

**NORTHUMBERLAND, TYNE AND WEAR NHS FOUNDATION TRUST**

**BOARD OF DIRECTORS' MEETING**

**Meeting Date** : 28 October 2015

**Title and Author of Paper:**

Governance review of Terms of Reference and Committee/Group Structures relating to Mental Health Legislation.

Dr Rajesh Nadkarni, Group Medical Director and Lead for Mental Health Act

**Paper for Debate, Decision or Information:** Decision

**Key Points to Note:**

- Changes to the governance arrangements will lead to compliance with and implementation of the Mental Health Act Code of Practice and support the Trust to meet its requirements laid out in the Handbook for Mental Health Service Providers.
- Governance and management arrangements for Mental Health Legislation aligned to services.
- Changes will compliment and support Group Quality and &Performance meetings and their "Effective" Q&P sub-groups.
- Terms of reference will reduce waste or duplication and support the Trust's Corporate Services Review.
- Mental Health Legislation Committee becomes an assurance committee only
- Code of Practice Implementation Group transforms into Mental Health Act Steering Group to provide further assurance to the MHLC.
- MHA/MCA multi agency group stood down.
- Panel Members Forum to become an informal gathering for Panel Members.
- Reduction in duplication of reporting requirements.

**Outcome required:**

Approval for New Governance Structure to be implemented to manage Mental Health legislation

Board of Directors Meeting

28 October 2015

Mental Health Legislation Governance arrangement

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**Purpose**

To advise on the proposed governance arrangement for Mental Health Legislation Committee in view of the new Code Of Practice for the Mental Health Act, the CQCs key lines of Inquiry and monitoring for the Mental Health Act. These proposals also take into account recent changes for inspection proposed by the CQC and the five domains of Effective, Well – led, Safe, Responsive, and Caring.

**Background**

The Mental Health Legislation Committee key role in the organisation is to: *provide assurance to the Trust Board that its duties as “Hospital Manager” under the Mental Health Act are effectively delegated and discharged.* These duties are clearly laid out and are well understood within the organisation and so need no further reference at this point. The Committee is also responsible for monitoring and reviewing other statutory legislation that either support the Mental Health Act or works in conjunction/affects or stands alone i.e. Mental Capacity Act 2005, Children’s Act 1989, Human Rights Act 1998 and the Data Protection Act 1998.

The Mental Health Legislation Committee was established in January 2009 and the Terms of Reference were originally approved by the Trust Board in April 2009. The Terms of reference have been reviewed annually and changes made have reflected the committees change in membership, reporting lines, compliance issues, sub group reporting and responsibilities in relation to legislation along with frequency and quoracy. All documents are available at [T:\IntegratedGovernance\Mental Health Legislation Committee](#)

In April 2015 the New Code Of Practice for the Mental Health Act came in to effect along with the publication of CQC Monitoring the Mental Health Act 2013/14 and the Handbook for Mental Health Service Providers. These documents make it clear that the “CQC is committed to further strengthening our inspection and monitoring approaches to the MHA. As part of our inspections we will review providers’ application of the MHA and assess their governance systems and process.”<sup>1</sup>

The Code of Practice Implementation Team have included in its remit a review of the current governance arrangements for Mental Health Legislation.

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<sup>1</sup> CQC Monitoring the Mental Health Act 2013/14 published 2015 page 22.

## Current Position

The Trust currently has 12 Committees or Groups that are related to Mental Health Legislation:

- Mental Health Legislation Committee
- Mental Health Act/Mental Capacity Act Multi Agency Group
- Mental Health Act Code of Practice Implementation Team
- Panel Members Forum
- Mental Health Act Scrutiny (sub group)
- Mental Health Liaison Group (sub group)
- Trust Quality and Performance Committee
- Group Quality and Performance Meeting x3
- Effective Quality and Performance (sub-group) x3
- Group Business Meeting
- Police and Senior Partners meeting
- Audit Committee

Setting aside the Senior Police and Partners Meeting, Audit, Trust Q&P Committee, Group Q&P, Group Business Meeting and the Effective Group there is considerable repetition within the remaining Committees, Groups and meetings.

These groups also appear to monitor, implement, review policy etc in relation to the operation of the Mental Health Act and receive reports presented to the other parties. This in itself raise ambiguity about precise governance arrangements and responsibilities within the Trust.

Examples include:

The Mental Health Legislation Committee:

- “provide assurance the MHL actions arising from CQC reports are being dealt with accordingly and issues are resolved.”

