

**Mental Health Commission**  
**Minutes of Meeting on 9 December 2016**  
**11:00 – 16:00**  
**Held in St Martin's House, Waterloo Road, Dublin**

**Present:**

<b>Commission Members</b>	<b>Initials</b>
Maeve Doyle	MD
Ned Kelly	NK
Catherine O'Rorke	CoR
John Saunders	JS
Mary O'Hanlon	MoH
Xavier Flanagan	XF AM only
Michael Byrne	MB
Pauline Gill	PG
Mary Keys	MK
Patricia O'Sullivan Lacy	PoSL PM only

<b>Apologies:</b>	
Yvonne O'Neill	YoN
Colette Nolan	CN

<b>Absent:</b>	
John Redican	JR

<b>Executive in Attendance:</b>	
Patricia Gilheaney    Chief Executive	PCG
Ray Mooney            Secretary to the Commission	RM

<b>In Attendance</b>	
Dr Susan Finnerty for Items 2.2, 4.2 & 4.3	SF
Rosemary Smyth for Items 4.2 & 4.3	RS
Roisin Hennessy for Item 5.1	RH

JS opened the meeting and welcomed Members to their last meeting for 2016. The Commission met once in 2016 without the Executive present. The Code of Governance for Public Bodies (2016) requests Boards to meet twice a year without the Executive present. JS asked that the Members take Item 2.1 Discussion without the Executive present first. Agreed. The Secretary (who is a member of the Executive) was requested to attend for this item in his role as Secretary to the Board.

**Action:**

### **2.1 Meeting without Executive present in accordance with the Code of Governance for Public Bodies (2016)**

JS invited Members to raise any queries they may have in the absence of the Executive. In response to a query on the current structure of the Inspectorate in relation to what had been in place previously, JS advised that the sanction which had been granted by the Department of Health for the temporary fixed term posts will expire at the end of December 2016. In light of the delayed receipt of the Organisational Review Report, a submission had been made to the Department to extend this sanction in order to allow the Commission time to consider and implement the findings of the Report in 2017. It was clarified that the present inspectorate process is based on the Judgement Support Framework which was developed and implemented in 2015 and revised in early 2016 following stakeholders feedback in advance of the 2016 inspections commencing.

JS advised that a date has yet to be agreed for the PMDS meeting with the Chief Executive but that this would be done shortly. Members discussed the issue of succession planning within the Commission as identified in the Organisational Review Report. It was noted that a number of senior staff may retire or their contracts will expire within the next two to five years. Concern was expressed in relation to the potential loss of important organisational knowledge and the timelines that may be involved in replacing such staff given past experience in this area.

PCG was requested to join the meeting.

#### **1 Minutes of meeting of 21.10.16**

- (a) The minutes were agreed following a proposal from MD which was seconded by MB
- (b) Matters arising

JS advised that Ms Helen Mc Entee T.D. Minister of State with responsibility for Mental Health Services sent her apologies in relation to her attendance at this meeting to meet Members. The Executive will inform the Minister's office of the date of the January 2017 meeting.

#### **Minutes of Meeting of 18.11.16**

- (a) The minutes were agreed subject to the inclusion of Members attendance at the item on training on the Code of Practice for the Governance of State Bodies (2016). Proposed by NK and seconded by CoR
- (b) Matters arising: None

