

**Mental Health Commission Meeting
Minutes of Meeting held on 22 March 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

Apologies	Initials
Nicola Byrne	NB
Rowena Mulcahy	RM

Executive in Attendance	Initials
Patricia Gilheaney, CE	PG
Orla Keane, Secretary to the Commission and Head of Legal	OK
Rosemary Smyth, Director Standards & Quality Assurance	RS
Susan Finnerty, Inspector of Mental Health Services	SF
Invitees	
Vincent Teo, Crowleys	VT

Agenda Item No	
1	Declarations of Interests - Signed and Returned to the Secretary
2	<p>Minutes of Meetings on 15.2.18</p> <p>The draft Minutes were discussed and certain amendments were agreed to same.</p> <p>OK and PG provided an update on the Action Log items.</p> <p>Decision 10 of 2018 PL proposed approval of the Minutes and XF seconded same.</p>

Bank Mandate for the Bank Account DSS as per the Agenda. It was noted that while the DSS is not a separate corporate entity, the Department of Justice (DoJ) had requested a separate bank account. PG noted that the DOJ, the Department of Health (DOH) and the Department of Public Expenditure and Reform (DPER) had consulted on the matter. PG then referred to the Bank Mandate which had been circulated in advance and required to be approved.

Decision 11 of 2018

NK proposed approval of the Minutes and COR seconded same.

3

Requirements relating to the 2016 Code of Governance

3.1 The draft (unaudited) Annual Financial Statement (FS) for 2017 which include: -

- A new DRAFT Governance Statement and Board Members Report (as per 2016 Code and 2017 Update)
- A new DRAFT Statement of Internal Control for the year ended 31 December 2017

VT presented the draft to the Members. It was noted by VT and PL that he had also presented the draft to the ARC, whose comments were collated and sent by OK to VT. VT then updated the draft which is the draft that was circulated to the Members. VT initially addressed the key issues for the Members and then went through the draft. Certain additional amendments were proposed and agreed. In particular, the following was noted -

VT noted that Crowleys had agreed to provide a paper to the ARC on the financial information that required to be published by the Commission.

VT noted that in addition to the yearly Self-Assessment by the Members that an External Report should also be carried out on the Members' performance. It was agreed that since most of the current Members were only appointed in April / May 2017 that this review would be done in 2019.

VT also referred the Members to the two breaches in 2017, which related to procurement (specifically agency staff) and data breaches and the actions taken to remedy the breaches / issues arising again.

VT noted that arising from a Statutory Instrument in 2017, the Commission's requirement in relation to reporting on its pension obligations had changed. Therefore, the Commission had to arrange to have the Scheme valued. A tender process was undertaken, an actuary engaged and a report received (which was only received in the last few days). VT noted that the draft FS will be amended to reflect the value of the fund and related matters arising from that report.

There was also a general discussion in relation the interaction with the C&AG. PL noted that the ARC had a private session with the C&AG on 12.3.18 without the Executive. The C&AG explained that it was either "comply or explain" and that the draft presented to them was amended to reflect this. PL noted, as was done at the January meeting, that the C&AG were going to outsource some of their work and as result hoped to have the Commission's audit done by September this year. The C&AG asked that the Commission would engage early with them. PG said that the Executive would do so but that we are still waiting to hear who has been appointed to do the audit.

A side issue was raised by one Member in relation to the Members' fees and it was agreed that this would be addressed with the relevant Members directly but it was also noted that all fees were not paid in 2017 so the Fees section of the draft FS should refer to "Fees due" and not accrued.

Decision 12 of 2018

PL proposed approval of the Minutes and JL seconded same.

3.2 Draft Chairperson Report to the Minister

It was noted that this was a draft prepared by Crowleys. It may be subject to change later this year when the C&AG do their Audit and next year arising from the learning from all of the Reports which will be submitted by State Agencies. It was further noted that an expanded version of the draft will appear in the Annual Report.

An issue was raised in relation to the Code of Conduct. Members wanted to know how it is currently addressed with staff. PG said that when the staff member joins they sign to say that they have received and will comply with the code of conduct. It was noted that it currently forms part of the Staff Handbook but that it should be a separate document. It was agreed that there should be a separate code of conduct for staff and the Board Members and that those drafts could be produced when the Executive is working on the reviewed Corporate Governance Manual. It was also noted that it could be linked in with staff members' performance reviews.

Decision 13 of 2018

JL proposed approval of the Minutes and MD seconded same.

3.3 Report from Deloitte on Review of Effectiveness of Internal Controls

OK and PL dealt with this report. OK noted that the report was required to comply with the requirements under the 2016 Code. PL then noted that the Internal Auditors had presented to the ARC on 12.13.18 and that this document with a number of other documents had been presented. Included in the documents was a new tracking document that shows all audits done during 2015-2017, the recommendations made and the status of those recommendations. It was agreed that this document should also be posted with the Commission papers in the future (OK noted that the Members do have access to the ARC papers and can access these documents at any time). PL noted that the ARC had requested that the original date for compliance with the IA's recommendation be included together with the revised dates. PL and OK also referred to the recent Internal Financial Controls audit and some of the issues which arose relating to procurement and how they will be addressed in the future.

