

Mental Health Legislation Committee

Annual report

1 April 2021 to 31 March 2022

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1 Period covered by the report

The report covers the period from 1 April 2021 to 31 March 2022

2 Introduction

The Mental Health Legislation Committee (Committee) has been formally established by the Board of Directors as one of its sub-committees. It is authorised to seek and obtain evidence of assurance on the effectiveness of the Trust's mental health legislative systems and processes, and the quality of the services provided. The Committee will monitor and report to the Board on the effectiveness of these systems and processes. The Committee's key objectives are to seek assurance that:

- systems and processes are effective, and wherever possible evidence-based
- the quality of services provided is good and continuously improving
- the experience of people using Trust services is good and continuously improving.

The Committee also seeks to:

- monitor, review and report to the Board on all the above; highlighting assurances received and risks to assurance identified
- receive relevant mental health legislation update for information and assurance.

This report covers the work the Committee has undertaken at the formal meetings held during 2020/21. It seeks to assure the Board on the work it has carried out and the assurances it has received, and to demonstrate that it has operated within its Terms of Reference.

Secretariat support is provided by the Office of the Chief Executive and the Chair of the Trust, who work with the Mental Health Legislation and Care Programme Approach Lead in relation to agenda planning; minutes; managing cumulative action logs; and general meeting support.

Assurance

The Committee receives assurance from the Executive Director members of the Committee and from the subject matter experts who attend the meetings as required dependant on the agenda items being discussed.

Assurance is provided through written reports, both regular and bespoke, through critical challenge by members of the Committee and by members seeking to validate the information provided through wider knowledge of the Trust; specialist areas of expertise; attending Board of Directors', and Council of Governors' meetings; visiting services, talking to staff, and observing operational meetings at the Trust as required.

The Committee is assured that it has the right membership to provide the right level and calibre of information and challenge.

In March 2021, the strategic objectives to be included in the BAF were refreshed in line with the Chief Executive's in year priorities. These remain aligned to the high-level strategic priorities of the Trust – Best Place to Work, Best Quality Care, Healthy and Possible and Seamless Access but describe the key areas of focus for 2021-22.

The Lead Executive for each strategic objective reviews their specific objective(s) and the risk(s) associated with it and updates the controls and assurances associated with those risks on a monthly basis. Any organisational high risks linked to the BAF strategic objectives are also identified in the BAF summary with relevant narrative where a risk has changed or been archived for the relevant committee to view.

There are no Strategic Objectives aligned to the Mental Health Legislation Committee

The Committee still reviews the summary of the BAF at each meeting prior to it being presented to the Board.

A revised Dashboard has been in operation since late 2019 for the Committee as part of an internal pilot. The Dashboard is now designed to accord with statistical process control measures thereby aligning with the Care Trust Way (as our quality improvement [QI] methodology). To reduce the risk of data saturation and enhance attention to detail, exception or outlier data are highlighted; and an easy to follow colour-coded legend allow readers to quickly ascertain which data have improved, deteriorated, require a watching brief or are in a steady state. Additionally, accountabilities for each item of activity/data are made explicit. Narrative data accompanies quantitative data to identify risks, challenges, and actions.

The individual high-level Dashboards, tailored to each Board sub-committee, collectively form a Data Pack that is presented to the Board of Directors. A key aim is for the Data Pack to inform strategic decision making by providing clarity on the impact of operational decisions in the context of ongoing development of the Trust's QI methodology.

Coronavirus Pandemic and effect on the Committee work.

The Committee continued to meet throughout the pandemic during 2021/22, but all meetings were held on Microsoft Teams. Where possible, officers of the Trust (frontline managers, senior clinical and administration staff) were released from attending and therefore a pared down but sufficiently connected attendance list was present

3 Terms of Reference

The Terms of Reference (TOR) underwent a major restructure in March 2020 to bring them into line with revised content devised by Corporate Governance.

The updated TOR were ratified by the Trust Board in July 2021.

Terms of Reference for information are attached at **Appendix 1**

4 Meetings of the group / committee

The Committee met on six occasions. The dates were: 20 May 2021; 22 July 2021; 16 September 2021; 18 November 2021; 27 January 2022; and 24 March 2022.

5 Membership of the committee and attendance at meetings

The minimum number of members for a meeting to be quorate is three, two of whom must be Non-Executive Directors (NED). All meetings in the period were quorate.

Attendance at meetings for substantive members and those in attendance were as follows:

Name	20/5/21	22/7/21	16/9/21	18/11/21	27/01/22	24/03/22	Total
Substantive members							
Non-Executive Director (Chair) - Carole Pantelli *1	✓	✓	✓	✓		*	4/4
Non-Executive Director - Zulfi Hussain MBE *2	✓	✓	✓	✓	✓		5/5
Non-Executive Director - Simon Lewis	✓	✓	✓	✓	✓	✓	6/6
Non-Executive Director – Alyson McGregor MBE *3						✓	1/1
Chief Operating Officer - Patrick Scott	✓	✓	✓	✓	✓	✓	6/6
Medical Director - David Sims	✓	✓	✓	✓	X	✓	5/6
Director of Nursing- Phillipa Hubbard	✓	✓*	X	X	X	✓	3/6
Director of Corporate Affairs – Paul Hogg	X	X	X	X	X	X	0/6
Interim Chief Operating Officer - Tafadzwa Mugwagwa						✓	1/1
Chief Executive Designate – Therese Patten							

*1 Mrs Panteli assumed Acting Trust Chair role after the substantive Trust Chair left to take up another post.

**": Zulfi Hussain MBE left the Trust after completing his time as a Non-Executive Director

*3 Alyson McGregor MBE joined the committee as the 3rd NED from March 2022

	20/5/21	22/7/21	16/9/21	18/11/21	27/01/22	24/03/22	Total
Others in attendance							
Involvement Partner – Keith Double	✓	✓	✓	✓	✓	✓	6/6
Involvement Partner – Karan Essien	X	X	✓	✓		X	2/5
General Manager – Kelly Barker	X	✓	X	X	X	X	1/6
Corporate Business Manager – Sue Grahamslaw	✓	✓	✓	✓	✓	✓	6/6
MHL and CPA Lead – Simon Binns	✓	✓	✓	✓	✓	✓	6/6
Mental Health Act Advisor – Teresa O’Keefe	✓	✓	✓	✓		X	4/5
Mental Capacity Act Clinical Lead – Joanne Tiler	✓	✓	✓	X		✓	4/5
Consultant Psychiatrist (Section 12 approved) – Dr Suresh Bhoskar	✓	✓	X	✓	✓	✓	5/6
Consultant Psychiatrist (Section 12 approved) – Dr Abdul Qayyum	X	X	X	X		X	0/5
Head of Psychological Therapies – Anita Brewin		✓	✓	X	X	X	2/5
Head of Nursing – Mental Health – Simon Long	X	X	X	X			0/3
Head of Nursing – Mental Health – Christopher Dixon					X	X	0/2
Approved Mental Health Professionals Manager – Kate O’Leary	✓	X					1/2
Interim Approved Menal Health Professional - Abdul Karim			X	X			0/2
Approved Menal Health Professional – Baljit Kaur Nota					✓	X	1/2
Associate Hospital Manager – Chrissie Freeth		✓		✓		✓	3/3
Associate Hospital Manager – Ruby Bhatti OBE	✓		✓				2/2
Carer Experience & Involvement Manager – Carly Driscoll	✓	✓	X	X			2/4
Clinical Manager – Thabani Songo	X	✓				X	1/3
Clinical Nurse Specialist – Jon Hague	X	✓					1/2
Service Evaluation Lead, CAMHS – Helen Haylor	✓						1/1
Service Manager – Bernard Hughes	✓						1/1
Assistant Professor, School of Social Sciences- Dr Tony Sparkes	✓						1/1
Care Quality Commission Observer - Graham Quinn	✓						1/1
Kaizen Promotion Office Manager – Claire Reed		✓					1/1
Corporate Governance Manager / Deputy Trust Secretary – Helen Robinson			X				0/1
Deputy Medical Director and Director of Medical Education – Sarfaraz Shora			X				0/1

6 Reports made to the Trust Board

At each of the Committee meetings, the following areas were reported up to the Trust Board:

Mental Health Legislation Committee 20th May 2021

Key discussion points and matters to be escalated from the discussion at the meeting:
Alert:
<ul style="list-style-type: none"> The Committee Chair was briefed privately by the Medical Director regarding the detention of a young person on PICU and the complex care required from the MDT. CQC and NHSE/I informed and discussions ongoing to secure an appropriate bed for the person close to their home where possible Committee has been monitoring performance of the timeliness of reports to hospital manger hearings and tribunals, performance has dipped significantly over the past 3 months therefore MHLC have commissioned an RPIW which will report back to July committee
Advise:
<ul style="list-style-type: none"> Committee received a detailed presentation of an audit of S136 undertaken to evaluate the impact of MH teams working as part of the police teams. Outcomes for service users are positive however more analysis is required to understand arrest outcomes and demographic data. Performance monitoring of the S136 will continue and further updates on the initiative will be provided to MHLC The positive and proactive group is a key enabler for the work of the MHLC as it monitors compliance with MHA and restrictive practices, providing detailed reports to MHLC for scrutiny. It is proposed that NEDs attend in rota to observe their work over the coming 6 months which should provide both greater understanding and additional assurance
Assure:
<ul style="list-style-type: none"> It has been agreed by committee members to review the work of the committee and to explore and agree how to improve focus on the experience of Service users when detained under the MHA. A development is being planned to take this work forward The Committee received a comprehensive action plan update on SI 2020.6409. The Committee was satisfied that the additional information, coupled with detailed feedback from the Service Manager, Adult Community Mental Health provided strong assurance that actions were on track and regularly reviewed by managers and team leaders.

