

**REPORT TO TRUST BOARD - PUBLIC**  
**14 DECEMBER 2017**

|                                       |  |
|---------------------------------------|--|
| <b>Title</b>                          | Mental Health Law Update                           |
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**Purpose of the Report:**

To provide assurance on mental health law functions within the Trust.

**Summary of Key Issues:**

Mental Health Law department structure, Hospital Managers power of discharge, MHA/DoLS data, Reports to committees. Appendices: 1. Scheme of Delegation, 2. MHL department structure, 3. Summary of MHA sections.

**Strategic priorities this paper supports (Please check box including brief statement)**

|                                     |                                     |   |
|-------------------------------------|-------------------------------------|---|
| Improving service user satisfaction | <input checked="" type="checkbox"/> | Minimising legal status uncertainty         |
| Improving staff satisfaction        | <input checked="" type="checkbox"/> | Improved guidance to enhance understanding. |
| Maintaining financial viability     | <input checked="" type="checkbox"/> | Minimising costly legal challenges          |

**Committees/Meetings where this item has been considered:**

| Date | Committee/Meeting |
|------|-------------------|
|      | n/a               |

**Implications:**

|                          |  |
|--------------------------|--|
| Equality Analysis        | The Trust has a duty to promote equality. Has this report been impact assessed?<br>a) This report has no direct impact on equalities |
| Risk and Assurance       | The report highlights what the Trust needs to be doing to assure itself that service users are cared for within the legal framework. |
| Service User/Carer/Staff | The report emphasises the need to provide guidance for relevant staff in understanding how the legal framework applies in practice.  |
| Financial                | There are no adverse financial implications relating to this report.   |

**Glossary**

| Abbreviation | In full                           |
|--------------|-----------------------------------|
| CQC          | Care Quality Commission           |
| CTO          | Community Treatment Order         |
| DoLS         | Deprivation of Liberty Safeguards |
| MCA          | Mental Capacity Act 2005          |
| MHA          | Mental Health Act 1983            |
| MHL          | Mental Health Law                 |

## MENTAL HEALTH LAW REPORT 2016-2017

### 1.0 Introduction

- 1.1 The Mental Health Law department manages the Trust's responsibilities in relation to the Mental Health Act 1983 (MHA), Mental Capacity Act 2005 (MCA), the MCA Deprivation of Liberty Safeguards (DoLS), and related legislation and case-law. It is a corporate department and the executive lead is the Director of Corporate Affairs.
- 1.2 The department is managed by the Associate Director of Mental Health Law with support from the Clinical Nurse Specialist in Mental Health Law (the designated lead for the MCA and DoLS). There are seven MHL offices which currently administer the MHA and DoLS, and provide legal advice/support to clinical teams.
- 1.3 The function of the Hospital Managers power of discharge under section 23 of the MHA is managed by the Associate Director and overseen by the Trust Board Mental Health Act Sub-Committee which is chaired by a non-executive director. There are currently thirty-nine Associate Hospital Managers who consider the power to discharge.
- 1.4 All clinically-related MHA and MCA functions ('consent to treatment', 'patient's rights' etc) are overseen by the Trust's Quality Committee.
- 1.5 The general MHA functions of the Trust and the Hospital Managers power of discharge are covered in chapters 37 and 38 of the 2015 version of the MHA Code of Practice.

### 2.0 Mental Health Law Department

- 2.1 As mentioned in last year's report, the department underwent a reorganisation during 2016 (see appendix 2). Since then, the Trust has become the provider/preferred provider for more services and so another review is now underway, specifically to determine how the Mental Capacity Act function can best be delivered in respect of the new community services, the Trust's Safeguarding functions and the increasingly complex MHA interface issues that continue to emerge.

### 3.0 Hospital Managers Power of Discharge and the Mental Health Act Sub-Committee

- 3.1 The Mental Health Act Sub-Committee, chaired by a non-executive director, has the singular responsibility to oversee the function of the Hospital Managers Power of Discharge, including policy and guidance development, appointment of Associate Hospital Managers and case discussion.
- 3.2 This power of discharge is unique in that it can only be exercised by non-executive directors or other people appointed for the purpose who are not employees of the Trust.<sup>1</sup>  
An annual report on issues surrounding this activity was submitted to the Mental Health Act Sub-Committee on 13<sup>th</sup> September 2017. In 2016-2017, there was 1 patient discharged from detention via this power (3 in 2015-16) and 1 discharged from a community treatment order (4 in 2015-16).
- 3.3 Associate Hospital Managers regularly receive information and training to enable them to carry out their role, which they are doing safely and effectively.

