East London NHS
NHS Foundation Trust

REPORT TO TRUST BOARD: PUBLIC
14 NOVEMBER 2018

Title	Mental Health Law Annual Report
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Purpose of the Report:

Provide information and 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, legislative reviews. Appendices: 1. List of Associate Hospital Managers, 2. Scheme of Delegation, 3. MHL department structure, 4. Summary of MHA sections.

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

Improving service user satisfaction	☒	Minimising legal status uncertainty
Improving staff satisfaction	☒	Improved guidance to enhance understanding.
Maintaining financial viability	☒	Minimising costly legal challenges

Committees/Meetings where this item has been considered:

Date	Committee/Meeting
29/08/18	Quality Committee

Implications:

Equality Analysis	The Trust has a duty to promote equality. Has this report been impact assessed? 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 2017-2018

1.0 Introduction

1.1 The Mental Health Law (MHL) 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 Planning and Performance.

1.2 The department is managed by the Associate Director of Mental Health Law assisted by the Clinical Nurse Specialist in Mental Health Law (the designated Trust 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-seven appointed 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 The department has twenty-two whole time equivalent posts and with the exception of a part-time administrative post deleted in 2016 and taking into account the addition in 2015 of staff based in Luton & Bedfordshire, this has generally been the establishment for many years.

2.2 As per the data set out in paragraph 4.1, MHA activity in the Trust continues to increase year on year (as it does nationally) and the department has had to investigate more efficient ways of working. Currently, plans are in place to amalgamate the five offices in East London into one hub, to eradicate the disproportionate workload distribution that particularly affects the Tower Hamlets and Newham offices, where activity is high.

2.3 Work and training related to the MCA, DoLS and the interface with the MHA also continues to increase and the department is currently considering how best to meet that demand.

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

3.1 The Mental Health Act Sub-Committee has the singular responsibility to oversee the function of the Hospital Managers Power of Discharge in section 23 of the MHA, 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.[1]
Previously, a separate annual report on issues surrounding this activity was drafted but that has now been subsumed into this overall Mental Health Law report.

[1] Section 23(6) Mental Health Act 1983

3.3 In 2017-18, there were 4 patients discharged from detention via this power (1 in 2016-17) and 2 discharged from community treatment orders (1 in 2016-17). This represents a discharge rate of 5.71% of full hearings that took place; an increase on the 1.94% in 2016-17 but there being no apparent reason for that increase and the numbers are small in any case.

3.4 Overall, 380 Hospital Managers episodes were started, resulting in 105 full hearings (103 in 2016-17) and 161 paper reviews (189 in 2016-17), with the balance made up of discharges by other means, transfers, withdrawals and deaths (see comparison with Tribunals in table below).

	Episodes started	**Hearings/Paper Reviews**	**Discharge from detention**	**Discharge from CTO**
Hospital Managers	380	266	4	2
Tribunals	1415	492	78	3

3.5 Associate Hospital Managers regularly receive information and training to enable them to carry out their role, which they are doing safely and effectively. During the period covered by this report, they received training from a Trust Pharmacist on psychotropic medication, information about general Trust issues such as the function of the Board and the potential impact of Sustainability and Transformation Plans, training on matters relating to section 117 of the MHA and training on effective chairing of hearings.

4.0 Mental Health Act data 2017-2018

4.1 Detentions and Community Treatment Orders

Pathway	**2015-16**	**2016-17**	**2017-18**
Total Admissions under detention	2172	2617	**2867**
- Section 2	1014	1281	**1355**
- Section 3	197	311	**322**
- Section 4	20	20	13
- Admissions from Court	46	32	26
- Admissions from Prisons	54	30	**31**
- Admissions under section 135(1)	36	29	**36**
- Admissions under section 136	825	943	**1084**
Total detention episodes following voluntary admission	902	865	818
- Section 5(2) episodes	420	585	510
- Section 5(4) episodes	131	144	135
- Section 2	n/a	n/a	86
- Section 3	n/a	n/a	106
Total changes from one detention to another (i.e. 5(2)	877	1029	1005

to 2, 2 to 3 etc)			
Detained patients at 31/03/18	562	542	**614**
Total discharges from detention	2677	3013	2366
Total new section 17A community treatment orders	176	236	208
Community treatment order patients at 31/03/18	193	227	203
Total discharges from community treatment orders	148	166	104