<p><u>Risks discussed:</u></p> <ul style="list-style-type: none"> • None
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Mental Health Legislation Committee 22nd July 2021

<p>Key discussion points and matters to be escalated from the discussion at the meeting:</p>
<p style="text-align: center;">Alert:</p> <ul style="list-style-type: none"> • No alert for the Board
<p style="text-align: center;">Advise:</p> <ul style="list-style-type: none"> • Restrictive Practice and Closed Cultures- The Committee was updated on the work undertaken as a result of a service users experience of seclusion and detention. The Trust will be adopting “No Force First”, this initiative advocates that restraint is a sign of treatment failure. Committee will receive regular progress reports from the Positive & Proactive Steering Group and will monitor restrictive practice via the Dashboard • Associate Hospital Manager report The Associate Hospital Manager Committee member reported some concern that attendance by service users at hearings and tribunals have fallen since remote hearings were established. It was noted that access to advocacy services appeared to be a factor for Sus. It was also reported that fewer discharges are happening since remote hearings were established. Data shows a decrease from 8% to 3-4%, further data to be analysed and reported back to Committee in September
<p style="text-align: center;">Assure:</p> <ul style="list-style-type: none"> • Section 17 leave audit report Committee heard a presentation demonstrating high assurance that Section 17 leave documentation is being completed effectively on each of the in-patient MH wards • Internal Audit Review of the MHA Department The Committee received the report which evidenced significant assurance that the MHA Dept are fulfilling their legal duties • Liberty Protection Safeguards (LPS) Committee were advised and updated on work underway to ensure the Trust is compliant with new LPS when it is implemented in April 22. There are significant resource and training implications, Committee will receive updates at every future meeting

<ul style="list-style-type: none"> • RPIW Deployment and usage of staff safety equipment Committee was assured by the evidence from the RPIW that all ward staff including bank staff are provided with the correct safety equipment when reporting for duty and that a robust system is in place to log equipment in and out of the ward environment • MCA & DoLS annual report The Committee received and noted the annual report
<p><u>Risks discussed:</u></p> <ul style="list-style-type: none"> • All corporate risks in the Board Assurance Framework and Corporate Risk Register as part of the discussion on the Annual Governance Statement.
<p><u>New risks identified:</u></p> <ul style="list-style-type: none"> • None.

Mental Health Legislation Committee 16th September 2021

<p>Key discussion points and matters to be escalated from the discussion at the meeting:</p>
<p>Alert:</p>
<ul style="list-style-type: none"> • No matters to highlight.
<p>Advise:</p>
<ul style="list-style-type: none"> • Mental capacity Act audit results were presented to Committee highlighting sustained compliance with assessment of patients and documentation. However Best Interests Assessment and meetings compliance has fallen significantly although numbers of patient requiring a BIA has increased. Committee will receive a progress report in November and monitor compliance • The MCA will be replaced with Liberty Protection Safeguards (LPS) in April 2022. However a national delay means the Code of Practice has not yet been published and the implementation date may slip. The changes have financial implications for all provider organisations however we are unable to quantify this until the CoP is received. • The Committee noted that the numbers of physical interventions has risen and data suggests this is predominantly on female wards. Committee has requested the Positive and Proactive Steering Group to undertake a detailed analysis of the data and report back to November committee. It was agreed that a staff story about the difficult decision-making process to apply full physical interventions would be brought to a future meeting. • The Committee was briefed by the Chair of Positive and Proactive Steering Group on a presentation on “No Force First” from clinical leads at Merseycare NHSFT. BDCT has committed to adopting the No Force First principles and the programme of work will be led by the P&P group with routine reporting to MHLC.

<ul style="list-style-type: none"> The Board was advised in July of a deterioration in the timeliness of reports to tribunals and hospital managers. Work is underway to address this, using QI methodology. A 30 day report out will be given to November committee
Assure:
<ul style="list-style-type: none"> Committee received reports from the CQC MHA Monitoring review visits to the low secure units and older persons mental health. It noted very positive comments from Service users and families about the care they received, it also noted significant improvements achieved compared previous inspection reports.
<u>Risks discussed:</u>
<ul style="list-style-type: none"> The Board Assurance Framework and Corporate Risk Register was noted and discussed.
<u>New risks identified:</u>
<ul style="list-style-type: none"> There is a potential risk of litigation if the Trust isn't seen to be fully compliant with Mental Capacity Act Best Interests Assessments. It was agreed this risk sits at a Care Group level

Mental Health Legislation Committee 18th November 2021

Key discussion points and matters to be escalated from the discussion at the meeting:
Alert:
<ul style="list-style-type: none"> No items from this Committee
Advise:
<ul style="list-style-type: none"> The Committee was advised by our involvement partner that service users in crisis who contacted the first response team were reporting distress and frustration that staff were insistent on getting the correct contact details eg spelling of name before addressing the person's MH crisis. Dr Sims advised the NHS national database is inflexible and staff are searching for the person's clinical records. It was agreed that it would be discussed with staff whether the clinical need could be addressed initially followed by the input of contact details, etc. Committee held a second Care Trust Way workshop, following on from the first held in November 2019 facilitated by Chris Hunt from the KPO. Members reviewed the definitions agreed at that time as to the purpose of MHLC and noted that whilst good progress had been made, more needs to be done to strengthen the voice of service users and staff so that the committee uses this

<p>in its decision making. A CTW staff member will be attached to the committee to support this work and an update will come to Jan MHLC</p> <ul style="list-style-type: none"> • Committee noted that whilst the hospital manager resource were managing to cover the workload at present, a number of hospital managers have left therefore the Board need to support a new recruitment process in early 2022 • The Committee approved the MHA half yearly report and asks the Board to note • The Committee was advised by one of the Hospital managers that they had received excellent training regarding self harm from one of their colleagues who runs a charity called SCUFF. The Committee would like to suggest that this might be of benefit to Board members as part of next year's development programme
Assure
<ul style="list-style-type: none"> •
<p><u>Risks discussed:</u></p> <ul style="list-style-type: none"> • The Board Assurance Framework and Corporate Risk Register was noted and discussed.
<p><u>New risks identified:</u></p> <ul style="list-style-type: none"> • There is a risk of litigation if the Trust is not fully compliant with Best Interests assessment. It was agreed this risk sits at a Care Group level

Mental Health Legislation Committee 27th January 2022

Key discussion points and matters to be escalated from the discussion at the meeting:
Alert:
<ul style="list-style-type: none"> • No item was considered to be necessary to be alerted to Trust Board
Advise:
<ul style="list-style-type: none"> • Staffing pressures in all services owing to absences • Noted the formal delay by the Department of Health and Social Care to the implementation date of the Liberty Protection Safeguards Code of Practice, with no further timeline yet provided
Assure
<ul style="list-style-type: none"> • The positive outcomes of the Mental health Act Inspection of the Assessment and Treatment Unit where no actions had been required • A watching brief was being kept on the recorded interventions as there had been a slight increase for some of them in the last month

<p><u>Risks discussed:</u></p> <ul style="list-style-type: none"> The Board Assurance Framework and Strategic Organisational Risk Register were noted and discussed.
<p><u>New risks identified:</u></p> <p>The following new risks were also discussed:</p> <ul style="list-style-type: none"> Risk 2597 – potential of violence and aggression towards staff and members of the public whilst in the Trust’s inpatient or community services. Risk 2609 – consolidated risk around out of area placements

Mental Health Legislation Committee 24th March 2022

<p>Key discussion points and matters to be escalated from the discussion at the meeting:</p>
<p style="text-align: center;">Alert:</p> <ul style="list-style-type: none"> On the understanding that there is an obligation on MHLC to report to board any incident of “prone restraint”, MHLC duly reports that there was one (albeit limited) prone restraint during the most recent period. However, the specific context regarding the incident was explained the MHLC and MHLC was satisfied with that explanation/evidence. Moreover, that isolated incident occurred against a wider context where the level of “more restrictive” interventions, across the Trust, was in fact much reduced.
<p style="text-align: center;">Advise:</p> <ul style="list-style-type: none"> Good news – impressive example of innovation & continuous improvement – MHLC received a paper and presentation (from David Gibson) about a new digital app/dashboard, developed internally and from scratch, informed by the Care Trust Way, which MHLC was told has significantly improved the Trust’s ability to manage ligature risk. Additional assurance sought by MHLC (with an update to be provided, on 6 specific points, at the next meeting) in relation to the extent/adequacy of the arrangements and support in place for Associate Hospital Managers, given their importance and some particular risks/issues discussed in the meeting. Views sought from MHLC members/stakeholders re potential options for future MHLC meetings. General view that remote meetings worked well and remote access should remain an option longer term. MHLC supports Trust investment in improved technology/process, to better enable effective hybrid meetings.