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<sup>1</sup> Section 23(6) Mental Health Act 1983

#### 4.0 Mental Health Act data 2016-2017

##### 4.1 Detentions and Community Treatment Orders

| <b>Pathway</b>  | <b>2015-16</b> | <b>2016-17</b> |
|---|----------------|----------------|
| Total Admissions under detention                      | 2172           | 2617           |
| - Section 2   | 1014           | 1281           |
| - Section 3   | 197            | 311            |
| - Section 4   | 20             | 20             |
| - Admissions from Court                               | 46             | 32             |
| - Admissions from Prisons                             | 54             | 30             |
| - Admissions under section 135(1)                     | 36             | 29             |
| - Admissions under section 136                        | 825            | 943            |
| Total detention episodes following informal admission | 902            | 865            |
| - Section 5(2) episodes                               | 420            | 585            |
| - Section 5(4) episodes                               | 131            | 144            |
| Total changes from one detention to another           | 877            | 1029           |
| Detained patients at 31/03                            | 562            | 542            |
| Total discharges from detention                       | 2677           | 3013           |
|   |                |                |
| Total new section 17A community treatment orders      | 176            | 236            |
| Community treatment order patients at 31/03           | 227            | 193            |
| Total discharges from community treatment orders      | 148            | 166            |

For admission under ss. 2, 3 and 4:

Males – 55%

Females – 45%

For admissions under s.136:

Males – 63%

Females – 37%

For new s.17A Community Treatment Orders:

Males – 66%

Females – 34%

#### 4.2 Number of patients detained in hospital (by ethnicity) on 31<sup>st</sup> March 2017

| Code         | Group                            | Total      | Total in %     | TH        | C&H       | FOR        | NEW       | BEDS      | LUT       |
|--------------|----------------------------------|------------|----------------|-----------|-----------|------------|-----------|-----------|-----------|
| A            | White British                    | 166        | 30.63%         | 18        | 8         | 48         | 18        | 35        | 39        |
| B            | White Irish                      | 8          | 1.48%          | 0         | 0         | 6          | 1         | 0         | 1         |
| C            | Any Other White                  | 31         | 5.72%          | 11        | 5         | 10         | 3         | 1         | 1         |
| D            | White & Black Caribbean          | 13         | 2.40%          | 1         | 2         | 8          | 0         | 0         | 2         |
| E            | White & Black African            | 6          | 1.11%          | 1         | 1         | 3          | 0         | 1         | 0         |
| F            | White & Asian                    | 4          | 0.74%          | 0         | 2         | 0          | 1         | 1         | 0         |
| G            | Other Mixed Background           | 13         | 2.40%          | 0         | 2         | 9          | 1         | 0         | 1         |
| H            | Indian                           | 11         | 2.03%          | 0         | 2         | 7          | 1         | 0         | 1         |
| J            | Pakistani                        | 18         | 3.32%          | 0         | 1         | 10         | 4         | 0         | 3         |
| K            | Bangladeshi                      | 36         | 6.64%          | 14        | 3         | 12         | 5         | 0         | 2         |
| L            | Any Other Asian                  | 19         | 3.51%          | 2         | 4         | 8          | 2         | 1         | 2         |
| M            | Black or Black British Caribbean | 70         | 12.92%         | 3         | 12        | 37         | 7         | 3         | 8         |
| N            | Black or Black British African   | 71         | 13.10%         | 8         | 13        | 31         | 16        | 2         | 1         |
| P            | Any Other Black Background       | 35         | 6.46%          | 4         | 2         | 24         | 5         | 0         | 0         |
| R            | Chinese                          | 4          | 0.74%          | 1         | 1         | 2          | 0         | 0         | 0         |
| S            | Any Other Ethnic Background      | 22         | 4.06%          | 2         | 5         | 11         | 3         | 1         | 0         |
| Z            | Not Stated                       | 15         | 2.77%          | 7         | 5         | 0          | 3         | 0         | 0         |
| <b>TOTAL</b> |                                  | <b>542</b> | <b>100.00%</b> | <b>72</b> | <b>68</b> | <b>226</b> | <b>70</b> | <b>45</b> | <b>61</b> |

