

**TRUST-WIDE NON-CLINICAL POLICY DOCUMENT**

# Mental Health Act Managers' Policy

<b>Policy Number:</b>	<b>MH20</b>
<b>Scope of this Document:</b>	<b>All staff caring for detained patients or patients under compulsion in the community, and by all Mental Health Act Managers</b>
<b>Recommending Committee:</b>	<b>Mental Health Act Managers' Sub Committee</b>
<b>Approving Committee:</b>	<b>Executive Committee</b>
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<b>Lead Author(s):</b>	<b>Director of Patient Safety</b>

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**2017 – Version 5**

**Quality, recovery and wellbeing at the heart of everything we do**

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# Mental Health Act Managers' Policy

**Further information about this document:**

Document name	<b>MH20: Mental Health Act Managers' Policy</b>
Document summary	<b>This policy defines the relationship between the 'Board' and the persons it appoints called Mental Health Act Managers who act in that capacity under Sections 20, 20A(5) &amp; 23(4) of the Mental Health Act 1983 (MHA).</b>
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To be read in conjunction with	<b>Mental Health Act 1983</b> <b>Mental Health Act Manual (Author: Richard Jones) 18<sup>th</sup> Edition</b> <b>Reference Guide to the Mental Health Act 1983 – Chapter 31</b> <b>Mental Health Act Code of Practice (2015) Chapters 37 and 38</b>
<b>This document can be made available in a range of alternative formats including various languages, large print and braille etc</b>	
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**Version Control:**

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Version 1	Approved by the Executive Committee	May 2015
Version 2	Corporate Document Review Group	April 2016
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Version 4	Corporate Document Review Group	
Version 5	Policy Group Executive Committee	February 2017 March 2017

## SUPPORTING STATEMENTS

This document should be read in conjunction with the following statements:

### SAFEGUARDING IS EVERYBODY'S BUSINESS

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and vulnerable adults, including:

- being alert to the possibility of child/vulnerable adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child/vulnerable adult;
- knowing how to deal with a disclosure or allegation of child/adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child/vulnerable adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or vulnerable adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

### EQUALITY AND HUMAN RIGHTS

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

The trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line with a Human Rights based approach and the FREDA principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

## CONTENTS

Section	Page No
1. Purpose and Rationale	5
2. Outcome Focused Aims and Objectives	5
3. Scope	5
4. Definitions	6
5. Duties	6
6. Process / Procedure	10
7. Consultation	15
8. Training and Support	15
9. Monitoring	16
10. Supporting Documents	16
<b>APPENDICES</b>	
1 Contract for Mental Health Act Managers	17
2 Performance Review & Appraisal Process for MHA Managers	20
3 MHA Code of Practice Guiding Principles	28
4 Induction Programme for new MHA Managers	29
5 MHA Managers' Sub Committee – Terms of Reference	44
6 Mental Health Law Governance Group – Terms of Reference	49
7 MHA Hospital Managers' Appraisal Process	53

## **1 PURPOSE AND RATIONALE**

- 1.1 This policy defines the relationship between the 'Board' and the persons it appoints called Mental Health Act Managers who act in that capacity under Sections 20, 20A (5) & 23(4) of the Mental Health Act 1983 (MHA).
- 1.2 The purpose of this policy is to ensure that those appointed by the Trust as MHA Managers will gain appropriate competencies and act lawfully in accordance with the principles set out in the Act's Code of Practice. MHA Managers will be supported by nominated staff and a Non- Executive Director in carrying out this role and ensuring ongoing suitability through training and appraisal.

## **2 OUTCOME FOCUSED AIMS AND OBJECTIVES**

### **2.1 Mental Health Act Managers' Policy**

- 2.1.1 Using this policy MHA Managers will know how to use the systems and processes that are used to support them in fulfilling their role.
- 2.1.2 After consulting this policy MHA Managers will:
  - (a) Know the amount and type of mandatory training that is provided for them to attend. (Hill Dickinson Solicitors, Information Governance, Personal Security / Breakaway and eLearning as required by the Trust).
  - (b) Be clear about the remuneration that they will receive for each task undertaken and know at what intervals this will be reviewed.
  - (c) Be able to be clear about the processes that are used to recruit people to this role, (the Mersey Care NHS Foundation Trust renewal and reappointment processes).
  - (d) Know how they can report concerns regarding clinical care. In the first instance, MH Law Administrators Electronic Reporting Mechanisms, for Mersey Care – DATIX and for Specialist Learning Disability Division – Ulysses.
  - (e) Know and understand the support and managerial systems that are available to them in relation to both individual cases and for their general practice as a MHA Manager.
- 2.1.3 After consulting this policy staff will:
  - (a) Be able to explain the role of the MHA Manager to colleagues, service users and their families.

## **3 SCOPE**

- 3.1 This policy should be read by all staff caring for detained patients or patients under compulsion in the community, and by all Mental Health Act Managers.

## 4 DEFINITIONS

- 4.1 The relevant terms and their definitions (within the context of this policy document) are outlined below:
- (a) The Hospital Managers or Mental Health Act Managers (hereafter referred to as 'MHA Managers') have the authority to detain patients under the Mental Health Act 1983 ('the Act'). The Trust itself is defined as the 'Hospital Managers' for the purposes of the Act.
  - (b) The MHA Managers have authority to discharge a patient from detention provided three or more members of a Panel decide to do so. This authority cannot be delegated to members of staff.
  - (c) There are many other responsibilities and duties which are carried out on the Board's behalf by 'authorised officers' (staff) of our hospitals. These include receipt, scrutiny and amendment of detention documents, ensuring patients' rights are made known to them, referral for and arranging Mental Health Tribunals, ensuring compliance with renewal / extension, consent to treatment and second opinion dates. This is not an exhaustive list as there are many other duties.
  - (d) The Trust's Scheme of Reservation and Delegation provides information on the Mental Health Act Scheme of Delegation and so outlines these other responsibilities and duties.

## 5 DUTIES

### 5.1 The Board

- 5.1.1 The Board is responsible for ensuring that the MHA is used lawfully and fairly, in accordance with the principles of the MHA Code of Practice (2015), including ensuring that all paperwork is scrutinised for validity, that detained patients are informed of their rights, and that patients are referred to the Tribunal within the timeframes set out in the Act. They also have various powers, to discharge patients from detention, transfer detained patients to other hospitals in accordance with regulations, as well as withholding a patient's outgoing correspondence where the law permits and withholding incoming correspondence in the Trust's High Secure Services.
- 5.1.2 In practice Hospital Managers (the Board) delegate most of their functions to staff, who receive MHA paperwork on their behalf, and carry out audits on how the MHA is used. The Board's power to discharge patients from detention cannot be delegated, except to a panel of MHA Managers set up for this purpose, who are not employees of the hospital. Mersey Care NHS Foundation Trust recruits MHA Managers to undertake this role on behalf of the Board against an agreed person specification. The Board retains responsibility for the performance of all of their functions, and must ensure that people acting on their behalf are competent to do so. This process is led by the Director of Patient Safety, who in association with the Lead Non-Executive Director are responsible for the review of MHA Managers.

## 5.2 **Chief Executive**

- 5.2.1 The Chief Executive is responsible for ensuring that the Trust has policies in place to direct and oversee the Mental Health Act and complies with its legal and regulatory obligations.

## 5.3 **Executive Director of Nursing**

- 5.3.1 The Executive Director of Nursing as Lead Executive for the Mental Health Act will ensure that the MHA Managers have the resources to be able to carry out their task. They need to ensure that system processes are in place to comply with the Mental Health Act (1983) and its Code of Practice.

## 5.4 **Lead Non-Executive Director**

- 5.4.1 The Lead Non-Executive Director is also the 'Chair' of the Mental Health Act Managers' Committee (see Appendix 5), a Sub Committee of the Quality Assurance Committee. They have the responsibility to ensure that there are sufficient qualified, adequately trained Mental Health Act Managers to undertake the work prescribed in the MHA 1983 and the Code of Practice. The Lead Non-Executive Director will represent the needs of the MHA Managers with the Board and ensure that their work is understood and acknowledged by the Board.

- 5.4.2 As the Mental Health Act Managers undertake duties on behalf of the Board where necessary, and following discussion with the Lead Non-Executive Director, the Sub Committee may report significant issues directly to the attention of the Board. The Non-Executive Chair of the Sub Committee will advise members of the Sub Committee on what shall constitute a significant issue. The Chair shall notify the Director of Patient Safety and Trust Secretary of such matters, who in turn will raise the matter with the Trust Chairman and then confirm the manner in which the issue(s) is to be raised with the Board.

## 5.5 **Mental Health Act Managers (MHA Managers)**

- 5.5.1 All MHA Managers have a responsibility to understand and comply with the policy on a day to day basis.
- 5.5.2 They also have a responsibility to recognise their own competency and to ensure they keep themselves current and updated.
- 5.5.3 They are responsible for:
- (a) Safeguarding the Trust and Service Users in relation to ensuring that the Trust complies with the MHA (1983). They will participate in Review Hearings, Renewal Panels, Appeals, on CTOs and Barring Orders. They will undertake audit of various parts of the Act to monitor how clinical areas set by the MHA (1983) and its Code of Practice are adhering to standards. As defined by the Sub Committee as a Quality Review Audit requirement.