<ul style="list-style-type: none"> • Patrick Scott's very substantial positive contribution, over the last three years or so, to MHLC and more broadly, warmly and fully acknowledged by MHLC.
Assure
<ul style="list-style-type: none"> • Strong Care Programme Approach audit results. • Section 117 aftercare audit raised some concerns. MHLC agreed that more focus is required re those on prolonged stays. Follow-up action agreed. • Update received on the Mental Capacity Act audit process: on track for full MCA audit in June, with a report in July. • Update received on the process for gathering feedback re the consultation on Liberty Protection Safeguards. • Terms of reference approved for Ligature Environment Risk & Safety Group. • No CQC Mental Health Act monitoring review visits in the most recent period. • Dashboard data considered. • Paper update received re (1) Positive & Proactive Group and (2) Use of Force Bill.
<p><u>Risks discussed:</u></p> <ul style="list-style-type: none"> • Board assurance framework and strategic organisational risk register noted/discussed.

7 The work of the committee or group during the year 1 April 2021 to 31 March 2022

Throughout the year, the Committee has received updates and assurance on a number of areas. These included:

Every meeting had a detailed update from the Chief Operating Officer on our responses to the Pandemic.

Review of the Performance Dashboard at every meeting, with refinement of data presented to give a clear picture of compliance with Mental Health Legislation and to give challenges back to operational services, where questions, such as restrictive practices arose and needed further assurance.

Mental Health Act Monitoring Reviews by the Care Quality Commission slowed down in 2021 due to the Pandemic and had moved to a remote review system in 2020. This continued into 2021 and the Committee were presented with updates from each visit. Some visits required no actions, others had recommendations and the Committee were assured that through the local In Patient QUOPs meetings, any areas requiring follow-up were being actioned.

The Section 117 Aftercare Audit was presented with presentations from senior clinical staff on how compliance can be improved

Care Programme Approach Audit was presented with evidence of strong compliance across services

Receipt and Scrutiny of Section Papers demonstrated great care was being taken to ensure any correctable error are being addressed immediately, and where errors fundamentally invalidate the detention of a patient, they are immediately re-graded to informal and advised of their right to leave

Timeliness of Reports to Hospital Managers and Tribunals outlined how professionals were required to provide reports in a time-limited process and that overall compliance had dropped compared to those seen 12 months previously.. This triggered a series of activities with the Kaizen Promotion Office, to explore systems with the Mental Health Team. Phase 2 of this work will involve wider professional groups and operational services and this output will be shared with the committee and added to next year's annual report.

Mental Capacity Act Progress Updates were presented at every meeting. There were key actions for operational services to improve compliance against a set of MCA standards and with significant additional input from the MCA Lead, services had made huge improvements in both observed levels of understanding amongst frontline staff and accurate recording of assessments of capacity. Having left the organisation in 2020, the Mental Capacity Act Clinical Lead returned to the Trust in 2021 and her input to moving the MCA agenda forward has seen wards and community teams embrace MCA fully and with a greater level of understanding.

The Committee held a second Care Trust Way (CTW) workshop, following on from the first held in November 2019 facilitated by Chris Hunt from the Kaizen Promotion Office (KPO). Members reviewed the definitions agreed at that time as to the purpose of MHLC and noted that whilst good progress had been made, more needs to be done to strengthen the voice of service users and staff so that the committee uses this in its decision making. A CTW staff member will be attached to the committee to support this work.

Mental Health Act Annual Report to Trust Board highlighted another busy year up to 31 March 2022 and the full activity report is attached at **Appendix 2**.

8 Conclusion

The Chair of the Mental Health Legislation Committee would like to assure the Board that the Committee worked hard to fulfil its Terms of Reference during 2021/22. The Board is asked to recognise how the Committee supports the ongoing continuous improvement journey both at the Trust and on its own effectiveness.

The Committee adds value by maintaining an open and professional relationship with officers of the Trust and it has carried out its work diligently; discussed issues openly and robustly; and kept the Board of Directors apprised of any possible issues, risks, or learning. Organisational learning drives this Committee and is one of its core values; further improvements will be made to advance this critical aspect of quality and safety.

Members of the Committee would like to thank all those who have responded to its requests during the year and who have supported it in carrying out its duties.

26 May 2022

Carole Panteli

Non-Executive Director and Chair of the Mental Health Legislation Committee (until November 2021)

And;

Simon Lewis

Non-Executive Director and Interim Chair of the Mental Health Legislation Committee (from January 2022)

Simon Binns

Mental Health Legislation and Care Programme Approach Lead

Appendix 1

Mental Health Legislation Committee

Terms of Reference 2021-22

Version:	13
Approved by:	Mental Health Legislation Committee
Ratified by:	Board of Directors
Date approved:	20 May 2021
Date ratified:	8 July 2021
Job title of author:	Mental Health Legislation and Care Programme Approach Lead, and Interim Corporate Business Manager
Job title of responsible Director:	Non-Executive Director and Chair of the Mental Health Legislation Committee
Date issued:	20 May 2021
Review date:	31 March 2022
Frequency of review:	Annual
<p>Amendment Summary: Joint Meetings of the Quality and Safety Committee and Mental Health Legislation Committee in January and March 2021 concentrated on core themes. A number of items that would normally be discussed and approved under the separate meeting processes were deferred. The Terms of Reference are now presented for re-approval.</p> <p>Section 2: Deleted - Deputy Director of Risk, Compliance and Nursing (no longer in post) Added - Interim Corporate Business Manager (replacing Deputy Trust Board Secretary)</p> <p>Suggested new In Attendance from:</p> <ul style="list-style-type: none"> - Head of Nursing, Mental Health (Joint Chair of Positive & Proactive Steering Group) - Head of Psychological Therapies (Joint Chair of Positive & Proactive Steering Group) <p>Section 10 Schedule of Deputies has been updated to reflect the above changes</p>	

1 Name of Committee

Mental Health Legislation Committee.

2 Composition of the Mental Health Legislation Committee

Members: full rights

Title	Role in the group / committee
Non-Executive Director	Committee Chair
Non-Executive Director	Additional Non-Executive member
Non-Executive Director	Additional Non-Executive member
Chief Operating Officer	Executive lead with day-to-day responsibility for operational delivery of services. Assurance and escalation provider to the Mental Health Legislation Committee.
Medical Director	Executive lead for medics. Assurance and escalation provider to the Mental Health Legislation Committee.
Chair of the Trust	Additional non-executive member (attendance at meetings will be dependent on the agenda items being discussed).
Chief Executive	Accountable Officer (attendance at meetings will be dependent on the agenda items being discussed).

Any Executive and Non-Executive Director can attend a Board sub-committee meeting because of the position that they hold. When carrying out this duty they will assume full member rights.

In addition, the following individuals will attend each meeting:

- Interim Corporate Business Manager
- General Manager, Mental Health Care Group
- Associate Hospital Manager
- A Doctor approved under Section 12 of the Mental Health Act (1983)
- Mental Capacity Act and DOLS Clinical Lead (Also a DOLS Best Interest practitioner)
- Mental Health Legislation and Care Programme Approach Lead
- Mental Health Act Advisor
- Approved Mental Health Professionals Manager
- Involvement Friends

Suggested additional attendees:

- Head of Nursing, Mental Health (Joint Chair of Positive & Proactive Steering Group)
- Head of Psychological Therapies (Joint Chair of Positive & Proactive Steering Group)

In addition to anyone listed above, the Chair of the Committee may also request individuals to attend on an ad-hoc basis to provide advice and support for specific items from its work plan when these are discussed in the meetings.

2.1 Governor Observers

The Committee welcomes and encourages governors to attend its meetings. The role of a Governor at Board sub-committee meetings is to observe the work of the Committee. The Governor observes Board sub-committee meetings in order to get a better understanding of the work of the Trust and to observe Non-Executive Directors appropriately challenging the Executive Directors for the operational performance of the Trust. At the meeting the Governor observer(s) will be required to declare any interest they may have in respect of any of the items to be discussed.

3 Quoracy

Number: The minimum number of members for a meeting to be quorate is three, two of whom must be Non-Executive directors. Attendees do not count towards quoracy. If the Chair is unable to attend the meeting, and if otherwise quorate, the meeting will be chaired by one of the other Non-Executive directors.

