

Mental Health Commission Meeting
Minutes of Meeting held on 19 April 2018
Held at Waterloo Exchange, Waterloo Road, Dublin 4

Commission Members	Initials
John Saunders	JS
Patrick Lynch	PL
Catherine O'Rorke	COR
Colette Nolan	CN
Jim Lucey	JL
Michael Drumm	MD
Ned Kelly	NK
Margo Wrigley	MW
Niamh Cahill	NC
Aaron Galbraith	AG
Xavier Flanagan	XF
Nicola Byrne	NB
Rowena Mulcahy	RM

Executive in Attendance	Initials
Rosemary Smyth, Interim CE	RS
Orla Keane, Secretary to the Commission and Head of Legal Services	OK
Kate Frowein, Standards & Quality Assurance	KF

Agenda Item No	
1	Declarations of Interests - Signed and Returned to the Secretary
2	<p>Minutes of Meetings on 22.3.18</p> <p>The draft Minutes were discussed and agreed. PL noted one issue which was not in the Action Log, that related to a note on the communications between the MHC and the HSE on community residences. It was agreed this would be provided to him in the next week.</p> <p>OK and RS provided an update on the Action Log items.</p> <p>Decision 22 of 2018 JL proposed approval of the Minutes and NK seconded same.</p>
3	<p>Chair's Business</p> <p>1. Chief Executive (CE) substantive post - This matter was dealt without the attendance of any member of the Executive (save for the Board Secretary). The Chair outlined the actions taken to date and his communications with PAS. He then outlined the proposed timetable in relation to</p>

	<p>the recruitment, selection and appointment of the CE. The Chair referred the Members to the draft proposal from PAS and there was a discussion on certain issues to include the selection criteria - essential and desirable - the Members agreed that the candidate should have a minimum of five years' management experience. It was agreed to leave all of the other criteria as outlined by PAS.</p> <ol style="list-style-type: none"> 2. Governance Working Group – The Chair and RS reminded the Members that a gap analysis was done by an external service provider in 2017 identifying those issues in relation to the 2016 Code which had to be addressed by the organisation. The Chair explained that the Working Group reports to the ARC who has ultimate responsibility for compliance with the Code. The Chair also noted that the Working Group had intended to complete its work by May/June 2018 however this would have to be extended to June/September 2018. It was further confirmed by the Chair that the work of the Group was limited to addressing certain specific issues and that the updating of documents such as the code of conduct / the corporate governance manual etc were separate pieces of work outside of its remit. 3. Draft Report on Joint Committee on the future of Mental Health - The Chair and RS confirmed that they were working on this issue. The proposal was to use some of the inserts in the annual report to prepare a submission. 4. Strategic plan - OK confirmed that three replies to the RFT were received and the selection committee was due to meet shortly. The outcome of the selection committee would be provided to the Members at the next commission meeting. 5. Communications - There was a general discussion in relation to enquiries from the media about various aspects of the work of the Commission to include the mental health tribunals and reports on community residences. It was agreed that there would be further media attention arising out from the publication of reports on certain approved centres. The Chair noted that he would progress these matters with the Executive and seek input from the Members as required.
4	<p>Executive Reports</p> <p><u>Director of DSS</u></p> <p>OK and RS noted that we had the opening meeting with the service provider, which went well. RS noted that the Executive has asked the service provider to firstly address the issue of the corporate spine in order that we can revert to the Department of Health (DoH) on certain core roles for the organisation. OK also noted that at the last DSS Steering Group Meeting she informed the DoH and the Department of Justice and Equality (DJE) that the earliest DSS would be operational was October/November 2019.</p> <p><u>Report of the Director of Standards and Quality Assurance (S&QA)</u></p> <p>KF noted that in 2017 the MHC implemented revised registration processes including a new application, new supporting documentation and a more robust review process which reviewed CAPAs, compliance data and enforcement data. She noted that as a result 50 conditions were applied to 26 approved centres and that a standardised process was used to attached conditions to targeted areas of concerns. It was noted that the requirements set out in either the 2001 Act or the Regulations regarding compliance with conditions was limited. However, when the MHC when are attaching conditions we require the approved centre to produce a timeline by which they will take certain actions. In most cases the approved centre will required to provide monthly updates (or more frequent depending on the issue) which will be monitored by the MHC. If there is ongoing non-compliance, the matter will be escalated. KF noted that the MHC does take into consideration that there are certain matters that do take time and cost to address and may not be capable of being addressed immediately. KF noted the type of issues</p>

which give rise to conditions - to include maintenance of premises, care planning, risk management, staff training and medication management.

KF noted that there was on average nationally 76% compliance with Regulations, which was a 2% increase from 2016. She stated that the small steady ongoing improvement is what SQ&A would expect. The Members queried the 24% non-compliance and the responsibilities of the Executive and the Board in that regard. KF noted in reply that the MHC use a range of informal and statutory enforcement powers. She added that in addition to the conditions attached in conjunction with the Registration process the MHC took other action which included 56 enforcement actions relating to 28 approved centres, two closure proposals, 5 regulatory compliance meetings, 13 immediate action notices. In addition, the MHC dealt with 33 serious reportable events. All of this required the Regulatory Review Committee to meet on 17 occasions to consider the most appropriate and proportionate action to take in each case.

There then followed a detailed discussion by the Members in relation to the issues arising out of the report and what actions the MHC can take. As part of that discussion, the two different models of enforcement were considered (e.g. responsive - deterrent). Examples were also provided to the Members on actions taken in relation to particular services over the last number of years.

