plans to address Liberty Protection Safeguarding (LPS). He explained that regulations and practices were not yet available, and it was unlikely that the system would be in place in April 2022.

Mr Wyatt informed the Committee that he had met with Adult Social Care, Leeds Community Healthcare and Leeds Teaching Hospital Trust on a monthly basis to establish a system that everyone could use. He went on to add that discussions had taken place with the Trust's information technology (IT) department to look into an IT system which could also be used to help.

Prof Proctor asked Mr Wyatt to provide a session to the Board to update them on the progress in Spring 2022. She also highlighted that there had been a change to the definition of age and eligibility meaning 16 years old was the cut off age. The Committee explored what the implications of this were for the Trust's services.

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Mrs White questioned whether the MHL Team had significant capacity to complete the work by April 2022. Mr Wyatt assured the Committee that the team

would have capacity providing CareDirector could be used alongside the system, which would reduce the administration needed. It was agreed that Mr Wyatt would provide an update on the process to address LPS at the meeting in February 2022.

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The Committee **reviewed** the plans to address Liberty Protection Safeguarding and was **assured** with the progress of the plans.

21/055

Rolling Forward Mental Health Act Manager Contracts (agenda item 10)

The Committee reviewed a report which included a proposal to extend the MHA Manager contracts by one year. Mrs White informed the Committee that the current MHA Managers had agreed to the proposal.

Mrs Bryan highlighted an error in the report and explained that the timeline for the extension proposed should be from February 2022 instead of February 2021. The Committee approved the extension of the MHAMs contracts from February 2022 to 31 January 2023.

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The Committee **reviewed** the contracts for the Mental Health Act Managers and **approved** the extension of the contracts requested.

21/056

Outcomes of the Audits and Proposals of the re-commenced audit (agenda item 11)

Mrs Martin presented the outcomes of the audits and proposals of the re-commenced audit. She highlighted that all concerns had been addressed.

Mr Wyatt informed the Committee that the MHL Team had been visited by Internal Audit in relation to the systems and processes for CareDirector. He explained that they had not yet received the final report but assured the Committee that the verbal report from Internal Audit was positive. The Committee agreed to return to the monthly 10% audits.

The Committee **received** the outcomes of the audits and proposals of the re-commenced audit and **agreed** to return to the monthly 10% audits.

21/057

Review of the Risk Register (agenda item 13)

The Committee noted the risks on the Risk Register. Mrs White highlighted that an additional risk had been added in relation to the admission and assessment process. The Committee was assured that procedures were in place to monitor the progress of the admission and assessment process. Mr Weir drew attention to the risk in relation to Section 62 compliance. He explained that a revised manual audit was due to take place at the end of 2021 to address this. It was

agreed that Mr Weir would provide an update on this in the Operational Group Report at the next meeting in February 2022.

The Committee discussed the issues in relation to the rostering for Section 12 doctors and obtaining a second opinion doctor for the assessments. The Committee agreed to monitor the issue.

The Committee **reviewed** the Risk Register and was **assured** with the progress.

21/058

Review of the MHLC Terms of Reference (agenda item 14)

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

21/059

2022 meeting dates (agenda item 15)

The Committee **reviewed** and **noted** the 2022 meeting dates.

21/060

2022 Cycle of Business (agenda item 16)

The Committee **reviewed** and **noted** the 2022 Cycle of Business and.

21/061

Any risks or issues to be escalated to the Trust Board or other Sub-Committees (agenda item 17)

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

Issues to which the Board needs to be alerted

- The Committee received an update on plans to implement the new system of Liberty Protection Safeguards. The Trust will have new, additional responsibilities and the Board will need assurance that staff have been appropriately trained and that systems and processes are in place to support this new requirement. The Committee will be reviewing more detailed implementation plans at its next meeting. At the moment, the new arrangements are scheduled to start from April, but this may be delayed as national guidance has yet to be published. Internal audit is involved in scrutinising the implementation plans. We will need to plan a Board session on this front in advance of the implementation date.
- The Committee received feedback from Mental Health Act Managers (MHAMs) about some recent hearings involving asylum seekers who had no recourse to public funds and therefore were potentially unable to pay

for medication should they be discharged. This is a worrying issue and we agreed to raise it with the Board to discuss how best to address it.

- The Committee reviewed progress with mandatory training for mental health legislation noting that it is below target. Additional trainer capacity is coming on stream and at the next meeting we will be reviewing a trajectory to reach the target of 85% overall.

Issues for advice from the Board

- The Committee agreed to roll forward contracts for 8 MHAMs whose final terms of tenure had expired by one year from February 2022. This is to ensure we have sufficient capacity on the panel. In normal circumstances we would be running a recruitment exercise for new managers, but it has been decided to put this in hold pending central Government decision about the future of the MHAM role.

Things on which the Board is to be assured

- The Committee received assurance from the Operational sub-group that robust escalation processes are in place to monitor and address issues relating to delays in assessing and admitting service users when bed availability is tight. We will be reviewing this again next time and noted that the issue had been added to the risk register. Linked to this, we were assured that work to improve the physical environment in the Section 136 suite is underway and that a standard operating procedure is being drawn up to support plans to use beds flexibly to avoid breaches of the legislation. Also, discussions are planned with the police and the ambulance service about emergency admissions.
- The Committee received significant assurance about a recent 100% audit of MH Act documentation (433 records) which showed that despite the challenges of Covid, new remote ways of working and the switch to Care Director, very high standards of compliance with the legislation had been maintained. This is very good news and reflects the hard work of staff and the MHL Team. Going forward we will be returning to monthly 10% sample audits.

21/062

Any other business (agenda item 18)

The Committee did not discuss any other business.

The Chair of the Committee thanked everyone for attending and closed the meeting at 11.55am.

Date and time of next meeting:

Tuesday 1 February 2022 at 10.00am until 12.00pm via Zoom.