

Trust Board Mental Health Act Sub-Committee

DRAFT Minutes of the Trust Board Mental Health Act Sub-Committee held on 8 June 2018, at 10:00am, in the Unison Building, 130 Euston Road, London, NW1 2AY

Present:	Jenny Kay	Non-Executive Director (Chair)
	Glynis Akers	Associate Hospital Manager
	Simon Bailey	Associate Hospital Manager
	Diane Beaven	Associate Hospital Manager
	Shiv Banerjee	Associate Hospital Manager
	Harry Cumberbatch	Associate Hospital Manager
	Guy Davis	Associate Director of Mental Health Law
	Kofo David	Associate Hospital Manager
	Michael Johnson	Associate Hospital Manager
	David Markovitch	Mental Health Law Manager (Luton & Beds)
	Brian Merison	Associate Hospital Manager
	Sazi Nkomo	Mental Health Law Manager (East London)
	Dupe Okusipe	Associate Hospital Manager
	Joe Ogunremi	Associate Hospital Manager
	Tony Oteh	Associate Hospital Manager
	Jo Ukemena	Associate Hospital Manager
	Beverley Woodburn	Associate Hospital Manager
In Attendance:	Linda McRoberts	Corporate Minutes Taker
Apologies:	Julie Adeleye	Associate Hospital Manager
	Shahida Ahmed	Associate Hospital Manager
	Keith Bailey	Associate Hospital Manager
	Sonam Bligh	Associate Hospital Manager
	Norris Bullock	Associate Hospital Manager
	Misbah Choughtai	Associate Hospital Manager
	Susanna Ferrar	Associate Hospital Manager
	Joyce Frizzelle	Associate Hospital Manager
	John Hamilton	Associate Hospital Manager
	Ted Jordan	Associate Hospital Manager
	Pashmina Kaur	Associate Hospital Manager
	Joanne Share-Bernia	Associate Hospital Manager
	Rosalind Shaw	Associate Hospital Manager
	Janina Struk	Associate Hospital Manager
	Ann Webb	Associate Hospital Manager
Absent:	Marilyn Adolphe	Associate Hospital Manager
	Jane Chukwudinma	Associate Hospital Manager
	David Harris	Associate Hospital Manager
	Jelani Mayi	Associate Hospital Manager
	Veronica Ottway	Associate Hospital Manager
	Ayoola Oworjori	Associate Hospital Manager

The minutes are produced in the order of the agenda

1. Welcome/Introductions/Apologies

1.1. Jenny Kay, Chair, welcomed attendees to the meeting and introductions were made. Apologies received were noted as above.

2. Minutes of the previous meeting held on 15 February 2018

2.1. The minutes of the previous meeting were **APPROVED** as an accurate record.

Clarification was sought on point 3.2 as to whether 'power not to discharge' was the correct wording; this was discussed and confirmed as correct.

3. Action log and matters arising

3.1. The action log was updated (see separate document).

3.2. Under matters arising, updates were provided as follows:

Flu jabs

The Chair stressed that the Trust are encouraging everyone to get flu jabs – whether it is through their own GP or the Trust.

Safeguarding review

The issue is about the deprivation of liberty team and how they work with safeguarding. Guy Davis informed the Committee this is not yet resolved and is with the Chief Nurse.

CQC 'Well-led' inspection

This has now taken place and informal feedback is very positive.

Section 117

Guy Davis to fix a date to give his Section 117 presentation at Bedfordshire & Luton.

Action: Guy Davis

Notifying AHMs of Cancellations

It has been agreed that AHMs will be phoned when a hearing is cancelled within 24 hours. AHMs were asked to feedback if this is not happening.

Patient Summary

The aim is for each panel to have access to a laptop so notes can be typed up at the time. **The Committee agreed that all notes and decision reports should be typed up.**

Emails

Concern had been raised about documents attached to emails not being secure. It came to light that staff had been sending documents unsecured. Instructions have gone out that should now have solved this – **if anyone now receives unsecured email documents from the Trust, they should report as an information governance breach.**

Parking at Newham

It was confirmed that parking permits cannot be obtained by AHMs. There are pay parking places available, however, the Trust encourages the use of public transport where possible.

Jargon and branding

- Guy Davis reported that the survey previously discussed has not happened yet (to seek feedback on language from patients who had been through the process). **Guy is to ask service user champions for feedback.**

- The specific point about the term ‘manager’s hearing’ was further discussed. It was agreed that while the title manager is fixed, these meetings could be called something which sounded more user-friendly. **Guy Davis will seek feedback from service users on this terminology and report back.**

Action: Guy Davis

Training Dates

Guy Davis will circulate the dates to enable AHMs to stay up to date on MHA training.