## 5.6 **Director of Patient Safety**

- 5.6.1 This post holder will operationally support and oversee the work of the Mental Health Act Managers, providing leadership and direction in relation to ensuring that

best practice is followed. They will report to the Board on an annual basis of the work undertaken by the MHA Managers highlighting any risks or concerns, this will be included in the annual Mental Health Act Report. Quarterly quantitative reports will be shared with the Board on MHA Managers activities via Care at a Glance.

- 5.6.2 The Policy Author for MHA Managers' Policy is the Director of Patient Safety in conjunction with the Mental Health Act and Mental Capacity Act Lead. The Policy Author is responsible for the development or review of a policy as well as ensuring the implementation and monitoring is communicated effectively throughout the Trust and that monitoring arrangements are robust.

## 5.7 **Corporate MHA Administration Team**

- 5.7.1 The role of the Mental Health Act and Mental Capacity Act Lead is to ensure that day to day activities in relation to Panel bookings are efficient and that hearings are fairly distributed.
- 5.7.2 Intervene on behalf of the MHA Managers in relation to any concerns they have about clinical issues and any systems failure which may prevent them from carrying out their role.
- 5.7.3 MHA Managers have access to relevant legal advice and support on a general and specific basis. The Mental Health Act and Mental Capacity Act Lead will provide overall Practice Management and support for all matters relating to the MHA 1983. They will work closely with the Director of Patient Safety to support of MHA Managers in performing their duties and responsibilities.
- 5.7.4 The Patient Safety / Associate Hospital Managers Administrator who reports to the Director of Patient Safety will process related sessional remuneration and travel expenses.

## 5.8 **Mental Health Act Committee Vice Chairs**

- 5.8.1 There will be two Vice Chairs elected by their peers and agreed by the Chair of the Committee using the process outlined in paragraph 5.8.3 below
- 5.8.2 The role of the Vice Chairs is to:
- (a) Act as a central point of contact for MHA Managers;
  - (b) Act as a conduit for communications between MHA Managers with Trust Managers, raising any concerns / issues with the Director of Patient Safety or the Chair of the Committee (as appropriate);
  - (c) Chair the Pre-meetings of MHA Managers, which are usually held before the MHA Managers Committee, and share any agreed issues at the MHA Managers Committee;
  - (d) Provide any additional support to other MHA Managers where this is requested and liaise through the Director of Patient Safety in respect of requests for additional support (where appropriate);

- (e) Liaise with the Director of Patient Safety and their team in respect of planning future events and training for MHA Managers, as well as following through on agreed actions;
- (f) In association with the Director of Patient Safety, oversee the effective implementation of the MHA Managers Policy;
- (g) Identify those MHA Managers who will be part of any reviews of the MHA Managers Policy and liaise with the Trust when it reviews the remuneration of MHA Managers;
- (h) When requested, deputising for the Non-Executive Director to Chair the MHA Managers Committee;
- (i) Working with the Non-Executive Chair regarding the activities of the MHA Managers Committee and taking part in the MHA Managers' annual appraisal process as requested.

5.8.3 Vice Chairs will be elected using the following process once a vacancy occurs:

- (a) When a Vice Chair position becomes available, all MHA Managers have the opportunity to nominate themselves / be nominated by fellow MHA Managers;
- (b) An agreed MHA Manager will act as the Returning Officer and will be responsible for arranging the secret ballot amongst all MHA Managers;
- (c) All MHA Managers shall be informed of those MHA Managers nominated to be a Vice Chair then invited (through a secret ballot) to cast a vote to select a Vice Chair;
- (d) Vice Chairs will be elected for a 2-year term of office; wherever possible these terms shall be staggered so as to provide continuity between the two Vice Chairs;
- (e) Where through illness a Vice Chair is unable to undertake their duties, then MHA Managers may elect a Temporary Vice Chair, using the process outlined above, until the substantive Vice Chair is able to undertake their duties. If the substantive Vice Chair is unable to return, then the Temporary Vice Chair shall assume the role of the substantive Vice Chair for the remaining term of office of the substantive Vice Chair (without the need for a further election).

## 5.9 **Mental Health Law Administrators (MHLAs)**

5.9.1 The role of Mental Health Law Administrators is to:

- (a) Carry out all statutory duties delegated to them by the MHA Hospital Managers through formal resolution at a full Board meeting (Scheme of delegation).
- (b) Provide advice on certain legislation/administrative issues relating to the Mental Health Act 1983. This involves liaison with MHA Hospital Managers, Clinical Staff, Social Services, Mental Health Act Commission, Mental Health

Tribunal, Legal Representatives, HM Courts Services, HM Prison Services, the Ministry of Justice and Advocacy Services,

- (c) Oversee the appropriate scrutiny of statutory documentation, on behalf of the MHA Hospital Managers, to ensure compliance with the Mental Health Act 1983 and current legislation and any errors are amended within the given time limits as set in legislation.
- (d) Lead the co-ordination and Clerking of MHA Hospital Managers Hearings in the event of an Appeal, Renewal or Review. Ensure that all reports are prepared and dispatched in accordance with Trust Policy. Ensure that Panel members are booked appropriately, fairly and in a timely manner using the electronic booking system.
- (e) To monitor the use of the Mental Health Act 1983 and ensure the timely completion of the audit information for the MHA Hospital Managers Visits, facilitate MHA Hospital Managers site audit in accordance with the Code of Practice.

#### 5.10 **Mental Health Act Legislation Practitioner / Legal Advisors**

- 5.10.1 These individuals will provide guidance individually on complex legal queries. They will also undertake training for Managers in accordance with the Code of Practice. They will advise on standards to be adhered to and current case law and its effect.

## 6 **PROCESS / PROCEDURE**

### 6.1 **Governance Processes**

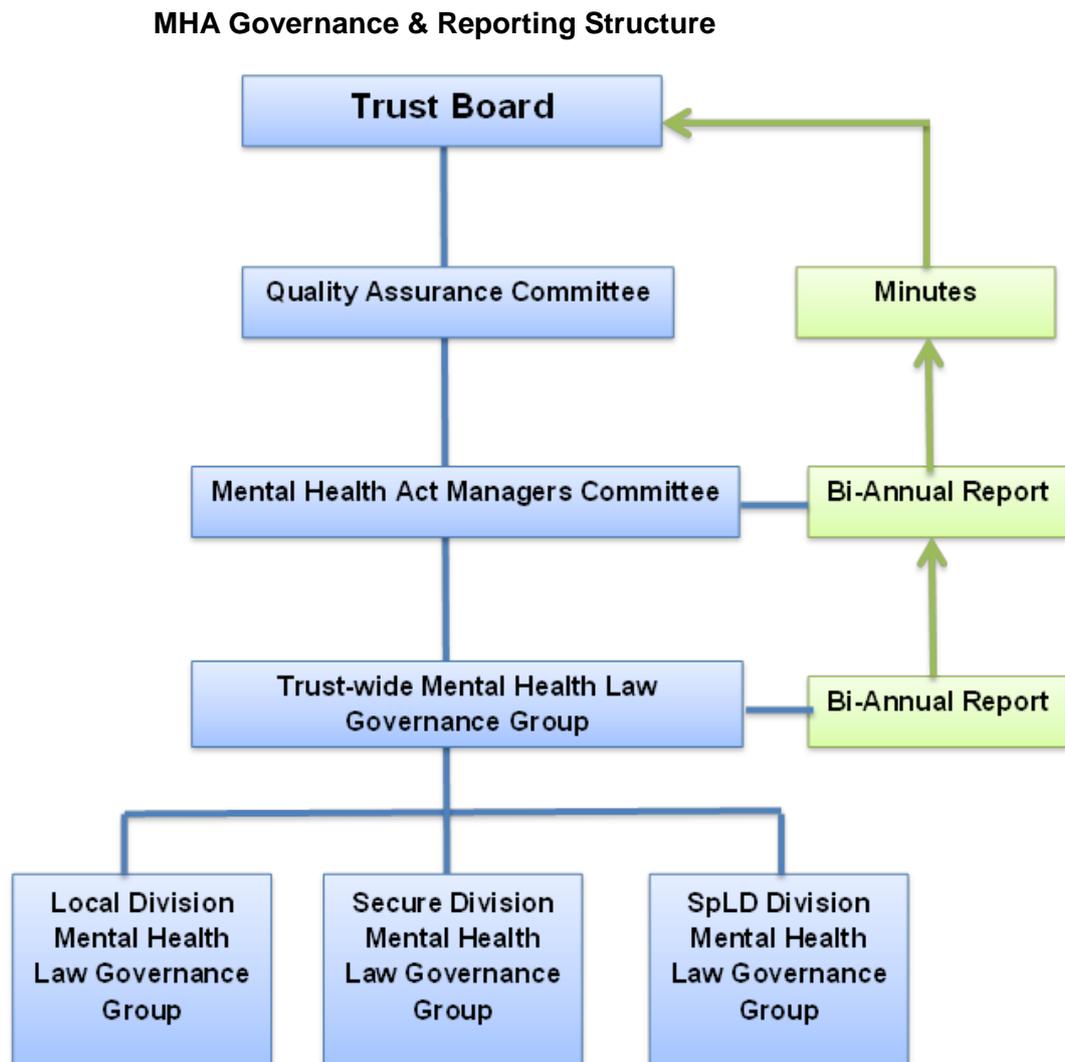
- 6.1.1 **Mental Health Act Managers' Committee** - this Committee will have responsibility for overseeing:
  - (a) The work of the Mental Health Act Managers and through its Operational Managers ensures that all work undertaken is of an acceptable standard. See Mental Health Managers' Committee Terms of Reference – Appendix 5. This will be achieved by monitoring data, implementation of a Supervision Process and review of all concerns raised.
  - (b) The implementation of the Mental Health Act, ensuring that it is implemented in accordance with statute. Risks or deficits in provision are understood and effective actions put in place to rectify poor practice. This work is specifically delegated to a sub-committee – the Mental Health Law Governance Group, which is Chaired by one of the Mental Health Act Managers. This group and its Chair report directly to the Mental Health Act Managers' Committee. See Mental Health Law Governance Group Terms of Reference – Appendix 6.
  - (c) The links that the MHA Managers have with the Board and its Executive and Non-Executive Officers will ensure that MHA Managers meet six monthly with the Chief Executive and Chair (alternately) with the aim of allowing the MHA Managers to be kept up to date with Trust business.

