

**Mental Health Commission Meeting
Minutes of Meeting held on 18 July 2019
Held at Waterloo Exchange, Waterloo Road, Dublin 4**

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

Apologies	Initials
Colette Nolan	CN
Jim Lucey	JL

Executive in Attendance	Initials
Orla Keane, Secretary to the Commission, Head of Legal Services / Division Lead for MHT	OK
Aine Flynn, Director DSS	AF
Siobhan Bigley, Communications	SB
Michael Maxwell, Finance Manager	MM
Blathnaid O Shea, Paralegal	BOS

	11:00-13:20
	Private Session of the Members
1	Declarations of Interests - signed and returned to the Secretary.
2	The Minutes of the Meeting on May 2019 were agreed subject to one minor amendment. MD proposed approval of the Minutes and NK seconded same. Decision 21 of 2019
3	Chairman's Business 1. JS noted that the appointment of a new Commission member has gone to PAS. 2. <u>Letter to the Departments</u>

	<p>Department of Health (DOH) - Minister Daly has been invited to attend the September Commission meeting.</p> <p>Department of Justice and Equality (DJE) - No Response to letter from Chair to Minister Flanagan in relation to the DSS.</p> <p>3. <u>External Review Board</u></p> <p>Timeline for the External Review of the Commission was noted.</p> <p>4. <u>Dedicated Commission email address for Commission Members</u></p> <p>There was a discussion about this and its benefits. It was agreed that the necessary arrangements would be put in place prior to the September meeting (including a text message notification system), the position would be trialled for 3-4 months, after which the position would be reviewed.</p>
4	<p>Stakeholder Initiative</p> <p>SM from Communications outlined the initial proposals in relation to the Stakeholder Initiative to the Members. The presentation will take place on a quarterly basis and is aimed at educating the Members in relation to all aspects of capacity and mental health and to hear the voices of the service users.</p> <p>The first presentation is scheduled for the September meeting and shall be by Mental Health Reform who will present their research on 'My Voice Matters'. The Members requested that a service user involved in that project be part of the presentation.</p> <p>It was agreed that the following should be considered in relation to the Initiative –</p> <ol style="list-style-type: none"> 1. Focus on main objective – hear the voices directly of service users (mental health and capacity) 2. Support services users attendance and therefore ensure budget available to assist people attending 3. Emphasis this is not an endorsement of an organisation and their position (no lobbying allowed) 4. Purpose is to educate the Members 5. Protocol for presentations to be prepared 6. Time slot shall be 45-60 minutes 7. Include voices from smaller interest groups / groups on the margin <p>Following the September meeting, the Executive will put forward a more comprehensive plan for discussion and / or approval at the October meeting.</p> <p>It was noted by Members that this is a great step forward for communication by the MHC with relevant stakeholders.</p>
5	<p>Chief Executive and Executive Reports</p> <p><u>CE's Report</u></p> <p>It was agreed that PL would deal with the FARC report in conjunction with the CE's report.</p> <p><u>Budget</u></p>

PL noted that the DOH did not allocate the MHC the funding, which was expected and on which the Budget in January 2019 was presented. PL added that the FARC had specifically not signed off on the Budget at the March meeting as no letter of allocation has been received from the DOH. He noted that it is important that the MHC know what its allocation is in order for it to Budget accordingly. In that regard, an additional €1.6m was sought for Tribunals given the changes to the legislation. While the amount sought shall not be required due to the level of activity, there is still a risk that the MHC will require additional funding for MHTs before year's end. It was noted the basis for the additional funding had been outlined in writing to the DOH.

Management Accounts

No significant issues raised.

C&AG / External Audit

PL noted that the FARC considered the exchanges between the Executive and the nominated provider by the C&AG and how the interactions might be improved for the future. OK noted that the Executive has taken on board these comments.

It was noted that the FARC had queried a reply from the Executive to one of the issues raised by the C&AG and it was agreed that the COO would provide a note to Members setting out the specific procurement issues considered by the auditors and where they had been brought to the attention of /discussed with the SMT and the Commission.

Internal Audit

PL noted that the FARC met with internal auditor in private session. No areas of concern were noted.