4.2 Patients detained in hospital by ethnicity at 31st March 2018 (2017 in brackets)

Code	Group	Total	Total in %	TH	C&H	FOR	NEW	BEDS	LUT
A	**White British**	**169 (166)**	27.52	30	15	54	19	23	28
B	**White Irish**	**7 (8)**	1.14	0	1	5	0	0	1
C	**Any Other White**	**48 (31)**	7.82	12	10	8	6	2	10
D	**White & Black Caribbean**	**14 (13)**	2.28	0	3	10	0	0	1
E	**White & Black African**	**2 (6)**	0.33	0	1	1	0	0	0
F	**White & Asian**	**3 (4)**	0.49	0	0	1	1	0	1
G	**Other Mixed Background**	**5 (13)**	0.81	1	1	2	0	1	0
H	**Indian**	**25 (11)**	4.07	1	3	9	6	1	5
J	**Pakistani**	**18 (18)**	2.93	2	3	9	1	0	3
K	**Bangladeshi**	**63 (36)**	10.26	33	2	17	7	0	4
L	**Any Other Asian**	**19 (19)**	3.09	0	2	9	5	2	1
M	**Black or Black British Caribbean**	**84 (70)**	13.68	5	15	51	6	3	4
N	**Black or Black British African**	**81 (71)**	13.19	10	17	37	13	1	3

P	**Any Other Black Background**	**22 (35)**	3.58	0	6	7	6	0	3
R	**Chinese**	**3 (4)**	0.49	0	0	3	0	0	0
S	**Any Other Ethnic Background**	**29 (22)**	4.72	6	7	8	8	0	0
Z	**Not Stated**	**22 (15)**	3.58	4	1	14	1	2	0
TOTAL		**614 (542)**		**104**	**87**	**245**	**79**	**35**	**64**

5.0 DoLS data

5.1

Area	Number of Applications:	Number Granted:	Number in place 31/03/2018
Bedford Borough Council	38 (37)	18 (18)	10 (2)
Central Bedfordshire Council	44 (74)	21 (50)	12 (6)
Luton Borough Council	12 (22)	2 (6)	2 (1)
LB Hackney	20 (63)	4 (36)	7 (8)
LB Newham	38 (49)	20 (31)	15 (19)
LB Tower Hamlets	37 (46)	12 (34)	3 (9)
Out of Area	11 (14)	1 (4)	1 (0)
Total	**200 (305)**	**78 (149)**	**50 (45)**

The overall reduction of DoLS authorisations may be due to a number of possible reasons: the increased use of the MHA as an alternative method of lawfully depriving a person of their liberty, the better understanding of clinicians through training as to the most appropriate use of either regime or the fact that persons already subject to a DoLS authorisation are having the expiry date of the authorisation extended for longer reducing the need for more frequent reapplications.

6.0 Other Mental Health Law reports to Committees

6.1 A number of Mental Health Law reports were presented to the Quality Committee as follows:

- June 2017 - Place of Safety Audit, Medical Scrutiny proposal, Summary data report 2016-17, general legal update, STP Mental Health Law scoping exercise.
- December 2017 - Ratify the Trust's amended section 135 and section 136 Place of Safety Policy in light of legislative change.
- February 2018 - Medical Scrutiny proposal follow-up.
- February 2018 - Audit of Mental Health Act activity for in-patient services, Audit of Mental Health Act activity for health-based places of safety.

- March 2018 - Place of Safety Audit.

