

## NHS Lanarkshire

### Ethical Advice & Support Advisory Group

#### DRAFT Terms of Reference

##### **Purpose:**

In response to the COVID-19 pandemic, and recognising the challenging ethical issues that may arise in the context of patient activity outstripping available resources, the Chief Medical Officer's office produced *COVID-19 Guidance: Ethical Advice and Support Framework* on 3<sup>rd</sup> April, 2020.

This document requires every Board to establish a group to provide timely ethical advice and support to healthcare professionals facing difficult ethical situations.

The purpose of the NHS Lanarkshire Ethical Advice & Support Advisory Group is to deliver useful, timely and pragmatic ethical support to NHS Lanarkshire during the COVID-19 Pandemic.

The group will be part of the Board Gold Command structure while it reflects on COVID-19 issues, and will generate a regular report to the Board Chief Executive and Board Chair for presentation at the NHS Board. It is important to ensure that it can operate with agility to support Gold Command and be reported into the Board as required. To support COVID 19 this will be retrospective reporting which is how the Board is currently operating.

##### **Remit:**

The group will *advise* on matters related to clinical ethics to *aid decision-making* at individual, clinical team and population level, in situations where decision-making is particularly complex and/or challenging.

In providing advice, the group will base its advice on the law as it applies in Scotland, guidance from the General Medical Council and guidance from other respected authorities in Scotland, and beyond. The group will promote knowledge of relevant guidance and frameworks within the organisation.

It is **not** the group's role to make decisions about the care of individual patients. That remains a matter for the treating healthcare professional together with the multi-disciplinary team, in discussion with the patient and family. The group will, however, **advise** whether proposed decisions lie within accepted clinical ethical frameworks. Advice on research-related matters is specifically excluded from the group's remit.

The group will:

- liaise and exchange information with the national ethical advice and support group in order to ensure sharing of lessons learned takes place between NHS Boards throughout the process;
- consider requests for ethical advice and support presented to them by the Health Board and clinical teams;
- audit and quality assure its function;
- ensure group members have access to learning materials pertinent to the role; and
- ensure group members have access to support in their role, as required.

**Membership:**

The Group will have Executive Director Sponsorship via the Medical Director but as the national guidance is explicit regarding independence from senior management, it will have a Non Executive Board Member as Chair and Vice Chair (Margaret Morris as Chair, and Ally Boyle Vice Chair), with Secretariat support from the Director of Quality.

The guidance states that Membership should include clinicians, lay representatives, public health and where required social work representatives. The group overall should have a multi-disciplinary perspective.

**Quorum:**

A quorum shall consist of no less than one third of the membership and must include as a minimum the Chair or Vice Chair of the Group.

**Frequency of Meetings:**

Meetings will be scheduled around the availability of the Chair. If the Chair is unavailable at short notice then the meeting will be chaired by the Vice Chair.

Additional members may be co-opted to contribute to specialised areas of discussion or for specific projects.

Any senior manager of the Health Board or partner organisation will, where appropriate, be invited to attend.

**Review of Membership:**

The membership of the Ethical Advice & Support Advisory Group will be reviewed in October 2020, and March 2021, and at least annually (March) thereafter.

**Procedures:**

The group will offer advice on the ethical consideration of decisions, based on national guidance.

Processes will be put in place to ensure that no individual patient is identifiable to the group.

The agenda will be based around requests from management teams and health professionals.

Any member of staff may raise an issue with the Chair, normally by written SBAR submission.

The Chair will decide whether or not the issue shall be included in the Group's business. The individual raising the matter may be invited to attend.

The group will meet by teleconference or videoconference as required.

Discussion and decisions of the group will be recorded in a formal minute.

There will be reflective time at the end of each meeting for the group to self-evaluate its processes and decision-making.

The Ethical Advice & Support Advisory Group shall be supported administratively by the Quality Department Admin Support (Group Secretary) who will collate all necessary papers, attend meetings to take minutes, keep a record of matters arising and issues to be carried forward and generally provide support to the Chair and members of the Group.

