

Mental Health Commission

Minutes of Meeting of Tuesday 3 December 2013

11:00am – 2:15pm

Held at

**Offices of the MHC,
 St Martin's House,
 Waterloo Road,
 Dublin 4.**

Present:

Commission Members	Initials
John Saunders – Chairman	JS
Michael Byrne	MB
Xavier Flanagan	XF
Pauline Gill	PG
Anne Jeffers	AJ
Mary Keys	MK
Ned Kelly	NK
Patricia O'Sullivan Lacy	POSL

Apologies:

Maeve Doyle	MD
Catherine O'Rorke	COR
Colette Nolan	CN
Martin Rogan	MR

Absent:

John Redican	JR
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Executive In Attendance:

Patricia Gilheaney – Chief Executive (CE)	PCG
Ray Mooney – Board Secretary	RM
Ulla Quayle – Office of the CE	UQ

The Chair (JS) welcomed Members and opened the December Commission meeting.	
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1. Minutes of Meeting held on 18 October 2013	Actions
The Minutes of the meeting of 18 October 2013 were approved and agreed. Proposed by: AJ Seconded by: NK.	

Matters Arising from Minutes of 18 October 2013	Actions
There were no matters arising from the minutes of the meeting of 18 October 2013.	

2. Chairman's Business and Matters for Mention	Actions
(i) Absence of Commission Member The Chair (JS) reported that he had written to Minister Kathleen Lynch regarding this matter and referred to a copy of the letter and reply which was included in Members information packs.	
(ii) MHC Meeting Dates 2014 Discussion took place regarding dates for 2014 Commission meetings. It was agreed that Commission meetings would be held on the third Friday of each month where possible. No meetings would take place during August and November. A schedule of meeting dates for 2014 would be prepared and circulated to Members.	CE Office
(iii) Actions taken by the Executive on foot of the Inspection Reports issued to the Commission – December Meeting 2013 The CE (PCG) drew Members' attention to the summary of actions taken by the Executive in respect of the sixth tranche of inspection reports. The CE (PCG) indicated that the Department of Psychiatry, University College Hospital, Galway has had its re-inspection visit and the report advising of the outcome is awaited. In respect of Tohermore, the CE (PCG) reported that the review of community residences had still not been received. Two reminders have been sent and assurances have been given by the Area Manager that the report will be sent to the MHC by Friday 6 December 2013.	

<p>In relation to Selskar House, the CE (PCG) indicated that the requested report is still outstanding.</p> <p>The CE (PCG) reported that a statutory compliance report has been requested in relation to St Brigid's and St Marie Goreeti Units in Cluain Lir Community Nursing Unit.</p> <p>It was reported that Lakeview Unit, O'Casey Rooms and the Centre for Mental healthcare and Recovery in Bantry, have not submitted reports that have been requested. Reminders have been sent to these services.</p> <p>A concern was raised regarding patients being transferred outside of their catchment areas due to a shortage of beds. The CE (PCG) stated that in accordance with action point 7(ii) of the minutes of the October meeting that she had brought the matter to the Inspector's attention.</p>	
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3. CEO's Report	Actions
<p>Part One – For Information</p> <p>1.1 Register of Approved Centres</p> <p>The CE (PCG) reported that the registration of two approved centres is due to expire in December. The Standards and Quality Assurance Division has requested additional information from Merlin Park in respect of a new seclusion room and on individual care planning. Eist Linn will be re-registered when its current registration expires.</p> <p>1.1.1 Conditions Attached to Approved Centres' Registrations</p> <p>In respect of 5B Midwestern Regional Hospital, Limerick, the CE (PCG) reported that a serious concern had been brought to the attention of the Acting Chief Executive on 18 November 2013 following an inspection visit which took place on 6 November 2013. The serious concern highlighted that the centre was in breach of the condition that had been attached to its registration on 26 March 2013 which required full compliance with article 15 (individual care plan) of the MHA 2001 (Approved Centres) Regulations. In response to this, correspondence was issued to the HSE requesting that this matter be addressed. The CE (PCG) advised that a very detailed and comprehensive report was received from Mr Bernard Gloster, Area Manager which included a detailed action plan. Another concern regarding Cappahard Lodge in respect of the Article 15 condition was also reported to the CE however, the Area Manager's report also refers to the actions which are to be taken in respect of this approved centre. The CE (PCG) advised that following receipt of the report from Mr Gloster, it was recommended to the National Director, Mental health, that the letter</p>	

be adapted as a national template and issue from the National Director's Office.

1.2 Legal Matters Update

- (a) EG v the MHT and the Clinical Director of the CMH Appeal to the High Court on a Point of Law Pursuant to Section 19 (16)

The CE (PCG) reported that the hearing which was scheduled for the morning of 25 November 2013 had been adjourned until the afternoon of that day due to the receipt of late submissions from the applicant. The hearing came before Mr Justice O'Neill on the afternoon of 25 November and judgment was reserved.

- (b) Appeal of Rights Commissioner Decision

The CE (PCG) reported that this matter has now concluded.

Members were updated regarding the separate case and proposed actions agreed.