7.0 Training

7.1 Certain staff groups in the Trust must complete training on three mental health law subjects which are available in face to face sessions and/or via e-learning packages accessed via the OLM system. Compliance to date is as follows:

- Overview of the Mental Health Act - 81.2%
- Overview of the Mental Capacity Act - 76.79%
- Overview of the Deprivation of Liberty Safeguards - 77.69%

These compliance figures have been increasing every month.

7.2 Other training is also provided on an on-going basis such as 'Receipt & Scrutiny of Section Papers', 'Consent to Treatment', 'Community Treatment Orders'.

8.0 Future Developments

8.1 On 4th 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.”

The Review team's interim report was published on 1st May 2018 and explicitly sets out that the Act needs to change whilst also recognising that improvements to how people with mental health problems are cared for, will not be achieved through legislation alone. A sample of the main themes that the team will consider through the rest of the year include:

- What interventions could reduce use of the MHA and compulsory admissions, such as but not limited to, joint crisis plans, models of street triage and high fidelity home treatment and crisis resolution teams.

- Whether current risk thresholds under the MHA are the right ones, and if not, what they should be.

- How the MHA can support positive risk taking and standardised risk assessment when making decisions for detention and renewal.

- Whether the 'appropriate treatment' requirement is adequate to ensure a person really is receiving clinically effective help whilst being detained.

- Whether sections 2 and 3 of the MHA should be combined or reconfigured, with an initial shorter period for assessment and treatment.

- Whether there are recommendations that can be made prior to the end of the review to solve the urgent problems identified to date, in particular the dramatically rising numbers subject to DoLS/the MHA.

- How recent legislative changes to sections 135 and 136 are changing service approaches and whether it is right to bring an end to having a police cell designated as a place of safety. If so, what safeguards and resources are needed to do this safely?

- Why people who are arrested under the criminal law are staying in police cells for too long after an approved mental health professional has decided that the person needs to be admitted to hospital, and what can be done to address this.

- The practicalities and benefits of NHS England taking over the commissioning of health services in police custody, as has been recommended in both the Angiolini and Bradley reports.

- Whether service users have enough say in MHA decisions, and if not, how this could be increased or other safeguards provided.

- Whether a person's mental capacity and decision-making ability should play a role in detention and/or treatment under the MHA, and at what points.

- The possibility and impact of introducing guiding principles onto the MHA itself, in particular considering the principles currently in the Code of Practice.

- How the existing legal framework under Part IV of the MHA and the MHA Code of Practice can be better implemented to strengthen advance planning, and whether additional legislative reforms are needed.

- Whether service users should be able to appeal to the Tribunal against compulsory treatment decisions. If so, in what circumstances and with what conditions.

- How to ensure that the Tribunal provides an effective and proportionate safeguard for patients subject to the MHA.

- The role that hospital manager hearings should play in the future and whether the Tribunal should provide the sole channel to challenge being subject to the provisions of the MHA and if so, a patient should be allowed to apply more than once in the statutory period if there is a change in circumstance.

- Reforming the nearest relative provision to allow individuals to nominate a person of their choice to fulfil this role. This will also consider how this could apply for children and young people.

- Granting the nominated person a statutory role in treatment decisions and whether this could mirror the principles of the Power of Attorney and Deputyship provisions in the MCA.

- Non-legislative approaches to deliver a better balance between protecting confidentiality and appropriate disclosure.

- How CTOs are experienced by individuals and their families and why people from BAME communities, in particular black African and Caribbean men, are much more likely to be given CTOs and with what outcomes.

- The disparity of views about the effectiveness of CTOs, whether some groups of people do derive benefits from CTOs, and in what circumstances, and the implications of either reforming or replacing CTOs.

- The need to modernise section 117 aftercare in relation to the provisions of the Care Act.

- The experiences of BAME people of being detained and treated under the MHA, with a particular focus on people of black African and Caribbean descent and including interactions with primary care, social care and criminal justice systems.

- Whether specific changes to the MHA or the Code of Practice including the ways they are implemented could help to improve disparities in detention rates and experiences of compulsion.

- How services can support people with a learning disability or autism in ways that avoid the need for detention, including responses to challenging behaviour.