(d) That MHA Managers are invited to the Trust's Annual Board Meeting and generally included as part of the external governance processes of the Trust.

6.1.2 The Mental Health Act Managers' Committee will be chaired by the Lead Non-Executive Director and also have two Vice-Chairs, selected by the Committee from amongst its membership.

6.1.3 The day to day responsibility for the administration of agreed policies is the responsibility of Trust Managers which support the implementation of the MHA 1983. The Committee can audit the use of the policies. The diagram below shows the governing arrangements which oversee the implementation of the MHA (1983).

**Diagram 1: Assurance Arrangements**



**6.2 Appointment & Review of Managers Definition of MHA Managers**

6.2.1 Mersey Care NHS Foundation Trust has appointed a group of MHA Managers to act as Panel members for the purposes of Sections 20, 20A (5) and 23 (4) of the Mental Health Act 1983. Under these MHA provisions they will conduct, as a Panel, Reviews of detention and those on Supervised Community Treatment Orders (SCTO).

- 6.2.2 MHA Managers are not employees of the hospital, but are appointed by the Trust to act with probity, use good independent judgement and abide by the law and the principles of good practice.
- 6.2.3 The Director of Patient Safety or the Mental Health Act and Mental Capacity Act Lead will liaise with the post holders above to support members of the Committee and deal with any issues of procedure for Managers' Hearings or Reviews that arise, and in organising training for MHA Managers.
- 6.2.4 In order to effectively carry out this role, MHA Managers will be expected to attend the required number of Committee meetings (bi-monthly, minimum attendance is four a year) and / or training events. Attendance will be monitored and will be a key factor in determining whether an individual retains up to date competencies required to sit on Panels. The Committee will determine a minimum attendance level for meetings and training events with the NED Chair retaining discretion in exceptional circumstances e.g. prolonged periods of illness.

### **Appointment, Training & Review**

- 6.2.5 **Appointment** - The numbers of MHA Managers will be monitored closely by the Executive Director of Nursing, Lead Non-Executive Director and Director of Patient Safety to ensure that there is sufficient staff to meet demand. When a decision is made to recruit, adverts will be made both within the NHS and externally (i.e. local press) to ensure that a wide group of the population have access to the information.
- 6.2.6 The interview process will be led by either the Lead Non-Executive or one of the Vice Chairs with management leadership from the Director of Patient Safety. As per the Trust's recruitment policy, a Service User will be engaged in the process.
- 6.2.7 Every effort will be made to recruit MHAMs from a diverse ethnic background commensurate with the local population.
- 6.2.8 There are no formal qualifications for appointment. Relevant professional or career backgrounds or life experiences will be helpful. There will be a formal 'recruitment' process including a semi-formal interview but it will be adapted so that it reflects the unique nature of appointments to this Committee. The appointment of a successful candidate will be based on meeting the Person Specification agreed for the role. The Chair and the two Vice Chairs can be involved in this process or can delegate their role. Having ensured that candidates reasonably understand the requirements of the role a judgment will be made on each candidate's suitability and experience particularly in relation to their ability to:
- (a) Understand the law
  - (b) Work with patients and professionals
  - (c) Work with appropriate empathy and professionalism
  - (d) Reach sound judgements
  - (e) Act with discretion and adhere to confidentiality requirements
  - (f) Properly record their decisions

- (g) Understand, retain and appropriately consider complex information and differing points of view.

6.2.9 Following successful completion of the Induction Programme and appointment the individual will sign the Contract for MHA Managers (see Appendix 1). This details the responsibilities and obligations of the MHA Manager, and the sessional remuneration arrangements.

### **Training**

6.2.10 Newly appointed Managers will follow an agreed induction programme which will provide:

- (a) Mentorship and supervised practice
- (b) Basic introduction to Mental Health Law including the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards
- (c) Information on the role of the Mental Health Act Manager
- (d) Outline the work of the Trust (see Appendix 4 for Induction Programme).

6.2.11 All MHA Managers will be encouraged to develop through training, reflection and experience, the necessary skills to Chair Panels. It is acknowledged however that some people may prefer not to Chair so this will not be an essential requirement in exercising this role.

6.2.12 All posts are subject to an annual review undertaken by the Director of Patient Safety on behalf of the Lead Non-Executive Director. In addition, MHA Managers will be subject to a summative review (which will be combined with the annual review when appropriate) to determine if they shall be reappointed after their four-year term of office. Vice Chairs will assist as required. Details of the appraisal process can be found in Appendix 7. Please refer to paragraph 5.8.2 (i) above.

6.2.13 The Mental Health Act and Mental Capacity Act Lead, on behalf of the Director of Patient Safety will arrange for appropriate training for the MHA Managers, minimum four bespoke sessions a year, which will include:

- (a) The Law especially the Mental Health Act 1983 (Revised 2007) / Mental Capacity Act 2005 (MCA) and Deprivation of Liberty Safeguards (DoLS)
- (b) Overall Process – duties and responsibilities of MHA Managers under the Code of Practice and the Mental Health Act.
- (c) Documenting the process and the discussions appropriately.
- (d) Any other ad hoc requirement such as Chairing skills.

### **Review & Reappointment**

6.2.14 Appointment to the role of MHA Manager is for a fixed period of four years (confirmed in an Honorary Contract) and subject to review, annually, of the person's suitability. A one to one renewal meeting will be held between the MHA Manager and the Lead Non-Executive and or Director of Patient Safety and Vice Chair as

required. This process will review the Manager's adherence to the renewal criteria set. Information from the one to one meetings will be shared with the Lead Non-Executive Director who will:

- (a) Ratify further renewal un-conditionally,
- (b) Ratify renewal with conditions, i.e. further training, increase supervision,
- (c) Agree non-renewal.

See Renewal Process Diagram – Appendix 7.

### **6.3 Feedback on MHA Managers**

6.3.1 The Trust is keen to ensure that over and above this process, it positively encourages honest feedback from: patients, professional staff, lawyers, other Panel members and anyone else attending Hearings. Where concerns have been expressed which cast doubt on a Manager's ability to carry out the role in a professional and appropriate manner, these will be raised with the Committee Chair for further action by them or any person they may reasonably appoint for that purpose. Managers will always be given full opportunity to respond to such concerns.

### **6.4 Operations of Panels**

6.4.1 The Chair of a Panel is nominated by the Mental Health Act Administrator responsible. They will provide dates via the electronic systems, allowing information to be accessed via the Managers' iPad. A hard copy of information will be available on the day of the hearing for each Manager.

#### **Recording of Decisions**

6.4.2 All Review Panels have a Chair allocated by the MHA Administrators, this person will lead and co-ordinate the work of the Panel. They will ensure that each Panel Member is actively engaged in the process and has a chance to ask professionals and patients questions and participate in decision making. The Chair will document the Panel's decisions on the Control Form recording sheet and ensure this is given to the Mental Health Act Administrator.

6.4.3 The Chair of the Panel is responsible for the quality of the process, i.e. ensuring that processes are timely, standards are adhered to and decisions made are achieved through thoughtful reflection.

6.4.4 Any concerns about a colleague's performance should be considered at the time and with the individual where this is appropriate and or shared with the Operational Lead (Director of Patient Safety) as soon as practicable.

#### **Setting Up a Panel in an Emergency**

6.4.5 If a panel is to be held within a short timescale, MHA Managers will be telephoned or emailed. Allocation will be done on a first come, first served basis.

## 6.5 Concerns Raised by MHA Managers

### During MHA Managers' Hearings or Visits

- 6.5.1 All MHA Managers are positively encouraged to raise any concerns they may have about observed practice. The smallest level of concern should be raised (verbally or via email) with the Nurse in charge or Responsible Clinician, which then must be shared with the Director of Patient Safety via the Vice Chairs as soon as possible, i.e. within 24 hours.
- 6.5.2 Where the Panel (MHA Managers) hear or discover any concerns regarding the progress of the patient's recovery or discharge plan, they should record this in the relevant section on the Control Form. These concerns will be passed to the RC by the MHA Administrators for the RC to note and take appropriate action. The aim is to gather information and share through Patient Safety Quality Surveillance, if appropriate. Any serious concerns should be reported through incident reporting on DATIX for Mersey Care and Ulysses for Specialist Learning Disability Division (Electronic Incident Reporting Systems).

