

4.1.2

MH Power of Discharge Sub Committee Minutes 06.08.2019

*Presenter: Sarah Roberts*

4.1.2 aug report to MHLAC.doc

4.1.2 Draft Minutes of the Hospital Managers Power of Discharge Sub-Committee 06.08.2019.doc

4.1.2 PODSC ToR.doc



**PWYLLGOR SICRWYDD DEDDFWRIAETH IECHYD MEDDWL  
MENTAL HEALTH LEGISLATION ASSURANCE COMMITTEE**

<b>DYDDIAD Y CYFARFOD: DATE OF MEETING:</b>	17.09.2019
<b>TEITL YR ADRODDIAD: TITLE OF REPORT:</b>	The Power of Discharge Sub Committee Minutes
<b>CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:</b>	Joseph Teape, Deputy CEO and Executive Director of Operations
<b>SWYDDOG ADRODD: REPORTING OFFICER:</b>	Sarah Roberts, Mental Health Act Administration Lead

**Pwrpas yr Adroddiad (dewiswch fel yn addas)  
Purpose of the Report (select as appropriate)**

The purpose of the paper is to present to the Mental Health Legislation Assurance Committee the minutes from the last Power of Discharge Sub Committee which was held on 6<sup>th</sup> August 2019.

**ADRODDIAD SCAA  
SBAR REPORT**

**Sefyllfa / Situation**

The Mental Health Legislation Assurance Committee to be assured that the work undertaken by the Power of Discharge Sub Committee during the quarter are carried out correctly.

**Cefndir / Background**

This Report provides assurance in respect of the work that has been undertaken by the Power of Discharge Sub-Committee during the quarter, that those functions of the Mental Health Act 1983 (the Act), as amended are being carried out correctly; and that the wider operation of the 1983 Act in relation to the Local Health Board's area is operating properly.

The hospital managers must ensure that patients are detained only as the Act allows, that their treatment and care fully comply with it, and that the patients are fully informed of, and are supported in exercising, their statutory rights. Hospital managers must also ensure that a patient's case is dealt with in line with other legislation which may have an impact, including the Mental Capacity Act 2005, the Human Rights Act 1998 and the Data Protection Act 1998.

**Asesiad / Assessment**

A copy of the Hospital Managers Power of Discharge Sub Committee minutes dated 6<sup>th</sup> August 2019:



Draft minutes  
060819.doc

The amendments to be made to the Terms of Reference were discussed in April's meeting. The tracked changes are attached for approval by the MHLAC



Tracked ToR  
changes.doc

### Argymhelliad / Recommendation

**The MHLAC is requested to approve the Terms of Reference made to the PODSC.**

- All other information is for information only

<b>Amcanion: (rhaid cwblhau) Objectives: (must be completed)</b>	
Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	
Safon(au) Gofal ac Iechyd: Health and Care Standard(s):	Standards 1,6,7,8,10,12,14 and 15
Amcanion Strategol y BIP: UHB Strategic Objectives:	The Mental Health Act Monitoring Committee provides an assurance to the Board of the organisation's compliance with primary legislation in Wales including the Mental Health Act (1983), with the 2007 amendments, and the Mental Health (Wales) Measure 2010
Amcanion Llesiant BIP: UHB Well-being Objectives: <a href="#">Hyperlink to HDdUHB Well-being Statement</a>	

<b>Gwybodaeth Ychwanegol: Further Information:</b>	
Ar sail tystiolaeth: Evidence Base:	N/A
Rhestr Termau: Glossary of Terms:	Outlined in report
Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Ceisiadau Gofal Sylfaenol: Parties / Committees consulted prior to Mental Health Legislation Assurance Committee:	The Mental Health Legislation Scrutiny Group The Mental Health Act Operational Group