<p><b>2. Chairman's Business and Matter for Mention</b></p> <p><b>2.3 Commission Membership: Preparation of a Paper for Minister regarding experience of current Commission &amp; Recommendations.</b></p> <p>JS outlined a number of items that Members had identified previously that they wished to discuss with the Minister. He advised that he will draft a document setting these out prior to the January meeting.</p> <p><b>2.4 Schedule of meetings January to 3rd April 2017</b>  Members discussed the scheduling of meetings for 2017 taking into consideration the need to review and approve the annual report and financial statements for 2016 prior to the end of their term of office. It was agreed that they would meet on 20<sup>th</sup> January and February 24<sup>th</sup> commencing at 11am through to 4pm. It was also agreed to provisionally hold the following dates 10<sup>th</sup> March (am) and 24<sup>th</sup> March (pm) 2017 in case additional meetings are required. It was agreed that the publication date for the Annual report 2017 will be 3<sup>rd</sup> April 2017.</p> <p><b>2.2 Inspection Reports</b>  JS welcomed SF to the meeting for the presentation of inspection reports. SF presented a summary of findings and agreed to make her presentation available to members. In the discussion which followed it was suggested that some of the Commission's correspondence on inspections was not being received by the clinical directors. It was agreed that such correspondence will continue to be issued to the relevant registered proprietor and in addition will be copied to the relevant clinical director.</p> <p>Members discussed an approved centre where concern was expressed in the inspection report over the reported lack of space. It was noted that such matters would be taken into consideration when that approved centre's registration was due for renewal and that the service in question would be advised of this well in advance of that date.</p> <p><b>3. Chief Executive's Report</b></p> <p><b>Part One</b></p> <p>1.1 PCG presented Part One of her report and the typographical errors in section 1.1 were noted for correction.</p> <p><b>1.3 Enforcement</b>  DOP, Portlaoise MB absented himself for this item.  The typographical error 'obstructive' instead of 'intrusive' was noted for correction.</p> <p>PCG advised that an extension had been sought for resubmission of a corrective and preventative action plan for Sligo/Leitrim mental health services and same had been granted. The plan is due for submission on 12 December 2016.</p>	<p><b>Action:</b></p> <p>JS</p> <p>SF/RM</p>
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#### **1.4.2 CAPA Review**

PCG advised that there had been a marked improvement in the quality of the plans received from services in the recent months as can be seen from the figures advised in the meeting papers. The guidance and assistance issued by the Commission appears to have been helpful in this regard.

#### **1.6 MHC Staffing Update**

PCG advised the Members that she remains seriously concerned in relation to the risks posed by the staffing level in the Commission and informed Members that a response from the Department of Health to the business cases submitted remain outstanding. Details were provided in respect of recruitment of the following: Director of Legal Services, Director of the Decision Support Service and the request for an extension for the engagement of Assistant Inspectors and report drafters whose term with the Commission is due to expire on 31<sup>st</sup> December 2016.

Members discussed their governance responsibilities in ensuring that the Commission is adequately resourced to carry out its statutory functions under the 2001 Act. Consideration was given to making immediate contact with the Department of Health to re-iterate Members request for a meeting to facilitate them to discuss challenges in relation to staffing with Departmental officials.

JS advised Members that a meeting with the Department of Health is due to convene in relation to the Decision Support Service on Thursday December 22<sup>nd</sup> 2016 and suggested that it would be opportune to use this meeting to also address the concerns Members have in relation to staffing in the Commission. JS invited Members to indicate their availability to attend the meeting with the Department of Health. Items for the meeting agenda were discussed, agreed and will be submitted to the Department of Health prior to the meeting.

#### **1.8 Comptroller and Auditor General Audit of 2015 Financial Statements**

Addressed under Item 5.2, Audit Committee Report.

#### **1.9 Decision Support Service (DSS) in the MHC**

PCG advised that the Commission has not received any indication of the funding that will be available to it for 2017 for its statutory functions under the Assisted Decision-Making (Capacity) Act 2015. PCG also advised that a date for the DSS Steering Group meeting which was deferred in October is still awaited from the Department of Justice and Equality / Department of Health. The Commission has been in contact with the Department of Health to expedite this matter.

### **Part Two**

#### **2.1 Management Accounts for month(s) ending (a) 30<sup>th</sup> September 2016 and (b) 31<sup>st</sup> October 2016**

RM presented the September and October Management Accounts and provided clarifications upon request.

The September Management Accounts were approved following a proposal from CoR which was seconded by XF.

