

Mental Health Commission Meeting
Minutes of Meeting held on 19 December 2019
Held at Waterloo Exchange, Waterloo Road, Dublin 4
10.30am - 1.15pm

| Commission Members | Initials |
|---------------------------|-----------------|
| John Saunders | JS |
| Rowena Mulcahy | RM |
| Michael Drumm | MD |
| Tómas Murphy | TM |
| Nicola Byrne | NB |
| Ned Kelly | NK |
| Patrick Lynch | PL |
| Margo Wrigley | MW |
| Xavier Flanagan | XF |

| Apologies | Initials |
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| Aaron Galbraith | AG |
| Colette Nolan | CN |

| Executive in Attendance | Initials |
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| John Farrelly, Chief Executive | 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 | Declarations of Interests – signed and returned. | |
| 2 | <p>The Minutes of the Meeting held 21 November 2019 were agreed. Decision 33 of 2019. NK proposed approval of the minutes and PL seconded same.</p> <p>Matters Arising:</p> <ol style="list-style-type: none"> 1. Letter to Minister Daly re MHT funding – It was confirmed that this funding has been received. 2. Revert to Minister Flanagan re the DSS – See Chair’s Business below. 3. TOR for Stakeholder Initiative to be circulated to the Members – This was done. 4. To follow up on the appointment of the new Commission members – This was done. | |

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| <p>3</p> | <p>Chairman's Business</p> <p>There was a discussion on amending the Quorum in the Corporate Governance Manual for meetings. The provision was amended to 50% of the Members plus one (1). Decision 34 of 2019. NK proposed and PL approved.</p> <p>There followed a discussion on Minister Flanagan's proposed visit to the Mental Health Commission (MHC). It was noted that a meeting time had been agreed but the meeting was cancelled at the last minute. A further letter was sent to arrange a new meeting with no reply.</p> <p>The Chair then referred to the External review of the Commission. It was noted that the first action – to complete the online questionnaire – was to be done by close of business on 20.12.19. It was agreed that this should be extended, given the work commitments of Members, until 31 December 2019. OK agreed to follow up with the external providers on this matter and other matters associated with the External review.</p> <p>OK also noted that Members would need to complete the annual internal self-assessment but that she would not circulate this until after the deadline for the external document had passed.</p> <p>There was then a discussion on Commission meetings / dates for 2020 and it was agreed the January meeting would be held on 30 January and the two day meeting would be in Wexford on 20 and 21 February (Thursday would be a full day with a town hall event in the evening and Friday will be a half day).</p> | |
| <p>4</p> | <p>Chief Executive and Executive Reports</p> <p><u>CE's Report</u> The CE extended his thanks to OK, SM, the FARC and Michael Maxwell for their work in obtaining the additional MHT funding. SM noted that while we have not received our letter of allocation, there were positive signs received at the last Governance Meeting with the DoH that there would be an overall increase in funding for 2020 and that we would get the letter of allocation earlier than previous years.</p> <p>PL noted the new format of the Management Accounts and that it was easier to follow and identify the variances.</p> <p><u>DSS</u> AF gave a general update as per her report. She noted in particular that the uncertainty surrounding the ICT funding from the DJE has impacted the DSS's ability to plan work and confirm a budget for 2020.</p> <p>AF noted that there has not been a meeting of the Inter-Departmental Steering Group for the DSS since August but that a meeting was scheduled for later in the day. It is hoped that this will result in some progress. It was noted that a list of all the outstanding external dependencies was circulated earlier in the week for the purposes of discussion at the meeting</p> <p>AF noted that the Risks and Issues Register for the DSS Project remains largely the same with much of the Risk Chart now gone from red to "black".</p> | |

There was then discussion on a new date for the commencement of the DSS. AF said that given the current issues, the deadline would have to be deferred by two (2) years. It was agreed however, as per the previous meetings, that no commitment could be given on a new date given the fact that there were so many issues outstanding with the DJE.

It was agreed that AF with SM and OK would attend the IDSG meeting. AF would report back to JF and they would jointly update the Commission.

Reference was also made to recent Dail Debates and in particular comments made by Minister Flanagan on the DSS's delayed commencement. AF and OK agreed to review the relevant comments and progress as appropriate subject to agreement by JF.

Legal

A query was raised on the legal report and reference to a WRC matter. OK provided the Members with an update.

A query was also raised on the number of data incidents / breaches in the MHT team. OK noted the recent incidents and stated that to the best of her knowledge there were no recorded data breaches in the MHC in 2019 but there were incidents. She added that the number of reports of incidents had increased which was to be expected with increased awareness and training. OK noted the various measures taken by her team to address the instances of incidents over the last 12/18 months. OK agreed to review and revert for the next meeting with the MHT stats for 2018 / 2019.

Regulatory Report

A query was raised on the status of the 2019 Inspections reports. RS confirmed that 68 inspections have been completed.

Separately, JF noted that there would be a review of part of the regulatory process in 2020.

RS then presented the following reports –

1. Activity Report on Electro-Convulsive Therapy (ECT) –

RS noted that the number of Approved Centres offering an ECT service had been reduced resulting in a move towards centres of excellence. It was also noted that while some are of the view that ECT is controversial, it is generally used when other treatment options have not been successful and provides good clinical outcomes to specific patients. It was agreed that ECT should only be used in centres that had appropriately qualified staff and adhered to the Rules and Code of practice provided for by the MHC.