Action: Guy Davis

4. AHMs Appointments and Terminations

4.1 Terminations

Guy Davis noted that Mandy Wax (**spelling?**) had terminated her appointment.

Guy informed the Committee that there are several named Committee members who have not attended meetings or been in touch for some time, he is contacting these members to ask if they wish to continue their role.

4.2 Appointments

The plan is to have another recruitment drive in summer/autumn, this will cover all areas, especially Luton and Bedfordshire.

It was confirmed that appointments have to be made through the formal recruitment process. Adverts will appear on the website and **Guy Davis will check if they also go on NHS Jobs.**

Guy Davis will let the Committee know when the advert is going out so that they can alert any interested contacts they may have.

Action: Guy Davis

There was some discussion about the frequency of hearings, which it is felt are diminishing, so that new AHMs could be appointed but find they have very few hearings to attend. Jenny Kay requested some analysis of what is causing the change – is it change in local practice or shorter lengths of stay, it was agreed there is a need to understand why there are more detentions, yet less reviews happening.

Guy Davis undertook to do the analysis and report back.

Action: Guy Davis

The Committee NOTED the updates.

5. Terms of Reference Review

Jenny Kay noted this is an annual review of the Terms of Reference for this Committee. Jenny presented some suggestions from the Trust Secretary for consideration, as follows (the numbers refer to the sections of the Terms of Reference):

2.2 Specify that the Committee Chair, Associate Director of MH and/or Clinical Nurse Specialist must be in attendance – or their nominated deputy. **This was agreed.**

2.2 Might be useful to state a percentage, rather than a number of AHMs. **The Committee felt happy to leave this as a number.**

2.4 A clear process for AHMs who do not attend meetings should exist and be referenced. It was agreed this is normally dealt with as part of performance reviews. **It was agreed to include in the Terms of Reference that AHMs will be contacted by the Trust if they are not attending Committees.**

5.2 It is unusual for outside advice to require officer approval. **It was agreed to leave this in, but confirmed it should be stated that this would be a Committee decision.**

6.1 Governance of AHMs - if the Committee has a role in developing and monitoring the processes, such as performance management, this should be mentioned. **It was agreed this should be in and felt it could be covered by reference to the appropriate policy, rather than repetition of the procedure. It was also agreed that the recruitment and induction role of the Committee should be mentioned.**

8.0 It was noted that it is unusual for the Trust Secretary not to be the Committee Secretary. **It was agreed the Trust Secretary should have this role.**

8.1 Clarify that it is the Committee Chair (not the Trust Chair) being referred to. **This was agreed.**

8.2 Consider adding 'or nominated deputy' at the end of the sentence. **This was agreed.**

9.0 Amend review date to May/June 2019 - to fit with next year's meeting schedule. **This was agreed.**

There followed some discussion about whether an AHM can become a member of a Union (one recognised by NHS). **Guy Davis agreed to check this with HR.**

Action: Guy Davis

6. Revised Procedure Guidance re Power of Discharge

Guy Davis presented the revised procedure, which had been distributed with the papers for the meeting, noting:

- There had been questions previously about not meeting dangerousness criteria, this is covered in point 4.5. Guy confirmed this would be unusual and something AHMs would seek advice on.
- There followed some discussion about residual discretion not to discharge. Guy clarified this was specifically about barring hearings.
- A page on Potential Conflicts of Interest has been added as an appendix, as this is an issue that has arisen previously. This appendix clarifies when to declare and when to seek advice.

The Committee queried the consistency of paperwork as it was mentioned that in Bedfordshire the form says 'discretionary power was also considered', but this is not stated in London. **Guy Davis will check that all are using the same form, as this should be consistent.**

Action: Guy Davis

The Committee RECEIVED and NOTED the revised procedure.

7. Review of the MHL Department workload

Guy Davis updated the Committee, noting:

- The Trust has been looking at the workload across the Department because the activity keeps increasing, especially in Luton & Bedfordshire, Newham and Tower

Hamlets.

- The aim to look at how to better structure the Department to share the workload more evenly across the staff.
- One idea being considered in both London and Luton is putting everybody in the same office so all Mental Health Act administration will be done there and all hearings administered from that site.
- Staff would still go out to clerk hearings, tribunals etc.
- The Trust is also looking at centralising the paper reviews that AHMs do.

Guy stressed that this is just for information at the moment and he will be able to provide more information at the next meeting of the Committee.

The Committee NOTED the verbal update.

8. **Presentation on the Review of the Mental health Act 1983**

Guy Davis gave a presentation on the review of the Mental Health Act.