**Action:**

**JS/PCG**

<p>The October Management Accounts were approved following a proposal by PG which was seconded by MD. Break for lunch, meeting reconvened at 13.50.</p>	<p><b>Action</b></p>
<p><b>4 Consideration of Reports</b>  <b>4.1 MHC Organisational Structure Final Report</b>  Members noted the Report and requested the Executive to commence planning for the implementation of the recommendations in January 2017. Members also requested the Executive to thank Mazars for their work in developing the comprehensive Report.</p> <p><b>4.2 Business Plan Review 2016</b>  PCG presented the 2016 Review and thanked the dedication and work of all the staff in the Commission and in particular her colleagues on the Senior Management Team.</p> <p><b>4.3 Draft Business Plan 2017</b>  The draft Business Plan 2017 was presented to the Members by PCG, RS, SF and RM for consideration and approval. It was noted that the draft Business plan presented was predicated on the Commission receiving the same allocation in 2017 as in 2016 for its functions under the Mental Health Acts 2001 to 2015. The section of the Draft Plan relating to the Commission’s functions under the Assisted Decision-Making (Capacity) Act 2015 was predicated on receiving a financial allocation for 2017. The Draft Business Plan presented was proposed by MB and seconded by NK and approved by the Commission on the basis that the financial allocation referred to above will be available to the Commission in 2017.</p>	<p><b>PCG</b></p>
<p><b>5 Reports of Committees</b>  <b>5.1 Legislation Committee</b>  JS welcomed RH to the meeting. MK referred Members to the memorandum regarding review of the Heads for the proposed Part 13 of the Assisted Decision-Making (Capacity) Act 2015 (the 2015 Act) and Draft amendments to the Mental Health Act 2001(the 2001 Act) for inclusion in the Equality (Miscellaneous Provisions) Bill 2016. The draft Heads for the proposed Part 13 of the 2015 Act make provision for Deprivation of Liberty Safeguards (DoLS) where relevant persons lack capacity to consent to their admission, transfer, treatment etc. in a relevant facility. Members were advised that further Heads propose to amend the definition of a “voluntary patient” under the 2001 Act to make provision for so called “voluntary incapacitated persons” who do not have the capacity to consent to their treatment in an approved centre under the 2001 Act. MK advised that the Legislation Committee met on the 15<sup>th</sup> and 29<sup>th</sup> November and invited RH to present a summary of the process undertaken to date to consider the Draft Heads and the proposed Commission response to the Department.</p> <p>Following discussion it was agreed to progress as proposed by the Legislation Committee in the draft submission presented by RH subject to minor amendments which will be circulated with a response time via email of forty-eight hours. The Commission will request a round table meeting with all relevant parties as the proposed Heads require careful consideration to</p>	<p><b>RH</b></p>

ensure that a workable legislative framework is put in place that upholds the human rights of relevant persons through adequate and effective safeguards.

### 5.2 Audit Committee

PG reported on the meeting of the Audit Committee that convened on the 8<sup>th</sup> December 2016. PG advised that the MHC are awaiting completion of the Comptroller and Auditor General (C&AG) Audit of the Financial Statements for 2015. Additional information had been requested on two matters in the last few days and this has been provided by the Executive to the C&AG.

PG also advised that the C&AG requested a change in the format of presentation of the Annual Financial Statements 2015 to the format presented to and approved by the Commission in April 2016, The Commission was requested to consider the revised Statements in the new format. It was clarified that the format changes arose from changes in the way the C&AG now required the statements to be presented and did not alter any of the final figures.

The Financial Statements 2015 were considered and approved following a proposal from MoH which was seconded by MK.

Item No.		Person Responsible	Timeframe
Chair's Business Item 2.3	Briefing document for Minister McEntee	JS	Prior to January meeting
Chair's Business Item 2.2	(i) Inspector presentation to be made available to Commission Members	SF/RM	Following on from meeting
	(ii) CDs to be copied on correspondence issued to RPs in Approved Centres from the Inspectorate	SF	Ongoing
CE Report Item 1.6	Indication of Members to JS of their availability to meet with the DOH ref the DSS	JS/PCG	In advance of meeting on 22 <sup>nd</sup> December 2016
CE Report Item 4.1	PCG to thank Mazars on behalf of the Commission Members for their work on the OR Report	PCG	Following on from meeting
ITEM 5.1	Ref. Legislation Committee :Progress as proposed in draft submission	RH	Following on from meeting

Signed: 

**John Saunders**  
**Chairman**

Date: 21/1/17