This output clearly sits with the Directorates and is monitored and reported by the Q&P Group.

The MHA/MCA Multi Agency Group, Mental Health Legislation Committee, MHA Code of Practice Implementation Group are all tasked with:

- promoting and encouraging joint working with partner agencies on Mental Health Legislation.

This work is currently carried out in many other forums from commissioning services, the Police and Senior Partners meeting and meetings that the Inpatient, Specialist and Community Groups host.

The purpose of the Panel Members Forum is to:

- “keep under review the work and practice of the Hospital Manager and Panel Members. This purpose, rightly sit with the MHLC but again is replicated in a number of meetings, committees and groups.

Attendance at the Mental Health Legislation Committee and the MHA/MCA Multi Agency Group has been problematic and this is well documented within the minutes of both groups. Membership of both groups was similarly represented at other sub groups. The Committees and Groups have tried a number of different frequencies for meetings ranging from monthly, bi monthly quarterly etc to try and improve attendance but with minimal effect.

In March 2014 there was documentary evidence of concerns relating to the viability of the MHA/MCA Multi Agency Group and it was suggested that it may be right to stand down this group. It was decided, however, due to the Code implementation that this group may be necessary to assist and hence retained.

It was agreed around this period that the Mental Health Legislation Committee would also meet monthly to monitor and direct changes needed due to the new Code of Practice. However the makeup of the membership did not easily fit the task in hand.

Concerns were raised in early 2015 that the current governance/management arrangements may not be suitable to support the introduction of the New Code of Practice<sup>2</sup> and in April 2015 the Code of Practice Implementation Group was formed. Other interim measure included moving the Mental Health Legislation Department and realigning it to clinical services under the direction of the Director of Nursing and Operations.

The Code of Practice Implementation Group is represented by senior staff from inpatients, specialist and community directorates along with specialist members chosen for their expertise in law and practice. The group is chaired by the Medical Director for the Specialist Services Group who is now the Director lead for Mental Health Act. The group's purpose is to:

- Provide effective implementation of the 2015 Mental Health Act Code of Practice whilst also:
- Producing a strategy for the management and implementation of any changes.

The group meets fortnightly and reports through Group Business meeting with assurance taken at the Mental Health Legislation Committee.

At the May 2015 meeting of the Mental Health Legislation it was agreed that the June 2015 meeting would be stood down and that the terms of reference and the frequency of the meeting would be reviewed. To accommodate this piece of work the July and August meetings were also stood down to allow senior partners/groups etc to meet and formulate a new arrangements that reflected current and new practice and also took into account the Trust's Corporate Service Review.

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<sup>2</sup> The Corporate Decision Team considered a paper "Implementation of the Revised Code of Practice in NTW – February 2015" along with a further paper "Implementation Structure for MHA Code of Practice March 2015"

## Proposals

The Mental Health Legislation Committee predominantly functions as an assurance group. (Appendix 1 and Appendix 2 reflecting that purpose).

The Code of Practice Implementation Group will morph into the Mental Health Act Steering Group as recommended within the Code of Practice<sup>3</sup>. The current terms of reference and membership to be amended to reflect the codes requirements and provide assurance to the aforementioned Committee. This Group will also be able to co-opt other partners or agencies in, if and when required.

Mental Health Act Steering Group to have direct input to/ from the Effective Quality and Performance sub-groups, with the “Effective” Chairs also holding a place within the membership of the Mental Health Act Steering Group.

CQC monitoring and compliance is reported via Q&P and the Trust Board receives assurance through this route.

MHA/MCA multi agency meeting is dissolved as multi agency work is currently undertaken through a range of other forums. Where issues are identified they will be addressed through those forums which for example include Safeguarding meetings, local police senior partners meeting etc.

The Panel Members Forum will continue as an informal gathering where panel members can learn, and share experiences. It will also feed into the MHA Steering Group.

It is also proposed that the above change will allow for the following reports to be set aside:

Panel Members Post Hearing Review Report	Will become part of annual audit for Code compliance.
Panel Members Observation Sheet	Integrated into patient interview record. No longer a standalone document.
Patient Questionnaire	No success over two years of getting response from patients question the usefulness of this tool. Other means need to be explored to incorporate patients feedback about the MHA, possibly including this aspect as part of other patient feedback measures currently used in the trust.
Sub group Reporting – MHA/MCA multi-agency group minutes	Sub group stood down and work assumed by other parties.
CQC MHA Reviewer Visits summary report	Reports and assurance taken via Group and Trust Q&P.
Sub group Reporting – Panel Members Forum Minutes	Panel Members sub group to become an informal gathering only.