Deputies: Where appropriate members may nominate deputies to represent them at a meeting. Deputies do not count towards the calculation of whether the meeting is quorate except if the deputy is representing the member under formal “acting up” arrangements.

A schedule of deputies, attached at appendix 1a, should be reviewed at least annually to ensure adequate cover exists.

Non-quorate meeting: Non-quorate meetings may go ahead unless the Chair decides not to proceed. Any decisions made by the non-quorate meeting must be reviewed at the next quorate meeting.

4 Meetings of the Committee

Frequency: The Committee will meet at least six times a year.

Urgent meeting: Any member of the Committee may request an urgent meeting.

Minutes: The Committee Secretariat will be provided by the Executive Support Team.

Assurance and Escalation Reporting: The Chair of the Committee will provide an update of key issues arising from the meeting to the next Board of Directors meeting.

Voting: It is at the discretion of the Chair of the meeting to call a vote during a meeting. When voting, decisions at meetings shall be determined by a majority of the votes of the Executive and Non-Executive Directors present and voting. In the case of any equality of votes, the person presiding shall have a second or casting vote.

5 Authority

Establishment: The Committee is a sub-committee of the Board of Directors and has been formally established by the Board.

Powers: Its powers, in addition to the powers vested in the executive members in their own right, are detailed in the Trust's Scheme of Delegation.

Cessation: The Committee is a standing Board sub-committee in that its responsibilities and purpose are not time limited. However, the Committee has a responsibility to review its effectiveness annually.

6 Role of the Committee

a. Purpose of the Committee

The overall aim of the Committee is to monitor, review and report to the Board the adequacy of the Trust's processes to support the operation of mental health legislation.

6.2 Guiding principles for members (and attendees) when carrying out the duties of the Committee

In carrying out their duties members and attendees of the Committee must ensure that they act in accordance with the values of the Trust, which are:

- we care
- we listen
- we deliver.

b. Duties of the Committee

The Committee's key objectives are to:

- monitor, review and report to the Board of Directors on all aspects of mental health legislation
- receive assurances against Care Quality Commission (CQC) inspection action plan and routine CQC related activity

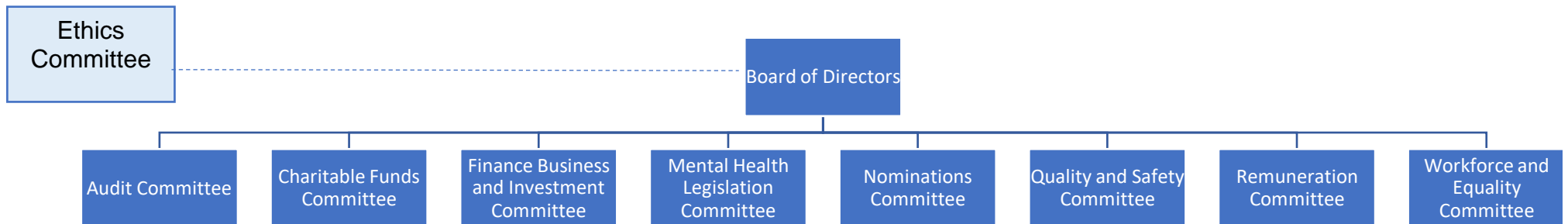
- be assured that there are systems, structures and processes in place to support the operation of mental health legislation, within both inpatient and community settings and ensure compliance with associated codes of practice and recognised best practice
- be assured that our care and treatment in the Trust embraces the core values of current mental health legislation and protects service users and the community of which they are members
- be assured that the Trust has in place and utilises appropriate policies and procedures in relation to mental health legislation and to facilitate the publication, distribution and explanation of the same to all relevant staff, service users and manager
- be assured that Associate 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 associated legislation
- to consider opportunities, challenges and requirements of our local place and regional health care systems and partnerships
- supporting the Trust's continuous improvement journey, both internal and external learning will be considered by the Committee. This will be within the remit as set out in the terms of reference and supporting work plan for the Committee who will be acting as an agent of the Board of Directors.

In particular the Committee shall review the adequacy of:

- the implementation and performance of operational arrangements in relation to mental health legislation through quarterly dashboard reporting of key performance indicators
- oversight of restrictive practices through the dashboard, exception reporting and a summary of actions taken by the Positive and Proactive Steering Group
- reports from inspecting authorities and the development of action plans in response to recommendations
- progress against any other action plans and any risks identified within the Corporate Risk Register relevant to mental health legislation
- analysis and information reports in relation to the use of the Mental Health Act and to make recommendations in response to findings
- the schedule of powers and responsibilities of the Associate Hospital Managers, including those powers and responsibilities delegated to officers of the Trust

- information provided to Associate Hospital Managers of their legal duties and appropriate training to support their duties under mental health legislation
- the process of recruitment, induction, appraisal and development of Associate Hospital Managers (through the Trust Chair and Chair of the Mental Health Legislation Committee)
- implementation and requirements of any new and amended mental health legislation, establishing groups to undertake detailed implementation work as required
- the provision of adequate guidance, information, education and training on mental health legislation to staff, service users, carers and other stakeholders
- joint working arrangements around the use of mental health legislation with partner agencies, notably including local authorities, other NHS commissioners and providers, and the police.

7 Relationships with other groups and committees



The Committee does not have any sub-committees. It is linked to the Trust's operational groups as an assurance receiver and provides a route of escalation to the Board of Directors.

8 Duties of the Chair

The Chair of the Committee shall be responsible for:

- agreeing the agenda in partnership with the Chief Operating Officer
- directing the meeting ensuring it operates in accordance with the Trust's values whilst ensuring all attendees have an opportunity to contribute to the discussion
- giving direction to the secretariat and checking the draft minutes
- ensuring the agenda is balanced and discussion is productive
- ensuring sufficient information is presented to the Board of Directors in respect of the work of the Committee.

9 Reviews of the terms of reference and effectiveness

The terms of reference shall be reviewed by the Committee at least annually and be presented to the Board of Directors for ratification.

It will be the responsibility of the Chair of the Committee to ensure that it carries out an assessment of effectiveness annually, and ensure the outcome is reported to the Board of Directors along with any remedial action to address weaknesses. The Chair will also be responsible for ensuring that the actions to address any areas of weakness are completed.

10 Schedule of Deputies

It may not be necessary or appropriate for all members (or attendees) to have a deputy attend in their absence. If this is the case please state below "no deputy required".

Full member (by job title)	Deputy (by job title)
Non-Executive Director Chair	Another Non-Executive Director
Non-Executive Director	Another Non-Executive Director
Non-Executive Director	Another Non-Executive Director
Chief Operating Officer	General Manager
Medical Director	Associate Medical Director

Attendee (by job title)	Deputy (by job title)
Interim Corporate Business Manager	Director of Corporate Affairs
General Manager – Mental Health Care Group	Assistant General Manager – Mental Health Care Group
Mental Health Legislation and Care Programme Approach Lead	Mental Capacity Act Lead Mental Health Act Advisor
Head of Nursing, Mental Health	Head of Psychological Therapies
Head of Psychological Therapies	Head of Nursing, Mental Health

Appendix 2

Mental Health Legislation Committee

26 May 2022

Paper title:	Mental Health Act Activity Annual Report	Agenda item
Presented by:	Teresa O’Keefe – Mental Health Act Advisor	
Prepared by:	Teresa O’Keefe – Mental Health Act Advisor	

Purpose of the report		
To provide an update on Mental Health Act activity for the financial year 2021/22. To provide information as to Mental Health Tribunal and Hospital Manager patient hearing activity.	For approval	X
	For discussion	
	For information	

Executive summary		
<p>The report provides a summary of activity for the frequently used Sections of the Mental Health Act 1983. It provides comparisons as to activity over the past 10 years. It draws upon local data covering Bradford and Airedale.</p> <p>It discusses the use of the Section 136 suites to detain patients under Section 2 when no available bed can be found.</p> <p>It also provides information on the sections of the Act used in the Bradford Royal Infirmary and the Airedale General Hospital, since the MHA officers ensure these are completed lawfully under the Service Specification which provides support for MHA administration.</p> <p>It updates on progress towards reform of the Mental Health Act.</p>		
Do the recommendations in this paper have any impact upon the requirements of the protected groups identified by the Equality Act?	<p>State below ‘Yes’ or ‘No’</p> <p>No</p>	If yes please set out what action has been taken to address this in your paper

Recommendation
<p>The Mental Health Legislation Committee is asked to:</p> <ul style="list-style-type: none"> Approve this report subject to any minor amendments

Strategic vision				
Please mark those that apply with an X				
Providing excellent quality services and seamless access	Creating the best place to work	Supporting people to live to their fullest potential	Financial sustainability growth and innovation	Governance and well-led
X				X

Car Quality Commission domains				
Please mark those that apply with an X				
Safe	Effective	Responsive	Caring	Well Led
	X	X	X	

Relationship to the Board Assurance Framework (BAF)	The work contained with this report links to the following strategic risk(s) as identified in the BAF: All
Links to the Corporate Risk Register (CRR)	The work contained with this report links to the following corporate risk(s) as identified in the CRR: All
Compliance and regulatory implications	The following compliance and regulatory implications have been identified as a result of the work outlined in this report: Not Applicable

Mental Health Legislation Year Report 2021/22

1. Introduction

1.1 This report provides the Committee with an overview of Mental Health Act activity for the period 1st April 2021 to 31st March 2022.