4.3 Performance re statutory deadlines for provision of Mental Health Tribunal reports. The Trust has begun quarterly monitoring of this function which requires reports being submitted to the Tribunal service within three weeks of the patient's application/referral for cases involving mainly sections 3, 17A and 37 (section 37/41 cases allow for an eight week window). The results for 2016-17 were as follows:

##### Re in-patient cases

| Number of cases | Patient discharged before reports due | Medical report on time | Nurses report on time | Social circumstances report on time |
|-----------------|---------------------------------------|------------------------|-----------------------|-------------------------------------|
| 1200            | 218                                   | 601                    | 699                   | 579                                 |
| -               | 18%                                   | 61%                    | 71%                   | 59%                                 |

##### Re CTO cases

| Number of cases | Patient discharged before reports due | Medical report on time | Nurses report on time | Social circumstances report on time |
|-----------------|---------------------------------------|------------------------|-----------------------|-------------------------------------|
| 99              | 8                                     | 42                     | n/a                   | 47                                  |
| -               | 8%                                    | 42%                    | n/a                   | 47%                                 |

## 5.0 DoLS data

### 5.1

| Area                         | Number of Applications: | Number Granted:  | Number in place 31/03/2017 |
|------------------------------|-------------------------|------------------|----------------------------|
| Bedford Borough Council      | 37 (70)                 | 18 (47)          | 2 (7)                      |
| Central Bedfordshire Council | 74 (66)                 | 50 (33)          | 6 (7)                      |
| Luton Borough Council        | 22 (34)                 | 6 (17)           | 1 (3)                      |
| LB Hackney                   | 63 (43)                 | 36 (26)          | 8 (9)                      |
| LB Newham                    | 49 (43)                 | 31 (44)          | 19 (26)                    |
| LB Tower Hamlets             | 46 (22)                 | 34 (21)          | 9 (4)                      |
| Out of Area                  | 14 (3)                  | 4 (1)            | 0 (0)                      |
| <b>Total</b>                 | <b>305 (281)</b>        | <b>149 (189)</b> | <b>45 (56)</b>             |

## 6.0 Other Mental Health Law reports to Committees

### 6.1 A number of Mental Health Law reports were presented to committees as follows:

June 2016 - Mental Health Law Training Plan to Workforce committee.

September 2016 – CTO Audit to Quality committee.

December 2016 - Mental Health Law report to Quality committee which included in-patient MHA audit (consent to treatment, rights), mental capacity assessment records, mental health law incidents, MHA data, CQC MHA Annual Report, London Mental Health Delivery Group section 136 and AWOL report to Quality committee.

March 2017 – CQC Report MHA action-plan update to Quality committee.

## 7.0 Future Developments

7.1 The Policing and Crime Act 2017 has amended sections 135, 136 and 138 of the Mental Health Act 1983 and the changes took effect on 11<sup>th</sup> December 2017. The main change that potentially impacts on the Trust, is the reduction in the detention period from 72 to 24 hours. An audit conducted earlier in March revealed that there were no patients detained under ss 135 or 136 for longer than 24 hours, but monitoring will continue at a local level via police liaison meetings, and a further audit will be conducted in 2018.

7.2 On 4<sup>th</sup> October 2017, the government announced the launch of a review of the Mental Health Act 1983, to be led by Professor Sir Simon Wessely, a former President of the Royal College of Psychiatrists. “The purpose of the review is to understand the reasons for:

- rising rates of detention under the Act;
- the disproportionate number of people from black and minority ethnic groups detained under the Act;
- processes that are out of step with a modern mental health care system.”

An interim report is expected in the spring of 2018 and the final report in Autumn 2018. Once expected consultation events are announced, these will be circulated to staff within the Trust and to service user and care forums. A number of outcomes are possible such as an entirely new Act, another amendment to the current MHA, or even the repeal of the MHA, MCA and associated Deprivation of Liberty Safeguards, so that we have (as a lot of practitioners hope) a single hybrid piece of legislation. The terms of reference of the review can be accessed here:

<https://www.gov.uk/government/publications/mental-health-act-independent-review/terms-of-reference-independent-review-of-the-mental-health-act-1983>

- 7.3 The NCEL NHS Alliance Chief Executives group commissioned a scoping study to benchmark mental health law department staffing structures, costs and baseline administrative activity across the four member trusts, with a view to informing consideration of commonality of approach and how the use of mental health law resources across NCEL might be maximised and quality improved. The benchmarking report has been considered and a more in-depth feasibility study is now being undertaken.

