

**Trust Board Mental Health Act Sub-Committee**

**Minutes of the Trust Board Mental Health Act Sub-Committee held on 15 February 2018, at 2:00pm, in the Board Room, 1<sup>st</sup> Floor, Trust HQ, 9 Alie Street, London E1 8DE**

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

*The minutes are produced in the order of the agenda*

**1. Welcome/Introductions/Apologies**

- 1.1. Guy Davis, chairing on behalf of Jenny Kay, who had to give apologies, welcomed attenders to the meeting. Written apologies received were noted as above.

**2. Minutes of previous meeting held on 23 November 2017**

- 2.1. The minutes of the previous meeting were **APPROVED** as an accurate record subject to recording that Beverley Woodburn was present and that minute 4.2 should refer to vaccinations for shingles as well as flu.

**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 period for which flu jabs are available will be clarified.

**Action: Guy Davis**

Safeguarding review

Business cases setting out options for future organisation of safeguarding services, which may affect MHA staff, have been produced but no decisions have been made.

Update on law and practice: sections 135 and 136 of Mental Health Act

The reduction in time limit for which someone can be held (from 72 to 24 hours) came into force on 11 December 2018. There have been no instances of ELFT exceeding the 24 hour limit since it came into force (and few if any prior to that date).

CQC 'Well-led' inspection

The CQC will visit the Trust in mid-April 2018 to inspect leadership and governance arrangements, including those relating to implementation of the Mental Health Act and Mental Capacity Act.

AHM 'power not to discharge'

AHMs requested that they receive at a future meeting further information on use of their power not to discharge.

**Action: Guy Davis**

**4. Section 117**

- 4.1. Guy Davis gave a presentation on Section 117 (s117) of the Mental Health Act 1983 (MHA). Paper copies of the presentation were distributed.

The Sub-Committee noted the meaning of 'aftercare' as defined through legal cases and the qualifying sections of the MHA through which entitlement arises. The respective responsibilities of CCGs to arrange provision of healthcare, and of local authority social service departments to arrange social care, acting jointly, were noted.

In discussion, the complexities of arranging s117 aftercare, and agreeing funding for it, and the implications for Associate Hospital Managers, were considered:

- CCGs and local authorities have limited budgets which can lead to lengthy discussions on funding of aftercare services.
- Local authorities may contest responsibility for funding a patient's care (the criterion is that the patient is ordinarily resident in an area, but for homeless or transient people this is open to interpretation).
- Patients who are eligible for discharge may remain in hospital whilst discussions take place on responsibility and the exact services CCGs and local authorities are willing and able to pay for.
- The Trust (ELFT) does not have a duty to arrange mental health or other health care. This duty lies with the CCG.
- Aftercare ceases when both the CCG and local authority agree that it is no longer needed (i.e. needs arising from the person's mental disorder, or to prevent risk of deterioration in their mental condition, no longer exist).
- s117 entitlement does not include 'ordinary housing' and is limited to housing where mental health support is provided.
- AHM's duty in a hearing is to examine the nature of the person's disorder. With regard to s117, the question is: what is it about the person that determines their needs on discharge?

4.2. The Committee **RECEIVED** and **NOTED** the presentation.

## 5. **Update on Law and Practice** **Government review of MHA and DoLS**

5.1. Guy Davis summarised aspects of the reviews of the MHA and DoLS.

The Committee noted that:

- Reasons behind the review of the MHA include concerns about CTOs, how autistic spectrum disorders should be considered, ethnicity of people subject to legal procedures and the role and definition of nearest relative.
- A call for evidence has closed. Themes for consultation will be drawn from the evidence submitted.
- An interim report is expected in April 2018 followed by consultation and delivery of a report to Government at the end of 2018.
- The high level of resource needed to implement the current system may influence proposals for the future. For example, the cost of running the tribunal service is very high. There may be an emphasis on reducing hearings and strengthening the renewal process.
- Hospital Managers' power of discharge will not disappear as it is not in the MHA.
- DoLS has been reviewed by the Law Commission. A Government response is awaited. It is not clear whether the MHA and DoLS reviews will be dealt with together.
- It would reduce administrative complications and costs if time periods were defined in weeks rather than months.

5.2. The Committee **RECEIVED** and **NOTED** the verbal update.

## 6. **Learning from experience – AHMs Feedback**

6.1 The Chair invited feedback from AHMs to inform collective learning.

Procedure for notifying AHMs of cancellations

The Committee heard that several AHMs had had hearings cancelled after 5pm on the day before the hearing, by email, with no explanation of phone call.

Procedures require improvement, with a clear expectation of a phone call if a hearing is cancelled within 24 hours.

**Action: Guy Davis**

6.2 Discharge criteria and relationship with DoLS

Guy Davis clarified that:

- If a person does not meet the criteria for detention, they must be discharged. It is open to AHMs to present a view that DoLS may meet the person's best interests.
- With regard to irresponsible conduct, the AHM must consider what might happen if a person is discharged. The person's conduct whilst detained may not be a good guide to what would happen on discharge.

6.3 Patient summary

Hand written reports have potential limitations in that patients may not be able to read them (though there have been no reported complaints from patients about handwriting). Office typing up of handwritten reports creates a risk of error in transcribing. Access to facilities and systems to enable AHMs to submit patient summary reports in typed form, will therefore be considered.

**Action: Guy Davis**

6.4 Emails and NHSnet

AHMs reported problems with unsecure attachments to emails and difficulties opening documents downloaded from nhsnet emails. Guy Davis re-iterated that the office must be informed about every instance of unsecure attachments having been sent.

Problems in opening downloaded documents will be investigated through test emails with Rosalind Shaw and Brian Merison as volunteers.

**Action: Guy Davis**

6.5 The Committee **RECEIVED** and **NOTED** the matters raised.

**7. Agenda for Meeting in June**

7.1 Guy Davis invited suggestions on areas for discussion at the meeting to be held in June which is being held at Euston to facilitate attendance by AHMs from Luton and Bedfordshire.

**Action: All**

7.2 The Committee **NOTED** arrangements for the meeting in June.

**8. Any Other Business**

8.1 Parking at Newham

Guy Davis advised that AHMs' parking permits will not work if the car park is full. Car parking charges will be reimbursed only the first time this happens assuming the AHM was unaware of the change.

8.2

Jargon and branding

Some patients may be confused or put off by reference to managers' hearings. Reference to lay people may be more helpful in indicating to patients the nature of the meeting. A survey monkey survey will be undertaken to get views on appropriate terminology to use to inform patients of hearings/reviews.

**Action: Guy Davis**

8.3

Training

Guy Davis advised that training dates have been set and it is imperative that AHMs have records of up to date MHA training.

9.

**Date of Next Meeting**

Week commencing 4 June 2018, UNISON building, 130 Euston Road, Kings Cross, London NW1 2AY.

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