1.2 Review of the Mental Health Act

Following the Independent Review conducted by Simon Wessely and published in December 2018, the government published a White Paper in January 2021. The White Paper set out the government's response to reform mental health legislation, responding to the Independent Review. Substantial changes to the Act were suggested based on the following four principles:

- choice and autonomy – ensuring service users' views and choices are respected
- least restriction – ensuring the Act's powers are used in the least restrictive way
- therapeutic benefit – ensuring patients are supported to get better, so they can be discharged from the Act
- the person as an individual – ensuring patients are viewed and treated as individuals

Following publication of the White Paper, the government consulted widely to understand the views of service users, clinicians, carers, and people with lived experience of treatment under the Act. The Trust responded to the consultation which closed in July 2021.

The response to the consultation was published in August 2021. In its introduction, it stated: *“The government and NHS England and Improvement (NHSEI) are delivering the most ambitious programme to transform mental health care that England has ever known.*

We remain committed to legislate so that patients suffering from mental health conditions, who may require care under the Mental Health Act, have greater control over their treatment and receive the dignity and respect they deserve.”

We aim to keep the Committee updated as and when further announcements are made.

1.3 The Covid-19 Act and Covid-19 restrictions

The Covid-19 Act came into force in 2020 and with it came potential changes to the MHA. However, none of these have been implemented as they were not deemed a national necessity.

Both the Mental Health Tribunal and Hospital Managers continue to conduct all hearings remotely. We await to hear if the tribunal judiciary plan to make any changes now that some restrictions have been lifted. Solicitors continue to request SystemOne notes to be sent electronically in addition to the reports and some attend the wards to visit the patients where this appropriate.

Hospital Manager hearings are currently under review whilst awaiting feedback from service users and the hospital managers themselves. As some restrictions have been lifted there may be a return to face-to-face meetings in some circumstances.

The CQC Second Opinion Doctors (SOADs) request SystemOne notes and some SOADs have begun to attend the hospital. Treatment certificates are sent to the MHA office via email making use of digital signatures, rather than sending them through the post.

2. The Work of Associate Hospital Managers

- 2.1 All Non-Executive Directors (NEDs) of the Trust Board, are in fact “hospital managers” within the meaning of the MHA, however due to other commitments, they are not required to sit as panel members. Although a number of NEDs had agreed to observe two hearings every year to give assurance to the Board, this has not occurred during the pandemic. Nonetheless, any NED would be welcome to observe a hearing whether they are conducted remotely via Microsoft Teams or in person at one of the hospitals. Patient hearings are heard by Associate Hospital Managers, usually simply referred to as “hospital managers”.
- 2.3 Although the Trust recruited six new hospital managers in 2019 bringing the total to 22, seven of our existing hospital managers have since moved on to other things, bringing the number currently available to just 15. Due to restrictions of arranging an open evening a request went out for recommendations. From this we received a number of interested persons. Applications have been received and interviews will take place on 11th and 31st May.

3 Outcome of Managers Hearings

- 3.1 Hospital Managers have a duty to discharge a patient if the requirements of the Act are not being met. There are three ways in which a service user may have their case heard by a hospital managers’ hearing: The first occasion may arise if they decide to appeal against their detention in hospital. The second will arise if a nearest relative orders the discharge of their relative and this is barred by the consultant. The third circumstance will arise if the consultant wishes to continue the detention, or continue a Community Treatment Order, beyond the original period, initially after 6 months and then annually; this latter reason (the renewal) relate to the majority of cases heard.

In order to renew a detention, the consultant must provide a statutory report, having first consulted with at least one other professional, and in the case of a CTO, this professional must be an Approved Mental Health Professional (AMHP), and the consultant must have seen the client within 2 months of expiry. This can occasionally prove difficult if the CTO client does not turn up for appointments, although they can be formally recalled for this purpose. Following receipt of the statutory report to order renewal a hospital managers meeting is convened.

- 3.2 It is important that in all cases, the Board, through the Mental Health Legislation Committee has assurance that hospital managers are appropriately fulfilling their responsibilities – both discharging people from detention under the Act where this is legally appropriate and ensuring that service users continue to receive treatment and care under the Act if that is necessary. There is a system in place to monitor those cases where hospital managers have authorised an individual's discharge under the Mental Health Act. In each case the hospital managers who heard the appeal or renewal, receive a report from either the responsible clinician or the care co-ordinator two months after the discharge giving details of progress since the decision was made. In addition, each case is considered by the Hospital Manager Group at their regular training meetings, with one of the panel members giving feedback to the group.
- 3.5 There is a time lapse between an appeal being lodged and a case being heard. The standard for the setting of appeals to the managers is within 7-10 days for section 2 appeals and 3 weeks for sections 3 and 37. It is therefore to be expected that a number of people would make sufficient progress with treatment that detention would no longer be necessary by the time of the scheduled hearing.

In addition to this, a small proportion of clients appeal to both the hospital managers and the mental health tribunal at the same time. Strict timescales must be observed with regard to hearing dates for tribunals, and if an early date is offered by the tribunal, the hearing before the hospital managers is delayed for 28 days after the tribunal has been heard, as recommended in the Code of Practice to the MHA. For this reason, there will be a significant number of requests which do not materialize as actual hearings. These are shown in the figures below as “not heard”.

4 Hospital Manager Hearings and Renewals Activity

- 4.1 There were a total of **67 Appeals** and **131 Renewals** being lodged with hospital managers a total of 198 cases.
- 4.2 In total **109 hearings** took place (**24 appeals and 85 renewals**).
- 4.3 Of the 24 appeals heard, 21 (88%) were denied, 3 (12%) were discharged
- 4.4 Of the 85 renewals heard, 81 (95%) were renewed and 3 (4%) was discharged and 1 (1%) adjourned

4.5 Combining the outcome rate of all manager hearings, i.e. 109 heard, with 6 clients discharged, the discharge rate is just under 6%.

4.6 Hospital Managers Appeals and Renewals Activity Summary Table for past 10 years

Requests rec'd	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
Appeals	207	120	105	118	107	63	60	53	59	67
Renewals	125	138	152	168	131	138	138	136	121	131
Total rec'd	332	258	257	286	238	201	198	189	180	198
Not Heard	165	114	99	75	107	86	87	71	103	95
Re-grade Prior by RC	66	43	50	37	49	37	45	34	48	47
Withdrawn	34	13	11	9	17	6	5	5	10	13
Other Reasons*	60	58	38	29	41	43	37	32	45	35

Appeals	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
Heard	65	39	40	40	36	12	15	25	36	24
Denied	50	32	31	34	28	11	12	19	28	21
Adjourned	2	1	1	0	0	0	0	0	3	0
Discharged	13	6	8	6	8	1	3	6	5	3
Renewals										
Heard	102	105	118	126	95	109	96	96	103	85
Renewed	98	101	110	118	95	108	90	90	101	81
Adjourned	2	0	2	1	0	0	2	1	1	1
Discharged	2	4	6	7	0	1	4	5	1	3

***Other reasons not heard include:**

CTO terminated (11) Unable to set in time (6) Placed on CTO (4)
 Adjourned (6) Tribunal proximity (2) Patient AWOL (1) Discharged prior by MHT (3)
 CTO Revoked (2)

5 Mental Health Tribunals

- 5.1 There is a time lapse between an appeal being lodged to the Tribunal and a case being heard. The standard for the setting of appeals to the Tribunal is within 7 days for section 2 appeals and between 5 to 8 weeks for all other sections. It is therefore to be expected that a number of people would make sufficient progress with treatment that detention would no longer be necessary by the time of the scheduled hearing. Hence there will be a significant number of requests which do and not materialize as actual Tribunal hearings.
- 5.2 Tribunal activity: Both the numbers received, and the numbers heard have dropped slightly since the peak 5 years ago. This could be as a result of patients being discharged more quickly from hospital.
- 5.3 Of the 340 requests processed, 172 were heard and 168 were not heard. The large number of cases not heard could indicate a thorough MHA assessment by the professionals having taken place in the weeks prior to the hearing, which resulted in 98 (58%) of the cases not heard being discharged from Section or from CTO prior to the hearing. Another factor relating to cases not being heard was the 19 (11%) cases relating to clients withdrawing their requests. This can either be due to the patient satisfied with their progress and are willing for the discharge decision to be made by their own RC, or the solicitor advising them that they would have a better chance at being discharged if they allowed more time for their mental health to improve.

Of the 172 heard, there were 146 (85%) not discharged, 15 (9%) discharged, 11 (6%) adjourned.