## **8.0 Action being requested**

- 8.1 The Board is asked to **RECEIVE** and **NOTE** the report on assurance for mental health law functions.

**MENTAL HEALTH ACT 1983 SCHEME OF DELEGATION**

|          | <b>FUNCTION</b>   | <b>PRIMARY/SECONDARY LEGISLATION REFERENCE (or other as indicated)</b> | <b>CODE OF PRACTICE REFERENCE (or other as indicated)</b> | <b>AUTHORISED PERSON(S)</b>   |
|----------|---|--|---|---|
| <b>1</b> | Hospital Managers authority to detain and exercise compulsory powers in the community | MHA sections 6(2), 17A, 35, 36, 40, 45B, 135 and 136                   | MHA Chapter 37  | The Trust as exercised by its staff   |
| <b>2</b> | Receipt and scrutiny of statutory documents   | MHA sections 11 and 15<br>Regulations 3 and 4                          | MHA Chapter 35  | Mental Health Law staff and clinical staff at Band 5 or above (or equivalent) who have at least one year's experience at that level and have attended the relevant Trust training |
| <b>3</b> | Scrutiny of medical grounds for detention   | MHA section 15(2)  | MHA Chapter 35  | Consultant Psychiatrist, other than the patient's Responsible Clinician or one who made a medical recommendation  |
| <b>4</b> | Arrangements for rectification of applications and recommendations                    | MHA section 15   | MHA Chapter 35  | Mental Health Law staff   |
| <b>5</b> | Receipt of Nearest Relative orders for discharge under section 23                     | MHA section 25<br>Regulation 25  | MHA Chapter 32  | Mental Health Law staff and clinical staff at Band 5 or above (or equivalent) who have at least one year's experience at that level and have attended the relevant Trust training |
| <b>6</b> | Restrictions on discharge by nearest relative   | MHA section 25   | MHA Chapter 32  | Responsible Clinician report to be furnished to Mental Health Law staff   |

|           |  |  |                |  |
|-----------|--|--|----------------|--|
| <b>7</b>  | Request for social circumstances report from social services following receipt of an application for detention made by the Nearest Relative. | MHA section 14                                     | MHA Chapter 37 | Mental Health Law staff  |
| <b>8</b>  | Deciding if, when and where a Hospital Managers Review should take place   | N/A  | MHA Chapter 38 | Mental Health Law staff  |
| <b>9</b>  | Hospital Managers power to discharge from compulsory powers  | MHA Section 23(2)(a)                               | MHA Chapter 38 | Non-executive directors and appointed Associate Hospital Managers  |
| <b>10</b> | Duty of Hospital Managers to give information to patients subject to compulsory powers   | MHA sections 20(3), 20A(5) and 132                 | MHA Chapter 4  | Mental Health Law staff and other staff at Band 5 or above (or equivalent) who have at least one year's experience at that level and have attended the relevant Trust training |
| <b>11</b> | Duty of Hospital Managers to give information to patient's nearest relative  | MHA sections 25(2), 132(4) and 133                 | MHA Chapter 4  | Mental Health Law staff  |
| <b>12</b> | Medical practitioner/approved clinician 'nominated deputy' power under section 5(2)  | MHA section 5(3)                                   | MHA Chapter 18 | Duty doctor as per duty doctor rota or as otherwise set out in writing.  |
| <b>13</b> | Return of patients who are absent without leave (AWOL)   | MHA section 18                                     | MHA Chapter 28 | Any member of staff of the Trust or any other person authorised in writing by the Hospital Managers <sup>2</sup>   |
| <b>14</b> | Transfer of authority to detain/exercise compulsory powers in the community  | MHA sections 19 and 19A Regulations 7, 8, 9 and 10 | MHA Chapter 37 | Mental Health Law staff and staff at Band 6 or above (or equivalent) who have attended the relevant Trust training   |