## 6.6 Remuneration

- 6.6.1 The remuneration provided to each MHA Manager is set by the Trust and reviewed every two years. Revised remuneration arrangements will come into force from 1<sup>st</sup> April (2015) and subsequent 1<sup>st</sup> April every two years following.
- 6.6.2 Sessions will attract remuneration plus travel expenses. Details of payment are subject to negotiation between the Trust and MHA Managers.
- 6.6.3 When a Panel Hearing has to be cancelled at short notice the Trust will endeavour to provide MHA Managers with as much notice as possible. When, however a Panel Hearing is cancelled within twenty-four hours prior to commencement of that Panel Hearing the Trust will offer remuneration for this. Such instances must be recorded on the claim for remuneration as used by the Trust.
- 6.6.4 Periodically the Trust will request MHAMs to become involved with Project work. The parameters of such work will be defined by the Director of Patient Safety or other Senior Trust Managers as appropriate. Such sessions will receive payment. This can include work undertaken at home or outside of the Trust.

## 7 CONSULTATION

- 7.1 The following staff / groups were consulted with in the development of this policy document:
- (a) Mental Health Act Managers.
  - (b) Lead Non-Executive Director.
  - (c) Mental Health Act Administrators.
  - (d) Board / Trust Secretary.

## **8 TRAINING AND SUPPORT**

- 8.1 This policy will be supported by training on the Mental Health Act provided on general Induction to the Trust and is mandatory. MHA Managers will also complete the Trust's Mandatory Training Programme which includes topics such as Information Governance and Personal Safety / Break Away Training. Those who attend High Secure Services also have to undertake "Key Clearance Training" and Security Training.

All staff as part of their training must receive an education on Data Protection, Information Governance, use of Trust email, use of Trust iPads.

Mandatory Information Governance updates undertaken annually will support this.

## **9 MONITORING**

- 9.1 All activity in relation to the Mental Health Act including MHA Managers' Hearings is held within local electronic patient records system. Hearings activity is managed by an electronic booking system which is overseen by the Mental Health Law Administrators and Informatics Merseyside (SharePoint). MHA Panel Members are encouraged to feedback any apparent failure to comply with this policy to the Vice Chairs who will report to Director of Patient Safety and onto the Non-Executive Director (Committee Chair).
- 9.2 Activity of the MHA Managers Committee will be reported to the Quality Assurance Committee via minutes and chair's reports.

## **10 SUPPORTING DOCUMENTS**

- 10.1 This policy should be read in conjunction with the following:
- (a) Mental Health Act 1983
  - (b) Mental Capacity Act 2005
  - (c) Mental Health Act Manual (Author: Richard Jones) 18th Edition
  - (d) Reference Guide to the Mental Health Act 1983 – Chapter 31
  - (e) Code of Practice (2015) Chapters 37 and 38.

## CONTRACT FOR MENTAL HEALTH ACT MANAGERS

### PURPOSE

The purpose of this agreement is to define the relationship between the organisation and the Mental Health Act Manager acting in that capacity under Section 20, 20A (5) & 23(4) of the Mental Health Act 1983.

Within the terms of the Mental Health Act 1983 it is the “Hospital Managers” (the Board) who have the responsibility for seeing that the requirements of the Act are followed.

The organisation has delegated some of the powers and responsibilities of the “Hospital Managers” to its Officers and Staff and to a Panel of appointed persons who will act as ‘Mental Health Act Managers’ for the purposes of Sections 20, 20A (5) and 23(4) of the Mental Health Act 1983.

The Trust will appoint persons of good standing to a Mental Health Act Managers’ Committee. There are no formal qualifications for appointment. Relevant professional or career backgrounds or life experiences will be helpful.

MHA Managers are not accountable in the employee / employer sense. They are, of course, required to act with probity, use good, independent judgment and abide by the law and the principles of good practice. At all times the MHA Managers will be expected to work within the Mental Health Act Code of Practice (2015) and any relevant Trust or site specific Policies, as well as the 7 Principles of Public Life (The Nolan Principles).

### PLACE AND METHOD OF WORK

The MHA Manager will attend by agreement any place of work where the organisation has patients detained under the Mental Health Act and in Community venues for CTO’s in order to Review detention under the Act (s.23). The MHA Manager will act professionally and show courtesy to the patients and service users of the organisation and its staff. Under the Mental Health Act 1983 Code of Practice (2015) there is a requirement to carry out a regular review of performance of MHA Managers providing services to ensure compliance with the Act and to ensure that MHA Managers have attended suitable training for the role.

### OBLIGATION OF THE TRUST

The Trust is not obligated to provide MHA Managers with opportunities to act in that capacity, and he or she will only be given such opportunities as and when the organisation has a suitable requirement.

The Trust accepts liability in respect of Managers’ acts and omissions to the degree that those acts and omissions were carried out whilst working in good faith on behalf of The Trust and in accordance with appointment under this contract. Managers must however observe the same standards of care and propriety in dealing with patients, staff, visitors, equipment and premises as is expected of any of its employees. Managers must act appropriately and responsibly at all times.

## **AVAILABILITY FOR DUTIES**

When the MHA Manager is offered an opportunity by the Trust, he or she may accept it or refuse it as the case may be at any time. Any refusal to accept an opportunity to act in the capacity of MHA Manager will not preclude the individual being offered further opportunities should they arise. The MHA Manager, once accepting particular assignments, must carry out that assignment personally. The MHA Manager may undertake work for any other organisation and the undertaking of such work will not preclude the organisation offering the MHA Manager additional assignments as and when they become available providing any potential conflict of interest is declared.

The Trust uses an electronic booking system to fulfil Panel Requests. MHA Managers will receive an email request for Panel members, which they reply to indicating their availability. The MHA Law Administrators will make the relevant selection to complete a Panel within 48 hours (working week) and members will receive confirmation by email. All Managers will have electronic tablets provided by the Trust to ensure they are able to communicate effectively with the Trust in order to register for sessions and access renewal reports.

Some of the MHA Managers have been selected and trained to perform the same tasks within High Secure Services and Specialist Learning Disability Divisions. All MHA Managers are expected to undergo and keep up to date the necessary training in relation to Personal Safety / Breakaway and Security / Key training.

In order to retain an appropriate level of expertise, MHA Managers are expected to undertake at least five Hearings a year, however for HSS this will be one in every four-month period. Managers are also required to attend the bi-monthly Managers' Committee meetings and training sessions and any other training as is required by the Trust.

## **DISCIPLINARY, DISCIPLINARY APPEAL AND GRIEVANCE PROCEDURES**

There are no disciplinary, disciplinary appeal or grievance procedures applicable to this contract for services. However, if the MHA Manager's activities cause dissatisfaction with patients, service users or staff of the organisation, his/her services may be terminated. The Manager may be requested not to undertake further assignments for a period of time or may be given a letter of dissatisfaction. The appointment to act as MHA Manager will be for four years, and further periods of four years thereafter. There will be an annual review meeting to discuss performance within the role.

## **CONFIDENTIALITY**

MHA Managers are required to maintain complete Confidentiality about information related to patient care, members of staff, and where required, the Trust's working practices, policies and procedures. All information that is, or has been acquired by a MHA Manager during the fulfilment of the role, or otherwise acquired by the MHA Manager in confidence and/or which has not been made public by, or with our authority, shall be Confidential and shall not at any time (save in the course of our business or as required by law), whether before or after termination of appointment as MHA Manager be disclosed without the organisation's written consent.

MHA Managers are required to abide by the Trust's Security Policies.

MHA Managers must follow Trust guidance on use of iPads and maintain security.

MHA Managers are to exercise reasonable care to keep safe all documentary or other material containing confidential information. All documentation including Patient Reports must be returned to the Mental Health Act Administrator for disposal following each Hearing. The use of the Trust email account only applies to Mersey Care NHS Trust activity and no other. Trust email / iPad cannot be used when undertaking MHA Manager role on behalf of other organisations. Mersey Care equipment should not contain information about other Trust patients. iPads are not for personal use and / or unauthorised software / apps.

## **EXPENSES / REMUNERATION**

Appointment as an MHA Manager does not attract a salary. Remuneration will be in the form of an 'attendance' allowance, agreed travel and parking expenses. There will be no remuneration due during periods when no work is provided. Remuneration and expenses incurred will be reimbursed by BACS transfer. Payments are made gross by the Trust for self-employed MHA Managers, and taxed at source for those subject to PAYE. In the former case, the MHA Manager is responsible for declaring the income to HMRC and the payment of any tax which may be due.

Claiming remuneration is optional. Remuneration, travel and parking expense rates are set out in a separate document. The Trust will review the remuneration every 2 years.

## **TERMS OF OFFICE**

MHA Managers will initially be subject to a 4-year term of office. This may be subject to a further 4-year term of office following a review undertaken by the Director of Patient Safety. Further 4-year terms of office are available, subject to review and approval by the Board.

## **DECLARATION OF INTERESTS**

MHA Managers are asked at each MHA Committee Meeting if they have any declaration of interests to make. Annual written declaration will also need to be made.

## **RESPONSIBILITIES OF THE TRUST**

The MHA Managers can expect that the Mental Health Act Administrators will organise the Panels in a fair manner with reasonable notice where possible, and will attempt to ensure sufficient time is allocated to read reports in advance of Hearings. The Trust will provide training and support to its MHA Managers, and will pay expenses and remuneration promptly.

## **PREVIOUS INVOLVEMENT**

Mental Health Act Managers should not undertake a review of people they know personally or have dealings with them in another capacity.

Signed.....Date.....  
(Mersey Care NHS Trust)

Signed.....Date.....  
(Mental Health Act Manager)

I have read the contract and agree to be bound by the terms which I consider to be reasonable.