A breakdown of the 15 discharged is as follows:

11 (7%) of the 159 Civil sections heard (Sections 2, 3 or CTO) were discharged by the tribunal, whereas

4 (31%) of the 13 cases restricted by the Ministry of Justice (MOJ) were discharged.

In the last financial year, we reported on a very low discharge rate (3%) of the Civil Sections (Sections 2, 3 and CTOs) heard by the tribunal, and just 4% discharged by the hospital managers. At the time concern had been raised as to why the discharge was lower than in previous years when the average discharge rate had been around 8%. However, when we benchmarked against other local Trusts our low rate of discharge was in fact higher than others.

The current position of 7% discharged by the tribunal for civil sections and 6% for the hospital manager panels, now compares favourably with previous years.

Neither the hospital managers nor the RCs have the authority to discharge the restricted cases, the MH Tribunal is the most common route for discharge, and occasionally, a discharge is authorized directly from the MOJ.

5.4 Tribunal Activity for the past 10 years is shown below:

	2012 /13	2013 /14	2014 /15	2015 /16	2016 /17	2017 /18	2018 /19	2019 /20	2020/ 21	2021/22
Requests rec'd	307	323	385	400	452	401	402	398	363	340
Not Heard	122	111	137	134	190	169	187	176	177	168
Re-grade by RC	74	54	84	89	123	107	122	114	97	98
Re-grade by AHM	11	6	2	4	3	0	3	2	3	3
Withdrew	29	32	30	26	43	48	46	38	35	19
Transferred	7	10	8	3	3	0	1	4	5	3
Adjourn/Re-listed	1	9	8	6	10	1	5	3	16	16
Placed on CTO	0	0	0	1	0	0	0	0	1	0
*Other reasons	0	0	5	5	*8	*13	*10	15	*20	29

Heard	185	212	248	266	262	232	215	222	186	172
Not Discharged	163	196	212	237	237	205	184	194	165	146
Discharged	12	9	23	20	19	24	18	24	15	15
Adjourned	10	7	9	5	6	2	13	4	6	11
Other	0	0	4	4	0	0	0	0	0	0

*Other reason not heard:

- CTO terminated (6)
- Invalid appeal (1)
- Appeal out of time (4)
- Staff unavailable (3)
- Not recorded (15)

6 Activity data for key sections

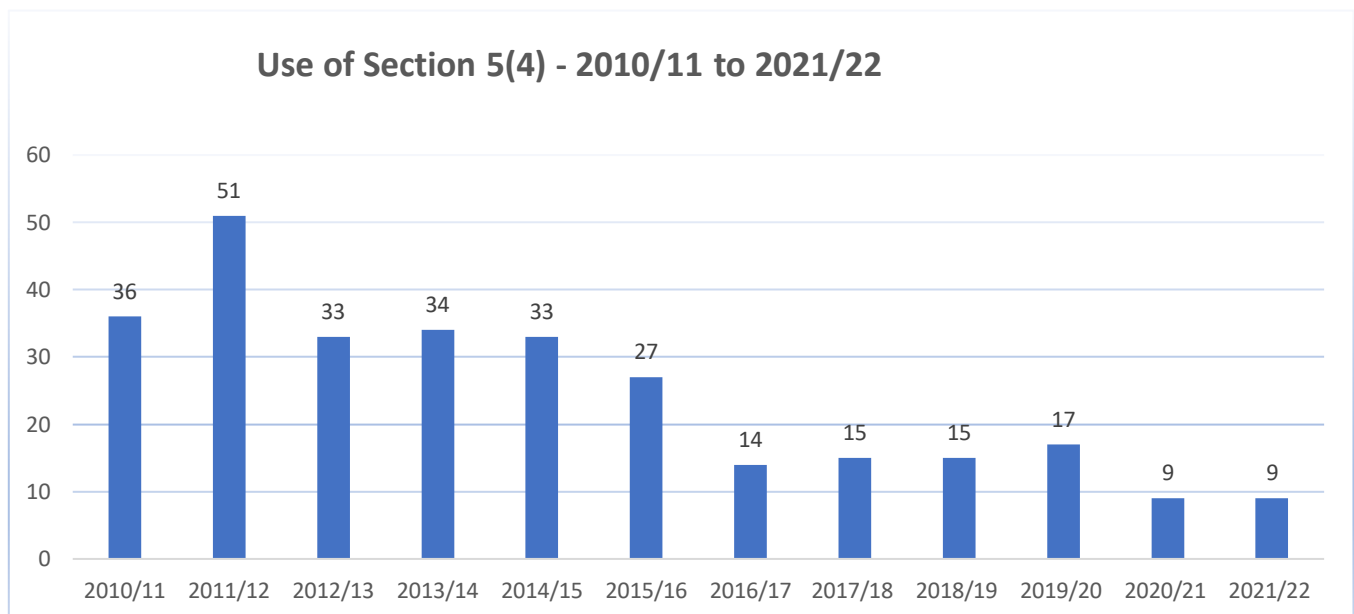
Detailed below is the MHA activity for BDCFT

6.1 Section 5 (4)

Section 5(4) is the power for a nurse to detain an informal in-patient for up to six hours. The patient has to indicate they wish to leave hospital and there has to be an immediate risk of harm to the patient or some other person if this were to be allowed. The nurse only has this power to prevent the patient from leaving if there is no doctor immediately available to complete a section 5(2) instead.

Comments

The figures indicate a levelling off of the low usage of Section 5(4). This is likely to be due to the fact that most patients are now admitted under Section due to the Cheshire West ruling of 2014 with less informal admissions and very thorough assessments of capacity prior to admission.

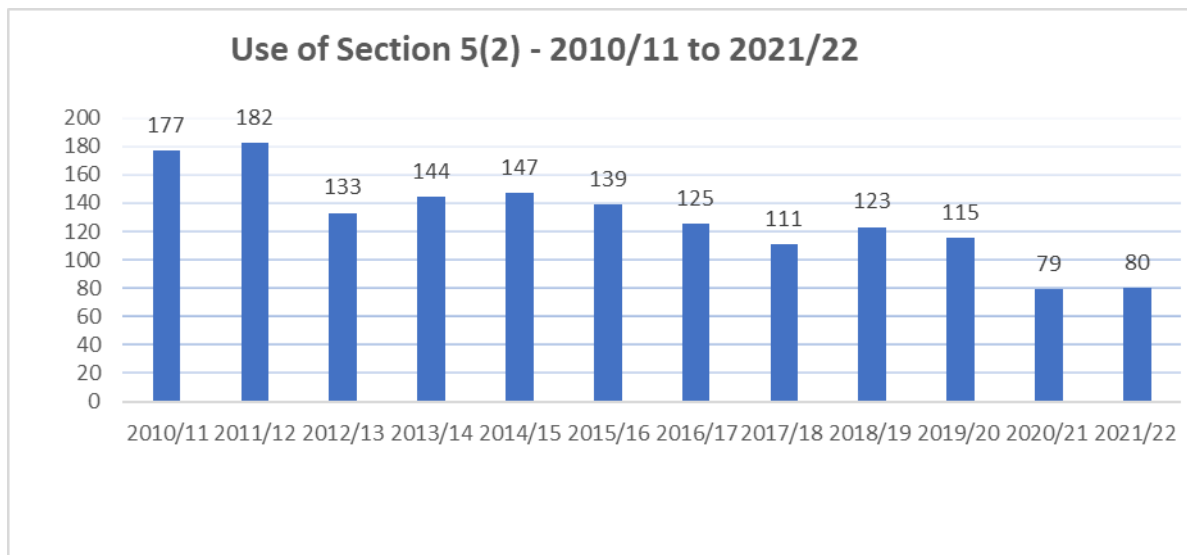


6.2 **Section 5 (2)**

Section 5(2) is a section that allows for the detention of a person already in hospital for up to 72 hours. It is designed to provide the time required to complete a Section 2 or 3 when the person wishes to leave hospital before the necessary arrangements for these sections can be made.

Comments

The use remains relatively low for the last two years. The admitting professionals must consider the least restrictive option in regard to admission. The 5(2) is only used when there is a change in presentation in the patient's mental health later in the delivery of their care. If the patient is wanting to leave and would pose a risk to themselves or others, it is appropriate for the doctor to consider a holding power under section 5(2) whilst arranging for a full MHA assessment to be carried out.

