

**Mental Health Commission Meeting
Minutes of Meeting held on 21 May 2020
Held by way of MS Teams
10.30am - 13.00pm**

Commission Members	Initials
John Saunders	JS
Rowena Mulcahy	RM
Dr Michael Drumm	MD
Tómas Murphy	TM
Nicola Byrne	NB
Ned Kelly	NK
Dr Margo Wrigley	MW
Colette Nolan	CN
Jack Nagle	JN
Dr Xavier Flanagan	XF
Patrick Lynch	PL

Executive in Attendance	Initials
John Farrelly, Chief Executive (CE)	JF
Orla Keane, Secretary to the Commission, Head of Legal / Division Lead for MHT	OK
Rosemary Smyth, Director of Standards and Quality Division	RS
Simon Murtagh, Chief Operations Officer	SM
Áine Flynn, Director DSS	AF
James Skelly, Paralegal	JMS

No.	Matter	Action Required By
1	<p>Private Session</p> <p>The Members discussed the recommendations from the Expert Report on the Commission's effectiveness. It was agreed to set up a sub-group of the Commission, with the Secretary to draft a plan of actions for agreement by the Commission at its June meeting.</p>	<p>Chair / JN / RM / OK</p>
2	<p>Declarations of Interests – Nothing declared with forms to be signed and returned by email.</p>	<p>OK</p>
3	<p>The Minutes of the Meeting held on 16 April 2020 were agreed subject to a minor amendment.</p> <p>Decision 11 of 2020. NB proposed approval of the minutes and XF seconded same.</p> <p>The Action Items from the April meeting were then addressed.</p>	<p>OK</p>

4	<p>Chairman’s Business</p> <p>The Chair informed the Commission that one of the FARC’s external members was not seeking reappointment and that the CE had written to ACESA¹ for expressions of interests. OK is to manage the process with the Chair / PL for the purpose of obtaining a new member with the desired skills. The proposal shall be brought back to the next Commission meeting for approval.</p> <p>It was noted that the other two external members were also up for reappointment and it was agreed to reappoint them to the FARC for a full three year period. SM to confirm this to them.</p> <p>Decision 12 of 2020. MW proposed and JN seconded.</p>	<p>Chair/ PL / OK / SM</p>
5	<p>Annual Report 2019</p> <p>The CE informed the Commission that the draft Annual Report has been reviewed by the SMT but that it shall be subject to a few further minor changes.</p> <p>He noted that the overall compliance by the approved centres was 78% and that there has been a noted increase in compliance since the Commission introduced the Judgement Support Framework in 2016. However, there were still compliance problems in some areas –</p> <p>Seclusion: 28 out of 65 centres used seclusion and had seclusion facilities. There was 21% compliance with the Rules around seclusion (23% dirty and 27% had hazards).</p> <p>Physical restraint: 58 centres used physical restraint in 2019, five more than in 2018.</p> <p>Physical Health: Continued poor quality in monitoring the physical health of residents.</p> <p>Premises: 45 approved centres were non-complaint with the regulation on the basis of premises. Of those, five were risk rated as critical.</p> <p>Care Planning: An ongoing failure to provide all residents with a meaningful ICP.</p> <p>Enforcement: 40 enforcement actions against 31 centres in response to critical risks in areas of practices relating to premises, staffing and the privacy and dignity of residents plus one prosecution.</p> <p>Child admissions: 54 child admissions to 15 adult units v 84 admissions to 18 adult units in 2018.</p> <p>The CE emphasised the need to focus on care and services being provided in the community and in community residencies.</p> <p>The CE stated that one of the main problems appears to be the overall governance of mental health services which has been further highlighted by the impact of Covid 19.</p> <p>The Commission had a detailed discussion on the trends and points raised by the CE in the draft 2019 report and noted:</p> <ol style="list-style-type: none"> 1. Notwithstanding the improvements made since 2016, the non-compliance levels of some centres in basic human right areas such as cleanliness of premises, monitoring of physical health and the provision of ICPs are unacceptable. Premises’ non-compliance levels also continues to be a significant issue. The Commission, as regulator of mental health 	<p>CE / Comms Team</p>

