

**REPORT TO THE TRUST BOARD: PUBLIC**

9 January 2019

<b>Title</b>	Mental Health Committee 18 December 2018 – Chair’s Report
<b>Committee Chair</b>	Jenny Kay, Committee Chair
<b>Author</b>	Cathy Lilley, Associate Director of Corporate Governance

**Purpose of the report**

To bring to the Board’s attention key issues and assurances discussed at the Mental Health Committee meeting held on 18 December 2018.

**Issues to be brought to Board’s attention**

The following key items and assurances were considered by the Committee at its meeting on 18 December 2018:

- **AHM Appointments & Terminations:** There had been no new appointments or terminations since the last meeting in September; however, the Committee noted that a recruitment process was currently taking place.
- **Mental Health Act Review:** The Committee received a verbal summary of the government-commissioned independent review of the MHA published on 11 December 2018. It was noted that there was no indication as to whether it will become a Parliamentary Bill and if so what the timescale would be and also whether it would reflect the recommendations in the report.

The central message of the review is that the MHA should involve more choice and autonomy; less restriction; therapeutic benefit; and persons as an individual. The review makes 154 recommendations all aimed at putting these underlying principles into practice.

The review recommendations include:

- Admission/detention: changes to the extent to which compulsory powers used to admit patients and increase thresholds for detention
- Nominated person: patients to be able to chose their own ‘nominated person’ rather than ‘nearest relative’
- Care and treatment: patients to have more say over what happens to them with a move towards putting treatment for mental disorder on a more equal footing with physical treatments; more focus on shared decision-making and early review with statutory care and treatment plans
- Discharge: removing the right to discharge via ‘hospital managers’ hearings with a suggestion that current trained AHMs take on a ‘hospital visitor’s’ role aimed at monitoring day-to-day life at the hospital and ensuring patients rights are protected
- Community/aftercare: following detention a reduction in numbers and duration of CTOs.

The Committee noted that the Trust will review the implications of the review on Trust processes and approach, and a plan of those areas which the Trust will take forward will be presented at a future meeting.

- **Mental Capacity (Amendment) Bill Update:** A draft Bill was introduced in July 2018 to make changes to the Mental Capacity Act 2006. The intention is to replace DoLs (Deprivation of Liberty) with an improved Liberty Protection Safeguards which will be put into law. This new law is aimed at being more accessible and clearer to everyone who uses it; is intended to get better results for people who are deprived of their liberty and their family/carers; and to ensure there is a simpler way of signing off decisions. It was noted that the Trust had been asked to provide a briefing note for our local MP as the revisions were due to be discussed in the House of Commons on 18 December 2018.
- **Terms of Reference:** The Committee agreed to amend its terms of reference to include an Executive Director on the Committee as there was currently no Executive Director in attendance. These are attached for ratification by the Board.
- **Learning from Experience:** AHMs shared feedback on their experience in the role noting in particular that the title of AHM can be misleading and results in the perception that they are clinical managers employed by the Trust.

## **MENTAL HEALTH ACT SUB-COMMITTEE TERMS OF REFERENCE** (December 2018)

### **1.0 CONSTITUTION**

- 1.1 The Board hereby resolves to establish a Sub-Committee of the Board to be known as the Mental Health Act Sub-Committee (the Committee), which is directly accountable to the Board.
- 1.2 The powers of the Board (as the 'Hospital Managers' as defined in section 145 of the Mental Health Act 1983) under section 23 of the Mental Health Act 1983 are delegated via the Committee to Associate Hospital Managers.<sup>1</sup>
- 1.3 All procedural matters in respect of conduct of meetings shall follow the Trust's Standing Orders.

### **2.0 MEMBERSHIP**

- 2.1 The members of the Committee shall be as follows:
  - Trust Board Non-Executive Director (Committee Chair)
  - Lead Executive Director for Mental Health Law
  - Associate Hospital Managers
  - Associate Director of Mental Health Law
  - Clinical Nurse Specialist in Mental Health Law
- 2.2 A quorum shall be eight members. The Committee Chair, Associate Director of Mental Health Law or Clinical Nurse Specialist in Mental Health Law must be in attendance.
- 2.3 The Chair of the Committee shall be appointed by the Trust Board.
- 2.4 Associate Hospital Managers are expected to attend at least two times per year (satellite meetings in Luton & Bedfordshire included). Associate Hospital Managers who do not attend at least two meetings per year will be contacted by the Trust to confirm their continued involvement.