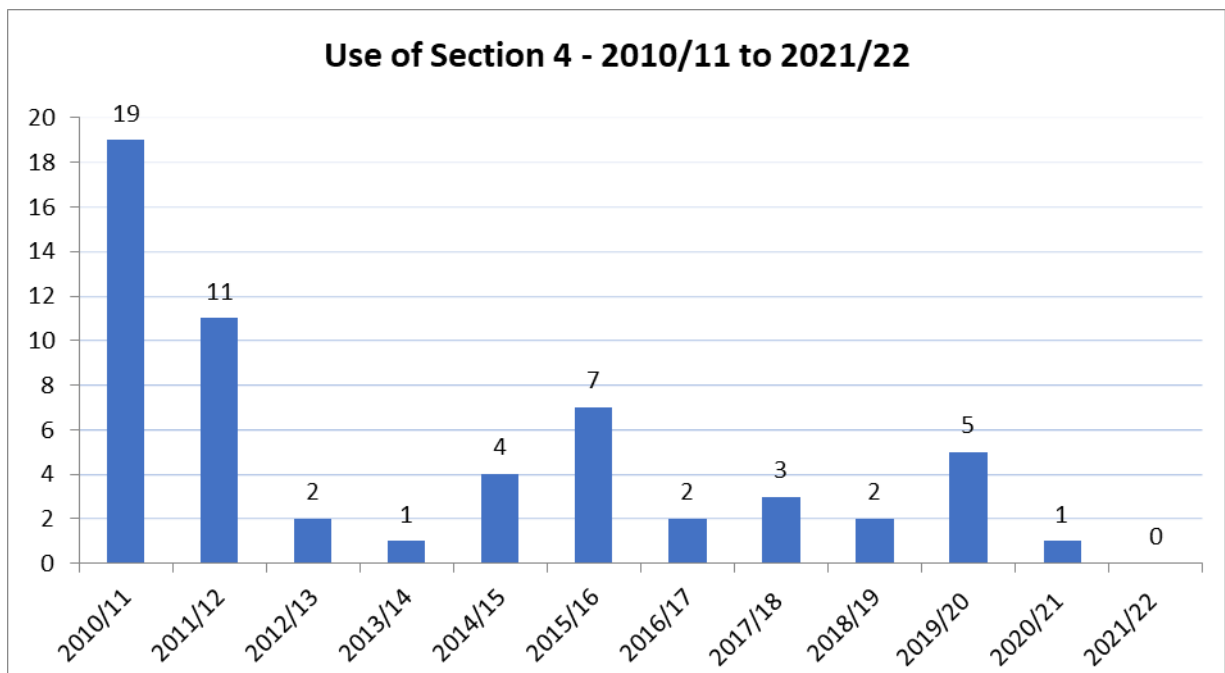


6.3 **Section 4**

Section 4 is a section that allows a person to be admitted from the community and detained in hospital for up to 72 hours. It may be applied when an AMHP wants to place a person under Section 2 or 3 but are unable to get two doctors as required and the person needs to be admitted urgently.

Comments

The use of Section 4 has remained low for the past eight years and in fact has not been used in the last 12 months. This is excellent as it appears to indicate a ready supply of doctors available to make the second medical recommendation required for a Section 2 or Section 3 even during the restrictions of Covid-19 and the difficulties this has created.



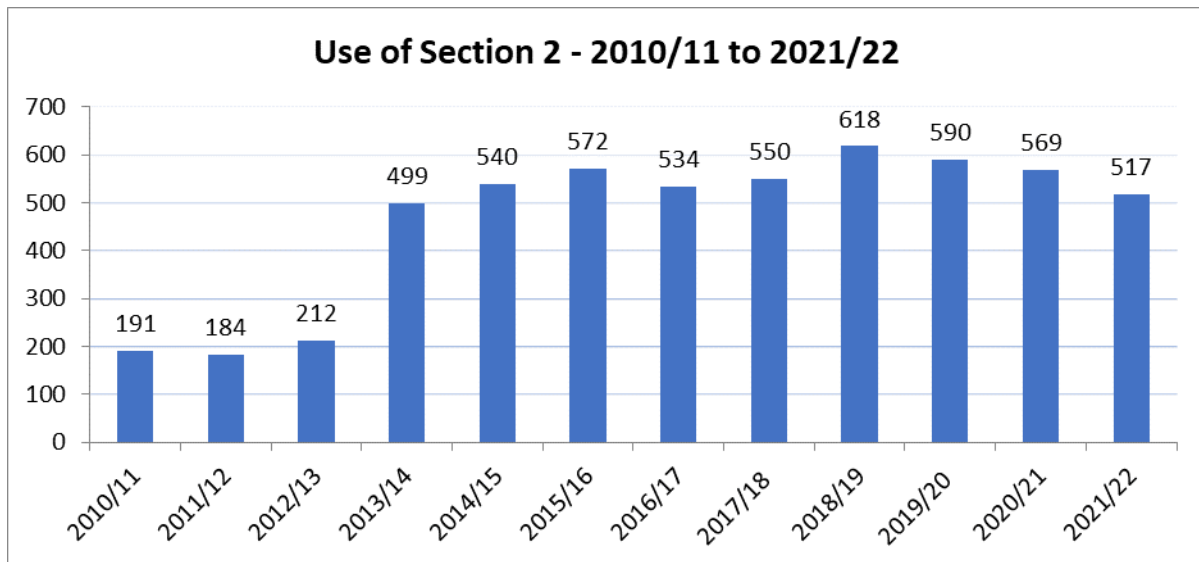
6.4 Section 2

This section gives the power to detain and treat a person in hospital for up to 28 days. It is used for the assessment of people who have, or, are believed to have a mental disorder.

Comments

The use of Section 2 has dropped each year for the last four years. These figures however do not include data for those patients placed out of area due to the unavailability of a bed at the time of the assessment. If that data had been available, the figures would be different.

In regard to the choice professionals sometimes have as to whether Section 2 or Section 3 is the most appropriate, the AMHPs, who are responsible for making the applications, generally view Section 2 as the most appropriate initial power of detention, rather than Section 3, even for well-known clients.

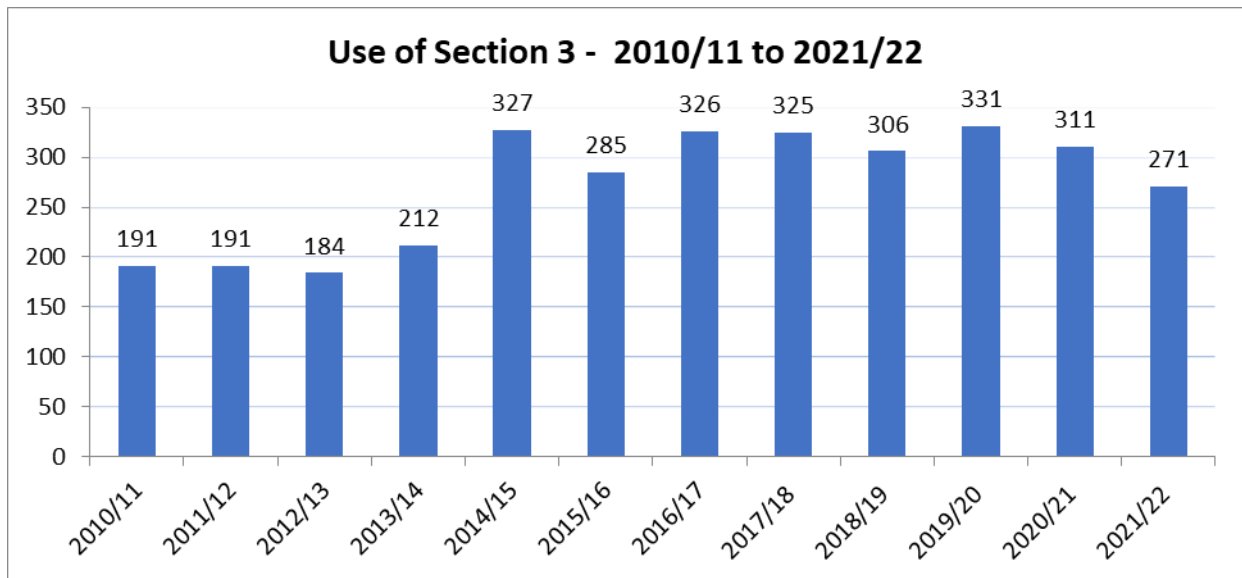


6.5 Section 3

This section gives the power to detain and treat a person in hospital for a period of up to six months and can be renewed.

Comments

The use of Section 3 has also dropped somewhat in the last two years. Again, unfortunately we do not have the data for those patients occupying an out of area bed. This may have shown a different picture.