It was queried if the Internal Auditor should attend the Commission meeting after the most recent ARC. It was noted that this is not standard practice and would not have formed part of the SRFT (tender). OK agreed to speak to the Internal Auditor and revert.

3.4 Annual Report of the Audit and Risk Committee

PL and OK dealt with this report, which only deals with the period May to December 2017. A few minor amendments were noted and it was agreed the report should be amended to reflect same.

Decision 14 of 2018

PL proposed approval of the Minutes and NC seconded same.

At this point PL said he would also deal with the Quarterly Report of the ARC from 12.3.18. He said that he had sent a letter to the Chair further to the meeting which had been circulated to the Members. PL noted that in addition to the issues referred to above (C&AG, draft FS, IA and ARC Annual Report) they dealt with the following – they reviewed four finance policies, provided comments on same and sent them to the MHC for approval; the ARC SAF was carried out and a short report clarifying some issues for Members is to be prepared and presented at the June meeting; and they reviewed the Risk Register / Draft Incident Policy which are before the Commission.

4	<p>Revised draft Budget (as per allocation from DOH and DOJ)</p> <p>VT presented the revised draft. PL noted that due to the late receipt of the letter of allocation from the DOH that the draft had not been presented to the ARC as it should have been. PL said that this concern was addressed in his letter to the Chair, the matter should be addressed with the DOH so that the same issue does not arise again next year.</p> <p>It was noted that the draft deals with the allocation for the MHC generally and the allocation for the DSS. It was further noted that the Budget for the DSS is a best estimate at this point in time given that the Project Management Team are only coming on board now. PG added that in the letter from the DOJ that they have given the Commission flexibility in relation to moving funds from the Pay to the Non-Pay heading. PG added that the Budget from the DOH is tight and that the Executive expect that the Commission may have to go back to the DOH for further funding as the year progresses. PG reminded Members that the Commission had sought an additional €400K from the DOH in 2017 which was refused.</p> <p>PL had a number of queries / comments which were all addressed by VT, OK and PG. PL said that it might have be useful to have included some explanatory notes on these issues and it was agreed that this would be done in the future.</p> <p>VT noted that they will be tracking the spend –v- budget under both heads and this will be presented as part of the managements accounts each month.</p> <p>Decision 15 of 2018 PL proposed approval of the Minutes and NC seconded same.</p>
5	<p>Revised draft Business Plan</p> <p>PG apologised for the late circulation. PG and RS noted that the Executive had taken on board the comments from the Members at the December meeting. RS outlined the process undertaken to produce the revised draft. PG noted that the had deliberately not divided the plan into 2001 and 2015 functions as they are all part of the one corporate entity. PG also noted that the Executive had included a long list of the corporate services which are used to support the Teams carrying out the statutory functions to highlight the amount of compliance / administration that is required and the lack of resources to fulfil these functions/ obligations.</p> <p>The Members complimented the Executive on the revised draft. There were a number of suggested amendments from NC, MW and PL. It was agreed that the draft would be amended to reflect same these and the final document would be saved in the Commission Members Governance Folder.</p> <p>It was further noted that as part of the SRFT for the Strategic Plan, that the Executive had also included a reference to drafting the Business Plan for 2019.</p> <p>Decision 16 of 2018 PL proposed approval of the Minutes and MD seconded same.</p>
6	<p>Chair's Business</p> <p>6.1 Private Sessions for Commission Members - The Chair referred to his Memo dated 23 February 2018 and proposed that the Members would proceed as he had outlined. This was agreed. It was also agreed that a note of the private meetings would appear in the Minutes.</p>

6.2 Interim CE and CE Substantive Post – The Chair noted that the interim post had been approved. PG noted the Commission had taken this as far as they could and that we are not waiting for the DOH who are waiting for DPER. PG added that she was actively pursuing the matter.

6.3 DSS Letter and Replies – PG noted the initial replies / reactions received. It was noted that the DOJ propose to issue a substantive reply and the Commission can consider same when received. It was agreed that the letter appears to have prompted some action by the DoJ and the DOH. It was agreed that the matter should be kept under close review.

6.4 Joint Committee on the Future of Mental Health (Draft Report) – The Chair noted that this was in progress.

6.5 Strategic Plan 2019-2021 – OK noted that the tender had been issued with replies due by 17 April. A selection committee will then be appointed and it would be hoped that the provider could attend the May meeting of the Commission.

6.6 Quality Improvements Plan – S&QA gave a presentation based on the issues raised by the Members at the January meeting. There was an extensive discussion in relation to the four main issues identified (bed capacity, community residence, seclusion and staffing). It was noted that the Commission has nearly 12 years of data and that this could be used as a basis for further research and used in the development of position papers. It was agreed that some of these matters will be addressed in the Annual Report but also as part of the overall Strategic Plan for 2019-2021. In addition, RS noted that subject to the receipt of further staff S&QA could do some work in the areas identified and report back to the Members.