### **3.0 ATTENDANCE AT MEETINGS**

- 3.1 In addition to the members, other staff will be invited to attend meetings when the Committee is discussing areas of risk or operation that are the responsibility of that person.

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<sup>1</sup> As described in Chapter 38 of the Mental Health Act Code of Practice 2015

## **4.0 FREQUENCY OF MEETINGS**

4.1 Meetings shall be held not less than four times a year.

## **5.0 AUTHORITY**

5.1 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 requests made by the Committee.

5.2 The Committee is authorised by the Board to obtain outside legal or other independent professional advice<sup>2</sup> and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary.

## **6.0 DUTIES**

The duties of the Committee can be categorised as follows:

### **6.1 Mental Health Act 1983**

On behalf of the Trust and its Board, the Committee will ensure that the statutory powers of the hospital managers under section 23 the Mental Health Act 1983 and subsequent amendments are exercised reasonably, fairly and lawfully. This will be achieved by:

- Receiving and reviewing reports on the activity of Associate Hospital Managers, including but not limited to, evidence of written decisions pertaining to detention and compulsory powers in the community;
- Receiving and reviewing reports from Trust practitioners as evidence of good practice and where there are areas in need of development;
- Receiving and reviewing reports from Trust practitioners in respect of the administration and conduct of reviews by Associate Hospital Managers;
- Reviewing relevant policies and guidance for ensuring compliance with the Hospital Managers powers under section 23 of the Mental Health Act and its Code of Practice;
- Developing, reviewing and monitoring policies for the governance of Associate Hospital Managers (including probity, professional development and performance management);
- Developing, reviewing and monitoring the recruitment and induction processes of new Associate Hospital Managers.
- Seeking to ensure as far as practicable, that the diversity of Associate Hospital Managers reflects the diversity of the patients cared for by the Trust.

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<sup>2</sup> Subject to the Trust's nominated officer's agreement: i.e. the Associate Director of Mental Health Law

## **6.2 Other Assurance Functions**

The Committee shall review the findings of other relevant significant assurance functions, both internal and external to the organisation, and consider the implications to the governance of the organisation in respect of Associate Hospital Managers powers under section 23 of the Mental Health Act 1983.

These will include, but will not be limited to, any reviews by Department of Health Arms-Length Bodies or Regulators/Inspectors (in particular the Care Quality Commission), professional bodies with responsibility for the performance of staff or functions (e.g. Royal Colleges, accreditation bodies, etc.)

The Committee will review the appropriateness of management responses to such reports and monitor the implementation of recommendations where relevant.

## **7.0 REPORTING**

7.1 The minutes of the Committee meetings shall be formally recorded and submitted to the following Board meeting.

7.2 The Chair of the Committee shall draw to the attention of the Board any issues that require disclosure to the full Board.

7.3 The Committee will report to the Board annually on its work in ensuring that the statutory duties of the hospital managers under section 23 of the Mental Health Act 1983 are exercised reasonably, fairly and lawfully.

## **8.0 COMMITTEE SECRETARY**

8.1 The Committee will be supported administratively by the Committee Secretary, whose duties in this respect will include:

- Agreement of agenda with the Committee Chair and collation of papers;
- Responsibility for the taking of minutes and keeping a record of matters arising and issues to be carried forward;
- Advising the Committee on pertinent areas;
- Under the direction of the Committee Chair, drafting the Committee's annual report.

8.2 The Committee Secretary shall be the Associate Director of Corporate Governance, or nominated deputy.

## **9.0 REVIEW**

9.1 These Terms of Reference will be reviewed no later than June 2019.

MHAC review: 8 June 2018

Trust Board approval: [11 July 2018]