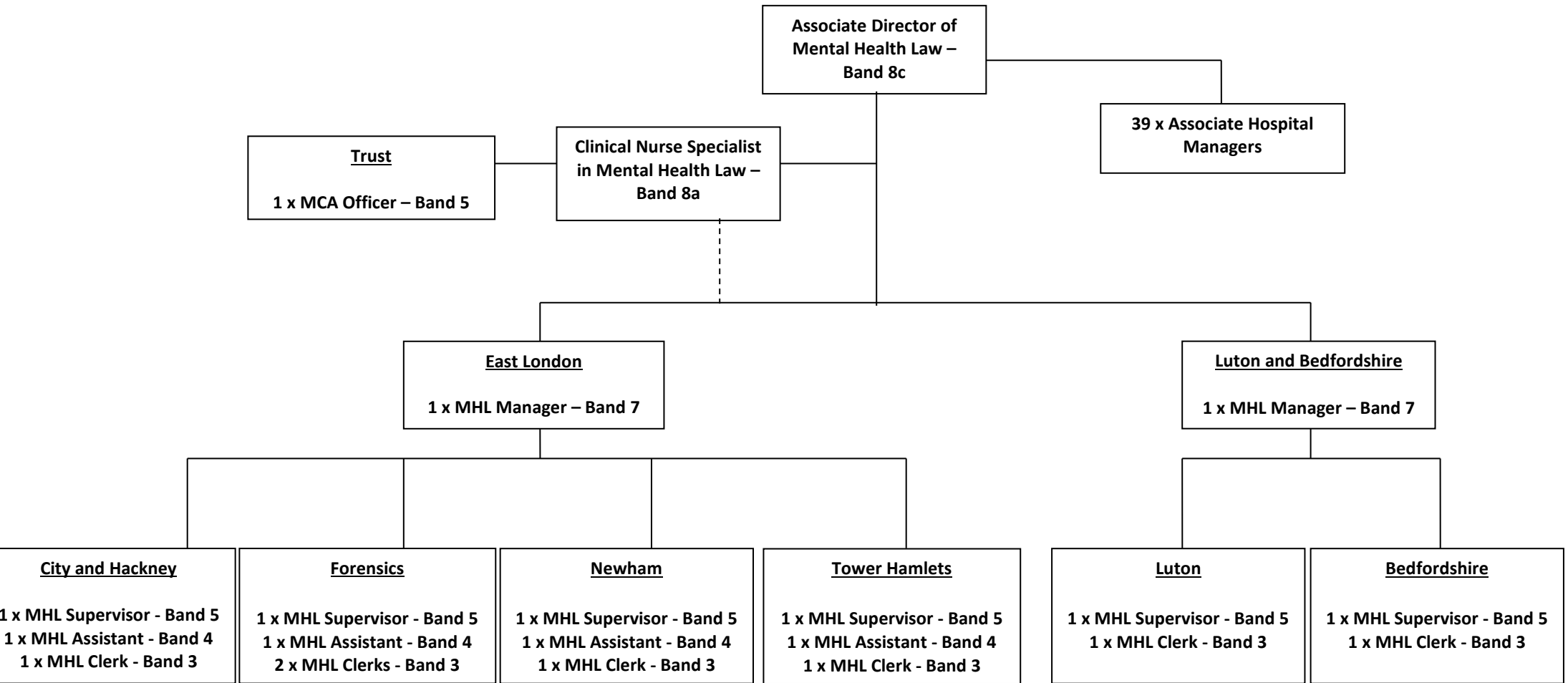
<sup>2</sup> For written authorisation purposes, the Scheme of Delegation directs that this function can be exercised by a Service Director, the patient's Responsible Clinician or anyone delegated by a Service Director or the Responsible Clinician.



|           |   |  |                        |  |
|-----------|---|--|------------------------|--|
| <b>15</b> | Conveyance to Hospital on recall, transfer or other reasons   | MHA sections 17C or 19<br>Regulations 11 and 12  | MHA Chapter 17         | Any member of staff of the Trust or any person authorised in writing by the Hospital Managers (see AWOL above) |
| <b>16</b> | Record of detained patients moving within United Kingdom to England and Wales   | MHA Part VI<br>Regulations 15 and 16   | N/A                    | Mental Health Law staff  |
| <b>17</b> | Record of Renewal of compulsory powers  | MHA sections 20, 20A and 21B<br>Regulation 13  | N/A                    | Mental Health Law staff  |
| <b>18</b> | Evidence of admission arrangements  | MHA sections 35(4), 36(3),<br>37(4), 38(4), 44(2) and 45A(5)   | N/A                    | Evidence from the assigned Approved Clinician or another person authorised by that Approved Clinician.         |
| <b>19</b> | Duty to refer cases to First Tier Tribunal (Mental Health), or requesting references to be made by the Secretary of State | MHA sections 67, 68 and 71   | MHA Chapters 12 and 37 | Mental Health Law staff  |
| <b>20</b> | Sending reports to First Tier Tribunal (Mental Health)  | Rule 32 of Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008   | MHA Chapter 12         | Mental Health Law staff  |
| <b>21</b> | Completion of Statement of Information for First Tier Tribunal (Mental Health)  | Rule 32 of Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008.<br>First Tier Tribunal (Mental Health) Practice Direction 2012 | MHA Chapter 12         | Mental Health Law staff  |
| <b>22</b> | Completion of Responsible Clinician Report for First Tier Tribunal (Mental Health)  | Rule 32 of Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008.<br>First Tier Tribunal (Mental Health) Practice Direction 2012 | MHA Chapter 12         | Responsible Clinician or other clinician delegated by the Responsible Clinician                                |