New sections per month

Numbers of new detentions received	April 21	May 21	June 21	July 21	Aug-21	Sep-21	Oct 21	Nov 21	Dec 21	Jan 22	Feb 22	March 22		Total
Section 5(4)	0	1	3	1	0	0	0	2	1	0	0	1		9
Section 5(2)	3	11	16	5	4	4	4	6	12	7	2	6		80
Section 4	0	0	0	0	0	0	0	0	0	0	0	0		0
Section 2	37	49	54	36	49	41	41	38	38	44	46	44		517
Section 3	18	22	26	27	21	21	24	31	25	13	22	21		271
Sections: 35, 36, or 38	0	0	0	0	0	0	0	0	0	0	0	1		1
Section 37	1	1	1	0	1	0	0	0	0	0	0	0		4
Section 37/41	1	1	1	0	0	0	0	0	0	1	1	0		5
Section 47/49 + 48/49	0	0	0	1	0	0	1	0	1	1	0	0		4
New CTOs in Month	3	6	2	7	5	6	1	3	5	2	5	4		49
Total per month	63	91	103	77	80	72	71	80	82	68	76	77		940

6.7 Section 136 information

Section 136 Data	Place of Safety used Total	LMH	ACMH	Police	Other	Outcome Terminated	Informal Ad	Regrade S2/S3	CTO Recall	Transfer	Age Profile 0-17	18-30	31-45	46-59	60+	Male	Female	Indeterminate	Total
April 21	14	5	9	0	0	8	1	3	1	1	0	2	10	1	1	7	7	0	14
May 21	11	5	6	0	0	5	2	4	0	0	0	5	4	2	0	8	2	1	11
June 21	12	5	7	0	0	7	0	5	0	0	0	6	4	2	0	9	3	0	12
July 21	16	0	16	0	0	11	2	3	0	0	0	8	6	1	1	4	12	0	16
Aug 21	10	1	6	0	3	7	0	3	0	0	0	3	5	1	1	4	6	0	10
Sept 21	14	2	9	0	3	8	1	5	0	0	2	8	2	1	1	9	5	0	14
Oct 21	11	2	6	0	3	6	1	4	0	0	0	8	2	1	0	4	6	1	11
Nov 21	12	3	4	0	5	7	0	5	0	0	1	4	6	1	0	5	7	0	12
Dec 21	17	4	11	1	1	8	1	8	0	0	0	9	4	2	2	13	4	0	17
Jan 22	15	4	9	0	2	8	0	7	0	0	0	7	4	3	1	7	8	0	15
Feb 22	15	4	5	0	6	8	0	7	0	0	0	7	5	1	2	8	7	0	15
Mar 22	9	2	7	0	0	7	1	1	0	0	0	4	4	1	0	3	6	0	9
Total	156	37	95	1	23	90	9	55	1	1	3	71	56	17	9	81	73	2	156

Use of the Section 136 suites to detain Section 2 patients

During the 12 months of this report the Section 136 suites at Lynfield Mount and the Airedale Centre have been used on 96 occasions to detain patients under section 2 of the MHA whilst waiting for an available bed. This has clearly meant that the suites designated to take clients under S136 are not available, many patients therefore being diverted to local A&E facilities.

The impact on the MHA department is that papers relating to patients detained under Section 2 in the 136 suites have to be processed immediately, amendments obtained speedily, and papers uploaded to S1 in order that scanned papers can be sent when the patient is transferred out of hours. Once the transfer has taken place a great deal of chasing is required to obtain the statutory accepting document from the new hospital. Original papers then have to be posted out the next working day. The process continues in reverse when a local bed is located, and the patient is transferred back.

Analysis of Section 136 data for the period 01.04.21 to 31.03.22:

Whilst there had been a steady increase in the use of Section 136 over the last 12 months its use has dropped sharply. Clearly the blocking of the S136 suites with detained patients will have had an impact on these numbers. The number of occasions when service users were brought to our facilities in the last 12 months was 132 (plus 24 taken to other facilities outside the Trust) as opposed to 340 Section 136 episodes in the previous financial year.

The Street Triage team have continued to work with the police during this time, supporting them and where appropriate directing clients away from the necessity to arrest and detain under Section 136.

Numbers of S136s received in previous years:

156 in 2021/22
340 in 2020/21
328 in 2019/20
253 in 2018/19
197 in 2017/18
177 in 2016/17
167 in 2015/16

Analysis of data for this financial year:

- 24% (37) came to Lynfield Mount Hospital.
- 61% (95) came to Airedale Centre for Mental Health.
- 15% (24) came to an alternate Place of Safety

Outcomes:

- 58% (90) of S136s were Terminated
- 35% (55) were admitted under Section 2
- 6% (9) were Admitted Informally
- 0.5% (1) were Transferred
- 0.5% (1) were CTO Recall

Gender Profile:

- 52% (81) were Male
- 47% (73) were Female
- 1% (2) was Indeterminate

Age Profile:

- 2% (3) were aged under 18
- 46% (71) were aged 18-30
- 36% (56) were aged 31-45
- 10.5% (17) were aged 46-59
- 5.5% (9) was aged 60 and over

Ethnicity Profile:

- 0.6% (1) African
- 0.6% (1) Bangladeshi
- 1.2% (2) Caribbean
- 0.6% (1) Iranian
- 8% (13) Mixed British
- 6% (10) Not stated
- 0.6% (1) Other Asian
- 1.2% (2) Other white
- 10.% (16) Pakistani
- 0.6% (1) Polish
- 0.6% (1) White & Asian
- 69% (107) White British
- 1.2% (2) White Irish

6.8 Community Treatment Orders (CTOs)

Since the introduction of CTOs in 2008, we have had an average of 52 new CTOs each year. This year we received 49 new orders. The most notable impact on the introduction of CTOs has been on the numbers of CTO appeals and renewals heard by hospital managers. The chart below shows that, a large proportion of cases heard by hospital managers (44%), are to consider Community Treatment Orders.

Period	Apr 11- Mar 12	Apr 12 – Mar 13	Apr 13 – Mar 14	April 14- Mar 15	April 15- Mar 16	April 16- Mar 17	April 17- Mar 18	April 18 – Mar 19	April 19 – March 20	April 20 - March 21	April 21 – March 22
New CTOs	54	45	51	62	53	64	55	40	53	45	49
CTO Hearings to HMs	25	63	65	61	72	60	66	61	48	59	50
Section hearings to HMs	45	98	74	90	92	71	55	50	73	80	64
Total HM hearings	74	167	143	158	169	131	121	111	121	139	114
% CTO hearings	34%	38%	45%	39%	42%	46%	55%	55%	39%	42%	44%

The amount of activity in relation to CTOs is considerable:

Each new CTO client needs a certificate authorizing treatment within one month and thereafter needs reviewing at least six monthly. During the 12 month period of this report, 35 certificates of urgent treatment (Section 64G) were issued whilst awaiting a 2nd opinion (SOAD); 21 certificates were issued by the SOADs (CTO11); and 50 certificates were issued by the RCs (CTO12s) where the patient was consenting and had the relevant capacity. All this needs careful monitoring by the MHA Officers.

A number of clients will need to be recalled. The length of time of stay on the ward under recall can't exceed 72 hours without the consultant taking action, which can be either, to allow the client to return to the community, to allow the client to remain informally on the ward, but still subject to the CTO rules, or to revoke the order. There were 14 clients recalled for treatment, eight of whom agreed to have their depot at home after being recalled, therefore the recall was cancelled, five were allowed to return home after successfully receiving the depot in hospital, and one had the recall cancelled before being served as the client agreed to take the depot at home.

Revocation: An additional 14 clients were recalled but were too unwell to return to the community and therefore had their CTO revoked following a MHA assessment. For each client whose CTO is revoked, the MHA officers must refer them for a Mental Health Tribunal and ensure that there is new authority immediately to treat in hospital.

Termination: Clients are also taken off CTO as soon as they no longer need the provisions of the Act to keep them well, this is known as the CTO being terminated. In the period of this report 15 clients on CTO had their CTO terminated, 14 by the RC and one following by a panel of hospital managers. This shows that the guiding principle outlined in the MHA Code of Practice (the least restrictive option) is being considered throughout the client's delivery of care.

7. Use of Deprivation of Liberty Safeguards

Applications for DOLs have only been made on only six occasions in the period of this report. This is a positive change from higher numbers in previous years as the MHA not only provides more safeguards for patients within our hospitals, but the qualified staff are much more familiar with the legislation that applies.

However, when the Liberty Protection Safeguards (LPS) come into force, the situation could change again if LPS is found suitable for more of our compliant patients who lack the relevant capacity to be admitted informally. We await the new Code of Practice and guidance before we can establish as to whether this might be the case or not.

8. Use of the MHA in the general hospitals

The Care Trust has Service Level Agreements with both ANHSFT and BTHFT in relation to the administration, scrutiny and training of the MHA.

MHA Activity at Bradford Royal Infirmary:

Use of Section 5(2) - 50
Use of Section Two - 38
Use of Section Three – 1

Monitoring and compliance: Each section is scrutinized by the MHA officers to ensure compliance with the Act and amendments called for and received where needed. All section 5(2)s are checked for outcome of MHA assessments within the 72 hour time frame. Meetings take place on a monthly basis between the MHA Advisor and an officer from BRI's Risk Department, currently via Microsoft Teams.

Training provided: This has been put on hold since the Covid-19 Pandemic but will be resumed as soon as requested by the general hospital. However, the team is available for support and advice during normal office hours and training can resume via Microsoft Teams as soon as the hospital requests it.

MHA Activity at Airedale General Hospital:

Use of Section 5(2) – 18
Use of Section Two – 26
Use of Section Three – 2

The figures above represent the papers received by the MHA Department. Although the quarterly meetings have not taken place during Covid restrictions, some training has been delivered via Microsoft Teams.