<sup>3</sup> Mental Health Act Code of Practice, para37.11, April 2015

Strategic Mental Health Partnership Group report	MH items as appropriate to be placed on other meeting such as policies, partners and localities.
Mental Health Legislation/Hearing Activity Exception Report	Will become part of the Activity reports/dashboards on Rio
MHL related Policy Report	Managed by Trust policy group

It however remains that if a new group has to be established that will be considered by the MHA Steering Group.

### **Conclusion**

This paper provides an opportunity to align the current Mental Health Legislation Committee and Steering Group into our current governance arrangements which are influenced by the CQC. This will allow for greater ownership and accountability within the groups for the management and administration of legislation.

# Mental Health Legislation Committee (MHLC)

## Purpose of Committee

The Mental Health Legislation Committee is responsible for ensuring that:

- There are systems, structures and process in place to support the operation of Mental Health Legislation within inpatient and community settings, and to ensure compliance with associated code of practice and recognised best practice.
- The Trust has in place and uses appropriate policies and procedures in relation to Mental Health Legislation and to facilitate the publication and guidance of the legislation to all relevant staff, services users, carers and managers.
- Hospital Managers and appropriate staff groups receive guidance, education and training in order to understand and be aware of the impact and implications of all new relevant mental health and associated legislation.

## Membership (Draft)

**Chair:** Non-Executive Director

**Deputy Chair:** Non-Executive Director  
(additional to chair)

Executive Medical Director  
Executive Director of Nursing & Operations  
Executive Director of Performance & Assurance.

Group Triumvirate representatives 1 from Specialist, 1 from In-patients and 1 from Community.

Medical Director responsible for the Mental Health Act.

Non-Medical Responsible Clinician  
Head of Mental Health Act  
CYPS Representative

## Quorum

Minimum of 6 members including 2 x Board members, 1 must be Non-Executive Director

## Deputies

All members require named deputies

## Time, Frequency & Duration

- As per meeting schedule
- Maximum 1.5 hours
- If needed, meetings by conference telephone call are acceptable with the approval of the Committee Chair.

## Support Arrangements

Venue: Board Room, SNH  
Secretary: Provided via P&A Directorate  
Minutes: Draft within 24 hours of meeting  
Papers: One week prior to meeting

## Linkages to other meetings & groups

- Trust Board (minutes to Trust Board)
- Mental Health Legislation Steering Group
- Quality and Performance Groups x3 (Quality and Performance Sub-Group "Effective")

## Governance, rules and behaviours

- All members are expected to attend – absenteeism is an exception
- The attendance of deputies for Executive Directors does not count towards quoracy
- Meetings will start and end on time
- Papers to be presented should be concise with the purpose clearly stated

## Standing Agenda

- Apologies
- Minutes of Previous Meeting
- Action Log
- Matters Arising
- Chairs Business
- Committee Business
- Mental Health Act Activity
- Panel Members Report
- Steering Group Report
- Receipt of External Reports and Guidance
- Items Received for Information
- AOB

### Annually

- Delegation of Statutory Functions
- Audit Plan

## Key Outputs

- The Committee will ensure the formulation of a Mental Health Act Legislation Steering Group and will receive quarterly assurance reports on the Steering Group activities in relation to Legislation.
- To keep under review annually the Trusts “Delegation of Statutory Functions under the MHA 1983” policy including the Schedule of Delegation appended to that policy.
- To receive and review the Mental Health Act Activity Report.
- To receive assurance from the Mental Health Act Legislation Steering Group that the Trust is compliant with legislative frameworks and that there are robust processes in place to implement change as necessary in relation to the Mental Health legislation and report on ongoing and new training needs.
- To receive the results in relation to the monitoring of policies linked to the Mental Health Act and Mental Capacity Act legislation and monitor any associated action plans.
- To consider and recommend the annual audit plan in relation to Mental Health Legislation.
- The Committee will receive assurance that new law guidance and best practice is disseminated and actioned appropriately.

## Sub-groups

The committee will be responsible for reviewing and authorising both standing and time limited sub-groups and their agenda.