## **PERFORMANCE REVIEW & APPRAISAL PROCESS FOR MENTAL HEALTH ACT MANAGERS**

### **INTRODUCTION**

This document outlines the process for performance review and appraisal of members of the Trust's Mental Health Act Managers' Committee. It will be used from April 2015 for all Committee members.

### **BACKGROUND**

The Code of Practice (para 38.9) requires Trusts to have performance review arrangements in place for MHA Managers: "Appointments to Managers' Panels should be made for a fixed period. Reappointment (if permitted) should not be automatic and should be preceded by a review of the person's continuing suitability."

### **REVIEW AND REFLECTION INTERVIEW**

The annual review process will be preceded by completion of the 'self- appraisal' document (below). The review will be led by any one of the following:

- Director of Patient Safety
- Mental Health Act and Mental Capacity Act
- The Chair or one of the two Vice-Chair of MHA Managers' Committee.

The meeting will take the form of an informal discussion, focusing on both the individual MHA Manager's experience of the role and their views on how well they match the core competencies as well as any difficulties they have encountered and any perceived training or development needs.

This meeting will provide an opportunity for focused discussion which may include difficulties encountered in particular Hearings. To preserve confidentiality, no patient-identifiable information will be recorded.

A review may also be carried out at any other time within the year where the Chair of the Committee believes this is warranted in an individual case.

The reviewer leading the process will complete their part of the form and submit all documentation to the Committee Chair as well as a copy to the individual MHA Manager.

### **OBSERVATION BY REVIEWERS**

It has been deemed impracticable to observe all MHA Managers every year. However, as a further means of validating the review process, periodically, all reviewers will attempt to observe a Hearing, providing feedback to individual Panel members afterwards including

Chairing skills where appropriate. Where any serious concerns about performance in the role arise, these will be brought to the attention of the Committee Chair who may decide to further investigate the matter personally or delegate another person to do so.

### **SATISFACTORY OUTCOME**

Any MHA Manager who has been through the review and reflection process whose performance appears to be satisfactory will have their name put forward for a further term as an MHA Manager subject to the needs of the Trust.

### **UNSATISFACTORY OUTCOME**

There is no contractual obligation on the Trust to offer hearings to an individual MHA Manager. If a MHA Manager is deemed to be no longer suitable for this role either on the basis of their performance or lack of availability to sit on Panels or attend training and the matter cannot be resolved through the review and reflection process, their contract may be terminated if they choose not to resign from the role.

The Trust wants to support Managers to achieve the highest standards and will provide enhanced guidance, support or directives to enable Managers to achieve the standard.

Failure to meet the key criteria initially could lead to renewal with conditions. The achievement of these will be monitored over a six-month period.

A further one to one session will be held to assess if the criteria can now be met.

If they have renewal will be agreed, if not renewal will not be agreed.

### **AVAILABILITY FOR REVIEW AND REFLECTION INTERVIEW**

It is important to try to arrange a mutually convenient date for this process. In many cases it will be possible to utilise a date when a Manager is already due to sit on a Panel or carry out other duties. Other than in exceptional circumstances, if the process is not carried out within the year due to lack of availability with reasonable notice, the MHA Manager's contract will be terminated.

### **FURTHER DEVELOPMENT OF REVIEW AND APPRAISAL PROCESS**

This process will be kept under review and adjustments made in the light of experience or guidance.

**Mental Health Act Manager Yearly Appraisal Form**

**Date of Appraisal:** .....

**Name of MHA Manager** .....

Number of Hearings attended since your last Appraisal.....

(For New MHA Managers: Number of Hearings since commencement)

Committee Meetings attended since last Appraisal (bi-monthly) .....

Other activities for the Trust, e.g. Quality Review / Audit Visits.....

**Complete your Training Record below including date attended.**

**Please circle Yes or No, not forgetting to add the date:**

Mandatory Personal Safety / Breakaway Training: <b>2 YEARLY</b>	Yes / Date .../.../.....	No.
Hill Dickinson Training 4 Sessions	Yes .../.../.....	No
	Yes .../.../.....	No
	Yes .../.../.....	No
	Yes .../.../.....	No

**eLearning Modules (as specified by the Trust)**

Circle <b>YES</b> if completed and add <b>DATE</b>		
Equality and Diversity	Yes	Date
Information Governance	Yes	Date

Safeguarding Adults	Yes	Date
Safeguarding Children	Yes	Date
Infection Control	Yes	Date
Health and Safety	Yes	Date
Fire Awareness	Yes	Date
Moving and Handling	Yes	Date

**Points for discussion at Appraisal Interview:**

Have you identified any other Training needs you believe the post of MHA Manager requires?

If yes, how do you see this as being beneficial to the role of MHA Manager?

How would you describe your availability for MHA Manager sessions since your last Appraisal?

Do you believe your knowledge of the MH Act 1983 (Amended 2007) is up to date?

Do you believe your knowledge of the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards is up to date?

Have you attended the MHA Manager Pre-Meetings?

Do you find these useful?

What has gone well since your last Appraisal?

Is there anything that has not gone well and did you have to report this to the Vice Chairs or to the Trust?

What do you envisage your commitment to the role of MHA Manager to be in the next twelve (12) Months?

Is there anything you wish to discuss not mentioned above?

**MHA Manager’s comments on discussion points above. To be completed by the MHA Manager prior to the Appraisal in the BOXES below.**

[Empty box for MHA Manager's comments]

**MHA Manager's Comments Continued**

**Record of Appraisal:**

**People in attendance (other than the MHA Manager)**

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**Reviewer's Comments:**

**Reviewer’s Recommendation(s).**

	<b>Yes</b>	<b>No</b>
Suitable to continue in the role as MHA Manager?		
Suitable to continue with proviso? State reasons below, e.g. Needs to complete Training, needs to attend Committee meetings		
Suitable to continue with Supervision? State reasons below.		
Unsuitable to continue as MHA Manager? State reasons below.		
Has the outcome of this Appraisal been explained to the MHA Manager?		

Reviewer’s Signature.....

**MHA CODE OF PRACTICE 2015  
GUIDING PRINCIPLES**

*Least restrictive option and maximising independence*

Where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery wherever possible.

*Empowerment and involvement*

Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.

*Respect and dignity*

Patients, their families and carers should be treated with respect and dignity and listened to by professionals.

*Purpose and effectiveness*

Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.

*Efficiency and equity*

Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

**INDUCTION PROGRAMME FOR NEW MENTAL HEALTH ACT  
MANAGERS**

**Induction Programme  
for  
New Mental Health Act  
Hospital Managers**

**Co-ordinating Manager  
Steve Morgan  
Director of Patient Safety  
0151 473 2874**



# **Mental Health Act Hospital Managers**

## **Welcome**

We would like to welcome you to your new role as Mental Health Act Hospital Manager. We have developed what we hope is a robust and supportive framework for you to learn and develop in. It is planned that you will meet your Mentor during the initial 2-day Training Programme; this will allow you to arrange to meet together to plan the way forward. If unexpectedly this does not happen, your Mentor will contact you to take the process further.

The Mentor will ensure that you gain experiences in as many aspects of the role as possible especially Hospital Managers Appeals and Renewals. Therefore, attendance at CTO Reviews and Audits are all recommended but not part of the formal programme. As a Probationer you will be required to attend a minimum of **4** Mental Health Act Managers Committee Meetings per year, although attendance at all is encouraged.

If you and / or your Mentor wish to discuss the Induction Programme outlined below to seek further clarification, please do not hesitate to contact either Steve Morgan or Keiko Provost.

## **Induction**

Each newly appointed Manager will participate fully in an induction programme lasting 6 months which will be divided into two parts: -

- a) Probationary Period up to 3 months.
- b) Developmental Period up to 3 months.

The process will be supported and coordinated by a Mentor. This individual will be a practicing MHA Hospital Manager, having no less than 5 years' experience.

Each Mentor will work with one Probationer at a time to ensure that they can focus on the individual and consider their specific needs.

The Mentor for each period will be different thus providing an opportunity for the Probationer to experience different perspectives and styles.

## **Probationary Period**

The Probationer will be guided and assessed by their Mentor throughout this period. They will have certain key activities to undertake which will allow them to display an identified set of skills and level of knowledge. Once this period has been successfully completed, then the individual moves on to the Developmental Period as a practicing Hospital Manager. During the Probationary period, there are two stages that must be completed: -

### **Probationary Period / Up to First Three Months**

Each individual will observe at least four Mental Health Act Reviews (minimum to be agreed by Mentor / Mentee with guidance from the Vice Chair as appropriate) that their Mentor is

involved in. Each observation session will be followed by a period of reflection that will include discussion on: -

- Criteria for detention being met / not met.
- Issues considered (see appendix A.)
- Role of Panel members.
- Decision made.
- Roles and responsibilities of Clinicians/Social Work/Community Nurse/Ward Nurse.
- Skills used / not used by Panel members.
- Use of documentation.
- Importance of Preparation.
- Permission must be obtained from patients for observers to observe hearings.
- Permission must be obtained for Mentee Observers to have access to the reports.