<b>Effaith: (rhaid cwblhau) Impact: (must be completed)</b>	
<b>Ariannol / Gwerth am Arian: Financial / Service:</b>	Non-compliance with the Mental Health Act could result in legal proceedings being brought against the Health Board who is the detaining authority.
<b>Ansawdd / Gofal Claf: Quality / Patient Care:</b>	There is a patient representative on the Mental Health Legislation Assurance Committee
<b>Gweithlu: Workforce:</b>	NA
<b>Risg: Risk:</b>	Risk of non-compliance with the 1983 Act and with the Welsh Government's <i>Mental Health Act 1983 Code of Practice for Wales</i> and with the <i>Good Governance Practice Guide – Effective Board Committees (Supplementary Guidance) Guidance</i> .  Safety of patients  Assurance – use of statutory mechanisms
<b>Cyfreithiol: Legal:</b>	As outlined above
<b>Enw Da: Reputational:</b>	Mental Health Act media focus
<b>Gyfrinachedd: Privacy:</b>	As above
<b>Cydraddoldeb: Equality:</b>	N.A

**COFNODION Y CYFARFOD**  
**PWYLLGOR HOSPITAL MANAGERS POWER OF DISCHARGE SUB COMMITTEE**  
**DRAFT MINUTES OF THE**  
**HOSPITAL MANAGERS POWER OF DISCHARGE SUB COMMITTEE MEETING**

Date and Time of Meeting:	Tuesday 6 <sup>th</sup> August at 1.30pm
Venue:	Board Room, Corporate Offices, Ystwyth, Hafan Derwen

Present:	<p>Professor John Gammon, Independent Board Member (Chair to POD Sub-Committee)</p> <p>Mr Mike Lewis, Independent Board Member</p> <p>Mrs Angela Brown, Member Appeals Panel</p> <p>Mrs Mary Ferrie, Member Appeals Panel</p> <p>Mrs Jane Jeffs, Member Appeals Panel</p> <p>Mr Phil Layton, Member Appeals Panel</p> <p>Mrs Lyn Maliphant, Member Appeals Panel</p> <p>Mrs Joan Palmer, Member Appeals Panel</p> <p>Mr Stephen Smedley, Member Appeals Panel</p> <p>Mrs Terrill Chadwick, Member Appeals Panel</p> <p>Mr Mike Pointon, Member Appeals Panel</p> <p>Mrs Beverly Mills, Member Appeals Panel</p> <p>Mr Rafeek Chattun, Member Appeals Panel</p>
In Attendance:	<p>Sarah Roberts, Mental Health Act Administration Lead</p> <p>Sue Williams, Independent Mental Health Advocate, Advocacy West Wales</p> <p>Anthony Tracey, Assistant Director of Informatics</p>

Governance:		
Agenda Item	Item	Action
HMPODSC (19) 19	Introductions included Mr Rafeek Chattun, new appeals panel member who has recently been appointed and is currently observing hearings as part of his training.	
	<p>Apologies for Absence were received from:</p> <p>Mrs Jane Jannotti, Member Appeals Panel</p> <p>Mrs Jan Hawes, Member Appeals Panel</p> <p>Mrs Sue Richards, Member Appeals Panel</p> <p>Mrs Gill Davies, Member Appeals Panel</p> <p>Mrs Delyth Raynsford, Independent Member</p> <p>Mr Owen Burt, Independent Member</p> <p>Ruth Bourke, Mental Health Act Administrator</p>	
HMPODSC (19) 20	<b>Declarations of Interests</b>	
	No declarations declared.	

Hospital Managers Power of Discharge Sub-Committee  
Part 1  
Sub Committee Business and Information

