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Bwrdd Iechyd Prifysgol
Aneurin Bevan
University Health Board

Mental Health Act Monitoring Committee Terms of Reference – 2022/23

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1. Introduction

The Aneurin Bevan University Health Board's standing orders provide that *"The Board may and, where directed by the Welsh Government, must appoint Committees of the Health 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"*.

In line with standing orders and the Health Board's Scheme of Delegation, the Board shall nominate annually a committee to be known as the **Mental Health Act Monitoring Committee**.

The Committee is formed of Independent Members of the Health Board and has no executive powers, other than those specifically delegated to it by the Board as outlined in these Terms of Reference.

The detailed Terms of Reference and operating arrangements set by the Board in respect of this Committee are set out in this document.

2. Purpose of the Committee

The purpose of the **Mental Health Act Monitoring Committee** ("the Committee") is to:

Advise and **assure** the Board and the Accountable Officer by critically monitoring and reviewing the way in which the Health Board discharges its functions and responsibilities under the Mental Health Act 1983 (the MH Act).

It will support the Health Board in discharging its accountabilities and responsibilities for the achievement of the Health Board's objectives and organisational requirements in accordance with the standards of good governance determined for the NHS in Wales.

Where appropriate, the Committee will advise the Board and the Accountable Officer (Chief Executive) on where and how its system of governance and assurance may be strengthened and further developed.

3. Delegated Powers and Authority

3.1. Authority

The Committee is authorised by the Board to investigate or to have investigated any activity (clinical and non-clinical) within its Terms of Reference. In doing so, the Committee shall have the right to inspect any books, records or documents of the Health Board relevant to the Committee's remit (ensuring patient, service user, client and staff

confidentiality, as appropriate). It may seek relevant information from any:

- employee (and all employees are directed to cooperate with any reasonable request made by the Committee);

and

- any other committee, sub-committee or group set up by the Board to assist it in the delivery of its functions.

The Committee is authorised by the Board to obtain outside legal or other independent professional advice and to secure the attendance of outside representatives with relevant experience and expertise if it considers it necessary, in accordance with the Board's procurement, budgetary and other requirements.

The Committee may act on any particular matter or issue upon which the Board or the Accountable Officer may seek advice.

3.2. Sub-Committees

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.

In this respect a **Power of Discharge Sub-Committee** will be created.

The Health Board, as Hospital Managers, may arrange for their functions under the Mental Health Act to be performed on a day-to-day basis by an Officer or Lay Member on their behalf. These individuals appointed by the Health Board will be known as Associate Hospital Managers and will form the membership of the Power of Discharge Sub-Committee.

The Sub-Committee will report routinely to the Committee for assurance and developmental purposes.

4. Function and Work Programme

4.1. Governance and Assurance

The Committee's programme of work will consider:

- how the delegated functions under the Mental Health Act are being exercised (for example using a programme of Annual Audit) and in line with the 'Code of Practice' requirements
- the operation of the 1983 Act within the Aneurin Bevan University Health Board area
- the multi-agency training requirements of those exercising the functions (including discussing the training report for assurance)
- issues arising from the operation of the hospital managers' power of discharge

- a suitable mechanism for reviewing multi agency protocols/policies relating to the 1983 Act
- trends and patterns of use of the Mental Health Act 1983
- cross-agency audit themes and sponsor appropriate cross-agency audits
- lessons learnt from difficulties in practice and the development of areas of good practice

To assist it the Committee will utilise the work of scrutiny and other assurance services including NHS Wales Internal Audit and Audit Wales, but will not be limited to these audit functions. It will also seek reports and assurances from directors and managers as appropriate, concentrating on the overarching systems of good governance, risk management and internal control, together with indicators of their effectiveness.

4.2. Risk Management

The Committee will seek assurances on the management of strategic risks delegated to the Committee by the Board, via the Corporate Risk Register.

4.3. Access

The Head of Internal Audit and the Auditor General and his representatives shall have unrestricted and confidential access to the Chair of the Committee at any time, and vice versa.

The Chair of the Mental Health Act Monitoring Committee shall have reasonable access to Executive Directors and other relevant senior staff.