- The arguments for and against continued inclusion of learning disability and autism in the scope of the MHA.

- How to streamline and speed up the process of transfer to and from hospital for prisoners and immigration detainees.

- Whether the specific decision-making powers relating to restricted patients set out in the MHA remain necessary and appropriate, and if it is clear enough how decisions should be made.

- The potential to reduce inappropriate use of custody for people with acute mental illness.

- The legal, ethical and political issues arising out of the statements of the Committee on the Rights of Persons with Disabilities

  The final report is due by the end of 2018 and information about the review can be accessed here: https://www.gov.uk/government/groups/independent-review-of-the-mental-health-act

8.2 The Mental Capacity (Amendment) Bill was introduced to parliament with a view to replacing the current Deprivation of Liberty Safeguards with a new framework, informally referred to as the Liberty Protection Safeguards. One of the main changes seeks to lessen the role and responsibility of Local Authorities in the statutory process and give that over to the practitioners working in the hospital or care home where the person is being treated. This will have potentially significant implications for Trust clinical and administrative practitioners.

Further briefings will be given to relevant Trust committees as the Bill makes its passage through parliament, and this can be tracked here: https://services.parliament.uk/Bills/2017-19/mentalcapacityamendment.html

8.3 The Mental Health Units (Use of Force) Bill 2018 has had its third reading in the House of Commons and began to be considered by the House of Lords on 7th September 2018. This Bill seeks to make provision about the oversight and management of the appropriate use of force in relation to people in mental health units, and to make provision about the use of body cameras by police officers in the course of duties in relation to people in mental health units. This Bill can be tracked here: https://services.parliament.uk/Bills/2017-19/mentalhealthunitsuseofforce.html

9.0 Action being requested

9.1 The Committee is asked to RECEIVE and APPROVE the report.

Appendix 1

ASSOCIATE HOSPITAL MANAGERS 2017-2018

(™ = appointment terminated, **α** = new appointment)

NAME	NUMBER OF PANEL SESSIONS	QUARTERLY MHA SUB-COMMITTEE MEETINGS or L&B MEETINGS
Ms Julie Adeleye	26	3
Ms Marilyn Adolphe	0	0
Ms Shahida Ahmed	6	2
Ms Glynis Akers	4	0
Mr Keith Bailey	22	3
Mr Simon Bailey	3	4
Mr Shiv Banerjee	32	2
Ms Diane Beaven	23	2
Mr Sonam Bligh	2	1
Ms Stephanie Boyle	9	2
Mr Norris Bullock	19	2
Ms Misbah Choughtai	25	2
Ms Jane Chukwudinma	0	1
Mr Harrington Cumberbatch	11	3
Mr Kofo David	25	1
Ms Susanna Ferrar	28	4
Ms Joyce Frizzelle	25	3
Mr John Hamilton	4	2
Mr David Harris	5	0
Mr Michael Johnson	9	2
Mr Edward Jordan	31	4
Ms Pashmina Kohli	24	1
Ms Rosalind Kirkby™	0	0
Mr Jelani Mayi	5	0
Mr Brian Merison	35	3
Mr Joseph Ogunremi	34	3
Ms Dupe Okusipe	4	3
Mr Tony Oteh	30	2
Ms Veronica Ottway	25	1
Mr Ayoola Owojori	39	1
Ms Barbara Read	4	0
Ms Joanne Share-Bernia	3	0
Ms Rosalind Shaw	1	3
Ms Janina Struk	1	0
Mr Joe Ukemenam	0	0
Ms Mandy Wax ™	0	0
Ms Ann Webb	20	2
Ms Beverley Woodburn	9	3