2. Activity Report on Restrictive Practices and Seclusion -

RS outlined the various restrictive practices in place. She noted that the MHC has developed Rules / a Code of practice for each. RS noted that the figures for physical restraint and seclusion show fluctuations for a myriad of reasons including: geographic/demographic and that there appears to be a culture of using seclusion in some centres due to them having seclusion facilities and no alternatives.

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| | <p>RS further noted that internationally there has been a move towards reducing restrictive practices; one example is the use of 'Safe Wards'. In that regard, Ireland is one of the only jurisdictions to record all episodes of physical restraint, regardless of the duration. The report shows that over the last 10 years there has been a year on year increase in the use of restraint, which is not acceptable. The reasons for this need to be explored and addressed by the services.</p> <p>One member queried if there needs to be more centres of excellence, where the staff are trained in restraint and seclusion and to set standards for them to work within. RS noted that training in this area is now a mandatory requirement by the Commission and is monitored as part of the inspection process. It was also noted that any training programme on restraint or seclusion must focus on de-escalation techniques.</p> <p>OK and RS noted that as part of the Heads of Bill for the 2001 Act, the MHC is seeking a new Part dealing with all Restrictive Practices (which is not currently the case) for which the MHC shall make Rules and if breached shall be a criminal offence.</p> <p>The Members complimented RS and her team on the excellent report presented. JF noted that the reports would be published before the year-end.</p> <p><u>Mental Health Tribunals</u></p> <p>OK referred to the revised Policy for LRs Professional Checks and that all legal representatives on the panel had complied with Stage 1 and that we were moving to Stage 2</p> <p>OK noted that the Tribunals Division had very little interaction with the HSE and that despite best efforts since late 2017 and two meetings with the HSE in 2019 this has not been progressed. OK gave examples of the issues to be addressed. OK was pleased to report that she had been contacted by the HSE earlier in the week and that they had committed to rectifying this in the new year.</p> | |
| 5 | <p>Risk Management</p> <p>SM reported that two risks were closed and one added to the Risk Register based on the possible impact of Brexit.</p> <p>SM noted that the two highest rated risks were the DSS and the ICT infrastructure. It was noted that the ICT issue would be addressed as part of the FARC report.</p> | |
| 6 | <p>Committee Updates</p> <p>1. FARC –</p> <p>Following on from the above the risk issues were discussed –</p> <ol style="list-style-type: none"> a. ICT - SM outlined the current issues. The Members expressed serious concern and queried the contingencies in place to address these issues and the current gaps. It was agreed that an ICT Strategy would be developed and be ready by the end of Q1 2020 which would then be presented to FARC and then brought to the Commission with recommendations. It was also noted that the Commission requires additional ICT | |

expertise in order to progress all of the current issues. It was noted that one external adviser has been obtained to assist but further input may be required.

- b. Brexit – It was noted that this is being addressed but the risk has been put on the register. A query was raised as regards MHT Panel members and OK confirmed that this has been addressed.

PL then referred to his report to the Chair and addressed those matters which were not referred to above –

- a. Membership - He noted that Dr Jim Lucey has resigned from the FARC. JS noted that this vacancy could be filled by one of the persons filling the two current vacancies. It was also noted that if the FARC required additional support in terms of ICT it could seek same in accordance with its Charter.
- b. Internal Auditors - PL noted that the Internal Auditor's three year term comes to an end in January 2020 and it was thought appropriate to extend same for one year and to go to tender later in 2020.
- c. Internal Audit Plan for 2020 - PL noted that in addition to the four audits for the year, it was agreed that there should be an additional fifth internal audit on Procurement and Contracts.
- d. Internal Audit Reports – It was noted that both reports presented were approved. However, the Executive made a number of amendments to the management replies in the report before it was approved. The final documents are attached for information.
- e. Approval of Policies –
 - Policy for Management of Suppliers and Contractors –
Decision 35 of 2019.
Proposed for approval by MD and approved by MW.
 - Procurement Policy for Goods & Services
Decision 36 of 2019.
Proposed for approval by MD and approved by MW.

2. Legislation Committee –

The Legislation Committee meetings held on 2.12.19 and 17.12.19. RM noted –

- a. At the meeting on 2/12/19 the Committee completed the review of Part 3, and dealt with Part 4 and Part 6,
- b. At the meeting on 17/12/19 the Committee discussed specific amendments to Sections 14, 23, 24 and the Guiding Principles,
- c. Additional time had to be given to certain Sections / Parts given their importance to the operation of the Act and the effective operation of the Act, and
- d. There was to be a further meeting in early January to deal with Part 5. The plan is to present the final revised draft at the January Commission meeting.

RM wanted to thank everyone working on the Heads of Bill but in particular the external members whose contributions have been greatly appreciated.

3. QIC

MW noted that Acute Beds Papers is not complete due a variety of issues but should be finalised for presentation at the next Commission meeting.

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| | Next Meeting – 30/01/2020 – Duration to be confirmed | |
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| ACTION LOG | | | |
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| No | Action | Person Responsible | Status |
| 1 | Follow on matter relating to the External Review | OK | Done |
| 2 | Follow on meeting with Minister Flanagan | AF / OK | On Hold |
| 3 | Data on data incidents / breaches for the MHT team / MHC for 2019 | OK / SM | Done |
| 4 | Publication of Activity Reports | JF / Comms | Done |

Dated: 20/2/20/20

Signed: 

By the Chair