HMPODSC (19) 21	<p><b>Minutes of Meeting Held on 9<sup>th</sup> April 2019</b></p> <p>Following discussion with Alison Gittins, Board Committee Secretary, Mike Lewis proposed an amendment to the minutes as it was felt that the Committee could not make the decision in relation to increasing the Hospital Managers rates. Prof John Gammon acknowledged that we had previously benchmarked against all other Health Boards in Wales and that our payments needs to be aligned with theirs. Discussion also took place with Liz Carroll and Joe Teape. It was agreed that an amendment be made at HMPODSC (19) 04 to read as follows (Amendments in bold):</p> <p>Sarah Roberts notified members that travelling expenses had been increased to 45p per mile to align with other Health Boards in Wales and that all recent submitted claim forms had been paid this.</p> <p>Sarah also informed members that she was in a position to provide members with an increase £5 per hearing that would not be capped as to number of hearings undertaken (previously capped for two or more hearings). However suggested that this be considered appropriately by members balancing the burden against the financial savings required by the Board. Members <b>acknowledged</b> the importance of the role <b>balanced against the financial savings required by the Board</b>. Sarah Roberts to provide an email to confirm increase to all lay members.</p> <p>Alison Gittins also suggested meeting with this sub-committees secretary in order to review the Terms of Reference.</p>	Secretariat
HMPODSC (19) 22	<p><b>Table of Actions and Matters Arising from the Minutes of the Meeting Held on 9<sup>th</sup> April 2019</b></p> <p>Table of Actions:</p> <p><u>Information Governance, IT Security</u> To remain on table of actions until either another device is provided or an alternative solution found.</p> <p>All other actions completed.</p>	Secretariat
HMPODSC (19) 23	<p><b>PODSC Annual Report 2018/2019</b></p> <p>The annual report provides assurance to the Board in respect of the work that has been undertaken by the Hospital Managers Power of Discharge Sub-Committee during 2018/2019 was provided for information. The report highlights key actions and addresses developments.</p>	
HMPODSC (19) 24	<p><b>Discussion of Learning and Governance from panel hearings</b></p> <p>Some discussion took place about matters arising from hearings during the last quarter and situations worth noting:-</p> <p><u>Panel Members checking papers</u> There have been one or two instances where panel members have</p>	

	<p>been asked to attend hearings where the dates requested and papers or emails don't match and panel members haven't clarified the correct date/time. Panel members should ensure they always check papers prior to the day of the hearing and also should ensure there are no conflicts of interest between panel member's personally knowing patients or their families. It is always unfortunate for the MHA Administration team to have to cancel hearings because of these points happening. It was agreed by all to ensure members check their papers in good time.</p> <p>Mike Ponton also felt that there has been a change in structure to some of the reports which is an improvement.</p>	
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<p>HMPODSC (19) 25</p>	<p><b>Update on Hospital Managers appraisals</b></p>	
	<p>Professor John Gammon informed members that the appraisal process for lay members had been completed by the MHA Administration team and a paper was provided to the group with common themes from the meetings.</p>	
	<p><u>Training</u> Further training sessions on Deprivation of Liberty Safeguards and IT were requested by a number of members and this has been tabled on the agenda.</p>	
	<p><u>Becoming a Chair</u> Several members confirmed they would be willing to undertake the role of chairing panel hearings. Some wished to only undertake in exceptional circumstances and some preferred to only chair at uncontested renewals to gain experience. Further discussion was held and it was agreed that it would be beneficial at the next meeting to have a half hour discussion on how to be a Chair and share experiences.</p>	<p>Secretariat</p>
<p><u>Use of a laminated agendas</u> One member made a suggestion that a generic laminated agenda be made available at hearings to help support all attendees to keep the hearing on track. It was agreed by all that this was a good idea and would be implemented.</p>	<p>Secretariat</p>	
<p><u>Inviting patients to provide written information at hearings</u> One member suggested that patients who apply to hospital managers be invited to put their own opinions in writing beforehand and be included as part of the pack. It was agreed that this would not be suitable for all patients. Sue agreed to discuss this further with Natasha and the other IMHAs and feed back to the group.</p>	<p>SW</p>	

<p><b>Information Governance/IT Security</b></p>		
<p>HMPODSC (19) 26</p>	<p>Anthony Tracey, Assistant Director of Informatics attended to address the ongoing concerns that have been raised by members</p>	

