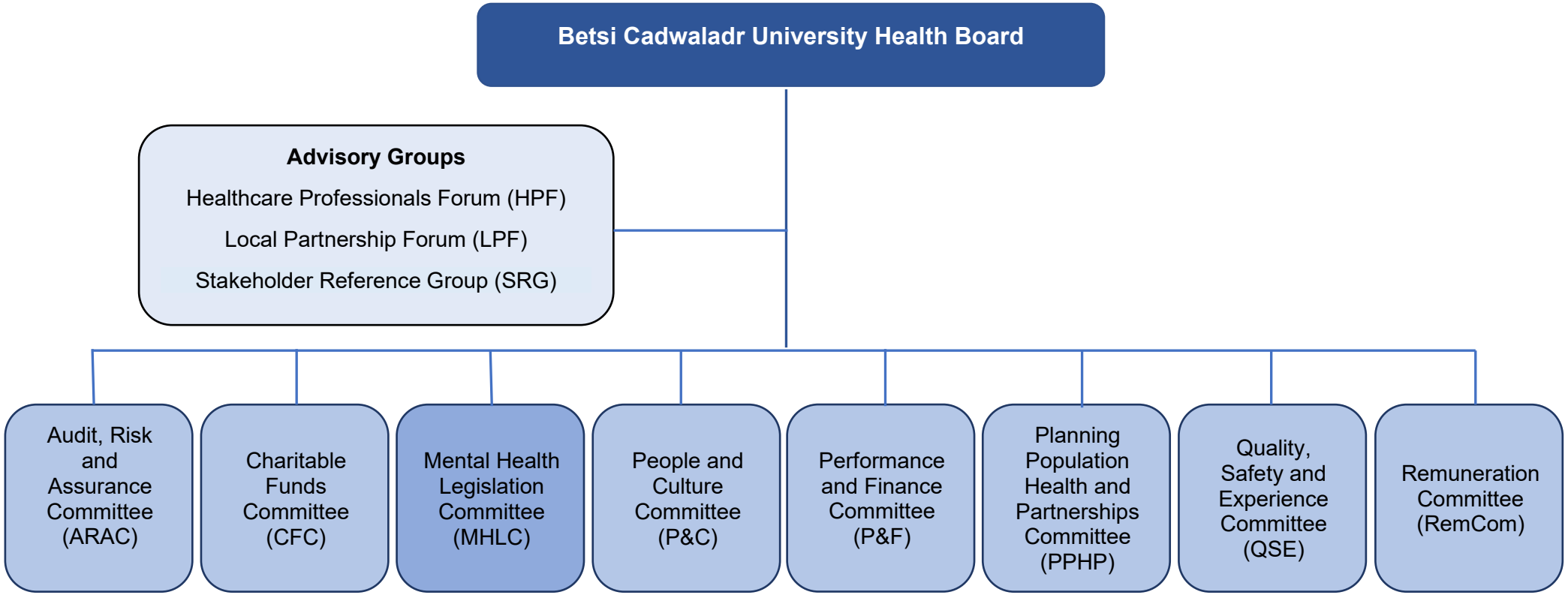
MENTAL HEALTH LEGISLATION COMMITTEE

Terms of Reference & Operating Arrangements

(Schedule 3.5 of the Standing Orders)

Date approved by Health Board: 24 September 2026



Version Control

Version	Issued to	Date	Comments
V0.1	Mental Health Legislation Committee	08.05.25	Endorsed for approval at the May Board
V1.0	Health Board	29.05.25	Approved at the Health Board Meeting
V1.1	Mental Health Legislation Committee	06.08.26	Endorsed for submission to the Board
V2.0	Health Board	24.09.26	Approved at the Health Board Meeting

TERMS OF REFERENCE

1 INTRODUCTION

1.1 The Betsi Cadwaladr University Health Board (BCUHB) Standing Orders provide that "The Board may and, where directed by the Welsh Government must, appoint Committees of the Board either to undertake specific functions on the Board's behalf or to provide advice and assurance to the Board in the exercise of its functions. The Board's commitment to openness and transparency in the conduct of all its business extends equally to the work carried out on its behalf by committees.

1.2 In accordance with Standing Orders (and the BCUHB scheme of delegation), the Board shall nominate annually a committee to be known as the Mental Health Legislation Committee. The detailed terms of reference and operating arrangements set by the Board in respect of this committee are set in this document.

2 PURPOSE

The purpose of the Committee is to act on behalf of the Board 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:

The wider operation of the two Acts in relation to the Health Board's area is appropriate and effective;

- The Health Board's responsibilities as Hospital Managers are being discharged effectively and lawfully; and
- 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 DELEGATED POWERS

With regard to its role in acting on behalf of the Board, and in providing advice and assurance to the Board, the Mental Health Legislation Committee will comment specifically upon:

3.1 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:

3.2 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.