The following sub-groups will report into this committee:

- Mental Health Act Legislation Steering Group
- Any other task and finish sub-groups

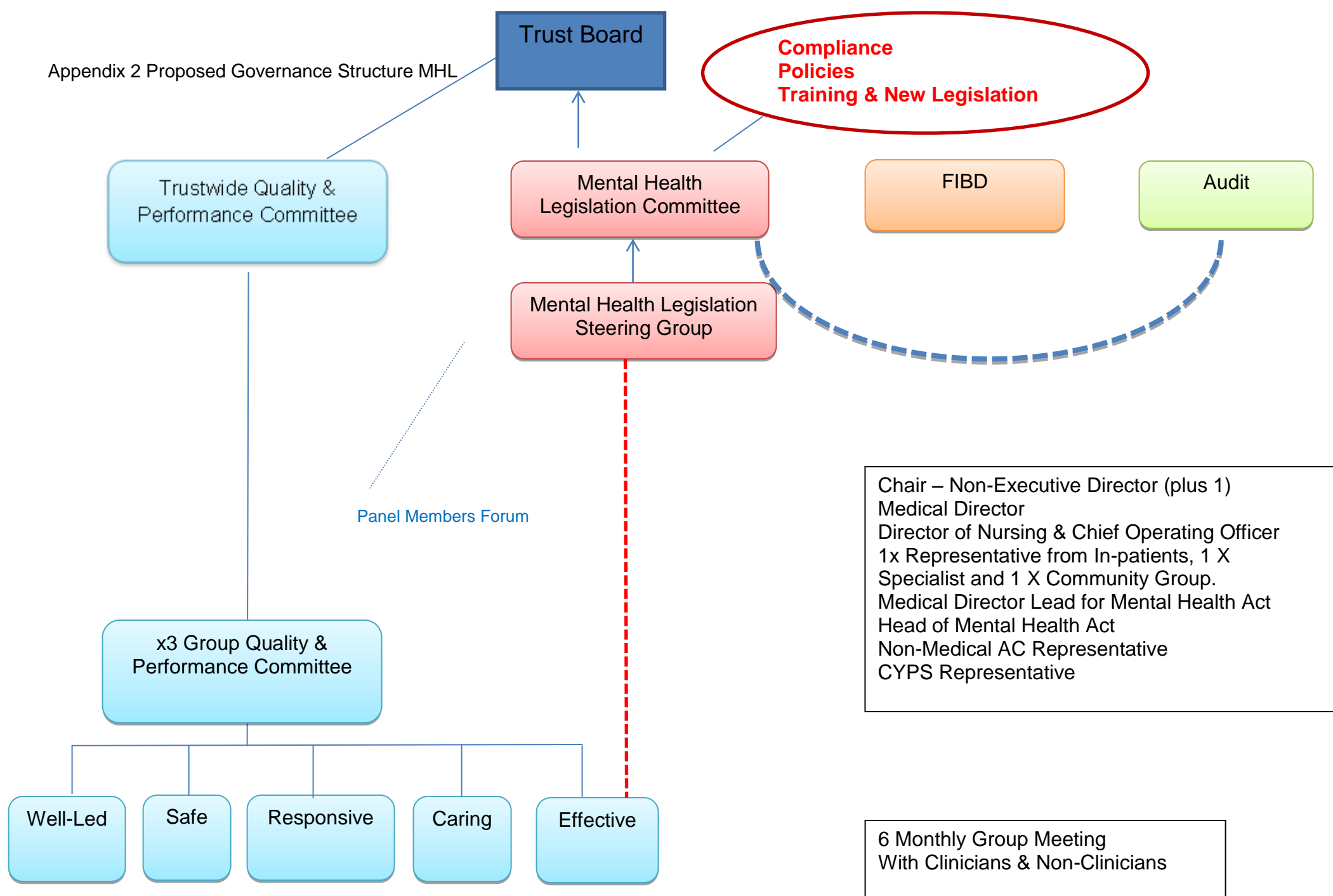
## Monitoring

The committee will review its performance annually against its Terms of Reference.

Date :







Chair – Non-Executive Director (plus 1)  
 Medical Director  
 Director of Nursing & Chief Operating Officer  
 1x Representative from In-patients, 1 X Specialist and 1 X Community Group.  
 Medical Director Lead for Mental Health Act  
 Head of Mental Health Act  
 Non-Medical AC Representative  
 CYPS Representative

6 Monthly Group Meeting  
 With Clinicians & Non-Clinicians