



## TERMS OF REFERENCE

### MENTAL HEALTH LEGISLATION SCRUTINY GROUP

Version	Issued to:	Date	Comments
V1	Mental Health Legislation Scrutiny Sub-Committee	14.07.2014	
	Mental Health Act Monitoring Committee	11.08.2014	Approved
V2	Mental Health Legislation Scrutiny Sub-Committee	November 2014	Approved
	Mental Health Legislation Monitoring Committee	04.12.2014	Approved
V3	Mental Health Legislation Scrutiny Sub-Committee	August 2017	Approved
	Mental Health Legislation Committee	12.09.2017	Approved
V4	Mental Health Legislation Scrutiny Sub-Committee	November 2017	Approved
	Mental Health Legislation Committee	07.12.2017	Approved
V5	Mental Health Legislation Scrutiny Sub-Committee	August 2019	Approved
	Mental Health Legislation Committee	17.09.2019	Approved
V6	Mental Health Legislation Scrutiny Sub-Committee	August 2019	Approved
	Mental Health Legislation Committee	01.09.2020	Approved
V7	Mental Health Legislation Scrutiny Sub-Committee	09.11.2023	Approved

	<b>Mental Health Legislation Committee</b>	18.12.2023	Approved
V8	<b>Mental Health Legislation Scrutiny Sub-Committee</b>	14.11.2024	Approved
	<b>Mental Health Legislation Committee</b>	02.12.2024	For Approved

## MENTAL HEALTH LEGISLATION SCRUTINY GROUP

### 1. Constitution

- 1.1 The Mental Health Legislation Scrutiny Group (the Group) was established as a Sub-Group of the Mental Health Legislation Committee and was constituted from 14<sup>th</sup> July 2014.

### 2. Membership

- 2.1 The membership of the group shall comprise:

Title
Head of Strategy & Service Planning, MH&LD (Chair)
Head of Service Older Adult
Head of Service Learning Disabilities
Head of Service S-CAMHS
Medical Representative
GP Cluster Representative
Mental Health Legislation Manager (Vice-Chair)
Mental Health Act Administration Lead
Service Managers– Carmarthenshire County Council/ Pembrokeshire County Council / and Corporate Manager Ceredigion County Council
Police & Ambulance Services – to be included for circulation of papers and co-opted into the group as and when required
2 x Nominated Service Users: patient representative and carer representative
Professional Lead Occupational Therapy
Nominated representative from Advocacy Network
Liaison Representative

- 2.2 The membership of the group will be reviewed on an annual basis.

### 3. Quorum and Attendance

- 3.1 A quorum shall consist of no less than a third of the total Membership (five) and must include as a minimum the Chair or Vice Chair of the group.
- 3.2 Any officer of the University Health Board or from a partner organisation may, where appropriate, be invited to attend.

- 3.3 The group may also co-opt additional independent 'external' experts from outside the organisation to provide specialist knowledge.
- 3.4 Should any Member be unavailable to attend, they may nominate a deputy, to attend in their place.
- 3.5 The group may ask any or all of those who normally attend but who are not members to withdraw to facilitate open and frank discussion of particular matters.

#### **4. Principal Duties**

- 4.1 The purpose of the Mental Health Legislation Scrutiny Group is to report to the Mental Health Legislation Committee that those functions of the Mental Health Act 1983 and the Mental Health (Wales) Measure 2010 which are delegated to officers and staff are being carried out correctly and are operating properly allowing for inadequacies to also be reported. This principle will also be followed by representative scrutiny group members to related committees in the partner Local Authorities.
- 4.2 In particular:
  - 4.2.1 Assure that the Health Board's statutory duties as defined by the Mental Health Act 1983, as amended, are exercised reasonably, fairly and lawfully;
  - 4.2.2 Assure that the provisions of the Mental Health (Wales) Measure 2010 are implemented and exercised reasonably, fairly and lawfully;
  - 4.2.3 Assure compliance with the Mental Health Act 1983 *Code of Practice for Wales*, & Mental health (Wales) Measure 2010 Code of Practice
  - 4.2.4 Full implementation of any recommendations / actions outlined in Health Inspectorate Wales, NHS Executive and other external scrutiny bodies reports of visits to Mental Health and Learning Disability Services in the Health Board with regards to legislation.
  - 4.2.5 Local Authority representatives will provide quarterly activity reports on mental health activity including any difficulties or challenges faced by the local authorities at arranging assessments.
  - 4.2.6 Advise the Mental Health Legislation Committee of any areas of concern with suggested remedial action for any concerns raised.