Following approval, the agenda (confirming the venue, time and date) and timetable for papers will be circulated to all group members.

Agenda items along with accompanying papers to be submitted to the Group Secretary 5 days prior to meeting dates.

While recommendations from the group will be in the public domain, it is important that all discussions “in camera” remain confidential.

There should be no discussion of these matters out with the group. Matters that cannot be concluded by the group may be escalated to the National Group.

As the outcome of the discussions is to advise and make recommendations, there is no requirement for the Chair to have a casting vote.

**Frequency of Meetings:**

The requirement for a meeting is to be determined by the co-chairs, but will take cognisance of the need for initial training and establishment of ways of working.

Extraordinary meetings may be called at the request of the Chair or any three members of the Group.

Additional meetings will be arranged as determined by the Chair of the Group in discussion with the Director of Quality.

The Chair of the Group, in discussion with the Group Secretary shall determine the time and the place of meetings of the Group and procedures of such meetings

**Reporting Arrangements:**

The group will be part of the Board Gold Command structure while it reflects on COVID-19 issues, and will generate a regular report to the Board Chief Executive and Board Chair for presentation at the NHS Board. It is important to ensure that it can operate with agility to support Gold Command and be reported into the Board as required. To support COVID 19 this will be retrospective reporting which is how the Board is currently operating. It should include formal documentation of lessons learned.

**Relationships with the Board and other groups:**

The Chair and Vice Chair of the Ethical Advice & Support Advisory Group shall be Non-Executive Directors of NHS Lanarkshire. Regular reports will be provided to the Board Chief Executive and Board Chair.

Actions may be devolved to the Quality Planning and Professional Governance Group to amend existing guidance and /or policies as required.

**Review Date:**

These terms of reference and operating arrangements shall be reviewed initially in 6 months, and annually thereafter in March of each year to ensure that it remains fit for purpose and is best facilitated to discharge its duties.

Date approved: 29 April 2020

## DRAFT WORKING ARRANGEMENTS

### Structure

Executive Sponsor: Medical Director  
Secretariat: Director of Quality

The group will comprise the following:

Margaret Morris, Chair  
Ally Boyle, Vice Chair  
Paul Graham, Head of Spiritual Care  
Dr David Cromie, Public Health Consultant (also BMA LNC member)  
Mrs Maureen Lees, Chair of Area Clinical Forum

Possible Clinical representatives to be confirmed;

Dr Calvin Lightbody, Consultant in Emergency Medicine & Palliative Care, UHH  
Ian Hathorn, Clinical Director, Primary Care  
Brian McGurn, Consultant in Care of the Elderly  
Trudi Marshall, Nurse Director, North Lanarkshire HSCP

The minimum quorum for the determination panel will be three.

A majority is required to take a recommendation forward. All members must adopt a cabinet responsibility approach.

Where the group comprises an even number, and no agreement can be reached on key recommendations, the matter may be referred to the national group for guidance.

The chair will draft the recommendations.

We note the list of people who may be invited onto the NHSL Ethical Advisory and Support Advisory Group comprise highly experienced individuals who will make an essential contribution to the group. Some group members are, however, in established leadership roles within NHSL and, as such, the proposed membership may be at odds with the recommendation of the National Guidance. Recognising the importance of the contribution such individuals can make, we propose that the membership of the group accepts these individuals to contribute to and contextualise the wider discussions of the group.

### **Process: Discussions and Decision Making**

While recommendations from the group will be in the public domain, it is important that all discussions “in camera” remain confidential.

There should be no discussion of these matters out with the group.

The minimum quorum to establish a determination should be three.

Discussions in both the advisory group and determination panel should be respectful and characterised by constructive challenge.

Each member of the group is invited to self-reflect and offer feedback to others under the headings communication, working with others, integrity, decision-making and judgement.

**Recording of the meetings**

Formal minute.

**Review date:**

October 2020 and March 2021 and thereafter annually.

Outline agenda

Date and time of meeting:

Attendees:

Cases discussed:

Lessons Learnt:

Meeting review.

DRAFT