	<p>about the level of sensitive data that is being provided to them electronically.</p> <p>Unfortunately equipment was not distributed as previously agreed as the HB have not been able to secure enough RSA tokens which are required to access Health Board systems. There is currently a delay of 8-12 weeks.</p> <p>Representatives from IT are also examining a second solution and are considering a product called Microsoft Teams, which is an internet based web site that works in any browser enabling chat, shared calendar and notebook which would work by members receiving an email link from the MHA Admin team to log into. This would allow members to access any documents.</p> <p>Members are using their devices at hearings currently and Sarah Roberts voiced her concern about the lack of wi-fi availability, particularly in Cwm Seren. Mike Ponton acknowledged that all those sitting should have already done their preparation prior to the hearing and be familiar with what had been sent out. He suggested a guide be written in future on the general principles the process.</p> <p>Anthony Tracey said it would take 4/5 weeks for IT to pull together a mock-up of the new system and suggest some volunteers be available to test it. He would send a few devices to the MHA Administration for them to be tested for a period of time, this would mean it was a longer term process.</p> <p>It was agreed that we trial this proposal and arrange training session once the system is available when members will be asked to bring their own devices to test. Antony Tracey is happy to bring along other different devices and will be contacted in order to provide the training.</p> <p>The email sent to Professor Gammon providing more details on the new system will be circulated with the minutes.</p>	<p>Secretariat</p> <p>AT/SR/RB</p> <p>Secretariat</p> <p>Secretariat</p>
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<b>For Information</b>		
	<p><b>Operation of S23 Mental Health Act 1983 Report on the use of the Mental Health Act 1983 – 1<sup>st</sup> January 2019 – 30<sup>th</sup> June 2019</b></p>	
<p>HMPODSC (19) 27</p>	<p>Sarah Roberts presented information from the report summarising the number of applications, reviews and discharges to hospital managers and Mental Health Review Tribunals (MHRTs) during the previous two quarters.</p> <p>It was noted there had been a reduction in section 2 applications and that the majority of the cases the panel members hear are</p>	



	renewals. The rate of discharges by Responsible Clinicians is high as there is a quicker turnaround of patients on wards. During this period there was one discharge made by the Hospital Managers.	
	<b>Minutes Mental Health Legislation Assurance Committee 21<sup>st</sup> March 2019 &amp; 24<sup>th</sup> June 2019</b>	
HMPODSC (19) 28	Minutes of the Mental Health Legislation Assurance Committee held in March and June 2019 were attached for information.	
	<b>IMHA Report</b>	
HMPODSC (19) 29	Members received the report provided by Natasha Fox, Advocacy West Wales for information.  Concerns were raised at the continuing difficulties in granting section 17 escorted leave due to insufficient staffing levels. This has been highlighted and escalated throughout various forums but remains an issue that the Board continues to address. Professor Gammon to raise this issue with Sara Rees, Interim Director of Nursing.	JG
	<b>Update on Service Change</b>	
HMPODSC (19) 30	An update on mental health service developments provided by Tom Alexander was attached for information. Professor Gammon does not feel that it's appropriate for presentations to be delivered at all meetings.	
	<b>Any Other Business</b>	
HMPODSC (19) 31	None	

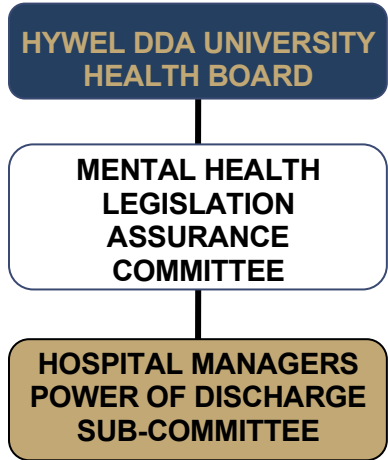
Hospital Managers Power of Discharge Sub-Committee  
Part II  
Sub-Committee Training

	<b>Training Presentations: Deprivation of Liberty Safeguards</b>	
HMPODSC (19) 32	Steve Hughes, DoLS Team Coordinator provided an update on current DoLS activity, how assessments are carried out and the complicated interface between DoLS and the MHA. He explained about the future of DoLS and the changes to legislation which come into effect in October 2020 where it will apply to all settings and to people from 16 years of age and over. A copy of his presentation to be circulated with the minutes.	Secretariat
	<b>Further Training Requirements</b>	

HMPODSC (19) 33	<p>The following future training requirements were identified and to be arranged as follows:-</p> <ul style="list-style-type: none"> <li>• A specific training session on Information Technology (as detailed in minutes)</li> <li>• The role of the Chair (as detailed in minutes)</li> <li>• The identification and role of nearest relative by Richard Griffith</li> </ul>	Secretariat
HMPODSC (19) 34	<p>Members were reminded of the All Wales Hospital Managers training day in Builth Wells on the 17<sup>th</sup> September 2019 for those who have not responded to the invite could they please do so.</p>	All

