**Mental Health & Law Committee**

**RR/App 16(iv)/2022**

(Agenda item: 22(e))

**Terms of Reference**

**V3. Draft**

**1. Constitution**

1.1 The Board hereby resolves to establish a Committee of the Board to be known as the Mental Health & Law Committee (the Committee), previously known as the Mental Health Act Committee. The Committee is a committee of the board and has no executive powers, other than those specifically delegated in these terms of reference.

**2. Authority**

2.1 The Committee is authorised by the Board to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to co-operate with any request made by the Committee.

2.2 The Committee is authorised by the Board to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary.

**3. Purposes**

3.1 The purposes of the Committee are to:

* Provide assurance to the Board over the Trust’s ethical and lawful application of all legislation governing the care provided to its service users and engagement with carers, friends, and family;
* Provide a forum for consideration of matters with a wide ethical and social impact (separate from clinical ethics) such as:
	+ Population Health;
	+ Health and Social care; and
	+ Research and Development.
* Monitor, review, and report to the Board the Trust practice in relation to:
* European Convention on Human Rights (Human Rights Act 2008)
* Mental Health Act 1983;
* Mental Capacity Act 2005;
* Deprivation of Liberty Safeguards;
* Care Act 2014; and
* other related legislation, case law and practice

**4. Membership (Including Quorum)**

4.1 The Committee will be appointed by the Board from amongst the Non-Executive and Executive Directors of the Trust, and experts related to topics covered.

4.2 One of the Non-Executive members will be appointed Chair of the Committee by the Board. In the absence of the Committee Chairman and/or an appointed deputy, the remaining members present shall elect one of the other Non-Executive Directors present to chair the meeting.

4.3 The membership of the Committee will be comprised as follows, or those with equivalent titles:

* Two Non-Executive Directors, one who chairs the Committee;
* Chief Medical Officer or a nominated Deputy;
* Chief Nurse or a nominated Deputy;
* Company Secretary;
* Mental Health Act/Legislation Manager; and
* Associate Director of Social Care

4.4 Quorum will be 4 of the membership, to include at least one Non-Executive Director, and at least one Executive.

4.5 Governors are invited to observe at all meetings of the Committee, at the discretion of the chairman.

**5. Frequency**

5.1 The Committee will meet at least four times per year. Additional meetings may be scheduled where necessary.

**6. Duties**

6.1 The Committee is responsible for providing assurance to the Board of Directors of the Trust’s compliance with relevant legislation and case law relating to clinical care;

6.2 The Committee will monitor the Trust’s provision of patient care and carer engagement in an ethical manner;

6.3 The Committee will promote Trust-wide education on human rights, ethics and legal matters;

6.4 The Committee will monitor coherent internal and external communication around Trust values, ethics and human rights;

6.5 The Committee will receive reports from the MHA/MCA Legislation Group

6.6 Monitor, review and report to the Board of Directors the Trust’s implementation of, and compliance with, current mental health legislation and proposed changes to such legislation, in particular the Mental Health Act 1983 and the Mental Capacity Act 2005, taking into account best practice. This will include the implementation of the Liberty Protection Safeguards;

* 1. Keep under review the work of Associate Hospital Managers;

6.8 Monitor trends in the application of the Mental Health Act 1983 (and any new Mental Health Acts or revisions to the existing Act) within the Trust and make recommendations where necessary. Consider the implication of any changes to legislation and regulations within a local context;

6.9 Oversee the Trust’s response to recommendations from CQC Mental Health Act visits, to ensure progress on action plans and to provide strategic thinking around recurrent themes and areas for improvement;

6.10 Scrutinise delivery against the Trust’s action plan developed as a result of the Care Quality Commission’s Annual Report as instructed by the Board of Directors;

6.11 Monitor the provision of adequate guidance, information, education and training on mental health legislation to staff, service users, carers and other stakeholders;

6.12 Monitor the application of Human Rights principles and frameworks across the Trust and draw attention to any shortcomings. In particular:

a. Checking that patients receive information regarding their rights, especially at key points such as prior to a MHA Hearing or Tribunal. This includes checking that patients have access to papers prior to hearings and tribunals and are offered the support of an Independent Mental Health Advocate (IMHA).

b. Checking that patients are given the opportunity to be involved in planning their care.

c. Ensuring assurance that the application of the Mental Health Act and the Mental Capacity Act within the Trust does not disproportionately affect or disadvantage any groups as set out in the Equalities Act.

d. Checking that, especially as regards the use of segregation and restraint, the principle of the application of the least restrictive option is always followed.

**7. Reporting**

7.1 The minutes of the committee meetings shall be formally submitted to the Board. The Chair of the Committee shall draw to the attention of the Board any issues that require disclosure, or Executive action.

7.2 The Chair, on behalf of the Committee, will report annually to the Board of Directors in respect of fulfilment of its functions as set out in these terms of reference.

**8. Attendance**

8.1 The Chief Medical Officer will act as Lead Executive Director for the Committee.

8.2 Executive Directors and senior managers shall be invited to attend, particularly when the Committee is discussing areas of risk or operation that are within their remit of responsibility.

8.3. Appropriate secretarial and administrative support will be provided to the Committee by the Corporate Governance team; this will include, but is not limited to:

* Agreement of the annual agenda framework with the Committee, ensuring that this is regularly reviewed and updated and circulated to all members periodically throughout the year;
* Finalisation of each meeting’s agenda with the Chair of the Committee, in conjunction with the Lead Executive Director;
* Circulating a request for papers no later than ten working days prior to the submission deadline, and collating papers;
* Ensuring that the agenda and papers are distributed no less than five working days in advance of the meeting;
* Ensuring that minutes of the meeting are taken, including a record of decisions taken, matters arising and that issues to be carried forward are kept in a rolling log;
* Ensuring that draft minutes are circulated within 10 working days of the meeting to all members;
* Advising the Committee as appropriate; and
* Supporting the Committee to conduct the annual review of the Committee’s effectiveness against the terms of reference.

8.4 The Chair of the Committee may, at his/her discretion, invite other observers.

**9. Review**

9.1An annual review of effectiveness will be undertaken by the Committee and a report provided to the Board.

9.2 The Terms of Reference of the Committee shall be reviewed at least annually and updated to take account of any feedback from the committee effectiveness review.

9.3 During this review the Committee will be assessed to ensure it has performed in accordance with these terms of reference, specifically that:

* The Committee has carried out the duties required;
* The Committee has reported to the board and other committees as required;
* Membership, frequency of meetings and attendance has been as stated; and
* The Committee has been quorate each time it has met.