Appendix 2

MENTAL HEALTH ACT 1983 SCHEME OF DELEGATION

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

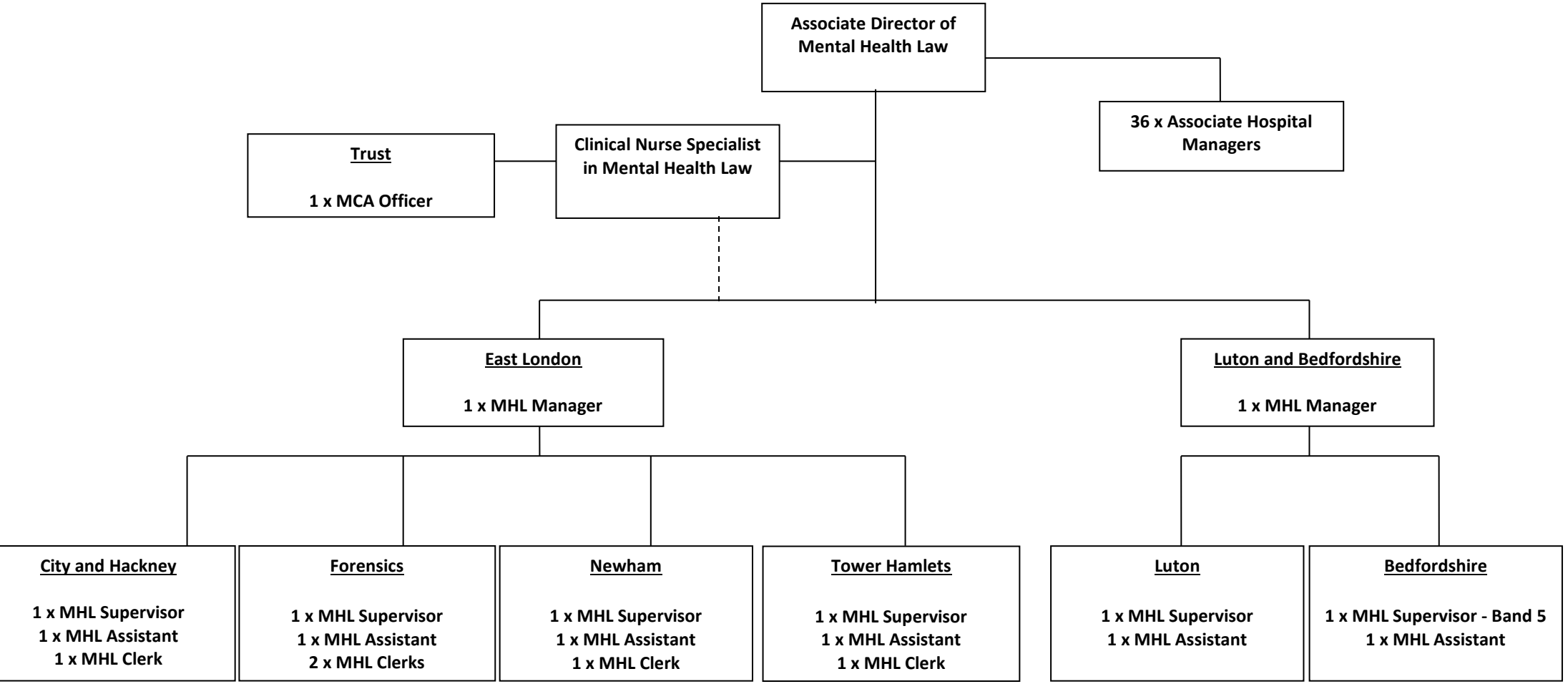
7	Request for social circumstances report from social services following receipt of an application for detention made by the Nearest Relative.	MHA section 14	Chapter 37	Mental Health Law staff
8	Deciding if, when and where a Hospital Managers Review should take place	N/A	Chapter 38	Mental Health Law staff
9	Hospital Managers power to discharge from compulsory powers	MHA Section 23(2)(a)	Chapter 38	Non-executive directors and appointed Associate Hospital Managers
10	Duty of Hospital Managers to give information to patients subject to compulsory powers	MHA sections 20(3), 20A(5) and 132	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
11	Duty of Hospital Managers to give information to patient's nearest relative	MHA sections 25(2), 132(4) and133	Chapter 4	Mental Health Law staff
12	Medical practitioner/approved clinician 'nominated deputy' power under section 5(2)	MHA section 5(3)	Chapter 18	Duty doctor as per duty doctor rota or as otherwise set out in writing.
13	Return of patients who are absent without leave (AWOL)	MHA section 18	Chapter 28	Any member of staff of the Trust or any other person authorised in writing by the Hospital Managers[2]
14	Transfer of authority to detain/exercise compulsory powers in the community	MHA sections 19 and 19A Regulations 7, 8, 9 and 10	Chapter 37	Mental Health Law staff and staff at Band 6 or above (or equivalent) who have attended the relevant Trust training