	<b>Date and Time of Next Meeting</b>	
HMPODSC (19) 35	<p>Members noted the dates and time of the next meeting:</p> <p><b>Wednesday 4<sup>th</sup> December 2019 at 1:30pm – Ystwyth Board Room, Hafan Derwen, St Davids Park, Carmarthen.</b></p>	

DRAFT



**TERMS OF REFERENCE**

**HOSPITAL MANAGERS POWER OF DISCHARGE SUB-COMMITTEE**

Version	Issued to:	Date	Comments
V2	Mental Health Act Power of Discharge Committee Board	08.03.2012 29.03.2012	
V3	Mental Health Act Power of Discharge Committee Mental Health Legislation Monitoring Committee	13.09.2014 27.09.2014	
V4	Mental Health Legislation Monitoring Committee	04.12.2014	
V5	Hospital Managers Power of Discharge Sub-Committee Mental Health Legislation Assurance Committee	13.08.2015 10.09.2015	
V6	Hospital Managers Power of Discharge Sub-Committee	11.04.2016	
V7	Hospital Managers Power of Discharge Sub-Committee	12.04.2017	Reviewed May 18
V8	Hospital Managers Power of Discharge Sub-Committee	09.04.2018	Approved via Chair's Action
V8	Mental Health Legislation Monitoring Committee	24.06.2019	For Approval

## HOSPITAL MANAGERS POWER OF DISCHARGE SUB-COMMITTEE

### 1. Constitution

- 1.1 The Mental Health Legislation Monitoring Committee (now re-named Mental Health Legislation Assurance Committee), established as a Committee of Hywel Dda University Local Health Board on 27 September 2012, has established a Hospital Managers Power of Discharge Sub-Committee to carry out specific aspects of the Mental Health Legislation Assurance Committee's business on its behalf.

### 2. Membership

- 2.1 The membership of the Sub-Committee shall comprise:

Title
Independent Member (Chair)
All Independent Members
All Appointed Lay Members

- 2.2 Attendees of the Sub-Committee shall comprise:

Title
Mental Health Act Manager (Lead Officer)
Mental Health Act Administrator
Independent Mental Health Advocate

- 2.3 An Independent Member of the University Health Board (UHB) shall undertake the role of Chair of the Sub-Committee.
- 2.4 The membership of the Sub-Committee will be reviewed on an annual basis. The Independent Members retain their membership of the Hospital Managers Power of Discharge Sub-Committee at the discretion of the Board for as long as they remain Independent Members of the Board.
- 2.5 The appointed lay membership must be reviewed every ~~two~~ **three** years and receive an annual appraisal. Appraisals will be used to also develop ongoing training needs of the members.

### 3. Quorum and Attendance

- 3.1 A quorum shall consist of no less than eight and must include as a minimum two Independent Members and two Lay Members. In the absence of the Chair, another Independent Member will chair the meeting.

- 3.2 Additional members may be co-opted to contribute to specialised areas of discussion.
- 3.3 Any senior manager of the UHB or partner organisation may, where appropriate, be invited to attend.
- 3.4 The Head of Internal Audit shall have unrestricted and confidential access to the Chair of the Hospital Managers Power of Discharge Sub-Committee.
- 3.5 The Sub-Committee 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 Hospital Managers Power of Discharge Sub-Committee is to review and monitor how the operation of the delegated functions under Section 23 of the Mental Health Act 1983 (the 1983 Act) and the Code of Practice are being exercised; and to provide assurance to the Mental Health Legislation Assurance Committee (and ultimately to the Board) that the processes employed by the Sub-Committee, tasked with considering whether the power of discharge should be used, are fair, reasonable and exercised lawfully.
- 4.2 A panel of three or more Members drawn from the Hospital Managers Power of Discharge Sub-Committee will hear individual cases where patients or their nearest relative have applied for discharge. The Members also sit on Renewal Hearings – there are collectively known as Hospital Managers Reviews.
- 4.3 Issues of quality and safety will be reported through the Health Board's appropriate governance arrangements.