Guy took the Committee through the history of the Act and its development over the years. He noted that the interim report was published in May this year and that the following areas have been identified as needing further consideration:

- Addressing rising numbers of detention under the MHA
- Decisions to detain under the MHA and renewals
- Interface with the Mental Capacity Act
- Police role
- Dignity and respect of the service user
- Autonomy of the patient
- Consent to treatment and treatment without consent
- Advance planning
- Treatment safeguards
- Tribunals and manager's hearings – Guy explained they are considering increasing the number and frequency of the reviews patients would have the right to.
- Advocacy
- 'Nearest relative' legal role
- Confidentiality and access to information
- Use of restraint and seclusion
- Community Treatment Orders
- Section 117 Aftercare
- Care planning and support in the community
- Issues for particular groups – BME, children and young people, those with learning difficulties and autism
- Prisoners, immigration detainees and transfers to/from hospital
- The restricted patients system
- Counts powers and processes
- Compatibility with human rights obligations
- MH Act Wales

The address to give views is: MHActreview@dh.gsi.gov.uk

Guy Davis will circulate his powerpoint presentation and the associated web links.

Action: Guy Davis

The Committee were asked for views on how best to contribute to the consultation,

rather than discussing the particular issues raised by it.

There was a discussion about whether individuals should contribute or whether The Trust will respond formally. It was agreed that a collective response would be likely to carry more weight, however it was felt that it might be difficult to reach a view on which there would be consensus. It was agreed The Trust would need to consider how to manage this process/consultation.

Jenny Kay will raise this with the Board at their forthcoming meeting.

Action: Jenny Kay

On timescale, Guy said that the final report is due to Government by the end of the year. However, any draft Bill would go through the parliamentary processes of further consultation and it is likely the whole process could take some time.

The Committee RECEIVED and NOTED the presentation.

9. Learning from Experience – AHMs' feedback

The Chair invited feedback from AHMs to inform collective learning.

9.1 Tribunal Rooms

The issue of the standards of rooms provided for hearings was raised. All agreed a proper room should be used, rather than the patients' social space. It was felt there is not a clear definition of the quality that should be expected by a 'suitable space'.

It was agreed that the best first step would be an audit of the rooms, which has not been done for some time. **Guy Davis agreed to organise an audit of the rooms available and why they are not being used, if they are not.**

Action: Guy Davis

Jenny Kay noted that this is something the Board would be concerned about and if the audit discovers there are problems, she would take this to Board as an Estates issue.

9.2 Leave Breaks

It was felt that value judgements were being assigned to whether patients use their leave breaks 'well' or not and that this is not appropriate. AHMs questioned how this could be fed back to clinicians. It was suggested it might be best to ask the clinical body what is informing these judgements. **Jenny Kay agreed to speak to Paul Gilluley and possibly invite him to come to this Committee to answer questions about this.**

Action: Jenny Kay

9.3 Lack of GP

There was a recent case where a patient could not be released due to a lack of a GP to take him on (this was not an ELFT case). Guy Davis confirmed the CCG have a legal duty to arrange aftercare and this should have been escalated by the Trust involved through legal channels.

9.4 Follow-up Information

The question was raised about AHMs hearing about the long-term follow-up after panels. It was confirmed that the role of the AHM finishes at panel, they do not have the right to hear the 'end of the story'.

The Committee NOTED the matters raised.

10. **Any Other Business**

Electronic Payment System

One AHM raised the issue that he is being asked to move to an electronic system for invoice payment, he has not done this and so far his paper invoices are being processed.

The invoices are processed by the business service authority, not ELFT, but AHMs were asked to keep ELFT in touch if things change or the system does not work.

Stigma

A concern was raised about how much stigma can impact mental health and whether professionals always pay enough attention to this. Jenny Kay agreed this is an issue and felt it might be a good idea to consult with The Trust's Equalities Group before responding to the consultation on the Mental Health Act. **Jenny agreed to flag this to Marie Gabriel, The Trust's Chair, as something she may want to consider.**

Action: Jenny Kay

Training for Barring Hearings

It was agreed that everyone who sits on barring hearings should have gone through training first. Guy Davis confirmed this is mandatory and is covered in basic training. It was agreed that carrying the document (the revised procedure guidance re Power of Discharge) would be useful for reference.

Research into Deportation

A question was raised about whether any research has looked at the number of deportations that have happened where patients might have been held under the Mental Health Act. Guy Davis was not aware of any.

Mental Health Act

Where this document could be accessed by AHMs was questioned. It was confirmed that it is publicly available online and that the Committee mental health law teams are available to the Committee for advice on this area. There is a copy in the mental health law offices which the Committee could use if they wished, however, this is a large document and not one the Trust would order in bulk as it is accessible on line.

11. **Date of Next Meeting**

Monday, 24 September 2018, 2pm-4pm, Board Room, Trust HQ, Alie Street.