6.7 Communications – The Chair noted that there are no resources in the Commission to progress the plan discussed at the January meeting. however, it was agreed that certain measures could be progressed eg Inspector Team doing summary notes on their reports for our Communications Providers, following up on invites from the Media. The Chair did agree that the issue should be kept on the Agenda. PG referred the Members to the Communications updates which had been provided by way of information only.

7

Executive Reports

Director of DSS

The Director’s report was read only.

Report of the Director of Standards and Quality Assurance (S&QA)

The Director’s report was read only. RS did note that the standards development process for the Safeguarding Standards had been approved by HIQA board so would be brought to the next meeting for approval.

Legal and MHT

OK noted that it was read only.

HR – Corporate Services

RS presented her report further to the completion of the recent recruitment campaigns. She noted that five key posts had not been filled and the reasons for same. PL said that a number of issues needed to be addressed in a letter to the DOH –

1. The key posts not filled and based on feedback why they were not filled,
2. Over 50% of staff are agency,
3. Emphasis the risk factors with the posts not being filled.
4. Explain that the current staff have absorbed as much as they can but cannot take on anymore.
5. The MHC have managed the risk as far as they can and the risk is not a matter for the DOH.

RS and PG agreed to send this letter and provide a copy and any replies to the Members.

Report of the Inspector

SF had prepared a detailed quarterly report. She proceeded to discuss the key issues in her report – 1. non-compliance in approved centres in the area of care planning, privacy and premises, 2. bed occupancy and the impact this has on other factors, and 3. issues arising from the review of community residences (and the attempts made to agree the exact number of these residences with the HSE over the last number of years*) which need to be addressed. It was noted that the MHC does not have an enforcement powers available to it in relation to these services but to date the services have engaged proactively with the Commission.

*PL said that if he was provided with a one or two page(s) chronology he would bring to the National Director for MHS to see if the matter could be finalised. SF said that the reason that the MHC need to know how many residences there are is that either the MHC or HIQA should inspect these services to ensure the service users are receiving proper care and treatment.

It was agreed by all that this information is very useful and should be made know to the public. SF reminded them that the reports are all published on the MHC's website. She also confirmed that she was meeting with the MHC's communication provider to prepare note of the key issues which the MHC has identified. SF also noted and the Members agreed that these issues should form part of her Annual Report which is included with the MHC's overall Annual Report

CE's Report

PG noted that Part 1 was for information only and Part 2 was matters for decision. PG noted that a number of the issues had already been addressed earlier in the meeting (2.1,2.3, 2.5 and 2.6).

PG referred to 2.2 and the management Accounts for January 2018. She noted that as the draft Budget had not been agreed a variance document had not been produced but it would be for the next meeting. It was also noted that Agency costs were ongoing and would be until some of the current posts and filled and the remaining posts sanctioned / filled.

Decision 17 of 2018

PL proposed approval of the Minutes and NK seconded same.

PG referred to 2.4 and the four finance policies. It was noted that they had been brought to the ARC on 12.3.18, who had provided comments. OK noted that a summary of those comments were included in PG's report but that the documents had not yet been updated to reflect same. An issue was raised in relation to the fourth draft – the Procurement Policy - and specifically the financial level at which they should be approved by the Commission. It was agreed that the Executive would review that draft again and revert to the Members at the next meeting.

Decision 18, 19 and 20 of 2018

The other drafts were proposed and approved as follows –

- 1. PL proposed and COR seconded,**
- 2. NC proposed and CN seconded, and**
- 3. MW proposed and NK seconded.**

8

Risk Management

JS noted that due to the over run on time that most of the risk issues would be deferred to the next meeting. It was agreed that the draft Risk Policy with all of the tracked changes could be put forward for approval.

	Decision 21 of 2018 MD proposed approval of the Minutes and CN seconded same.
9	Committees (dealt with before the Risk at the meeting) Audit and Risk Committee (ARC) – Update dealt with earlier in the meeting. Legislation Committee – No update save that OK confirmed that the Submissions in relation to the Deprivation of Liberty Heads of Bill were submitted on 12.3.18.
	At the end of the Meeting the Chair noted that this was PG’s last meeting before she left. He expressed his sincere thanks to her for all of her dedication and commitment. He noted that PG had been employed since 2003 and had made more than a significant contribution to the structure and work of the Commission since then. On behalf of the Commission JS wished PG well in her new role.

ACTION LOG			
No	Action	Person Responsible	Status
1	Draft Minutes to be amended as agreed	OK	Done
2	Bank Mandate for DSS	PG/ Finance Manager	In progress
3	Draft FS for 2017 to be amended and submitted with Cover Letter to C&AG	PG	Done
4	Draft Business Plan for 2018 finalised and submitted to the DOH	PG	Done
5	Draft Budget for 2018 finalised and submitted to DOH	PG	Done
6	HR – letter to DOH as proposed by Members and pursue current sanctions that are outstanding.	PG/RS	Done
7	Procurement Policy reviewed, amended and on the Agenda for next meeting	OK/RS	Done
8	Follow up with IA re attendance at Commission meeting	OK	Done

Dated: 19 April 2018

Signed:



By the Chair

