

## MENTAL HEALTH ACT COMMITTEE Terms of Reference

*Approved by Trust Board 28 June 2022*

All Trust Board Committees are responsible for scrutiny and providing assurance to Trust Board on key issues allocated to them by the Board. Agendas are set to enable Trust Board to be assured that scrutiny processes are in place to allow the Trust's strategic objectives to be met and to address and mitigate risk.

The Committee was established in June 2002. The Terms of Reference of the Committee are reviewed annually and, if appropriate, amended to reflect any changes to the Committee's remit and role, any changes to other committees and revised membership. It is a non-executive committee of the Board and has no executive powers other than those specifically delegated in these terms of reference. Committees are expected to conduct their business in accordance with the 7 principles of public life (Nolan principles): selflessness, integrity, objectivity; accountability; openness; honesty; and leadership.

### **Purpose**

The Mental Health Act Committee is responsible for ensuring the organisation is working within the legal requirements of the Mental Health Act (1983), as amended by the 2007 Act and Mental Capacity Act 2005, and with reference to guiding principles as set out in the Code of Practice and associated legislation as it applies to the Mental Health Act, the Mental Capacity Act and Deprivation of Liberty. On behalf of the Trust Board, it will have an oversight of related risks, providing additional scrutiny of any such risks which are outside the Trust's Risk Appetite, giving assurance to the Board around the management of such risks.

### **Membership**

The Mental Health Act Committee is chaired by a Non-Executive Director. Two other Non-Executive Directors also sit on the Committee as well as relevant Directors of the Trust.

*Membership as at 1 July 2022*

Chair – Non-Executive Director - Kate Quail

Non-Executive Director – Erfana Mahmood

Non-Executive Director – Mandy Griffin

Lead Director - Medical Director - Dr Subha Thiyagesh

Director of Nursing, Quality and Professions – Darryl Thompson

### **Attendance**

Representatives of the four local authorities, a representative from each of the three acute trusts covering the Trust's geography, and one Associate Hospital Manager (the Chair of the Hospital Managers' Forum), are invited to attend meetings. The Committee also has scope to invite other external individuals on an ad-hoc basis where it is felt expertise or specialist advice is required. The Deputy Director of Operations, Assistant Director of Legal Services; and Clinical Legislation Manager are in attendance at meetings.

The Chief Executive, other Directors, and relevant officers attend the Mental Health Act Committee by invitation. Administrative support is provided by the Personal Assistant to the Medical Director.

## **Quorum**

The quorum will be two Non-Executive Director members and the lead Director (or nominated Director) plus one other Director. Members are expected to attend all meetings. In the unusual event that the Chair is absent from the meeting, the Committee will agree another Non-Executive Director to take the chair. In the absence of executive Director members, deputies are permitted to attend, however they will not form part of the quorum.

## **Frequency of meetings**

The Committee will meet a minimum of four times per year to reflect availability of quarterly reports.

It is the responsibility of the Lead Director to ensure items are identified for the Committee's agenda in line with the Committee's terms of reference, its work programme agreed at the beginning of each year and the current risks facing the organisation and to agree these with the Chair of the Committee.

## **Authority**

The Committee is authorised by Trust 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 request made by the Committee. The Committee is also authorised by Trust Board to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers this necessary.

## **Sub-committees and reporting requirements into the Committee**

To fulfil its duties and to ensure the Trust complies with its statutory responsibilities and duties, the Committee will receive reports from identified sub-groups including but not limited to:

- Associate Hospital Managers' Forum
- MHA/MCA Code of Practice Oversight Group – workstreams include: 136 MHA Policy; Leave implementation group; Seclusion and Segregation and Reducing Restrictive Practice; and Section 132/132a and 131 patients' rights

The Committee receives regular reports on risk and assurance including statistical information on the use of the MHA 1983 and MCA 2005 in the form of the quarterly performance report.

## **Duties**

1. To monitor the Trust's implementation of, and compliance with, current mental health legislation and proposed changes to such legislation, in particular the Mental Health Act 1983 and the Mental Capacity Act 2005, within the Trust taking into account best practice.
2. To consider the implication of any changes to legislation and regulations within a local context.
3. To receive reports from Associate 'Hospital Managers' in their role of hearing appeals and to scrutinise the processes for and outcome of appeals and tribunals.
4. To ensure there is an appropriate number of Hospital Managers in place with the appropriate skills and experience to fulfil their role.
5. To monitor trends in the application of the Mental Health Act 1983 (and any new Mental Health Acts or revisions to the existing Act) within the Trust and make recommendations where necessary.

6. To receive reports following Care Quality Commission (CQC) Mental Health Act visits for information and comment and to ensure appropriate action is agreed and implemented within the organisation.
7. To scrutinise delivery against the Trust's action plan developed as a result of the Care Quality Commission's Annual Report as instructed by Trust Board.
8. To receive Trust policies relating to the Mental Health Act and Mental Capacity Act which have been approved by the Executive Management Team.
9. To receive policies reviewed/updated by the Trust's Policy Group.
10. To scrutinise the application of these policies throughout the Trust.
11. To address training issues in terms of delegation of responsibilities under the Mental Health Act 1983.
12. To address quality issues in terms of delegation of responsibilities under the Mental Health Act 1983.
13. To manage risks identified and delegated by Trust Board and to identify and report to Trust Board any new risks that require escalation.
14. To request specific reports relevant to the application of the Mental Health Act.
15. To undertake duties relevant to the Committee set out in the 'Duties of Hospital Managers' Policy.
16. To provide assurance that there are appropriate systems in place to enable the views and experiences of service users, carers and clinicians to shape service delivery in relation to the Mental Health Act 1983 and the Mental Capacity Act 2005.
17. To consider, in all its functions, the experience and views of service users, carers and families, with a particular focus on those from vulnerable groups, Black Asian and Minority Ethnic communities and all those who have protected characteristics.

### **Monitoring**

The Committee will monitor its performance both in terms of providing assurance to Trust Board and in terms of ensuring it meets the remit as set out in its terms of reference through agreement of an annual work plan, inclusion in the work plan of any items delegated to the Committee by Trust Board and through the Assurance Framework, monitoring implementation of the annual work plan, assessment of the Committee's performance through an annual self-assessment, and an evaluation of the Committee's performance through an annual report to Trust Board.

The Committee will assess, measure and evaluate its impact, both quantitatively and qualitatively, and include the outcome of this in its annual report to the Audit Committee and to Trust Board.

### **Reporting to Trust Board**

Trust Board will receive the minutes of Committee at the next Trust Board meeting following the Committee meeting at which the minutes are ratified, wherever practical. The Committee will also report to the Board annually on its work (see above).

All Trust Board Committees have a responsibility to ensure they foster and maintain relationships and links between Committees and Trust Board. Each Committee also has a responsibility to ensure action identified and agreed is placed within the organisation either through the Executive Management Team or other internal working groups.

**Next review due: April 2023**