Following each observation session, the Mentor/Mentee will complete a brief summary of issues discussed (see Appendix A) and the understanding shown by the Probationer. If the Probationer displays an appropriate understanding of the role of the Panel and suitable behaviour at all observations sessions, they can move on to the second stage. They can now sit as a Panel member whilst being observed by their Mentor; each hearing will be followed by a period of reflection. Sitting as a Panel member should not take place until three months of the probation period has passed (or sooner if agreed or otherwise approved by the Trust). If the four observations sessions are undertaken before this time period has ended. It is important that the Probationer is allowed to: -

- Reflect upon each session
- Experience sessions in different units

### **Developmental Period / Second Three Months**

During the second half of the Probationary period and after having observed a minimum four sessions the new Manager can sit as the third member of a Panel. Each session will be followed by a period of reflection with their Mentor and, where possible, the Chair of the Panel. The Mentor will complete the assessment form (see Appendix B) for each assessed session. It is important that the Mentor shares both positive and negative views of the Probationer's performance and identifies how the new Manager can change and improve their practice where necessary.

The Probationer must be assessed on at least three sessions during the Developmental Period and pass each one.

### **Extensions**

If the Probationer does not pass three sessions within the second three-month period, an extension can be requested from the Mentor and agreed by the Director of Patient Safety.

Consideration will include: -

- The whole three months is repeated to undertake all of the assessments.

- The period is extended up to a further three months to allow time for the sessions that were not passed to be undertaken.
- The opportunity to re-take assessed sessions **should not** be provided.

Only one extension to the three-month period is acceptable - making a maximum length of the Probationary period 9 months. If the mandatory practices are not completed within this timeframe, then the Probationer will cease to be a Hospital Manager within the Trust. An extension can also be agreed by the Mentor or the Director of Patient Safety if a Probationer is unable to arrange sessions due to the his / her availability and that of their Mentor. Once agreed, this extension cannot go beyond a 3-month period.

## **Sickness**

If sickness is the reason why timescales have not been achieved, then consideration will be given in relation to extension of time. It is however recommended that assessed sessions should be undertaken in close proximity to each other and to the observed sessions. Therefore, the Director of Patient Safety can recommend that the whole Probationary period is re-commenced if sickness has been for a prolonged period and requires more than a 3-month extension.

## **Assessment**

The assessment process is aimed at ensuring that each Probationer is able to practice independently as a Panel member and meets all the key criteria, including that she/he displays: -

- A basic understanding of the role of the MHA Hospital Manager and associated review process.
- A basic understanding of the Mental Health Act and MCA / DoLS.
- An ability to ask pertinent questions and analyse the answers.
- An ability to listen, both to Panel members and those giving evidence.
- An understanding of the roles each Practitioner plays in the Care and Treatment of the patient / service user.

The Mentor following the full Probationary period must consider the above points and complete the form in Appendix C to confirm that the individual is appropriate to sit as a MHA Hospital Manager and enter the Post Developmental Period (if required).

## **Post Developmental Period**

During this period (if required), the new Manager can sit as a Panel member. Three Panels will be observed by their Mentor or another Mental Health Act Hospital Manager namely the Chair of the Panel, or another Mentor as appropriate if the Mentor cannot continue due to sickness or absence.

Any areas needing further development should be highlighted with the individual and a plan agreed to improve the person's practice. At the end of the Post Developmental Period, the Mentor will provide a summary of the new Manager's performance to the Mental Health Act Committee Chair and Director of Patient Safety (see appendix D)

Either: -

- Making recommendations for the person to continue in the role.
- Highlighting areas for improvement but recommending that they continue in the role.
- Discontinuance as a Manager.

### **Documentation**

It is recommended that the new Mental Health Act Hospital Manager keep a record / copy of all the assessments undertaken. These can be kept in a file as a portfolio of evidence.

**Probationary Observation Session**  
**Brief summary of issues discussed and understanding shown**

Case Observed – What type of case, e.g. Review / Renewal /CTO Extension / Appeal / Barring

**Discussion Points**

Mental Health Act / Mental Capacity Act and any Communication issues raised.  
Understanding of roles of attendees.  
Key Learning points.

**Mentor's Comments**

**Mentee's Comments**

Please complete one of these forms for each observation session

Appendix B

**Assessment criteria, Observation of Probationer  
Mental Health Act Manager**

All sections must be completed discursively, Yes / No answers can only form part of the response. The boxes below provide points for consideration by both parties, Mentor and Probationer, for discussion and comment.

**General Engagement**

The Probationer

- ◇ Arrives on time and is settled and available to start the Panel as agreed?
- ◇ Is prepared and has read any relevant reports supplied?
- ◇ Is able to communicate with other Panel members effectively?
- ◇ Is courteous to other Colleagues and Trust employees?
- ◇ Is focused on the task in hand?

## **Questioning Style**

Is the Probationer able to:

- ◇ Ask questions and pursue as appropriate, getting full answers?
- ◇ Pursue a line of thought?
- ◇ Ask questions in simple language and avoid lengthy questioning?
- ◇ Avoid displaying her/his own judgments and views on the patient's lifestyle?

## **Listening Skills**

Is the Probationer able to:

- ◇ Demonstrate that s/he is listening effectively to all the participants during the Hearing?
- ◇ Encourage by smiling, nodding appropriately and looking at the speaker?
- ◇ Focus on the content of the Hearing, demonstrating that s/he is familiar with the issues that are the subject of the Hearing?
- ◇ Check where and when necessary to seek clarification?
- ◇ Respond respectfully and clearly to participants at the Hearing, particularly the patient?
- ◇ Let people finish and avoid interrupting?

## **Rapport**

Is the Probationer able to demonstrate that they are able to build rapport with:

◇ **The professionals**

- Is s/he able to give the professionals the confidence that they are going to take seriously what they say, having read the reports but, at the same time, ask questions that may challenge professional staff at the Hearing?

◇ **Other colleagues and the Chair at the meeting**

- Is s/he able to work with the Chair and other colleagues both during the Hearing and afterwards to support the Chair in the decision making process and completing the paperwork?

## **Contribution**

Is the Probationer able to:

- ◇ Contribute effectively to the pre-meeting, the Hearing itself and subsequent discussion?
- ◇ When a decision is reached, did they contribute to that?

### **Summary**

Please provide a summary of the positive attributes / skills that the individual has displayed during the assessed Hearing: -

Please provide an overview of the improvements to the person's practice that can be made: -

**Overall Comments**

**Probationer's Comments**

Signed by Hospital Manager:  
Name of Hospital Manager:

Date:

Signed by Probationer:

Date:

## Final Assessment of Mentor (Practice Development Period)

**Please consider the following criteria and identify the Probationer's abilities under each.**

1. Displays a basic understanding of the role of the Hospital Manager and associated review process.
2. Displays a basic understanding of the Mental Health Act, Mental Capacity Act, Deprivation of Liberty Safeguards and the Code of Practice.
3. Displays an ability to ask pertinent questions and analyse the answers.
4. Displays an ability to listen, to both Panel members and those giving evidence.
5. Displays an understanding of the roles of Practitioners and the Practitioner's role in the care and treatment of the patient.

I do / do not (delete as appropriate) recommend that the Probationer has the appropriate level of knowledge and skills to sit as a MHA Hospital Manager in a supervised capacity.

Agreement and recommendations by Performance Management Committee.

Signed: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_

I make the following recommendation to the Mental Health Act Managers Committee  
(Please highlight chosen decision)

- For the person to continue in the role / unreservedly
- For the person to continue in the role highlighting areas for future monitoring
- Discontinuance as a Manager.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Mentor: \_\_\_\_\_

Decision of Performance Management Committee

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

## MENTAL HEALTH ACT MANAGERS COMMITTEE TERMS OF REFERENCE

### 1 CONSTITUTION

- 1.1 The Board hereby resolves to establish a (Sub) Committee of the Quality Assurance Committee to be known as the *Mental Health Act Managers Committee*. The Committee has no powers, other than those specifically delegated in these terms of reference.

### 2 ACCOUNTABILITY

- 2.1 The Committee is accountable to the Quality Assurance Committee and any changes to these terms of reference must be approved by the Quality Assurance Committee.

### 3 PURPOSE

- 3.1 Its purpose is to:
- (a) Provide a forum for communication between the Board, the Mental Health Act Managers and officers of the Trust;
  - (b) Allow the scrutiny of, and provide a mechanism for assurance on, the robustness of the arrangements in place for the trust to meet its duties in respect of the Mental Health Act 1983 (as amended), the Mental Health Act Code of Practice and associated regulations and guidance.

### 4 MEMBERSHIP

- 4.1 The Sub Committee shall comprise the following voting members:
- (a) A Non-Executive Director (NED), (nominated by the Trust  
Chair;
  - (b) The appointed Mental Health Act Managers.
- 4.2 The Non-Executive Director will Chair the Committee, or in their absence one of the two Vice Chairs (selected from amongst the appointed Mental Health Act Managers) nominated by the Non-Executive Director.
- 4.3 Membership of the Committee will be disclosed in the Committee's Annual Report to the Quality Assurance Committee.
- 4.4 There is no provision for deputies to represent voting members at meetings of the Committee.

## **5 ATTENDANCE**

- 5.1 The following non-voting members will attend meetings of the Committee:
- (a) The Director of Patient Safety;
  - (b) The Mental Health Act and Mental Capacity Act Lead and Patient Safety / Associate Hospital Managers Administrator;
  - (c) The Trust Secretary / Assistant Trust Secretary (when invited); and
  - (d) A member of staff to minute the meetings.
- 5.2 The Chair of the Committee may also extend invitations to other personnel with relevant skills, experience or expertise as necessary to enable it to deal with matters before the Committee.

## **6 QUORUM**

- 6.1 A quorum shall be at least nine members, including at least the Non-Executive Director or one of the two Vice Chairs (i.e. at least one of the recognised Chair / Vice Chairs). This members forming the quorum includes all MHA Managers whether they perform their duties in one or all of the Divisions, i.e. Secure Services, Specialist Learning Disability and Local Divisions.