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

- 5.1 The Sub-Committee will, in respect of its provision of assurance to the Mental Health Legislation Monitoring Committee:
  - 5.1.1 Review and monitor how the operation of the delegated functions under Section 23 of the 1983 Act and the Code of Practice are being exercised;
  - 5.1.2 Discuss the work of individual Panels;
  - 5.1.3 Discuss the training requirements of Review Panel Members and produce a Training Plan for approval by the Mental Health Legislation Assurance Committee;
  - 5.1.4 Discuss any impact of legislative changes on the role of Hospital Managers;
  - 5.1.5 Highlight any impact of service changes; and
  - 5.1.6 Provide learning opportunities.

## 6. Agenda and Papers

- 6.1 The Sub-Committee Secretary is to hold an agenda setting meeting with the Chair and/or Vice-Chair, and the Lead Officer at least six weeks before the meeting date.
- 6.2 The agenda will be based around the Sub-Committee's Work Plan, identified risks, matters arising from previous meetings, issued emerging throughout the year, and requests from Sub-Committee Members. Following approval, the agenda and timetable for papers will be circulated to all Sub-Committee Members.
- 6.3 All papers should have relevant sign off before being submitted to the Sub-Committee Secretary.
- 6.4 The agenda and papers for meetings will be distributed a minimum of **seven** calendar days in advance of the meeting.
- 6.5 The minutes and action log will be circulated to the Members within **fourteen** calendar days to check the accuracy.
- 6.6 Members must forward amendments to the Sub-Committee Secretary within the next **seven** days. The Sub-Committee Secretary will then forward the final version to the Sub-Committee Chair for approval.
- 6.7 Every meeting shall include the following as a standing agenda item:-
  - Discussion of Learning and Governance from panel hearings.
  - A training plan will form the agenda the needs of which are derived from the appraisals process.

## 7. Frequency of Meetings

- 7.1 The Sub-Committee will meet 3 times per year and shall agree an annual schedule of meetings. Additional meetings will be arranged as determined by the Chair of the Sub-Committee at any time providing at least ten working days notice is given.
- 7.2 The Chair of the Sub-Committee, in discussion with the Sub-Committee Secretary shall determine the time and the place of meetings and procedures of such meetings.
- 7.3 The Sub-Committee will operate with a "Part 2" function to focus on training issues.

## 8. Accountability, Responsibility and Authority

- 8.1 The Hospital Managers Power of Discharge Sub-Committee is directly accountable to the Mental Health Legislation Assurance Committee, for its performance in exercising the functions set out in these terms of reference.

- 8.2 Due to the sensitivity of the patient information received, Sub-Committee Members will at all times be aware of the importance of confidentiality, and ensure that they comply with the University Health Board's policies within this area of work.
- 8.3 The Sub-Committee shall embed the University Health Board's values, vision, standards, priorities and requirements, e.g. equality and human rights, through the conduct of its business.
- 8.4 The requirements for the conduct of business as set out in the UHB's Standing Orders are equally applicable to the operation of the Sub-Committee.

## **9. Reporting**

- 9.1 The Sub-Committee, through its Chair and Members, shall work closely with the Mental Health Legislation Assurance Committee's other Sub-Committees (where established), to provide advice and assurance through the:
  - 9.1.1 Joint planning and co-ordination of Board and Committee business; and
  - 9.1.2 Sharing of information
- 9.2 In doing so, the Sub-Committee shall contribute to the integration of good governance across the organisation, ensuring that all sources of assurance are incorporated into the Board's overall risk and assurance framework.
- 9.3 The Sub-Committee may establish groups or task and finish groups to carry out on its behalf specific aspects of Sub-Committee business. The Sub-Committee will receive written update reports following each meeting which details the business undertaken on its behalf.
- 9.4 The Sub-Committee Chair, supported by the Sub-Committee Secretary, shall:
  - 9.4.1 Report formally, regularly and on a timely basis to the Mental Health Legislation Assurance Committee on the Sub-Committee's activities. This includes the submission of Sub-Committee minutes, as well as the presentation of an Annual Report within 6 weeks of the end of the financial year.
  - 9.4.2 Bring to the Mental Health Legislation Assurance Committee's specific attention any significant matter under consideration by the Committee.

## **10. Secretarial Support**

- 10.1 The Sub-Committee Secretary shall be determined by the Sub-Committee Lead.

## **11. Review Date**

11.1 These Terms of Reference and operating arrangements shall be reviewed on at least an annual basis by the Sub-Committee for approval by the Mental Health Legislation Assurance Committee.