

**Solent NHS Trust**  
**Mental Health Act Scrutiny Committee - Terms of Reference**

*Reference to “the Committee” shall mean the Mental Health Act Scrutiny Committee.*  
*Reference to “the Board” shall mean the Trust Board*

**1 Constitution**

- 1.1 Solent NHS Trust Board resolves to establish a Committee of the Board to be known as the Mental Health Act Scrutiny Committee (the Committee). The Committee has no executive powers, other than those specifically delegated in these Terms of Reference. These Terms of Reference will be reviewed at least annually by the Trust Board to ensure they are still appropriate.
- 1.2 As a Committee of the Board, the Standing Orders of the Trust shall apply to the conduct of the working of the Committee.
- 1.3 The Committee will work closely with the Quality Assurance Committee for those aspects of assurance associated with action plans, developed by services, derived externally from significant policy developments, changes in law and reports from the Mental Health Act Reviewer visits and internally through comments and recommendations from the Trust Board – in particular those related to Serious Incidents Requiring Investigation (SIRIs) and Complaints involving people detained under the Mental Health Act 1983 (MHA).
- 1.4 The Committee will also work closely with the Governance & Nominations Committee for those aspects of assurance associated with the appointment of Associate Hospital Managers (AHM). These people are drawn from Non-Executive Directors (NEDs) and independent lay members of the public, with the recruitment and training process being led by the MHA & Mental Capacity Act (MHA&MCA) lead. Appointments shall be formally made by the Governance & Nominations Committee, with periods of service equating to those of NEDs (with whom they make-up the composition of the MHA Managers’ Hearing Panels).

**2 Purpose**

- 2.1 The Committee is responsible for seeking assurance and scrutinising all matters relating to the implementation of the Mental Health Act 1983 within Solent NHS Trust.
- 2.2 The Committee has primary responsibility for seeing that the requirements of the MHA are followed within the Trust. In particular, to seek assurance that patients are detained only as the MHA allows, that their treatment and care accord fully with its provisions, , and that they are fully informed of, and are supported in exercising, their statutory rights. The Committee also has a responsibility to ensure that all Non-Executive Directors and AHMs, who act as Mental Health Act managers for the purposes of hearing appeals against detention, are recruited, updated and subject to regular appraisal as appropriate to their role.
- 2.3 The Committee has a third responsibility; with regard to receiving assurance of the adequacy of training and development opportunities provided for front-line practitioners and of the monitoring of competence regarding the application of the MHA.

### **3 Duties**

#### **3.1 Objectives: -**

- To be assured that processes are in place to assess and monitor performance concerning the application of the MHA – particularly with regard to the Code of Practice and other, nationally-accepted, guidance
- To be assured that effective processes are in place to recruit, train, manage and retain AHMs
- To receive reports enabling the Committee to monitor the activity of AHM and Second Opinion Approved Doctors (SOADs)
- To be assured that effective processes are in place to maintain the relevant competencies of front-line practitioners

#### **3.2 The Committee will: -**

- through an annual report and 3-monthly updates, ensure that the Solent NHS Trust Board is aware of the experience of people detained on its behalf and seek to give assurance that the requirements of the MHA and the Code of Practice are complied with
- receive reports and information on the experience of people detained under the MHA, including those detained under Community Treatment Orders, who are the responsibility of Solent NHS Trust including statistics with regard to people detained
- receive a report from the MHA&MCA Lead, on the use of key powers of the MHA including sections 2, 3, 4, 5, 17A, consent to treatment provisions, informing patients of their rights and use of the Act in relation to ethnic origin. The Committee will scrutinise this information in line with guidance produced by the MHA& MCA Lead, from time to time.
- oversee the scheme of delegation by which the Trust exercises its powers and duties under the MHA and seek assurance that the people acting on behalf of the Trust are competent to do so
- seek assurance, from the MHA&MCA Lead, relevant Directors and others, as decided by the Directors, that the Trust has all the up-to- date policies in place that are required by the MHA and the Code of Practice.
- seek assurance from the MHA&MCA Lead that the recruitment, training, re-appointment and performance of AHMs meets the requirements of the MHA and its associated Code of Practice; which will be subject to further scrutiny, as necessary, by the Remuneration& Nominations Committee
- receive statistics on the frequency and outcome of appeals by people detained under the Mental Health Act 1983 – including those associated with renewal of detention
- review reports from the Care Quality Commission following the visits of MHA Reviewers to ward areas and other locations where people may be subject to the provisions of the MHA; which will be subject to formal monitoring of achievement of Action Plans through the Quality Improvement & Risk group, reporting to the Quality Assurance Committee.