In relation to the IA tracking document, PL noted that concern had been raised with regard to the delay in implementing certain audit recommendations. It was agreed that the IA tracking document would be reviewed at the next SMT meeting in relation to the timelines provided for implementation of the recommendations. It was noted that a number of the delayed recommendations related to implementation of the CIS project and that in the interim certain manual checks have been put in place to address any risk issues.

IA - Draft Corporate Governance report

PL noted that there is a conflict between the Mental Health Act 2001 and the 2016 Code in relation to best practice for the appointment and rotation of Members. PL noted that currently all Members appointments cease at the same time and that the Members are appointed on a representative basis rather than a competency basis. It was acknowledged that the DOH had attempted to ensure compliance with the Code in the absence of the 2001 Act being amended.

It was agreed that the 2001 Act takes precedence, however the Members also agreed with the recommendation of the FARC that a letter be sent to the Minister for Health seeking the amendment of Sections 35 and 36 of the 2001 Act to ensure compliance with best corporate governance practice.

RM noted that the MHC has an opportunity to put forward the appropriate amendments via their review of the Heads of Bill of the 2001 Act. OK added that the DOH had proposed certain amendments in the Heads of Bill.

The Chair proposed and it was agreed that the following would be done:

1. Letter to go to the Minister re relation to the rotation and appointment of Members, and
2. Executive to consider as part of their review of the Heads of Bill to amend the 2001 Act.

Risk Management

It was noted that the Risk Register does not have any Brexit related risk. The Executive noted that a number of issues had been addressed, some more recent issues were being addressed and the matter would be considered at the Quarterly Risk meeting in August.

Finance Policy

Decision 22 of 2019

MM was present to answer any questions on the draft Finance Policies. PL confirmed that four policies had been presented to the FARC and comments had been provided. PL provided some additional comments and further to agreement by the Members the four policies were approved. PL proposed the decision and NK seconded same.

HR

PL noted that the Staff Breakdown on page 24 of CE Report referred to a number of employees on a "CID" (contract of indefinite duration). It was agreed that this was not correct and would be amended. It was noted that there were a few other amendments required to this section, which OK would refer back to HR.

Staff Survey

There was a detailed discussion on the survey. It was noted that it was a good piece of work. The Members requested an action plan to be drafted in response to the survey and they confirmed they are open to further interaction with staff and various options were discussed.

It was agreed that the survey is a first good step; they stressed the importance of a meaningful connection between Commission members and staff. It was suggested that the results of the survey and its feedback could be used as an opportunity to Commission members to interact with staff.

OK agreed to report back to the next SMT / HR and an update would be provided at the next meeting.

Legal Report

Appeal by HSE

The appeal by the HSE pursuant to Section 65 of the 2001 Act has been withdrawn.

Heads of Bill

OK advised these were received on 2 July 2019 and that is a very important issue on the MHC's agenda for the second half of 2019. She noted the following actions have been taken –

1. Terms of Reference for the Working Group (which is a sub-committee of the SMT).
2. Communications issued to the Legislation Committee.
3. Review commenced.

OK noted that the focus would be on –

1. Recommendations in the Report of Expert Group – 165
 - Report dated December 2014 – 4 ½ years old – during which time certain things have changed
 - Do current Commission Members still agree with all of the Recommendations given the issues that have arisen in the interim?
2. Case Law
 - The DOH has specifically sought the MHC's input in this area
3. Mental Health Act 2018 (not enacted)
 - Definition of voluntary patient
 - Move to guiding principles
4. Assisted Decision Making (Capacity) Act 2015
 - Consistency between the two pieces of legislation
 - Ensure parity of rights between all persons
5. Matters arising from practice – of which various examples were provided across the various parts/ functions
6. Compliance with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) / other relevant Conventions

OK also noted that certain matters were not addressed in the Heads of Bill -

1. Children – awaiting this section / part
2. 'Compliant incapacitated', those who require in-patient treatment for mental illness but who do not have the capacity to consent to admission and treatment but who also do not satisfy the criteria for detention. It is proposed that this with as part of the Deprivation of Liberty legislation (on which revised Heads are currently being prepared).

