

## Assurance and Escalation Report

**Report from: Ethics Committee**

**Date the meeting took place: 27 April, 18 and 20 May 2020**

**Report to: Board of Directors**

### Key discussion points and matters to be escalated:

#### 27 April 2020

**The Committee was asked to consider: Cardio Pulmonary Resuscitation (CPR) and Personal Protective Equipment (PPE)** – there has been an inconsistency in guidance and advice regarding the appropriate PPE that staff should use when administering CPR. Public Health England advises that for chest compressions a surgical mask was sufficient, however the Resuscitation Council and other local Trusts were recommended the higher specification FFP3 masks. The Committee agreed that a clear position was required in order to prevent confusion and protect staff and service users.

The Committee agreed that after a lengthy and full discussion, supported that our internal policy would be to use FFP3 masks and that all medical staff and qualified nurses be fit tested for safe use of them.

#### 18 May 2020

**The Committee was asked to consider:**

**1. Leave from Wards** – following the outbreak of Covid-19 and the implementation of restrictions to patient leave the Committee were asked to consider if professionals involved in inpatient care delivery on the inpatient wards are restricting individual liberties to a degree that compromises the following least restrictive principles and individual differences regarding need for movement, access to community spaces, etc:

- People receiving mental health services should be provided assessment and treatment in the least restrictive way possible with voluntary assessment and treatment preferred.
- People receiving mental health services should be provided those services with the aim of bringing about the best possible therapeutic outcomes and promoting recovery and full participation in community life.
- Infringes on article 5 (Right to liberty) of the human rights act 2018.

The Committee agreed that leave requests would be assessed on an individual basis with 30 minutes per day in hospital grounds being granted, following assessment any leave to home environment would take place as part of discharge

planning to reduce the risk of transmission of infection. All leave restrictions will be discussed with service users prior to admission to the wards.

In cases where leave breaks down and re-admission is required the agreed process will commence anew, adjusting as appropriate to facilitate safe and timely access to inpatient support balanced with managing the risk of COVID-19.

**2. Use of video for Consultations** – following the outbreak of COVID-19 a shift from in-person to remote consulting is occurring and clinicians are faced with a new way of interacting with patients, their families, and other professionals. In order to adhere to social distancing and to minimise the spread of infection the use of audio-visual technology as a temporary measure for examinations, determined on a case by case basis has been proposed. The Committee were asked to consider in relation to digital technology and the Mental Health Act (MHA), if a video-link can be used by professionals to satisfy the legal criteria of having “personally examined” a patient for the purposes of the MHA 1983. The Committee were also asked to consider whether a video link could reduce the quality of assessment and management of risks for patients, staff and the public. The Committee agreed that an individual MDT discussion involving all key professionals and patient where appropriate should take place, to decide whether assessment by video-link is a suitable option. All cases will be discussed on an individual case by case basis with emphasis on best interest of the patient and the principle of least restrictive care whilst balancing proportionate measures to uphold patient, family and staff safety.

**3. Testing and Isolation of Asymptomatic Patients** - all admissions to inpatient units are now swabbed to establish their Covid-19 status. The majority of patients comply with this request and agree to self-isolate until the results are known. However, a small number mainly due to their mental health, have refused on admission. This presents a moral and operational dilemma of how to protect staff and other patients on ward areas if they refuse to isolate. The Committee considered the relevant legislative frameworks available and they considered the Care Quality Commission’s likely position. The discussion focused on human rights, health and safety and the Trust’s responsibilities to all concerned. The Trust’s typical approach is to be least restrictive and would certainly not endorse a blanket approach to enforcement. There were discussions regarding a person’s capacity and how the approach may differ for informal and detained patients.

The Committee were unable to resolve the matter in the meeting and requested further work be done. Subsequently an extraordinary meeting was convened on 20 May to further this discussion.

**20 May 2020**

**The Committee was asked to consider: Testing and Isolation of Asymptomatic Patients.** The Committee came together to further the discussions that were left open on 18 May. There had been further guidance issued by NHS

England/Improvement that day that advised Trusts to address this issue through operational means and specifically to cohort patients and use the estate to maintain areas that were free from COVID-19 and those people being tested and status unknown and those who are CV+. The guidance was consistent with the Trust's stance of avoiding blanket approaches and ensuring least restrictive practices.

The Committee discussed the Trust's limitations from an estate perspective, our current admissions processes, and the ability to isolate. The Committee discussed the impact of occupancy levels and the need to set a lower target occupancy in the future. There was further discussion on the competing rights of individuals and the wider ward community of patients and staff. There was consideration of the impact of enforcement of isolation on patients – risks of harm and trauma, and consideration of the risk of violence and harm to staff and other service users. The underlying basis of the discussion was focussed on the need to protect the majority of the ward community.

It was resolved in the Committee that the existing approach would be continued until a legal opinion could be obtained and a bed management plan could be agreed that facilitated a clear admissions process and achieved a lower level of occupancy. This would be presented to the Gold Command meeting on 22 May.

**Report completed by:** Brent Kilmurray, Chair of the Ethics Committee

Date 24 May 2020