## **7 FREQUENCY**

- 7.1 Meetings shall be held a minimum of six times a year.
- 7.2 Voting members of the Committee may request an extraordinary meeting if they consider that one is necessary, subject to a request in writing (including by email) to the Non-Executive Chair and copied to the Director of Patient Safety.

## **8 AUTHORITY**

- 8.1 The Committee is authorised by the Quality Assurance Committee to:
- (a) Investigate any activity within its terms of reference;
  - (b) Make recommendations to the Quality Assurance Committee;
  - (c) Act in accordance with the Trust's *Scheme of Reservation and Delegation*;
  - (d) Advise on policies in respect of the Mental Health Act 1983 (and associated regulations and guidance);
  - (e) Establish and approve the Terms of Reference of such sub-reporting groups, or task and finish groups as the Committee believes necessary to fulfil its Terms of Reference.
- 8.2 As the Mental Health Act Managers undertake duties on behalf of the Board where necessary, and following discussion with the Non-Executive Chair, the Committee may report significant issues directly to the attention of the Board. The Non-

Executive Chair of the Committee will advise members of the Committee on what shall constitute a significant issue.

The Chair shall notify the Director of Patient Safety and Trust Secretary of such matters, who in turn will raise the matter with the Trust Chairman and then confirm the manner in which the issue(s) is to be raised with the Board.

8.3 The Quality Assurance Committee also delegates decisions that are not of a significant nature. In practice, what is significant will depend upon the judgement of members but the Committee must refer the following types of issue to the Board, through the Director of Patient Safety and the Trust Secretary:

- (a) Any matter which will:
  - (i) Change the strategic direction of the Trust;
  - (ii) Conflict with strategic obligations of the Trust;
  - (iii) Contravene national policy decisions or Government directives;
  - (iv) Has significant revenue implications;
  - (v) Change any policies approved by the Board; or,
  - (vi) Is likely to arouse significant public or media interest.

## **9 DUTIES**

9.1 Through the Quality Assurance Committee, to provide assurance to the Board that the Trust is discharging its statutory responsibilities in fulfilling the duties and obligations of the Mental Health Act Managers under the Mental Health Act 1983 (as amended), the Mental Health Act Code of Practice, the Mental Capacity Act 2005, the Deprivation of Liberty Safeguards and associated legislation and guidance in respect of the Trust's Mental Health Act and Mental Capacity Act activities.

9.2 Ensuring that the duties identified within the Mental Health Act 1983 (as amended), the Mental Health Act Code of Practice, Mental Capacity Act 2005, Deprivation of Liberty Safeguards and associated legislation and guidance are carried out to the highest possible standard.

9.3 Receiving details of the use of the Mental Health Act 1983 (as amended), Mental Capacity Act 2005 and Deprivation of Liberty Safeguards across the Trust.

9.4 Ensuring that the Trust's procedures and practices for the provision of care under the Mental Health Act 1983 (as amended) and Mental Capacity Act / Deprivation of Liberty Safeguards are reviewed and audited in accordance with agreed processes.

9.5 Ensuring that the Trust's practices are in line with directives from the Department of Health, recommendations from the Care Quality Commission and other relevant bodies are reviewed and audited.

9.6 Ensuring that the Trust's responsibilities for those service users' detained under security are met.

- 9.7 Receiving and approving proposals from Mental Health Act Managers to improve the administrative and organisational arrangements which support the work of the Mental Health Act Managers.
- 9.8 Working with the Director of Patient Safety, to advise on the contents and take part in the review of the Mental Health Act Managers Policy.
- 9.9 Sharing with the Trust, instances of best practice and / or deficits which reflect the Trust's ability to comply with the Mental Health Act 1983 (as amended), and the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards,
- 9.10 Providing a forum to share, debate and learn about good practice and the effects of recent case law.
- 9.11 Recommending to the Board any changes to the delegation of duties in respect of the Mental Health Act 1983 (as amended) the Mental Health Act Code of Practice, the Mental Capacity Act / Deprivation of Liberty Safeguards and associated legislation and guidance, for the approval by the Board.
- 9.12 Identify any Key Risks which the Trust needs to identify through its Risk Management process.
- 9.13 Agreement of an annual cycle of business governing the work of the Committee whereby the MHA Managers contribute on Agenda items and raise issues of concern from the MHA Managers Pre-Meetings.

## **10 REPORTING**

- 10.1 The Committee will have the following reporting requirements:
  - (a) To ensure that the (draft) minutes of its meetings are formally recorded and submitted to the Quality Assurance Committee supported by a Chair's report;
  - (b) To ensure that any issues that require disclosure to the Board are brought to the attention, through the Non-Executive Chair, or the Director of Patient Safety and the Trust Secretary (see paragraph 8.2 above);
  - (c) To identify and risks, controls and mitigations to the Director of Patient Safety for reporting through the Trust's Risk Management process;
  - (d) To be drafted by the Director of Patient Safety (or a delegated officer) on behalf of the Committee in accordance with Trust guidance, the approval of an annual report on the activities of the Committee (including providing assurance that it has met the requirements of these Terms of Reference), which is to be submitted to the Quality Assurance Committee.
- 10.2 The following groups report to the Committee:
  - (a) Mental Health Law Governance Group;

## **11 RESPONSIBILITIES OF COMMITTEE MEMBERS AND ATTENDEES**

- 11.1 Members of the Committee have a responsibility to:

- (a) Attend a minimum of four of meetings a year, having read all papers beforehand;
- (b) Agree an annual cycle of business for the Committee; (see paragraph 9.13 above)
- (c) Act as 'Champions', disseminating information and good practice as appropriate.

## **12 ADMINISTRATIVE ARRANGEMENTS**

12.1 The Administrative Support, working with to the Director of Patient Safety, will ensure:

- (a) That the Committee receives sufficient resources to undertake its duties
- (b) Correct minutes of meetings are taken and once agreed by the Chair that they are distributed to the members;
- (c) The minutes of the meeting are distributed within 10 working days of the meeting taking place;
- (d) A record of matters arising is produced with issues to be carried forward;
- (e) An action list is produced following each meeting and any outstanding action is carried forward on the action list until complete;
- (f) Conflicts of interest are recorded along with the arrangements for managing those conflicts;
- (g) Appropriate support to the Chair and Committee members to enable them to fulfil their role;
- (h) The agenda is agreed with the Chair prior to sending papers to members no later than five working days before the meeting;
- (i) Management of the Committee's annual cycle of business; (see paragraph 9.13 above)
- (j) The papers of the Committee are filed in accordance with the Trust's policies and procedures.

12.2 The Director of Patient Safety will collate (or oversee the collation) of the Committee's annual report and agree new ways of working to enable the Committee to meet the wide range of responsibilities set out in these Terms of Reference.

## **13 REVIEW**

13.1 Terms of Reference will be reviewed at least annually. Date for review April 2017.



## **MENTAL HEALTH LAW GOVERNANCE GROUP TERMS OF REFERENCE**

### **1 CONSTITUTION**

- 1.1 The Mental Health Act Managers Sub Committee hereby resolves to establish a group to be known as the *Mental Health Law Governance Group* ('the Group'). The Group has no powers, other than those specifically delegated in these terms of reference.

### **2 ACCOUNTABILITY**

- 2.1 The Group is accountable to the Mental Health Act Managers Sub Committee and any changes to these terms of reference must be approved by the Mental Health Act Managers Sub Committee.

### **3 PURPOSE**

- 3.1 Its purpose is to:

(a) Provide a forum for communication between Mental Health Act Managers and Trust Clinical, Nursing and operational staff;

(b) Assist the Mental Health Act Managers Sub Committee in scrutinising and gathering assurance on the robustness of the arrangements in place across the Trust to meet the duties described in the Mental Health Act 1983 (as amended), the Mental Capacity Act 2005, the Mental Health Act Code of Practice and associated regulations and guidance.

### **4 MEMBERSHIP**

- 4.1 The Group shall comprise the following voting members: (a) six Mental Health Act Managers (nominated by the Mental Health Act Managers Sub Committee);

a) The following representatives from the Local Services Division:

(i) A nurse,

(ii) A clinician,

(iii) 2 doctors (one of whom will be from the learning disability service);

b) The following representatives from the Secure Division:

(i) A nurse,

(ii) A clinician,

(iii) A doctor;

c) The following representatives from the Specialist Learning Disability Division:

- (i) A nurse,
  - (ii) A clinician,
  - (iii) A doctor.
- d) A social care practice development / improvement representative;
- e) The Mental Capacity Act / DoLS lead to attend on a regular basis as requested by the Chair of the group
- f) The Mental Health Act Lead.

- 4.2 A Mental Health Act Manager (nominated by the Mental Health Act Managers Sub Committee) will Chair the Group, or in their absence another Mental Health Act Manager nominated by the Chair of the Group.
- 4.3 Membership of the Group will be disclosed in the Mental Health Act Managers Sub Committee's annual report to the Quality Assurance Committee.
- 4.4 Deputies may attend in place of voting members, but they will not have the right to vote.

## **5 ATTENDANCE**

- 5.1 The following non-voting members will attend meetings of the Group:
- (a) A member of staff to minute the meetings.
- 5.2 Those Mental Health Act Managers who have not been nominated to be members of the Group have an open invitation to attend meetings of the Group should they wish to do so, however, they may not necessarily obtain remuneration for doing so. The Director of Patient Safety will need to agree prior approval for this.
- 5.3 The Chair of the Group may also extend invitations to other personnel with relevant skills, experience or expertise as necessary to enable it to deal with matters before the Sub Committee.