3.3 Consider issues arising from related Committees or Health Board Groups.

3.4 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:

3.5 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.

3.6 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.

3.7 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.

3.8 Identified matters of risk relating to compliance with mental health legislation are being appropriately mitigated.

3.9 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.

3.10 Ensure policies and procedures are in place to facilitate compliance with the Mental Health Act 1983 and the Mental Capacity Act 2005.

3.11 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.

3.12 Ensure adherence to the relevant legislation, in particular, the Human Rights Act 1998, the Equality Act 2010, and the Data Protection Act 1998.

3.13 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 AUTHORITY

4.1 The Committee may investigate or have investigated any activity (clinical and non-clinical) within its terms of reference. It may seek relevant information from any:

- Employee - and all employees are directed to cooperate with any legitimate request made by the Committee; and
- Other committee, sub-committee or group set up by the Board to assist it in the delivery of its functions.

4.2 It may also obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers it necessary, in accordance with the Board's procurement, budgetary and other requirements.

5 SUB-COMMITTEES

5.1 The Committee may, subject to the approval of the Health Board, establish sub-committees or task and finish groups to perform specific aspects of Committee business.

6 MEMBERSHIP

6.1 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)

6.2 The following should attend Committee meetings:

IN ATTENDANCE
Executive Director with responsibility for Mental Health and Learning Disabilities (Executive Lead)
Executive Director of Nursing and Midwifery
Executive Medical Director
Chief Operating Officer
Director of Corporate Governance
Medical Director for Mental Health and Learning Disabilities
At least one of the Medical Directors of the Integrated Health Communities
Deputy Director for Legal Services
Senior Manager for Mental Health Act
Senior Manager for Mental Capacity Act
At least one Director of Operations from the Integrated Health Communities
Director of Safeguarding/Head of Safeguarding
Associate Hospital Managers
CAMHS Representative
Other Attendees
The Chair can if required, invite representatives of partner agencies to attend Committees.

6.3 The attendance of the Committee 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.

6.4 Other Directors/Officers will attend as required by the Committee Chair, as well as any others from within or outside the organisation whom the Committee considers should attend, taking into account the matters under consideration at each meeting.

7 COMMITTEE MEETINGS

7.1 Quorum

- A quorum shall consist of no less than two of the membership and must include as a minimum the Chair or Vice Chair of the Committee.

7.2 Frequency of meetings

- The Committee will meet quarterly and an annual schedule of meetings will be determined by the corporate calendar.

- 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.

7.3 Withdrawal of individuals in attendance

- The 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.

7.4 Meeting arrangements

- The agenda and papers will be distributed/published seven days in advance of the meeting.

- The Director of Corporate Governance is to hold an agenda setting meeting with the Chair and/or Vice Chair and the Executive Director of Allied Health Professionals and health Science at least six weeks before the meeting date.

- 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.

8 REPORTING AND ASSURANCE ARRANGEMENTS

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.

8.1 The Committee Chair, supported by the Committee Secretary, shall:

- Report formally, regularly and on a timely basis to the Board on the Committee's 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.

8.2 The Committee will undertake an annual review on the effectiveness of its arrangements and responsibilities. The Director of Corporate Governance will oversee this review.

9 RELATIONSHIP WITH THE BOARD AND ITS COMMITTEES/GROUPS

Although the Board has delegated authority to the Committee for the exercise of certain functions as set out within these Terms of Reference, it retains overall responsibility and accountability for these matters.

9.1 The Committee is directly accountable to the Board for its performance in exercising the functions set out in these Terms of Reference.

9.2 The Committee, through its Chair and members, shall work closely with the Board's other committees, including joint (sub) committees and groups to provide advice and assurance to the Board through the:
~ Joint planning and co-ordination of Board and Committee business and
~ Sharing of information

In doing so, it will 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 arrangements.

9.3 The Committee will consider the assurance provided through the work of the Board's other committees and sub groups to meet its responsibilities for advising the Board on the adequacy of the Health Board's overall system of assurance.

9.4 The Committee shall embed the Health Board's corporate standards, priorities and requirements, e.g. equality and human rights through the conduct of its business.

10 APPLICABILITY OF STANDING ORDERS TO COMMITTEE BUSINESS

10.1 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, except in the following areas:
• Quorum

11 REVIEW

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.

12 CHAIR'S ACTION ON URGENT MATTERS

12.1 There may, occasionally, be circumstances where decisions which would normally be made by the Committee need to be taken between scheduled meetings. In these circumstances, the Committee Chair, supported by the Director of Corporate Governance as appropriate, may deal with the matter on behalf of the Board – after first consulting with **all** Members of the Committee. The Secretariat must ensure that any such action is formally recorded and reported to the next meeting of the Committee for consideration and ratification.

12.2 Chair's action may not be taken where the Chair has a personal or business interest in the urgent matter requiring decision.