

Mental Health Commission Meeting
Minutes of Meeting held on 19 July 2018 at 11 am
Held at Waterloo Exchange, Waterloo Road, Dublin 4

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

Apologies	Initials
Margo Wrigley	MW

Executive in Attendance	Initials
Rosemary Smyth, Interim CE	RS
Orla Keane, Secretary to the Commission and Head of Legal Services	OK
Aine Flynn, Director DSS	AF
Susan Finnerty, Inspector of Mental Health Services	SF

Agenda Item No	
1	Declarations of Interests - Signed and Returned to the Secretary.
	<p>Private meeting - The Chair provided an account of the progress to date on the recruitment for the substantive CEO post, indicating that the planned timelines were maintained.</p> <p>Final Interviews were scheduled for Friday 19th July after which it was expected that a preferred candidate would be agreed.</p> <p>An extraordinary meeting of the MHC to confirm the candidate recommendation of the selection panel was proposed and agreed for Tuesday 24th July at a time to be confirmed.</p> <p>The Chair reminded the members of the contractual agreement between PAS and MHC regarding the condition for acceptance of the Panel recommendation.</p>

2	<p>The Minutes of the Meeting on 21.6.18 were approved subject to certain amendments.</p> <p>NK proposed approval of the Minutes and NC seconded same</p> <p>Decision 36 of 2018</p>
3	<p>Chair's Business</p> <ol style="list-style-type: none"> 1. As per the Private Members' session above. 2. JS provided the Members with an overview of the work programme for the publication of the Annual Report 3. JS noted that Communications is to be dealt with in the CE's report 4. JS provided the Members with a general update in relation to the progress of work on the Strategic Plan to include workshops with stakeholders such as the Department of Health (DOH). JS encouraged all Members that had not yet met with the Consultants to do so as it was important that all views are considered. A full briefing of the feedback from the workshops with all Stakeholders will be provided at the Commission meeting in September.
4	<p>Executive Reports</p> <p><u>Director of DSS</u> AF presented her report. There was a detailed discussion between the Members and the Director in relation to the DSS Project.</p> <p>The Members noted that the Reports presented provided more information than the previous report. However, the Report needs to be clear on the milestones, the main work streams, what work was planned for the next month, what had not been addressed the previous month and why, the risks (red/amber/green) and the KPIs. It was also noted that the Board needed to be clear on its role and what, if anything, required the Board's approval.</p> <p>AF noted that since the last meeting certain matters had been clarified in relation to the Project Board (which is made up of the SMT and the Contractor). In relation to the Inter Departmental Steering Group (IDSG), AF noted that the DOH and Department of Justice (DJE) had still not met and we are awaiting confirmation from them on their view as to the role of the IDSG.</p> <p>AF noted that a full list of the External Dependencies (EDD) had been sent to the DOH and the DJE and we are waiting a reply from them. AF highlighted a few of these issues to the Members to include Section 102 of the 2015 Act, which relates to the reports to be provided by the MHC / DSS to the DJE / DOH. AF noted that clarification is required on that reporting structure. AF also noted that the MHC had requested a reply to the EDD before the next meeting of the IDSG on 2 August. The Members wanted it noted for the Minutes that they are concerned that all of these factors are impacting on the progress of the Project and requested that their concern be brought to the attention of both Departments. The Members noted that if progress has not been made by the next meeting of the IDSG, the Executive is to revert to the Board of the Commission which will consider what action may be appropriate.</p> <p><u>Report of the Director of Standards and Quality Assurance (S&QA)</u> OK confirmed this was read only.</p> <p><u>Report of the Inspector</u></p> <ol style="list-style-type: none"> 1. SF went through her quarterly report. She noted that since the team was now fully staffed, that inspections of approved centres and the reports are progressing (29 inspections, 1

focused inspection, 3 final reports and 9 awaiting CAPAs). SF also noted that the MHC is in Year 2 of the 3-year rolling programme of inspections for 24 hour residences (ahead of target). 54 Inspections were completed in 2018 resulting in 97 completed inspections to date. SF also noted that the Inspectors are collecting information on use and type of restrictive practice in each approved centre in 2018, access to general health services in the long stay units and tobacco cessation programmes.

In relation to the 24-hour residences, the Members queried, publishing one combined report for each CHO (of 24 hour residences) rather than individual reports. RS noted that if issues arise in the residences that are common then these issues can be addressed with the CHO for the area generally. This process tends to work better than dealing with each individual residence. The members queried what happens if an issue is identified in a residence but the report is not published for some months. RS and SF noted if any concerns / serious concerns arise they would be flagged with the residence and local management straight away.