|           |   |  |                       |   |
|-----------|---|--|-----------------------|---|
| <b>23</b> | Completion of Social Circumstances Report for First Tier Tribunal (Mental Health)   | Rule 32 of Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008.<br>First Tier Tribunal (Mental Health) Practice Direction 2012 | MHA Chapter 12        | Care Co-ordinator, Social Worker or other practitioner delegated by the care co-ordinator or relevant Team Manager                    |
| <b>24</b> | Completion of Nursing Report for First Tier Tribunal (Mental Health)  | Rule 32 of Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008.<br>First Tier Tribunal (Mental Health) Practice Direction 2012 | MHA Chapter 12        | Registered Nurse (Mental Health or Learning Disability) as delegated by Team Manager  |
| <b>25</b> | Withholding Correspondence of Patients  | MHA Section 134  | MHA Chapters 4 and 37 | Staff at Band 6 or above (or equivalent)  |
| <b>26</b> | Hospital Managers duty to give information to victims regarding unrestricted Part III patients  | Domestic Violence, Crime and Victims Act 2004  | Chapter 37            | Responsible Clinician   |
| <b>27</b> | Hospital Managers duty to ensure that in-patients under the age of eighteen (detained and informal) are accommodated in a suitable environment. | Section 131A   | Chapter 19            | Senior clinician with knowledge and experience of cases involving patients under the age of eighteen who suffer with mental disorders |

### Mental Health Law Organisational Structure



## Summary of Compulsory Powers under the Mental Health Act 1983

| Compulsory Detention/Power                               | Purpose  | Time Limits  | Patient Appeal Rights            | Discharge  |
|--|--|--|----------------------------------|--|
| <b>Section 2</b><br>Admission to Hospital for Assessment | To detain people who are suffering from a mental disorder, for assessment.   | Up to 28 Days  | Appeal to Tribunal and Managers. | RC, Tribunal, Managers and Nearest Relative can order discharge.   |
| <b>Section 3</b><br>Admission to Hospital for Treatment  | To detain people who are suffering from a mental disorder, for treatment.  | Up to 6 months, renewed for 6 months, then every 12 months | Appeal to Tribunal and Managers. | RC, Tribunal, Managers and Nearest Relative can order discharge.   |
| <b>Section 4</b><br>Emergency Admission to Hospital      | To detain in cases of real emergency.  | Up to 72 Hours   | Appeal to Tribunal and Managers. | RC, Tribunal, Managers and Nearest Relative can order discharge.   |
| <b>Section 5(2)</b><br>Doctor's Holding Power            | To hold an informal in-patient for assessment for detention (not CTO pts)  | Up to 72 Hours   | No Right of Appeal.              | Ends upon completion of assessment for detention under section 2 or 3.                                       |
| <b>Section 5(4)</b><br>Nurses Holding Power              | To hold an informal in-patient where it is immediately necessary (not CTO pts)   | Up to 6 Hours  | No Right of Appeal.              | Ends upon arrival of doctor.   |
| <b>Section 17A</b><br>Community Treatment Order          | To allow discharge from hospital subject to conditions, with power to recall to hospital and potentially reinstate previous detention power. | Up to 6 months, renewed for 6 months, then every 12 months | Appeal to Tribunal and Managers. | RC, Tribunal, Managers and (when the suspended authority is section 3) Nearest Relative can order discharge. |
| <b>Section 135(1)</b><br>Place of Safety                 | Police power to enter premises and remove a person who is believed to be suffering from mental disorder.                                     | Up to 24 hours   | No Right of Appeal               | Either if assessed as not suffering from a mental disorder, or arrangements for further care have been made. |
| <b>Section 136</b><br>Place of Safety                    | Police power to remove a person from a public place who appears to be suffering from mental disorder.  | Up to 24 hours   | No Right of Appeal               | Either if assessed as not suffering from a mental disorder, or arrangements for further care have been made. |