- (c) Section 73 Application for Leave
AM v. Harry Kennedy and the Mental Health Commission and the Health Service Executive

The CE (PCG) indicated that written confirmation from the HSE relating to this case remains currently outstanding. The Director Mental Health Tribunals and Legal Affairs is following this up.

1.3 MHTs Panel Recruitment Update

The CE (PCG) reported that the new mental health tribunal panels were now in place and are operational since 1 November 2013.

1.3.1 Training for Mental Health Tribunal Members

A query was raised by a Member in relation to the constitution of a mental health tribunal. The query related to 'legal' and 'service user membership'. The CE (PCG) advised that membership of the tribunals is as laid down by the Mental Health Act 2001. She also referred to the procedures document which is provided to MHT members and specifically the section on conflict of interest.

1.5 Complaint Received by Chief Executive

The CE (PCG) stated that a meeting had taken place with the complainant on 21 November 2013. She indicated that she has met with a number of individuals both at the meeting and in separate

<p>interviews in respect of this complaint. She is currently preparing a draft report on the matter.</p> <p>The CE (PCG) reported that as a result of the meetings on 21 November the Director of Standards and Quality Assurance and herself had immediate concerns. This matter was reported to the National Director, Mental Health by telephone and in writing and a meeting with relevant senior management took place on Friday 29 November 2013. The National Director, Mental Health assured the CE at that meeting of the immediate steps that had been taken to mitigate risk in respect of the care and treatment being provided at the service concerned.</p>	
<p>1.6 MHC Research Programme Grant Scheme</p> <p>The CE (PCG) advised members of her contact with the Principal Investigator (PI) with regard to (a) her concerns in respect of the non-compliance of University College Hospital Galway with article 15 regarding care planning; (b) presentation of research to date at the January meeting of the Commission. In relation to (a) the PI assured the CE that this was a historical issue and that the Inspector would be able to confirm this on the next inspection visit and (b) the PI welcomed the opportunity to give a presentation to Members on the research done to date. The CE to revert to PI with date of January meeting.</p>	<p>PCG</p>
<p>1.7 Review of Regulation</p> <p>The CE (PCG) updated members regarding the meeting with the Deputy Chief Executive of the International Society of Quality and Safety in Healthcare on Friday 29 November 2013.</p> <p>It was agreed that the CE (PCG) would bring a detailed proposal to the January Commission meeting.</p>	<p>PCG</p>
<p>1.8 Expert Group Review of Mental Health Act 2001</p> <p>The CE (PCG) reported that the final meeting of the Expert Group took place on 12 November 2013. She indicated that there has been a large amount of discussion through e-mail correspondence regarding some key concerns since the meeting. These issues relate to the grounds for detention and advanced care directives. The CE (PCG) asked Members' for their views on these issues in order to enable her to provide the Expert Group with the MHC's view. PCG to revert to the Chair of the Committee with Commission view.</p>	<p>PCG</p>

<p>1.10 Meeting with representatives from HSE Estates</p> <p>The CE (PCG) reported that information referred to as currently awaited in the CE report has now been received. Some discrepancies in the information provided were noted. The executive will continue to liaise further with the HSE regarding this matter.</p>	
<p>1.11 Staffing</p> <p>(a) Director Quality, Patient Safety and Regulatory Affairs</p> <p>The CE (PCG) reported that there have been no applications from the redeployment panel for this position so it will now go to open competition through the Public Appointments Service as per Department of Health approval.</p>	<p>PCG</p>
<p>(b) Tribunals Manager</p> <p>The CE (PCG) advised that the Director Corporate Services and the Director Mental Health Tribunals and Legal Affairs are currently preparing for this competition as per Department of Health Approval.</p>	<p>PCG</p>
<p>(c) Assistant Inspector Mental Health Services (Clinical Psychology)</p> <p>The CE (PCG) reported that the current postholder will be leaving the MHC on Friday 6 December 2013. There have been no applicants from the redeployment panel. The Commission will revert to the Department of Health to seek approval to fill the post through open competition.</p>	<p>PCG</p>
<p>(e) Clerical Officer Posts</p> <p>The CE (PCG) stated that three Clerical Officer posts have been filled from the redeployment panel.</p>	
<p>1.12 MHC Offices, St Martin's House</p> <p>The CE (PCG) advised that OPW has now exercised the break clause on the lease for the office space in St Martin's House. The lease is due to expire on 8 May 2014. OPW has requested a list of accommodation requirements which is currently being prepared by the Director Corporate Services. The CE (PCG) stated that she will be seeking clarification on the position by the end of December 2013 in order that preparations for an office move can be put in place if necessary.</p> <p>The CE (PCG) also reported that due to the strike action that has been proposed by the ESB, she will write to the Strike Committee and relevant others with regard to the protection of human rights to request emergency provisions for non-interruption of the MHC</p>	

