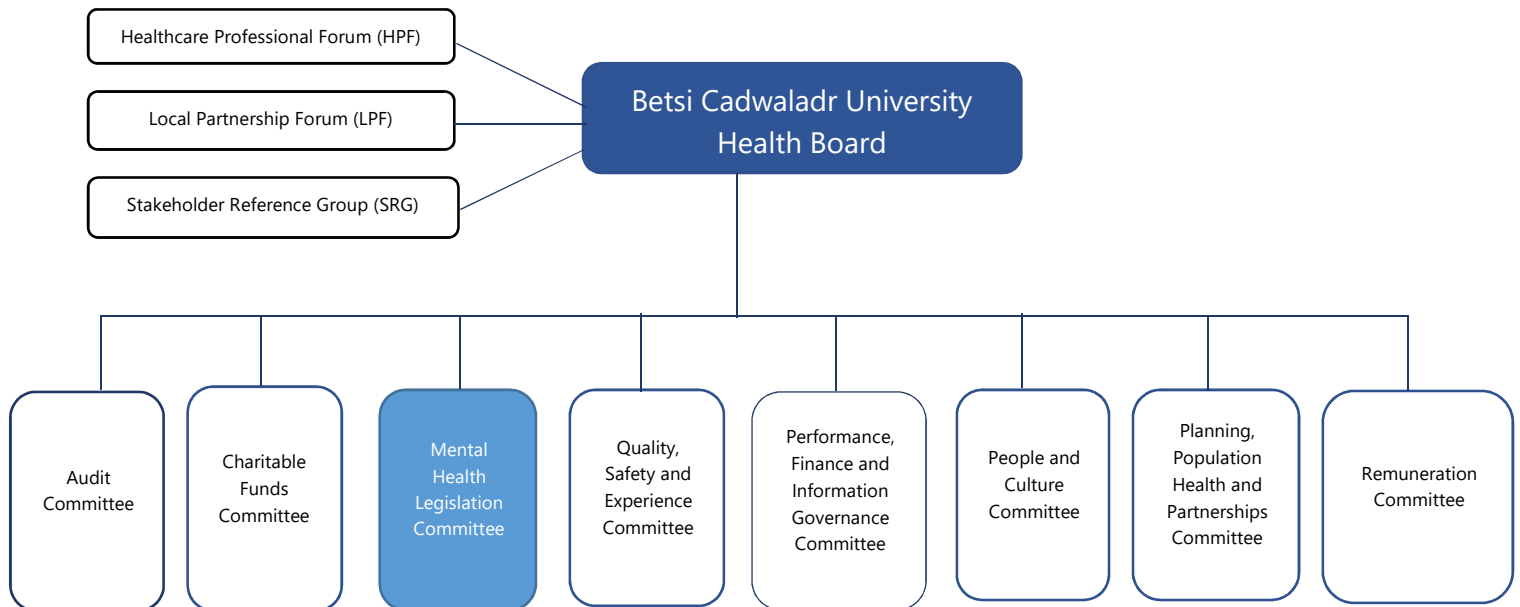


## MENTAL HEALTH LEGISLATION COMMITTEE

### TERMS OF REFERENCE



Version	Issued to	Date	Comments
V0.01 Draft	Audit Committee	16/11/23	Developed as a first draft for review by Audit Committee on 16/11/23
V0.02 Draft	TOR meeting with Committee Chair & Executive Lead	22/12/23	Developed as a draft for review with Committee Chair and Executive Lead. The ToR were also reviewed at the introductory meeting of the Mental Health Legislation Committee held on 11/01/24
V0.03 Draft	Health Board	18/01/24	Final Draft for consideration by the Health Board to be held on 25/01/24
V1.00 Approved		25/01/24	Approved by the Health Board

## 1) Introduction

---

- 1.1 The Betsi Cadwaladr University Health Board (BCUHB) shall establish a Committee to be known as the Mental Health Legislation Committee. The Committee is an independent Committee of the Board and has no executive powers, other than those specifically delegated in these terms of reference. The detailed operating arrangements in respect of this Committee are set out below.