#### **5. Operational Responsibilities**

- 5.1 The Mental Health Legislation Scrutiny Group will provide assurance to the Mental Health Legislation Committee on the:-
  - 5.1.1 Operation of the Mental Health Act 1983 (the 1983 Act), as amended;
  - 5.1.2 Operation of the Mental Health (Wales) Measure 2010 (the Measure);
  - 5.1.3 Wider operation of Mental Health Legislation and especially the broader partnership inputs from the Local Authorities and Dyfed Powys Police.

- 5.2 Monitor and report on the implementation of agreed action plans arising from Healthcare Inspectorate Wales visits in relation to issues pertaining to the Mental Health Act or Measure, the NHS Executive and other external scrutiny bodies;
- 5.3 Monitor and report on the Mental Health & Learning Disability Directorate Risk Register in relation to issues pertaining to the MHA or Measure. Respective Local Authority Risk Registers will be reported upon in a similar timeline through respective Local Authority structures;
- 5.4 Monitor and report on the four phases of Right Care Right Person – to be led by Dyfed Powys Police;
- 5.5 Monitor and report on any developments in relation to the government Review of the Mental Health Act;
- 5.6 Monitor and report upon matters of risk relating to compliance with Mental Health Legislation and request assurance that those risks are being properly managed from Quality Safety Experience Sub Committee;
- 5.7 Monitor and report that arrangements for the delegated authority of approval for Approved Clinician's and S12 Doctors in Wales are compliant with the Directions and Guidance from the Welsh Government;
- 5.8 Monitor and report on the training requirements of those health and social care staff who exercise the functions of the Mental Health Act and Mental Health Measure;
- 5.9 Ensure that relevant legislation, in particular, the Mental Capacity Act 2005, the Human Rights Act 1998, the Equality Act 2010, and the Data Protection Act 1998, are linked into the Scrutiny Group.

## **6. Standing items**

- 6.1 Standing Items:
  - 6.1.1 Declarations of Interest
  - 6.1.2 Scrutiny Group and MHLC Table of Actions
  - 6.1.3 Mental Health & Learning Disabilities Directorate Risk Registers in relation to issues pertaining to the MHA or Measure
  - 6.1.4 Quarterly report detailing the operation of relevant Mental Health Legislation including the Mental Health (Wales) Measure 2010
  - 6.1.5 Quarterly report on Right Care Right Person during it's implementation

## **7. Agenda and Papers**

- 7.1 The agenda will be based around the identified risks, matters arising from previous meetings, MHLC Table of Actions, issues emerging throughout the

year and requests from group members. Following approval, the agenda and timetable for receipt of papers will be circulated to all group members.

- 7.2 All papers should have relevant sign off and state who that is before being submitted to the group Secretary.
- 7.3 The agenda and papers for meetings will be distributed seven calendar days in advance of the meeting.

## **8. Frequency of Meetings**

- 8.1 The group will meet quarterly and shall agree an annual schedule of meetings. Additional meetings will be arranged as determined by the Chair of the group in discussion with the group lead.
- 8.2 The Chair of the group, in discussion with the group Secretary shall determine the time and the place of meetings of the group and procedures of such meetings.

## **9. Accountability, Responsibility and Authority**

- 9.1 The group will be accountable to the Mental Health Legislation Committee and respective committees in each Local Authority within the Hywel Dda area for its performance in exercising the functions set out in these terms of reference.
- 9.2 The group is authorised by the Mental Health Legislation Committee to consider or have investigated any activity within its terms of reference. In doing so, the group shall have the right to inspect any documentation of the University Health Board relevant to the group's remit and ensuring patient/client and staff confidentiality, as appropriate. It may seek relevant information from any:
  - 9.2.1 Employee (and all employees are directed to co-operate with any reasonable request made by the group);
  - 9.2.2 Other Committee, Sub-Committee or group established by the Board to assist in the delivery of its functions by supplying information for scrutiny functions – safety, therapeutic delivery, effective care and efficient delivery

## **10. Reporting**

- 10.1 The group, through its Chair and members, shall work closely with the Mental Health Legislation Committee to provide advice and assurance to the Board.
- 10.2 The group, may establish groups or task and finish groups to carry out on its behalf specific aspects of groups business. The group will receive written update reports following each meeting which details the business undertaken on its behalf.

10.3 The groups Chair shall:

10.3.1 Report on the work conducted quarterly to the Mental Health Legislation Committee on the Sub-Groups activities. This includes written updates on activity, Bring to the Mental Health Legislation Committee's specific attention any significant matter under consideration by the group.

## **11. Secretarial Support**

11.1 The group Secretary shall be determined by the group Chair. The administrative arrangements and support for the sub group shall be sourced from within the Mental Health and Learning Disability directorate.

## **12. Review Date**

12.1 These terms of reference and operating arrangements shall be reviewed on an annual basis by the group