2. SF then addressed the issues raised by the ARC at its last meeting regarding the Inspection process. SF confirmed that all inspections were done in 2017 and reports were completed in early 2018. SF noted that the MHC's policy regarding inspections is being updated and the timelines are being reviewed. It will be brought to SMT for review and sign off. SF also noted that a new Business Manager had joined the Unit and this would assist with the overall management of Inspections. Some Members noted that HIQA's process appears to be shorter from inspection to publication. SF and RS noted that the MHC process is more comprehensive. SF noted that the report when finalised is sent to the DOH before publication and they can have it for up to 3 weeks. It was agreed that this time period should be reduced. SF noted that a full update would be provided to the ARC in September.
3. SF then addressed the Members in relation to findings further to an inspection of one approved centre. She outlined the concerns which were identified and noted that they were being actively progressed with a deadline for a reply to those issues. The Members had a series of questions in relation to the findings, the issues from the previous years' reports and the actions taken previously and currently being taken. OK and RS noted that the inspection process had to be followed as with all other approved centres and fair procedures had to be applied. The Chair asked RS to provide him with an update on the matter further to receipt of the reply from the service.

The members also discussed long term what action can be taken against a service that is repeatedly in breach of conditions and non-complaint. OK and RS noted that there are various stages in the process – Conditions, Enforcement Notices (limitations on activities within the service eg admission of new patients for a period), Prosecution or Closure. The merits of the various types of actions were discussed and the Members stated that whatever action is taken, the benefit for patients must be considered.

Legal and MHT

OK noted the following from her report –

1. IF case – Appeal filed in June. Applicant filed reply and is opposing the Appeal. Now waiting to hear back from Supreme Court as to whether they will allow it to proceed or not.
2. AB case – Will be addressed under the Legislation Committee update. Series of ongoing emails with DOH / change of approach from late June to early July. Legislation has to be passed on an urgent basis in September, due to the timeline provided by the Court of Appeal.
3. OK brought the Members attention, an Art 40 application that arose because an RCP completed duplicate detention Forms in error. The case was quickly resolved. OK noted that there have been four such instances in the last while which involved additional time and cost to the MHC but more importantly uncertainty for the patient. OK said that the MHC had sought a meeting with the HSE last November in relation to various MHT matters and is still awaiting a formal

	<p>reply. Members agreed that a letter needs to be issued by the Interim CE to the CEO of the HSE requesting a meeting.</p> <p>4. RFT Agency complete and supplier selected so now in compliance with procurement rules.</p> <p><u>HR – Corporate Services</u> RS noted that this was read only.</p> <p><u>CE’s Report</u> RS referred to her Report. She addressed the items on the Action log from the previous meeting.</p> <p>RS then referred to the Joint Oireachtas Committee and noted that she was working on a document with the Chair which would address the issues sought by the Committee and those which the MHC wants to address.</p> <p>RS referred to the draft Media Protocol. OK noted that our provider had furnished a document which had been marked up but the Executive did not believe addressed the MHC’s requirements. It was agreed to contact other similar agencies to see what protocols they have in place.</p> <p>RS then turned to the Matters for Decision arising from her Report –</p> <p>1. Management Accounts for April, May and June April Accounts – Proposed the Accounts for approval by NK and seconded by COR - Decision 37 of 2018 May Accounts – Proposed the Accounts for approval by XF and seconded by CN - Decision 38 of 2018 June Accounts – Proposed the Accounts for approval by COR and seconded by MD - Decision 39 of 2018</p> <p>OK noted that there were a lot of variances at half year. A meeting has been arranged with the SMT and our accountants with a view to preparing a half yearly report and revising the yearly Budget.</p> <p>2. Procurement Policy – the Appendix re Authorisation has been updated as per the comments from the last Commission meeting. XF proposed Policy for approval and JL seconded same Decision 40 of 2018</p> <p>3. Bank Mandates – These have been updated to reflect the fact that the new Finance Manager has come into post. NB proposed Approval of Mandates and MD seconded same Decision 41 of 2018</p> <p>4. QI Committee It had been discussed at the two day January meeting that this would be of benefit. There have been further discussions and MW, NB and AG will sit on the Committee with the Chair and certain members of the Executive. RM proposed approval of the establishment of the Committee and COR seconded same. Decision 42 of 2018</p>
8	<p>Risk Management OK noted that the Risk Register had been updated further to the comments since the last meeting. No further updates until the next ARC.</p>
9	<p>Committees (dealt with before the Risk at the meeting)</p> <p>Audit and Risk Committee (ARC) – There was no scheduled meeting of the Committee since the last Commission meeting. However, PL presented the CV for the proposed new ARC member. This was considered by the Commission Members and the appointment was approved.</p>

CN proposed approval of Mairead Dolan to the ARC and NB seconded same. **Decision 43 of 2018**

Legislation Committee – RM presented her report, gave the Members a summary of the issues discussed at the Legislation Committee, noted the matters for decision and for discussion.