## 2) Purpose

---

The purpose of the Mental Health Legislation Committee is to:

- 2.1 Provide assurance that those functions of the Mental Health Act 1983, as amended and Mental Capacity Act, 2005, as amended which have been delegated to officers and staff are being carried out correctly:
  - 2.1.1 The wider operation of the two Acts in relation to the Health Board's area is appropriate and effective;
  - 2.1.2 The Health Board's responsibilities as Hospital Managers are being discharged effectively and lawfully; and.
  - 2.1.3 The Health Board is compliant with Codes of Practice for the two Acts.
- 2.2 Identify any areas of concern in relation to compliance with mental health legislation and agree issues to be escalated to the Board with recommendations for action.
- 2.3 Seek assurance on the management of principal risks within the Board Assurance Framework (BAF) and Corporate Risk Register (CRR) allocated to the Committee and provide assurance to the Board that risks are being managed effectively and report any areas of significant concern.

## 3) Responsibilities of the Mental Health Legislation Committee

---

The Committee shall provide advice, assurance and support to the Board in ensuring the provision of high quality, safe healthcare for its citizens of all ages, as follows:

- 3.1 Review reports in relation to the two Acts from Healthcare Inspectorate Wales visits, NHS Wales Executive and other external scrutiny bodies and approve the action plans for monitoring.
- 3.2 Consider issues arising from related Committees or Health Board Groups.
- 3.3 Receive Mental Health Legislation Assurance Reports to ensure compliance with the Codes of Practice. In respect of its provision of assurance to the Board, the Mental Health Legislation Committee will seek assurances that:

- 3.3.1 The operation of mental health legislation is exercised fairly and lawfully and that specific issues related to compliance are managed through its Committee and Group structures.
- 3.3.2 The powers provided by the Mental Health Act 1983 (notably the Board's delegated functions as Hospital Managers) are being exercised reasonably, fairly and lawfully and that specific issues related to compliance are managed through the Board's Committee and Group structure.
- 3.3.3 The powers provided by the Mental Capacity Act 2005 (notably in regard to the Deprivation of Liberty) are being exercised reasonably, fairly and lawfully and that decisions by the Court of Protection are implemented appropriately.
- 3.3.4 Identified matters of risk relating to compliance with mental health legislation are being appropriately mitigated.
- 3.4 Ensure that Associate Hospital Managers are being appointed, trained and appraised effectively to ensure the proper discharge of their duties and that there is appropriate access to mental health advocates; and draw on the experience of both Associate Hospital Managers and mental health advocates to receive assurance on the quality of care provided to patients.
- 3.5 Ensure policies and procedures are in place to facilitate compliance with the Mental Health Act 1983 and the Mental Capacity Act 2005.
- 3.6 Ensure that those staff who exercise the functions of mental health legislation have access to, and undertake, appropriate training to provide them with the requisite skills and competencies to discharge the Board's responsibilities.
- 3.7 Ensure adherence to the relevant legislation, in particular, the Human Rights Act 1998, the Equality Act 2010, and the Data Protection Act 1998.
- 3.8 Assure the Board in relation to its compliance with relevant national practice, mandatory guidance, healthcare standards and duties, including Duty of Quality, Duty of Candour, Quality Standards and Quality Management ensuring the Board is supported to make strategic decisions from a quality perspective.

#### 4) Membership

---

- 4.1 Formal membership of the Committee shall comprise of the following:

MEMBERS
Independent Member (Chair)
2 x Independent Members (one of whom will be designated as Vice Chair)

4.2 The following should attend Committee meetings:

<b>IN ATTENDANCE</b>
Executive Director with responsibility for Mental Health and Learning Disabilities (Executive Lead)
Executive Director of Nursing and Midwifery
Executive Medical Director
Medical Director for Mental Health and Learning Disabilities
At least one of the Medical Directors of the Integrated Health Communities
Executive Director of Operations
Deputy Director of Quality Governance
Senior Manager for Mental Health Act
Senior Manager for Mental Capacity Act
At least one Director of Operations from the Integrated Health Communities
Head of Safeguarding
<b>Other Attendees</b>
The Chair can if required, invite Hospital Managers to attend Committee
The Chair can if required, invite representatives of partner agencies to attend Committees.