<p>systems.</p> <p>The CE (PCG) indicated that Judge Murphy and her staff will be availing of office facilities in St Martin's House until the end of February 2014.</p> <p>1.15 Governance Meeting MHC/Department of Health (DoH)</p> <p>The CE (PCG) reported that the governance meeting took place on 2 December 2013 and no matters of concern were raised.</p> <p>1.17 Parliamentary Questions</p> <p>The CE (PCG) reported that subsequent to the October meeting, one parliamentary question had been received and responded to as per information provided in the CE report.</p> <p>The CE informed Members of the fixed term post concerned and the contractual arrangements that are in place. The CE advised that the remuneration has been subject to the Financial Emergency Measures in the Public Interest Act (FEMPI).</p> <p>Part Two – For Discussion</p> <p>2.3 Management Accounts for month ending 31 October 2013</p> <p>The Director Corporate Services (RM) highlighted an item on the accounts in relation to the purchase and printing of envelopes for the return of confidential mental health tribunal material to the MHC. It is expected that this purchase will be made every three months. It was also indicated that tests are ongoing in respect of an electronic system for the return of information.</p> <p>Proposed by: POSL Seconded by: XF.</p>	<p>PCG</p>
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<p>4. Consideration of Reports</p> <p>4.1 End of Year Business Plan Review December 2013</p> <p>The end of year business plan review 2013 was accepted by Members and the executive was congratulated in respect of what has been achieved particularly in light of the large amount of work which had to be undertaken during the recruitment process for the mental health tribunal panels and the added pressure of the vacant posts within the organisation.</p>	<p>Actions</p>
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<p>4.2 Draft Business Plan 2014</p> <p>The CE (PCG) presented the draft business plan and advised that the DoH has indicated that the budget for 2014 would be €13,974M which is a 3% reduction from the 2013 net non-capital allocation. Written confirmation of the allocation is awaited.</p> <p>The CE (PCG) highlighted some of the key projects that have been planned for 2014. These include:-</p> <ul style="list-style-type: none"> • Update of Codes of Practice i.e. Admission of Children and Notification of Deaths and Incident Reporting. • Awareness raising and re-launch of the Quality Framework. <p>The draft Business Plan 2014 was agreed without amendment.</p> <p>Proposed by: PG Seconded by: AJ.</p>	
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5. Reports of Committees	Actions
<p>5.1 Legislation Committee</p> <p>MK provided an update on the work of the Legislation Committee. She reported that the Committee met on 25 November 2013 and Members had volunteered to prepare sections of the MHC response to Assisted Decision Making (Capacity) Bill 2013. The draft sections of the response are to be returned to the CE Office by Friday 6 December. The responses will be collated and discussed at the next meeting of the Committee which is scheduled for Wednesday 11 December.</p> <p>Following discussion it was agreed that the draft document would be circulated to Commission Members on 17 December 2013 and Members are requested to submit comments by no later than 7 January 2014.</p> <p>5.2 Audit and Finance Committee</p> <p>POSL provided an update on the work of the Audit and Finance Committee.</p> <p>She reported that the 2012 accounts had now been forwarded to Minister Lynch.</p> <p>It was reported that the MHC is fully compliant in respect of the internal audit 2012. A financial controls audit is currently in progress. A tendering process is in preparation for a company to provide internal auditing functions.</p>	<p>CE Office & Committee Members</p>

<p>With regard to the risk register the Committee is discussing a process in order that the risk register can be managed and controlled more efficiently.</p> <p>Work is ongoing with regard to the annual report which the Audit and Finance Committee will be preparing for the Chair of the MHC.</p>	
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<p>6. Correspondence</p> <p>The CE (PCG) reviewed the correspondence listed from 21.10.13 to 23.11.13 and provided members with updates on action(s) taken.</p>	<p>Actions</p>
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<p>7. A.O.B.</p> <p>A query was raised with regard to children and adults who have been transferred to overseas mental health services for treatment. It was agreed that the CE (PCG) would write to the National Director Mental health seeking information on this matter.</p>	<p>Actions</p> <p>PCG</p>
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<p>8. Date of Next Meeting</p> <p>Friday 17 January 2014 at 11.00 am in the offices of the Mental Health Commission</p>	
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Action Points

No.	Action	Person Responsible	Timeframe
2 (ii)	A schedule of dates for 2014 MHC meetings to be prepared and circulated to Members	CE Office	In advance of January meeting
3 1.6	Revert to PI of research programme, UCG with date of January meeting regarding presentation to Members	PCG	As soon as possible
3 1.7	A detailed proposal on the review of regulation to be prepared	PCG	To be included in packs for January meeting
3 1.8	Revert to Expert Group Review of Mental Health Act 2001 with MHC views	PCG	Post MHC meeting.
3 1.11	Staffing: actions as outlined to progress 3 posts.	PCG	As soon as practicable.
3 1.12	(i) Revert to OPW re Lease on premises (ii) Issue correspondence regarding continuity of electricity supply to relevant parties.	PCG	Post MHC meeting
5.1	Draft response to capacity Bill to be circulated to Members for comment.	CE Office & Members	17 December 2013 with comments to be returned by 7 January 2014
7	Letter to be sent to National Director Mental Health seeking information on patients referred outside of Ireland for treatment	PCG	In advance of January meeting

Signed:


 John Saunders
 Chairman

Date:

18/1/14