- seek assurance that issues identified by the Committee in relation to quality standards and expectations - both in environmental and service provision terms - for people detained and their carers and family are brought to the attention of and monitored by the Quality Assurance Committee
- via information from the MHA&MCA Lead, monitor the application of the MHA against local and national trends and benchmarks
- via information from the Chief Operating Officer, seek assurance that the use of restraint, under the MHA, is monitored and strategies put in place to reduce the use of restraint.
- via information from the Chief Operating Officer receive information on the frequency of the use of seclusion and that key legal duties were met.
- receive information regarding national developments relating to the MHA, including any changes to legislation, changes due to case law or Codes of Practice and seek assurance these are implemented from the MHA&MCA lead, and relevant Directors
- via information from the Learning and Development team seek assurance that staff are compliant with training requirements in relation to the MHA

#### **4 Membership**

4.1 The Committee is appointed by the Trust Board and comprises: -

- a Non-Executive Director (Chair)
- Two other Non-Executive Directors
- relevant Executive Directors: -
  - Chief Operating Officer
  - Chief of Nursing & Allied Health Professionals (AHPs) and Deputy CEO
  - Chief Medical Officer

#### **5 Attendees**

5.1 Attendees to the Committee shall be: -

- the MHA&MCA lead
- the lead consultant psychiatrists and operational managers from those services which support people subject to the provisions of DoLS and the MHA, as required by the relevant Executive Director
- a representative of the Learning & Development Team
- other attendees as required and invited by the Chair
- 2, consistent, AHM's will attend the meeting.

## **6 Secretary**

6.1 The Corporate Affairs Administrator shall act as the secretary of the Committee and will arrange to take minutes of the meeting and provide appropriate support to the Chair and Committee members.

6.2 The agenda and any working papers shall be circulated to members five working days before the date of the meeting.

## **7 Quorum**

7.1 To ensure appropriate balance, no business shall be transacted at the meeting unless the following are present: -

- the Chair or a nominated deputy, who shall be a Non-Executive Director
- a minimum of one other Non-Executive Director
- a minimum of two Executive Directors – being the Chief Operating Officer, Chief of Nursing & AHPs and Deputy CEO, Chief Medical Officer or nominated deputies.

## **8 Frequency**

8.1 Meetings will be held 3 times a year.

8.2 Additional meetings can be called by the Chair of the Committee if it is deemed necessary.

## **9 Notice of meetings**

9.1 Meetings of the committee shall be summoned by the secretary of the Committee at the request of the Committee Chair.

8.2 Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda of items to be discussed, shall be forwarded to each member of the Committee, any other person required to attend and all other Non-Executive Directors, no later than 5 working days before the date of the meeting. Supporting papers shall be sent to Committee members and to other attendees as appropriate, at the same time.

## **10 Minutes of meetings**

10.1 Minutes of the meeting will be shared with the members following agreement by the Chair.

## **11 Authority**

11.1 The Committee is authorised:

- to seek any information, it requires from any employee of the Trust in order to perform its duties
- to call any employee to be questioned at a meeting of the Committee as and when required

11.2 To hold Executive Directors-accountable for the legal, quality and regulatory compliance of services.

## **12 Reporting**

12.1 The Committee Chair will submit an exception report to the Trust Board and will highlight any issues the Board should be informed of, or areas where assurance is insufficient/of concern.

- 12.2 The Committee will present an Annual Report to the Trust Board against its duties as outlined in the Terms of Reference.
- 12.3 The Committee shall make whatever recommendations to the Trust Board it deems appropriate on any area within its remit where action or improvement is needed.
- 12.4 Members attendance at Committee meetings will be disclosed in the Trust's Annual Report.

Version	17
Committee approval	November 2022
Date of Next Review	Date: October 2023