4.3 The membership of the Committee reflected above shall be determined by the Board, based on the recommendation of the Health Board Chair, taking into account the balance of skills and expertise necessary to deliver the Committee's remit, and subject to any specific requirements or directions made by the Welsh Government.

4.4 Membership of the Committee will be reviewed on an annual basis.

## 5) Quorum and Attendance

---

5.1 A quorum shall consist of no fewer than two of the membership and must include as a minimum the Chair or Vice Chair of the Committee, together with a third of the In Attendance members (who must be the Executive Director with responsibility for Mental Health and Learning Disabilities or his or her nominated Deputy).

5.2 Any senior officer of the Health Board or partner organisation may, where appropriate, be invited to attend, for either all or part of a meeting, to assist with discussions on a particular matter.

5.3 The Committee may also invite representatives of partner agencies who have a role in relation to the Legislation and/or co-opt additional independent external 'experts' from outside the organisation to provide specialist skills.

5.4 Should any 'in attendance' officer member be unavailable to attend, they may nominate a deputy to attend in their place, subject to the agreement of the Chair.

5.5 The Committee may ask any or all of those who normally attend but who are not members to withdraw in order to facilitate open and frank discussion of particular matters.

## **6) Agenda and Papers**

---

- 6.1 The Committee Secretary is to hold an agenda setting meeting with the Chair and/or Vice Chair and the Executive Lead (Executive Director with responsibility for Mental Health and Learning Disabilities) at least six weeks before the meeting date.
- 6.2 The agenda will be based on the Committee work plan, identified risks, matters arising from previous meetings, issues emerging throughout the year, and requests from Committee members. Following approval, the agenda and timetable for request of papers will be circulated to all Committee members.
- 6.3 All papers must be approved by the Executive Lead.
- 6.4 The agenda and papers will be distributed/published seven days in advance of the meeting.
- 6.5 A draft table of actions will be issued within two working days of the meeting. The minutes and table of actions will be circulated to the Committee Chair and Executive Lead within seven days to check the accuracy, prior to sending to Members to review within the next seven days.
- 6.6 Members must forward amendments to the Committee Secretary within the next seven days. The Committee Secretary will then forward the final version to the Committee Chair for final review.

## **7) In Committee**

---

- 7.1 The Committee can operate with an In Committee function to receive updates on the management of sensitive and/or confidential information.

## **8) Meetings**

---

- 8.1 The Committee will meet quarterly and an annual schedule of meetings will be determined by the corporate calendar.
- 8.2 The Committee may be convened at short notice if requested by the Chair.
- 8.3 Any additional meetings will be arranged under exceptional circumstance and shall be determined by the Chair of the Committee in discussion with the Executive Lead.
- 8.4 The Committee may, subject to the approval of the Health Board, establish Groups to carry out on its behalf specific aspects of Committee Business.
- 8.5 Meetings may be held in person where it is safe to do so or by video-conferencing and similar technology.
- 8.6 The Committee Secretary shall be determined by the Director of Corporate Governance.

## 9) Reporting

---

- 9.1 The Committee, through its Chair and members, shall work closely with the other Committees to provide advice and assurance to the Board through joint planning and co-ordination of Board and Committee business including sharing information.
- 9.2 The Committee Chair, supported by the Committee Secretary, shall:
- Report formally, regularly and on a timely basis to the Board on the Committees activities;
  - Bring to the Board's specific attention any significant matter under consideration by the Committee; and
  - Ensure appropriate escalation arrangements are in place to alert the Health Board's Chair, Chief Executive and/or Chairs of other relevant Committee, of any urgent/critical matters that may affect the operation and/or reputation of the Health Board.
- 9.3 The Committee will undertake an annual review on the effectiveness of its arrangements and responsibilities. The Director of Corporate Governance will oversee this review.

## 10) Accountability, Responsibility and Authority

---

- 10.1 Although the Board has delegated authority to the Committee for the exercise of certain functions, as set out in these Terms of Reference, it retains overall responsibility and accountability for ensuring the quality and safety of healthcare for its citizens through the effective governance of the organisation.
- 10.2 The Committee is directly accountable to the Board for its performance in exercising the functions set out in these terms of reference.
- 10.3 The requirements for the conduct of business as set out in the Health Board's Standing Orders are equally applicable to the operation of the Committee.

## 11) Review Date

---

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