[2] 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.

15	Conveyance to Hospital on recall, transfer or other reasons	MHA sections 17C or 19 Regulations 11 and 12	Chapter 17	Any member of staff of the Trust or any person authorised in writing by the Hospital Managers (see AWOL above)
16	Record of detained patients moving within United Kingdom to England and Wales	MHA Part VI Regulations 15 and 16	N/A	Mental Health Law staff
17	Record of Renewal of compulsory powers	MHA sections 20, 20A and 21B Regulation 13	N/A	Mental Health Law staff
18	Evidence of admission arrangements	MHA sections 35(4), 36(3), 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.
19	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	Chapters 12 and 37	Mental Health Law staff
20	Sending reports to First Tier Tribunal (Mental Health)	Rule 32 of Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008	Chapter 12	Mental Health Law staff
21	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. First Tier Tribunal (Mental Health) Practice Direction 2012	Chapter 12	Mental Health Law staff
22	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. First Tier Tribunal (Mental Health) Practice Direction 2012	Chapter 12	Responsible Clinician or other clinician delegated by the Responsible Clinician

23	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. First Tier Tribunal (Mental Health) Practice Direction 2012	Chapter 12	Care Co-ordinator, Social Worker or other practitioner delegated by the care co-ordinator or relevant Team Manager
24	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. First Tier Tribunal (Mental Health) Practice Direction 2012	Chapter 12	Registered Nurse (Mental Health or Learning Disability) as delegated by Team Manager
25	Withholding Correspondence of Patients	MHA Section 134	Chapters 4 and 37	Staff at Band 6 or above (or equivalent)
26	Hospital Managers duty to give information to victims regarding unrestricted Part III patients	Domestic Violence, Crime and Victims Act 2004	Chapter 37	Responsible Clinician
27	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



Appendix 4

Summary of Compulsory Powers under the Mental Health Act 1983

Compulsory Detention/Power	Purpose	Time Limits	Patient Appeal Rights	Discharge
Section 2 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.
Section 3 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.
Section 4 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.
Section 5(2) 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.
Section 5(4) 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.
Section 17A 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.
Section 135(1) 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 (can be extended up to 12 hours)	No Right of Appeal	Either if assessed as not suffering from a mental disorder, or arrangements for further care have been made.
Section 136 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 (can be extended up to 12 hours)	No Right of Appeal	Either if assessed as not suffering from a mental disorder, or arrangements for further care have been made.

Compulsory Detention	Purpose	Time Limits	Patients Appeal Rights	Discharge
Section 35	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
Section 36	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
Section 37	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. After 6 months, right to appeal Tribunal. Appeal to Managers anytime.	RC, Tribunal and Managers can order discharge.
Section 37/41	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. After 6 months, right to appeal Tribunal. Appeal to Managers anytime.	RC and Managers can order discharge with consent from Secretary of State. Tribunal can discharge. A Conditional Discharge means that the patient is 'liable to be recalled' upon which the 37/41 is reinstated.
Section 38	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
Section 44	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. After 6 months, right to appeal Tribunal. Appeal to Managers anytime.	RC and Managers can order discharge with consent from Secretary of State. Tribunal can discharge.
Section 45A	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. After 6 months, right to appeal Tribunal. Appeal to Managers anytime.	RC and Managers can order discharge with consent from Secretary of State. Tribunal can discharge.

Section 47	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.
Section 48	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.
Section 49	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