It was noted that there had been a lot of media attention relating to this matter. The Chair and RM noted that this is a very important piece of work and that the MHC must focus on producing a comprehensive and useful document which shall be of benefit to services users. It was agreed by the Members that this is a once off opportunity which the MHC welcomes and the Executive shall do their utmost to deliver within the time indicated by the DOH.

DSS Report

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	<p>Further concern was expressed about the DSS timelines. Reference was made to the discussion at the last meeting when it was agreed that this would be looked at before year end. Further to discussion by all of the Members, it was agreed that the assessment on the timelines needs to be brought forward due to the number of external dependencies that have not progressed.</p> <p>OK and AF outlined a number of concerns that had arisen from recent meetings with both the DJE and the DOH.</p> <p>AF separately advised that a letter is going to the Secretary General in the DJE advising that a number of dependencies are outside the control of MHC and that they need to be addressed as a matter of priority.</p> <p>The Members requested a risk assessment report be produced by AF, which would go to both the FARC and the Commission in September.</p> <p><u>DSS Branding</u></p> <p>Decision 23 of 2019</p> <p>The proposed Logo was discussed again and replies provided by AF to queries raised.</p> <p>TM proposed approval of DSS Logo and NB seconded same.</p> <p>It was also agreed that review of MHC branding be considered (to include reference to DSS on MHC headed notepaper).</p> <p><u>Regulatory Report – Read Only</u></p> <p>It was agreed that the Regulatory Team would present any recent updates at the September meeting. A query was also raised with regard to certain services that were being reviewed for registration. SQA to address at the September meeting.</p> <p><u>Integrated Regulatory Framework Report –Wolfe Report</u></p> <p>It was agreed that this would be deferred to the September meeting for formal discussion with the CE / the Regulatory team.</p>
6	<p>Risk Management</p> <p>OK noted that the Inspectorate had identified a possible issue relating to the CIS (problem with connectivity in HSE approved centres) and that this will be discussed at the Risk meeting in August.</p>
7	<p>Committee Updates</p> <p>FARC - It was noted that the FARC report had been provided in conjunction with the CE's report.</p> <p>QIC – MW provided a brief update on the research work being undertaken.</p>
8	<p>AOB</p>

PL raised a query on delegations from the CE and other Members of the SMT. OK agreed to refer to the CE who would address the matter at the next SMT meeting and the September Commission meeting.

Next Meeting – 19 September 2019

ACTION LOG

No	Action	Person Responsible	Status
1	Dedicated Commission Member email addresses - <ul style="list-style-type: none"> Text notification procedure to be implemented with this New email addressed to be used for a trial period and position reviewed 	OK / MD	Done
2	Stakeholder Initiative - <ul style="list-style-type: none"> Protocol to be drafted re presentation by external persons / parties as part of the Stakeholder Initiative Formal Plan to be reviewed in October after presentation at September meeting Budget to be made available to cover T&S for service users where required Submissions are to be made by CMs to the Secretary / Comms which shall be collated 	DW / SB with Secretary	In progress
3	Confirm that Minister Daly is attending September Commission Meeting.	JF	October meeting
4	C&AG – As noted above, information to be provided at September meeting by COO.	SM	Done
5	IA Report on Corporate Governance - <ul style="list-style-type: none"> Letter to the Minister to address recommendations on Board skills / rotation Review as part of the Heads of Bill 	Chair /JF / OK	Done
6	CE's Report – Section 7 / Brexit – Update to be provided on any outstanding issues / risks for the Commission.	BG / SM	CE's Report
7	Finance Policies – Three additional amendments requested.	SM / MM	Done
8	Staff Survey – Action Plan from same to be produced together with Note of proposed meetings / interactions of Commission with staff.	SM with HR	In progress
9	Wolfe Report – Deferred to the September meeting / Members requested a formal discussion with CE on the	JF / RS / SF	RS to present

	Report, the implications and the Plan of Action in light of discussion at the January Commission meeting.		
10	DSS – Risk Assessment Report re Implementation Date for DSS.	AF with JF and others	September meeting
11	Discussion to be had about updating the branding for MHC generally.	JF / SMT	To be discussed at a meeting later this year
12	Delegations – Clarifications on certain matters.	Chair / JF / OK	CE to address

Dated:

Signed:

By the Chair