Matters for Decision -

1. *Further Submission to the DJE with Additional Amendments to the ADMC Act 2015* -

The draft Submission as presented to Legislation Committee had been circulated to the Members with the tracked changes from that Committee

COR proposed approval of the Draft Submission and NK seconded same. **Decision 44 of 2018**

2. *AB case* – RM explained that further to the decision of the Court of Appeal on 3 May emergency legislation required to be introduced otherwise a number of patients will be found to be unlawfully detained. The MHC and the DOH had used their best efforts to have this done before the Dail recess for the summer however this did not happen. The Committee recommended that a letter be sent from the Chair emphasising that this matter needs to be given priority, by all the relevant parties, in September before any other piece of legislation.

The Members agreed on the importance of the legislation and that a letter should be issued by the Chair to the relevant person in the DOH.

3. *General Scheme of a Bill amending the Mental Health Act 2001* – RM noted that the Committee agreed that it was not appropriate for the DOH to send the MHC the Scheme in parts as this could impact on the chances of securing comprehensive amendments to the 2001 Act for the foreseeable future. RM also noted some of the issues which the Committee thought should be addressed in the Scheme eg the principles in the Parity Bill.

The Members agreed with the recommendation from the Committee that a letter should be issued by the Chair to the relevant person in the DOH emphasising the delay in bringing this legislation forward and requesting a full Scheme be provided to the MHC before the end of the year or early next year.

Separate to the above, RM noted the discussion by the Committee in relation to the emails from the DOH from DEASP (Department of Employment and Social Protection) and the recent Supreme Court decision of PC – Minister for Social Protection. RM explained the decision and advised that the Committee had queried why patients under the Mental Health Act would be impacted. The Members agreed with the recommendation of the Committee that the DOH should be asked to outline in detail why DEASP believes patients under the Mental Health Act would be impacted by the decision and at the same time set out the MHC's strong objection to any such legislative change in so far as it pertains to patients detained under the Mental Health Act. It was agreed that if necessary the MHC would issue a public statement to that effect.

At the end of the meeting, Catherine O'Rorke noted to the meeting that since she had recently retired from her position as Director of Nursing, she would also be retiring from the Board of the Commission. The Members collectively thanked her for all her work on the current and previous Board and wished her well.

Next Meeting 20 September at 11.00 – 2.00 am.

ACTION LOG			
No	Action	Person Responsible	Status
1	Joint Oireachtas Committee – dual submission re issues raised by the Committee and issues which MHC wish to raise	Interim CE/ Chair	In progress
2	Amend Commission Minutes	Secretary	Done
3	Follow up with New ARC Member – Mairead Dolan in relation to the appointment	Secretary	Done
4	Director of DSS to provide to CM- - One two-page summary document of the defined work streams setting out: what has been done in the last month / what was not done / action taken to address what was not done / what is to be done in the next month / key risk factors - Updated External Dependencies document - Copy of documents provided to internal and external Steering Group and one page summary of decisions made	Director DSS	20.9.18
5	Executive to update Commission re DSS Governance matters after meeting with DOH and DJE on 2.8.18. If no progress Chair / Interim CE will decide action to be taken further to proposals at the CM.	Interim CE/ Chair	20.9.18
6	Inspector to write to the DOH referring to discussion at CM and stating that she will send her report 1-5 (TBD) days' notice before publication.	Inspector	Done
7	Regulatory Review Committee (RRC) to review relevant Approved Centre's position further to the reply due on 1.8.18 and to update the Commission at its next meeting or earlier if so required.	RRC	Done / 20.9.18
8	Inspector to follow up with PL (HSE) re confirmation of the actual number of 24 hours community residences	Inspector	In progress
9	Executive to contact HIQA re Media Protocol	Secretary / Interim CE	Done
10	Progress update on establishment of QI Committee (Commission Membership –AG /NB /MW)	Interim CE / Director of S&QA	Done
11	Part 4 Submission to DJE re ADMC Act 2015	Head of Legal	Done
12	Letter from Chair to Junior Minister DOH re Section 15 of the 2001 Act	Head of Legal / Interim CE/ Chair	Done
13	Letter from Chair to DOH re General Scheme (and related matters)	Head of Legal / Interim CE/ Chair	Done

14	Letter to DOH re DEASP and Supreme Court Decision	Head of Legal / Interim CE/ Chair	Done
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Dated: 20 September 2018

Signed:

A handwritten signature in black ink, appearing to be 'M. Davis', written over a horizontal line.

By the Chair

