

Mental Health Commission Meeting
Minutes of Meeting held on 15 October 2020
Held by way of MS Teams
10.30am – 1.10pm

Commission Members	Initials
John Saunders	JS
Rowena Mulcahy	RM
Dr Michael Drumm	MD
Nicola Byrne	NB
Ned Kelly	NK
Dr Margo Wrigley	MW
Jack Nagle	JN
Patrick Lynch	PL

Apologies	Initials
Tomas Murphy	TM
Colette Nolan	CN

Executive in Attendance	Initials
John Farrelly, Chief Executive (CE)	JF
Orla Keane, Secretary to the Commission, Head of Legal / Division Lead for MHT	OK
Elena Hamilton, Interim Director of Standards and Quality Division	EH
Simon Murtagh, Chief Operations Officer	SM
Dr Susan Finnerty, Inspector of Mental Health Services	SF
Aine Flynn, Director DSS	AF
James Skelly, Paralegal	JMS
Jenna Goodwin, Corporate Governance Manager	JG

No.	Matter	Action Required By
1	Declarations of Interests – Nothing declared. Forms to be signed and returned by email.	JG
2	Minutes of the Meeting held on 17 September 2020 – The Chair noted that the minutes of the meeting held 17 September required further consideration and will be brought to the November meeting.	OK
3	<p>Chairman’s Business</p> <ol style="list-style-type: none"> 1. Ministers Letters - No response received to date in relation to the letter sent to Minister Butler on “Sharing a Vision” or in relation to meeting with the Commission Members. 2. New Members Update – The nomination of one of the new members is imminent. 	

	<ol style="list-style-type: none"> 3. Risk Training – Scheduled for 9 am on 21 October. 4. Change to Members Devices / Office 365 – OK confirmed that an email will be issued to the Members shortly which shall include training for Microsoft 365 5. Strategic Review – The CE gave a short update on the Strategic Documents provided in the papers and noted that the MHC has delivered a lot of the work relevant to the strategic goals notwithstanding Covid-19. It was noted that some of the actions in the 2020 Business Plan could not be completed due to external dependencies. It was agreed that it is important that the Members understand if the actions have had an impact on the overall strategic objectives and that it is important for Members to receive a high level update on the action items listed in red that are still pending rather than the specific detail. The CE expressed his thanks to the Commission in providing flexibility for the Executive to achieve the organisation’s strategic objectives. 6. Date for the December Meeting – It was agreed that the meeting would take place on 17 December and Members should inform OK if they cannot attend. 7. September Update on 2016 Code of Practice – It was noted that OK had provided a Summary to the Members on the recent update with the required action from the MHC and DoH, as the parent department. OK noted this is to be discussed at the next Governance meeting with the DOH. 	
4	<p><u>Chief Executive and Executive Reports</u></p> <p><u>CE’s Report</u> The CE noted the following items:</p> <ol style="list-style-type: none"> 1. The report on the Overview of Mental Health for Older People would be presented later in the meeting. He added that it is important to reflect on the systemic patterns of these findings. 2. The requested funding has been allocated to the DSS, which will enable the team to achieve the two-year plan i.e. mid-2022. 3. The Director of Regulation role has been filled with a start date to be agreed. 4. A significant saving has been made in 2020 mainly on travel and subsistence for panel members, resulting in an overall surplus reported to the end of September. 5. It was noted that for significant projects to proceed the procurement process needs to be completed at least two quarters in advance, which precludes the use of any surplus funds in 2020. <p>SM then addressed the Members as follows:</p> <ol style="list-style-type: none"> 1. There is currently a projected surplus for year-end, which means a significant amount of money may be handed back to the DOH. 2. Work will shortly commence on the Business Plan for 2021. SM noted that funding for DSS has been confirmed but no such confirmation has been received from the DOH for the other functions. 3. It was noted that the FARC discussed the projected surplus at its meeting and have requested a short breakdown of the savings made during 2020. 	SM