5. Membership

The Mental Health Act 1983 gives responsibility to health and social care organisations and practitioners, in collaboration with a range of other agencies including police and ambulance services, as well as third sector bodies such as advocacy providers. Therefore, consideration will be given to reflecting this wider partnership in the membership of the Committee, as different agencies and practitioners have differing responsibilities and duties under the Act.

5.1. Members

The Committee shall comprise of three (3) members:

Chair: Vice Chair of the Health Board

Vice Chair: Independent member of the Board

Other Members: One other independent member of the Board

The committee may also co-opt additional independent 'external' members from outside the organisation to provide specialist skills, knowledge and expertise.

5.2. Attendees

Health Board:

- Director of Primary Care, Community and Mental Health will be the lead Executive but will not be a formal member of the Committee.
- Other Executive Directors will attend as required by the Committee

Others by invitation

The Committee Chair may invite any other Health Board official and / or any others from within or outside the organisation to attend all or part of a meeting to assist it with its discussions on any particular matter.

5.3. Member Appointments

The membership of the Committee shall be determined by the Board, based on the recommendation of the Health Board Chair, taking account of 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.

Members shall be appointed to hold office for a period of one year at a time, up to a maximum of their term of office.

During their period of appointment a member may resign or be removed by the Board.

6. Support

6.1. Secretariat

Secretariat arrangements will be determined and arranged by the Director of Corporate Governance.

6.2. Advice and Member Support

The Board Secretary, on behalf of the Committee Chair, shall:

- Arrange the provision of advice and support to Committee members on any aspect related to the conduct of their role;
and
- Ensure the provision of a programme of organisational development for committee members as part of the Health Board's overall OD programme developed by the Director of Workforce and Organisational Development.

7. Committee Meetings

7.1. Quorum

At least two of the selected members must be present to ensure the quorum of the Committee, one of whom should be the Committee Chair or Vice Chair.

The Director of Primary Care, Community and Mental Health (or deputy) will count towards quorum, although is not considered a member of the Committee.

7.2. Frequency of Meetings

Meetings will be held quarterly per annum and otherwise as the Chair of the Committee deems necessary – consistent with the Health Boards plan of Board business.

7.3. In Committee and withdrawal of individuals in attendance

The Chairman may ask any or all of those who normally attend but who are not members of the Committee to withdraw to receive information which may include matters of a sensitive and/or confidential nature.

7.4. Record of the Committee Meeting

A record of the meeting will be presented as notes and action points.

7.5. Public Meetings

The Committee will be open to the public.

8. Relationship and Accountabilities with the Board and its Committees

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 ensuring the quality and safety of healthcare for its citizens through the effective governance of the organisation.

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

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.

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.

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.

9. Reporting and Assurance Arrangements

The Committee Chair shall:

- Report formally, regularly and on a timely basis to the Board and the Accountable Officer on the Committee's activities. This includes verbal updates on activity and the submission of committee minutes and written reports throughout the year;
- Bring to the Board and the Accountable Officer's specific attention any significant matters under consideration by the Committee;
- Ensure appropriate escalation arrangements are in place to alert the Health Board Chair, Chief Executive (and Accountable Officer) or Chairs of other relevant committees of any urgent/critical matters that may affect the operation and/or reputation of the Health Board.

The Committee shall provide a written, annual report to the Board and the Accountable Officer on its work in support of the Accountability Report and the Annual Governance Statement, specifically commenting on the adequacy of the assurance arrangements, the integration of governance arrangements and the appropriateness of self-assessment activity against relevant standards. The report will also record the results of the committee's self-assessment and evaluation.

The Board may require the Committee Chair to report upon the Committee's activities at public meetings or to community partners and other stakeholders, where this is considered appropriate, e.g. where the Committee's assurance role relates to a joint or shared responsibility.

The Board Secretary, on behalf of the Board, shall oversee a process of annual self-assessment and evaluation of the Committee's performance and operation including that of any sub committees established. In doing so, account will be taken of the requirements set out in the NHS Wales Audit Committee Handbook.

10. Applicability of Standing Orders to Committee Business

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

These terms of reference shall be reviewed annually by the Committee with reference to the Board.