It was agreed that the following issues would be addressed –

1. the quarterly / annual reports to address the specific increase or decrease by each approved centre in terms of compliance,
2. the quarterly / annual reports to outline the specific data against which the percentages are being measured in terms of increases / decreases in compliance,
3. SQ&A to contact the relevant division in the HSE with regard to the statistics on the reporting of serious reportable events, and
4. A breakdown to be provided in relation to the death notifications.

KF then referred to the documentation relating to the processes that would be used in the development of the National Adult Safeguarding Standards for health and social care services. KF noted that the Executive was recommending the process as outlined. Discussion was had with regard to the membership of the Advisory Group in terms of service users. KF and RS noted the difficulties that had been encountered in obtaining engagement by service users. CN made some suggestions in that regard and it was agreed to follow up with her about these after the meeting.

The Members generally welcomed the initiative and noted that the process as outlined was very good. It was agreed that the process as contained in the documents provided would be approved by the Members and the Executive would revert to the Advisory Group with the MHC's proposals about the need for further service user involvement.

Decision 23 of 2018.

PL proposed approval of the process and MW seconded same.

KF also noted that there was going to be a Safeguarding Seminar on 9 May, the details of which would be circulated to the Members if they wished to attend. It was noted that certain members of the Executive would be assisting and speaking at the conference.

Report of the Inspector

This was circulated on a read only basis.

Legal and MHT

OK referred to her report. She noted that the decision of the Court of Appeal in IF had been delivered on 18 April and provided the Members with a detailed update in relation to that decision. It was agreed that clarifications would be sought from the Court, if possible, and thereafter it was agreed that advice should be sought in relation to any proposal to appeal, which would be considered at the next meeting.

OK then referred to the AB case and provided the Members with an update further to her report 12 April. It was agreed in relation to both cases that the relevant documentation would be put up on the Commission Members section of SharePoint and any updates in relation to the matter would be provided as events unfolded over the next couple of weeks.

In relation to the Mental Health Act, OK noted that the preparation of the general scheme has been approved by Government and heads of bill are expected to be significantly progressed by Q3 2018 at which stage the DOH will consult with the MHC.

In relation to the 2015 Act, OK noted that the Executive had received certain proposed amendments from the Department of Justice and had provided preliminary replies. She noted that the amendments were to be discussed by the Legislation Committee on 20 April.

OK referred to her separate memo in relation to GDPR and the actions that had been taken. She emphasised that there was significant amount of work left to be done and that the Commission would not be compliant until late 2019.

HR – Corporate Services

RS provided an update to the Members. She noted that the requirements in relation to the DSS will be dependent on the outcome of the review by the business analysts / project manager. In relation to the existing operations, she updated the Members generally and said that five posts which were not filled during the last recruitment campaign were being updated / revised and some of these would be re-advertised.

CE's Report

RS referred to Part Two of her report –

1. Management Accounts: PL had a number of queries in relation to the spend versus budget. Arising out of the discussion, it was agreed that the Executive would ensure that a detailed variance document is provided to Members for the next meeting and they would provide an explanation for the budget build up.

Decision 24 of 2018

PL proposed approval of the management accounts and JL second same.

2. RS also referred to the revised Procurement Policy. OK went through the document and noted the amendments had been made. NC and PL requested certain additional amendments to section 4 and to the Appendix, which were agreed.

Decision 25 of 2018

PL proposed approval of the Policy and NC is seconded same.

5	<p>Risk Management</p> <p>It was noted that the updated risk register was not considered at last meeting, therefore comments were invited from the Members. It was noted that the register will be updated every quarter in line with the ARC meetings. PL noted that it would be important that the risk ratings be reviewed carefully at each quarterly meeting as those ratings should be continuously coming down and if they do remain high then that is an issue for further discussion by the SMT, ARC and the Commission Members.</p> <p>OK noted that the draft Incident Management Policy was brought to the last meeting but the item was not reached. She gave a brief summary. The Members had some minor proposed amendments, which were agreed.</p> <p>Decision 26 of 2018 CN proposed approval of the Policy and MW seconded same.</p>
6	<p>Committees (dealt with before the Risk at the meeting)</p> <p>Audit and Risk Committee (ARC) – No update.</p> <p>Legislation Committee – No update.</p>
	Next Meeting 17 May 2018 at 11 am

ACTION LOG			
No	Action	Person Responsible	Status
1	Chronology of communication between MHC and HSE re trying to agree the number of community residence with the HSE.	SF	Done
2	Selection Committee re Strategic Plan to meet and progress tender	RS/OK	Done
3	Additional document to be provided by SQ&A re the increases and decreases in compliance by each AC / CHO for 2016 and 2017.	KF	Done / Appendix 2 to Annual Report
4	S&QA to contact HSE (PL's office) re SREs and the reporting of same to his office –v- the MHC	KF	Done
5	S&QA quarterly reports should include specifics as to what data percentages are being measured against.	KF	Will be addressed in next quarterly report
6	S&QA to revert to the Team for Joint Standards for Safeguarding with proposal re service user involvement and revert to Commission Members on same.	S&QA	In progress - correspondence issued
7	Judgement in IF case with Legal Note to go to CMs / Notice to Panel members + HSE + Independent ACs asap. MHC to revert to CM re decision on whether appeal required or not. View of AG to be ascertained.	OK	Done
8	TR / AB case – View of AG to be ascertained.	OK	Done

9	Ascertain reason for Budget Build up within first two months and full variance document with notes to be provided.	OK	Done
10	Incident Management Policy to be amended and finalised	OK	Done
11	Procurement Policy to be amended and finalised. Thereafter, bring to ARC for information.	OK	Done / Ongoing

Dated: 17 May 2018

Signed:



By the Chair