4. One Member queried whether the DOH is expecting a certain level of funding back at year-end and whether the Executive is now considering the future course of the organisation based on the savings made. SM confirmed that he would inform the DOH on the projected surplus at the next governance meeting scheduled on 21 October. In relation to the savings from travel and subsistence, OK noted that post Covid the panel members would be returning to the approved centres for the hearings and the funding shall be required when this happens. OK referred to a survey of the panel members for the video conferencing project in which the panel members were all agreed that the hearings in the approved centre were best. The CE added that in relation to the holding of tribunals, quality is the paramount consideration with face to face tribunals being the optimal method and online tribunals only being used as a stopgap during the Covid-19 pandemic. NB noted that the issues to bear in mind when conducting Tribunals online include broadband capacity, comfort of the individual being on screen, digital ability and the ability to hold gaze.

RMT Report

SF noted that the team is aiming to complete all inspections by year end, with 18 centres currently outstanding. Two (2) inspections were cancelled in the last few weeks due to an outbreak of Covid-19 in the centre. If more outbreaks of Covid-19 occur, it may be difficult to complete all outstanding inspections given the short time frame. SF advised that the emphasis has been on compliance.

The FARC has asked the team to consider how the risk of Covid-19 pausing inspections has been mitigated. SF noted that the completion of reports has been slightly delayed but is progressing well in the circumstances.

SF also noted that a themed report on premises has commenced and the team is examining the Submitted Issues of Concern (SICs) each week and a report will be prepared on this by early 2021.

JS queried what would happen if a statutory inspection could not be completed this year due to external reasons, for example due to Covid-19. SF noted that this inspection would need to be completed in 2021 but the team is on track to complete all inspections this year. SF will update the Members at next month's meeting given the ever-changing environment.

MW queried whether conditions were applied to the registration of the new acute unit in Sligo. EH noted that two conditions follow on from the old unit / service and relate to risk management and staff training.

JN queried why there is a significant reduction in the number of enforcement actions compared to last year. SF noted that enforcement action is often as a result of inspections and perhaps given that all inspections have been announced as a result of Covid, approved centres are doing more to be in compliance. The CE noted that although the number of enforcement actions are lower, a number of critical issues were identified and concerns relating to human rights infringements are being targeted.

EH noted that approved centres have been asked for CAPA plans for 2020 inspections, updates in relation to 2019 CAPA plans and we are commencing monitoring of 2020 CAPA plans following suspension of these processes due to COVID-19 earlier this year.

EH noted that the team is continuing to monitor the levels of Covid-19 in services (approx. 180) and a Covid-19 Monitoring team has been set up within the Regulatory Team. The monitoring process is currently being reviewed to ascertain if it can be integrated into the CIS system to reduce the manual administration that is required.

EH provided the following update in relation to the figures:

- Affected Services: 20
- Confirmed / Suspected Residents: 7
- Confirmed / Suspected Staff: 26

Any delay in testing in services has been escalated to the HSE.

A discussion took place on the number of approved centres that have been re-registered with conditions and the fact that many of these conditions have continued over a number of registration periods. The CE noted that for the first time the MHC Annual Report was sent to the HSE highlighting the need for capital investment and increased compliance with care regulations in approved centres. There has been direct engagement with the Director General, the matters raised within the report were tabled at the HSE Board and a plan has been received to mitigate these repetitive key issues.

Inspectors Themed Report – Mental Health Services for Older People

SF gave a presentation on the various parts of her report, which is due to be published shortly. SF challenged the perception that services for elderly people are well resourced; she proffered that this perception is more a reflection on the efforts of staff rather than the level of funding. SF noted the forecasted increase in the percentage of people over the age of 60. She also highlighted the lack of beds for older people.

In response to a query, SF noted that there is no way of tracking how many older people actually require mental health services as nursing home staff are not trained to recognise this. A discussion took place around the various issues noted in the report including the unhealthy competition within services for resources and the need for integrating primary, acute, geriatric and mental health services. The rate of elder abuse cited from the WHO was also discussed.

The Members congratulated SF on an excellent and well-timed report.

MHT Report

OK noted that there was nothing specific to state over and above what was in the report. OK noted that a new project in response to Covid19 is the possible role out of a video conferencing system for MHTs and hoped to have a report on this before the end of October.