¹ Association of Chief Executives of State Agencies

	<p>services, plans to take a heightened level of response and greater enforcement to such non-compliances.</p> <ol style="list-style-type: none"> 2. Compliance with care planning is not an issue for one profession over another. It is a matter for the entire mental health team across all mental health services. 3. Nationally, there is a lack of governance and organisational oversight for mental health services. The loss of a national director has had an adverse impact. The Commission is to address this with both the DG of the HSE and the Minister for State. <p>The CE stated that the Commission shall have the report published by the end of June. However, given the impact of Covid 19 it will not be possible to have a physical launch as in previous years, but work is being done on a possible virtual launch.</p> <p>The Commission approved the draft Annual Report, subject to the report being finalised and the designed copy being presented at the June meeting.</p> <p>Decision 13 of 2020. CN proposed and TM seconded.</p>	
6	<p><u>CE's Report</u></p> <p>The CE stated that he intends to bring the revised Budget and Business Plan for 2020 to the June meeting. This will reflect the impact of Covid 19.</p> <p>The CE noted that the Commission had received its allocation for this year, which stands at €14.832m. This is an increase of €432,000 from 2019. The CE stated that this increase was mainly down to the work of SM and OK.</p> <p>SM outlined the measures the Commission has taken to ensure that remote working was as effective as possible and that issues with regard to working conditions were addressed as far as possible. SM also noted that planning was underway to enable staff to return to work at the office.</p> <p>SM noted that the Risk Register has been further updated to reflect the current impact of Covid 19.</p> <p><u>RMT Report</u></p> <p>RS outlined the Covid 19 response to date. The Commission commenced the initial risk assessment in April and focused on 4 sentinel pillars: space, stuff, systems and staff. Each service was risk rated based on the findings. On a weekly basis the Commission monitors disease progress.</p> <p>RS stated that a reassessment was conducted after 4 weeks. The results indicated a reduction of 79% in risk and a steady overall decline in disease progression. One of the key measures taken by services was providing single room accommodation (albeit perhaps not all with en-suites).</p> <p>RS noted that the issues of concern have changed over time, moving initially from PPE to testing and now the receipt of test results. RS stated that monitoring results indicate that testing has taken place as per public health guidance though there are ongoing problems with the timeframe for the return of test results.</p>	

	<p>RS noted that there is now confusion among services, particularly approved centres that take acute admissions, as to which public health guidance they should be following. Many approved centres are in the somewhat unique position within the health service of being a community service under the governance of Community Operations, while being a ward or unit within an acute hospital. Some of these approved centres have one unit for acute admissions and another unit for long stay residents. Clarity has been sought from the HSE.</p> <p><u>DSS</u></p> <p>AF noted that work was ongoing on finalising the contract for the ICT project contract and it was intended to bring the contract to the June meeting for approval.</p> <p>OK noted that the DJE had informed the MHC that the draft MOU has been prepared but is being signed off internally and that it will be before the Commission at the June meeting.</p>	
7	<p>Risk Management</p> <p>The SMT is having its quarterly meeting in June, at which it will review the risk register. The register will then be brought before the FARC and will then be presented to the Commission.</p>	
8	<p>Committee Updates</p> <p>1. FARC –</p> <p>No scheduled meeting since the last Commission meeting. It was agreed that the March reports would be taken as read.</p> <p>2. Legislation Committee –</p> <p>RM noted that this was the final part of the Heads of Bill to be reviewed. It was received by the MHC in late August 2019. RM and OK presented the proposed new Part relating to Children and the MHC’s draft Submission with Executive Summary for approval.</p> <p>RM provided a summary of the key issues and OK addressed some points from the text of the Heads of Bill as received from the DOH.</p> <p>The key points were as follows -</p> <ol style="list-style-type: none"> 1. Children should have their own legal representative from the start to the conclusion of any involuntary detention. 2. Children should be given every opportunity to attend proceedings relating to them e.g. video links from the approved centres should be arranged. 3. Applications for the involuntary detention of children should be made by a child and adolescent consultant psychiatrist. 4. The Commission, as the regulator of the mental health services, requires more oversight in relation to the involuntary detention of children. Provision should be made in the legislation for notification to the MHC of all applications for the involuntary detention of a child. The MHC can then decide if it wishes to be joined as a party to the proceedings in order to make submissions. 5. This new Part should standalone from the Child Care Acts. 	OK

	<p>6. Clarity is required in a number of sections between what is the position re children under 16 and those aged 16 and over.</p> <p>7. There are various concepts such as guiding principles, best interests and welfare requirements in the Heads of Bill, which should be brought together under one term titled “guiding principles for children” which shall include best interests and welfare issues.</p> <p>8. There needs to be a policy decision by the DOH on whether ECT and psychosurgery are prohibited for all children or just those under 16. If permitted, safeguards must be enshrined in the legislation. Policy decisions should be evidence based.</p> <p>9. It was agreed to make a recommendation to the DOH to consult with the Department of Children and Youth Affairs on this Part of the Heads of Bill.</p> <p>The Commission approved the Submission on this Part of the Heads of Bill subject to final review. Decision 14 of 2020 MW proposed and XF seconded.</p>	
	Next Meeting – 18/06/2020	

ACTION LOG			
No	Action	Person Responsible	Status
1.	Organise meeting to discuss Expert Report Recommendations and present paper to next Commission meeting for approval.	Sub-group	Done
2.	Review applications for new external member to FARC and present to next Commission meeting for approval.	Chair / PL	Done
3.	Present final designed Annual Report, and CE to write to the HSE / DOH in relation to the poor governance and lack of oversight in relation to mental services issues.	JF / Comms	Done
4.	Further to some further amendments, send to the DOH the Submission on the Heads of Bill – Children.	OK	Done

Dated: 22nd July 2020

Signed:
By the Chair