## **6 QUORUM**

- 6.1 A quorum shall be at least six members, including at least:
- (a) the Chair of the Group or their deputy;
  - (b) In addition to the Chair / Deputy Chair, at least another two Mental Health Act Managers;
  - (c) One clinical representative (i.e., clinician, nurse, MHA Lead or doctor) from each of the clinical divisions, at least one of who should be a doctor.

## **7 FREQUENCY**

- 7.1 Meetings shall be held monthly.

## **8 AUTHORITY**

- 8.1 The Group is authorised by the Mental Health Act Managers Sub Committee to:
- (a) Investigate any activity within its terms of reference;
  - (b) Make recommendations to the Mental Health Act Managers Sub Committee;
  - (c) Act in accordance with the trust's *Scheme of Reservation and Delegation*;
  - (d) Advise on policies in respect of the Mental Health Act 1983, the Mental Capacity Act, The Code of Practice and associated regulations and guidance.
- 8.2 The Mental Health Act Managers Committee has not delegated any responsibilities beyond those mentioned in these terms of reference. For matters outside the scope of its terms of reference, the Group should report the matter to the Mental Health Act Managers Committee, making any recommendation(s) it feels are necessary.

## **9 DUTIES**

- 9.1 To assist the Mental Health Act Managers Committee in monitoring compliance within the Trust with regard to quality and governance in relation to the Mental Health Act 1983 (as amended), the Mental Capacity Act, the Mental Health Act Code of Practice and associated legislation and guidance;
- 9.2 To hold services to account in relation to issues raised during the Care Quality Commission's Mental Health Act Compliance visits;
- 9.3 To monitor trends, themes and to communicate with service leads
- 9.4 To undertake and receive audits on the Mental Health Act 1983 (as amended), the Mental Capacity Act, the Mental Health Act Code of Practice and associated legislation and guidance.
- 9.5 To receive and commission audits undertaken across the Trust with regard to the Mental Health Act 1983 (as amended), the Mental Capacity Act, the Mental Health Act Code of Practice and associated legislation and guidance compliance
- 9.6 To identify, monitor and make recommendations with regard to training across the Trust in respect of the Mental Health Act 1983, the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards;
- 9.7 To attend and provide links with the Divisional Mental Health Act groups.
- 9.8 To identify any key risks which the trust needs to identify through its risk management process.
- 9.9 To monitor and report on relevant KPIs
- 9.10 To receive the minutes of the Divisional MHA groups meetings.

## **10 REPORTING**

- 10.1 The Group will have the following reporting requirements: the chair of the group will submit a report from the work of the MHLGG to each MHAMC meeting.
- (b) To identify any risks, controls and mitigations to the Director of Patient Safety (or their representative) for reporting through the trust's risk management process;

(c) To provide any information requested by the Director of Patient Safety (or a delegated officer) to support the production of the Mental Health Act Managers Sub Committee's annual report.

## **11 RESPONSIBILITIES OF SUB COMMITTEE MEMBERS AND ATTENDEES**

11.1 Members of the Sub Committee have a responsibility to:

(a) Depending on their status, attend a minimum of eight meetings a year, having read all papers beforehand:

- (i) Mental Health Act Managers have to attend eight meetings each year,
  - (ii) Other officers have to attend at least 75% of meeting each year;
- (b) Act as 'champions', disseminating information and good practice as appropriate,

## **12 ADMINISTRATIVE ARRANGEMENTS**

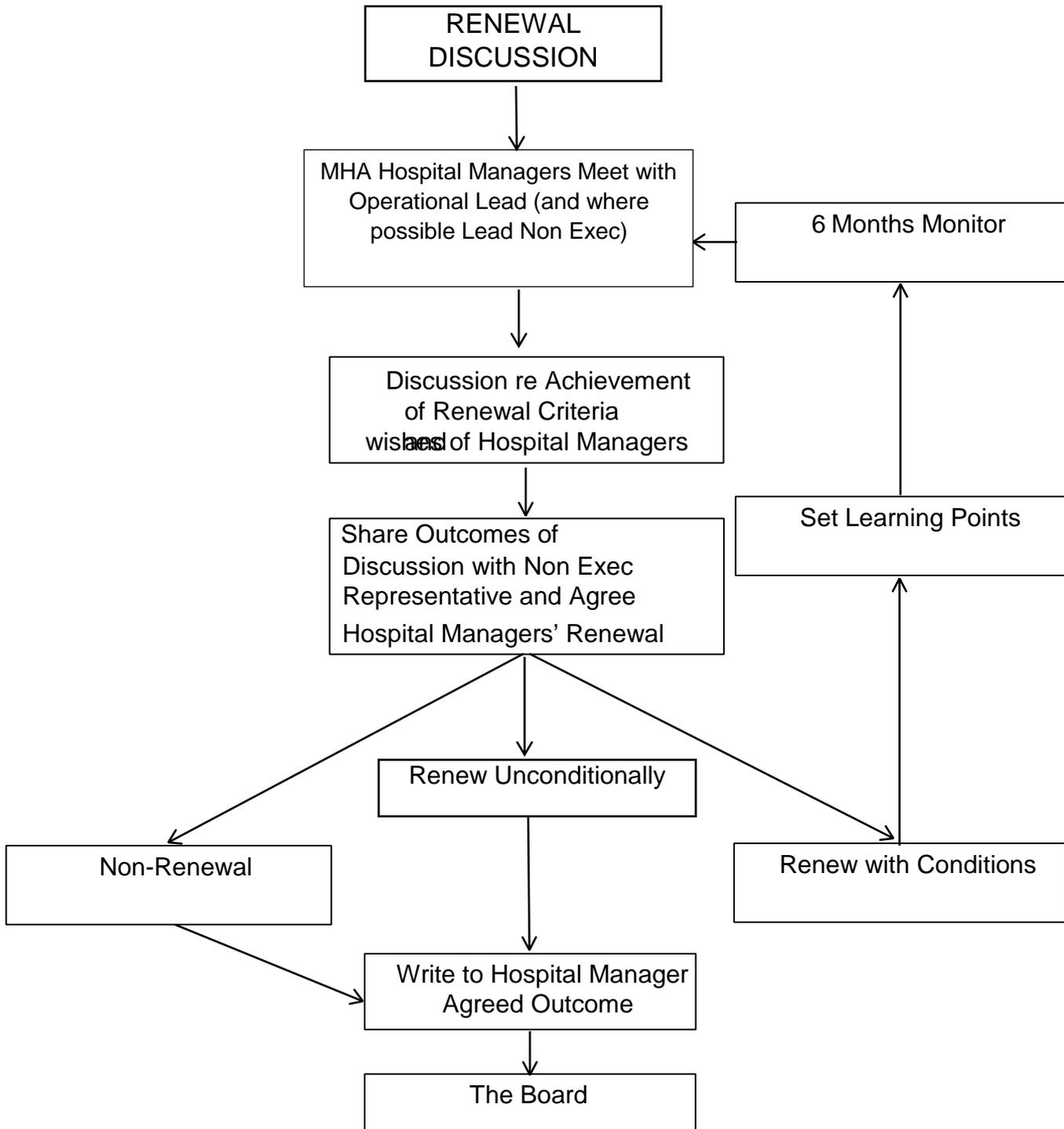
12.1 The Administrative Support, working to the Director of Patient Safety, will ensure:

- (a) That the Group receives sufficient resources to undertake its duties
- (b) Correct minutes of meetings are taken and once agreed by the Chair that they are distributed to the members;
- (c) The minutes of the meeting are distributed within 10 working days of the meeting taking place;
- (d) A record of matters arising is produced with issues to be carried forward;
- (e) An action list is produced following each meeting and any outstanding action is carried forward on the action list until complete;
- (f) Conflicts of interest are recorded along with the arrangements for managing those conflicts;
- (g) Appropriate support to the Chair and Group members to enable them to fulfil their role;
- (h) The agenda is agreed with the chair prior to sending papers to members no later than five working days before the meeting;
- (i) Management of the Group's annual cycle of business;
- (j) The papers of the Group are filed in accordance with the trust's policies and procedures.

## **13 REVIEW**

13.1 Terms of reference will be reviewed at least annually. Date for review April 2017

## MENTAL HEALTH ACT HOSPITAL MANAGERS' RENEWAL PROCESS



Once Mental Health Act Managers' Policy is ratified the new system will be agreed and followed.



- MHA Managers' Panel – is a group of three managers who will Review a case of detention or Community Treatment Order under the Mental Health Act 1983 (Revised) 2007
- MHA Managers' Hearing – is the term used when Managers as a Panel hear and assess if detention or the use of a Community Treatment Order is lawful.
- MHA Managers Renewal – MHA Managers as on a Panel review the case to confirm that the patient is detained lawfully under Mental Health Act 1983 (Revised) 2007. This is an automatic process once a Responsible Clinician renews a section.
- MHA Managers Extension – MHA Managers as on a Panel review the case to confirm the patient is lawfully subject to a Community Treatment Order. This is an automatic process once a Responsible Clinician has extended a Community Treatment Order.
- MHA Managers and Barring Orders – A MHA Managers Panel will be convened when a Responsible Clinician has issued a Barring Order revoking the Nearest Relative's application to discharge the detained patient.