DSS Report

AF noted that given the recent announcement of the 2021 funding, it is hoped that work on the ICT project will be pursued in a linear way without having to utilise the facility in the contract to move around and/or dispense with blocks of work. The latest project charter is currently being reviewed and Codec is aiming to have up to 30% of the scope of the project completed within the first project block. AF noted that the DSS should soon be able to supply a schedule of key dates, setting out deadlines for when progress is required from Departments and showing that delay will result in an additional cost.

	<p>AF stated that Anne Rabbitte Minister of State with responsibility for Disability at the Department of Children, Disability, Equality and Integration will have responsibility for DSS. The Chair, the CE and AF will meet with her next week.</p>	
5	<p>Risk Management</p> <p>This item was dealt with as part of the FARC Report.</p>	
8	<p>Committee Updates</p> <p>1. Legislation Committee</p> <p>Legislation Committee</p> <p>RM referred to her Report to the Commission. She noted that MW had written to her following the last Commission meeting in relation to the discussion at that meeting, concerning the MHC's Submission to the DOH in March 2020 on Part 4 and section 8 of the Heads of Bill to amend the 2001 Act. RM gave an overview of the issue raised by MW regarding the assessment carried out by a consultant prior to the decision to involuntarily detain a person.</p> <p>RM advised that the Executive Working Group had met since the September meeting and that a further meeting of the Legislation Committee had been convened on 12 October 2020, with MW in attendance, to consider the issue raised by MW. Having heard from MW, and with input from the Executive Working Group, the Committee agreed that its views on the principles underlying the proposed amendments to Part 4 and section 8 as set out in the MHC's March 2020 Submission to the DOH were unchanged.</p> <p>RM noted that the consequences of changing the Submission made by the Commission to make provision for the issue raised by MW had been carefully considered by the Committee and the Committee had agreed that it would not recommend any changes be made to the Submission.</p> <p>A discussion then took place amongst the Members on issues raised by MW. Further to that discussion, it was recorded that all the Members present, save MW, agreed that the Submission should not be changed. MW did not agree with the decision for two reasons - 1. This related to her view that the process for the examination of a person by a consultant psychiatrist prior to that person being involuntarily detained under Part 2 also includes an examination of the person's capacity to make decisions regarding their mental illness and treatment, and 2. In relation to Part 4 she was of the view that a detained person who cannot consent should not be dealt with under the Assisted Decision Making Capacity Act 2015.</p> <p>A draft Memo to the DOH setting out the principles underlying the MHC's Submission and the natural consequences that can flow from those principles had been prepared further to the September Commission meeting. RM confirmed that she would review the draft Memo with OK, and if appropriate would propose amendments to the draft Memo in light of the issue raised by MW, for approval by the Committee.</p> <p>2. FARC</p> <p>The following was noted:</p>	

	<ol style="list-style-type: none"> 1. PL stated that FARC recommended that an external company be procured to develop an ICT strategy for the MHC. 2. PL confirmed that the internal audit plan for the next three years was signed off on by the FARC. 3. PL noted that an invitation to tender will be issued in 2021 for a new Internal Auditor. The priorities of the FARC may change over the course of the period and if so, the audit plan will be adapted as happened over the last three years. 4. Training on Risk management is taking place on 21 October. 5. PL noted that the C&AG sent a report to the Chairs of state bodies' ARC in relation to Covid-19 and internal control and noted that SM would review this in terms of potential actions that need to be taken. 6. PL noted that under the Charter for Audit and Risk Committees as part of the 2016 Code, the FARC should have explicit authority to investigate any issues it deems relevant. As a result of this, wording will be added to the FARC's Charter so that it is completely aligned. <p>It was agreed to add the following to the FARC's Charter - "the FARC should have explicit authority to investigate any matters within its terms of reference, as well as the resources and outside professional advice it needs to do so, and full access to information".</p>	SM
Next Meeting – 19/11/2020		

ACTION LOG			
No	Action	Person Responsible	Status
1.	Finalise minutes of September meeting.	OK	In progress
2.	Provide a breakdown of Tribunals savings due to Covid-19.	SM	In progress

Dated: 17/12/2020

Signed: 
By the Chair