| <b>Compulsory Detention</b> | <b>Purpose</b>   | <b>Time Limits</b>   | <b>Patients Appeal Rights</b>  | <b>Discharge</b>   |
|-----------------------------|--|--|--|--|
| <b>Section 35</b>           | Remand to hospital for a report on the mental condition of the accused.  | 28 days at a time up to maximum of 12 weeks.                               | Application to court for termination of the remand.  | Court  |
| <b>Section 36</b>           | Remand of accused to hospital for treatment.   | 28 days at a time up to maximum of 12 weeks.                               | Application to court for termination of the remand.  | Court  |
| <b>Section 37</b>           | Hospital Order for treatment   | For up to 6 months, then can be renewed for 6 months, then every 12 months | Appeal against conviction or sentence.<br>After 6 months, right to appeal Tribunal.<br>Appeal to Managers anytime. | RC, Tribunal and Managers can order discharge.   |
| <b>Section 37/41</b>        | To protect the public from serious harm by restricting the application of the Act to a patient made the subject of a hospital order.           | Without limit of time  | Appeal against conviction or sentence.<br>After 6 months, right to appeal Tribunal.<br>Appeal to Managers anytime. | RC and Managers can order discharge with consent from Secretary of State. Tribunal can discharge.<br>A Conditional Discharge means that the patient is 'liable to be recalled' upon which the 37/41 is reinstated. |
| <b>Section 38</b>           | Admission to hospital to determine if a hospital order is an appropriate disposal.   | Initially 12 weeks, then 28 day periods up to maximum of 12 months.        | Appeal against conviction or sentence. Court may terminate order.  | Court  |
| <b>Section 44</b>           | Committal to Hospital where there is committal to Crown Court by Magistrates for possible Restriction Order. Has same effect as section 37/41. | Until case is disposed of by the Crown Court.                              | Appeal against conviction or sentence.<br>After 6 months, right to appeal Tribunal.<br>Appeal to Managers anytime. | RC and Managers can order discharge with consent from Secretary of State. Tribunal can discharge.  |
| <b>Section 45A</b>          | Upon sentencing to imprisonment, Crown Court can direct immediate admission of the patient to hospital. Has same effect as section 37/41.      | Restriction element lasts until sentence expiry.                           | Appeal against conviction or sentence.<br>After 6 months, right to appeal Tribunal.<br>Appeal to Managers anytime. | RC and Managers can order discharge with consent from Secretary of State. Tribunal can discharge.  |

|                   |  |  |                                       |  |
|-------------------|--|--|---------------------------------------|--|
| <b>Section 47</b> | Transfer to hospital of a sentenced prisoner in need of treatment (see 49 below).            | As section 37 above                            | Immediate right to appeal to Tribunal | RC, Managers, Secretary of State and Tribunal. |
| <b>Section 48</b> | Transfer to hospital of a non-sentenced prisoner in urgent need of treatment (see 49 below). | As section 37 above or upon disposal of case.  | Immediate right to appeal to Tribunal | RC, Managers, Secretary of State and Tribunal. |
| <b>Section 49</b> | Additional restriction on discharge of prisoners detained under sections 47 or 48.           | Without limit of time or upon sentence expiry. | See sections 47 and 48 above          | Secretary of State and Tribunal.               |

Informal – Not currently detained under the MHA

RC – Responsible Clinician

Managers – The Trust

### **Other significant sections**

Section 1 – Definition of Mental Disorder

Section 17 – Authorisation of leave

Section 18 – Retaking of patients who are absent without leave

Section 19 – Transfer of authority to detain

Sections 20 – Renewal of detention

Section 20A – Extension of Community Treatment Order

Section 23 – Power of discharge

Section 26 – Definition of Nearest Relative

Section 29 – Displacement of Nearest Relative

Sections 56-64 – Consent to Treatment re detained patients

Sections 64A-64K – Consent to Treatment re Community Treatment Order patients

Sections 66-79 – Mental Health Tribunals

Sections 80-92 – UK cross-border movements

Section 117 – Duty to provide after-care

Sections 130A-130L - Independent Mental Capacity Advocates

Sections 132, 132A and 133 – Duty to give information

Section 145 – Interpretation and definitions