

Mental Health Commission
Minutes of Meeting held on 9 November 2017
11.00 – 1:30
Held in Waterloo Exchange, Waterloo Road, Dublin

Present:

| Commission Members | Arrive | Depart | Initials |
|---------------------------|--------------------|---------------|-----------------|
| John Saunders | ¹ 10.00 | 13.00 | JS |
| Catherine O'Rorke | 10.30 | 13.30 | CoR |
| Nicola Byrne | 10.30 | 13.30 | NB |
| Michael Drumm | 10.30 | 13.30 | MD |
| James Lucey | 10.20 | 13.00 | JL |
| Patrick Lynch | 10.10 | 13.00 | PL |
| Xavier Flanagan | 10.45 | 13.05 | XF |
| Margot Wrigley | 10.30 | 13.03 | MW |
| Aaron Galbraith | 10.25 | 13.05 | AG |
| Ned Kelly | 10.25 | 13.25 | NK |
| Rowena Mulcahy | 10.20 | 13.30 | RM |
| Niamh Cahill | 10.20 | 13.10 | NC |

| Apologies: | |
|-------------------|----|
| Colette Nolan | CN |

| Executive in Attendance: | |
|--|----|
| Patricia Gilheaney - Chief Executive | PG |
| Orla Keane - Secretary to the Commission | OK |
| Rosemary Smyth - Executive Reports | RS |
| Aine Flynn - Executive Reports | AF |

¹ Commission Members attended early to have photographs taken for the website / annual report.

1. JS opened the meeting and requested Members to complete the Declarations of Interest.

JS welcomed the final two Commission Members, Rowena Mulcahy and Niamh Cahill, to the Commission.

2. Minutes of Commission meeting held on 4 October 2017

The Minutes were reviewed and agreed.

Decision 22 of 20 2017

PL proposed approval of the Minutes and MW seconded same.

3. Chairman's Business

3.1 Vacancy on the Commission:

This has now been dealt with.

3.2. Committees

ARC – The Chair explained that CN due to work and family issues was not able to commit to this at the present point in time. NB was asked and has agreed to sit on this Committee.

Legislation – The Chair stated that it was agreed not to proceed with the appointments to this Committee until all Members had been appointed. RM, NK and MD were asked and have now agreed to sit on the Committee. The Chair noted that RM has been asked and has agreed to Chair this Committee. The Chair also noted that it was proposed that there would be two external parties. OK confirmed that Mary Donnelly, Lecturer in Law in UCC has agreed to sit on the Committee. OK noted that she would revert in relation to the other person at the next meeting. The Chair also noted that various members of the Executive would attend these Meetings to include the Chief Executive.

3.3 Strategic Priorities

The Chair said that as agreed at the meeting in October there will be a two-day meeting in January at which a number of issues will be addressed. He noted that he has further work to do on the draft Agenda and the matter will be discussed further at the next meeting at which a formal Plan would be agreed. It was queried if the Chair would be accepting suggestions for the meeting and he confirmed that he would.

3.4 Dates for Meetings in 2018 plus Planning Meeting in January 2018

After discussion the following dates were agreed –

1. 25 and 26 January – two-day planning meeting [location to be confirmed]
2. 15 February
3. 15 March
4. 19 April
5. 17 May
6. 21 June
7. 19 July
8. 20 September
9. 18 October
10. 15 November
11. 13 December.

4.Executive Reports

Director of Corporate Services (*)

As the Director post is currently vacant the various matters were dealt with by the allocated Members of the Executive with their Reports.

Inspector of Mental Health Services

OK noted that the Inspector was out on an inspection and could not attend. SF said if there were any queries that OK would note them and SF would address at the meeting in December. OK also noted that SF will be presenting a detailed report in December as most of the Inspection Reports will be complete at that stage. OK also noted that the CE in her Report has a proposal about the format of the presentation of the Regulatory Reports for Commission Meetings in 2018.

Head of Legal Services – Legal advice / litigation privilege

OK referred to her report and addressed the following specific issues –

1. TR(AB) – OK noted that IHREC had been joined as a Notice Party in the High Court but did not take part. They have sought to be joined as *an amicus curiae* for the Court of Appeal case and this has been agreed. OK also noted that the HSE have appealed although they were out of time and that this was contrary to what we were told at the end of July.
2. LR-PC – OK noted that the six of the nine files had been returned and were immediately forwarded to the relevant solicitors. OK is following up on the remaining files.
- 3.Children First Act 2015 – OK noted that this would come into effect on 11 December and the relevant steps were being taken to ensure compliance.
4. MHT – Panel Members Payments – Progress has been made but there is a backlog of payments which was an issue raised at the recent ARC.
5. Transfer of Legal Aid Scheme – OK noted progress had been very slow on this and that this might not now happen until 2019. OK noted that she and PG will aim to ensure that it is transferred before work on the Schemes under the 2015 are commenced.
- 6.(*). Tenders – 1. Recruitment complete - Work can commence on recruiting staff, and 2. Internal Audit – this is being progressed and we will have a preferred provider nominee for consideration and decision at the next Commission meeting.

Director of Decision Support Service

AF presented her report. She discussed briefly all nine (9) issues in her report. She focused on 1. Funding – this has been verbally confirmed for 2018 and will come from the Department of Justice and Equality, 2. Staffing - the progress made to date, 3. Ratification of the Convention - the issues relating to same. She also emphasised that there are certain primary legislative matters that have yet to be addressed. She has highlighted to the relevant Departments that it is key that these are addressed before certain work can be commenced, and 4. She gave an update on the work of the various Groups who are drafting the Codes of Practice.

She emphasised the need for a realistic timetable for implementation.

Director of Standards & Quality Assurance

RS presented her report. She noted that there was an increase in the total number of conditions but explained this was due to our revised regulatory processes. She also noted that there was an increase in notifications of SRE's from CHO5 area

RS then addressed CAMHS. She referred to CHO1 and 5. She said generally the duration of child admissions in the Adult Units had reduced.

A series of questions were raised by the Members and RS replied as follows –

- RS confirmed that all CAMHS beds are now open but the issue is whether they are also operational.
- RS said the reason why admissions to adult units in some areas are higher than others is varied and complex. It was noted by a couple of the Members that some parents want their children to be close by and therefore opt for the adult unit. NB gave some insight to this given her involvement with some of these issues in the services. She noted that one service has a YAMS Team and this works well. However, it was also noted that not all YAMS Teams' have a dedicated Consultant Child / Adolescent Psychiatrist. It was also noted that one of the issues resulting in child admission to adult units is the overall lack of Consultant Child / Adolescent Psychiatrists.
- RS noted that we do not have all relevant data about child admission to adult units as the MHC only receives data on involuntary admissions. RS said the HSE have the data and they could provide it to the MHC.

The knock on effect of not being admitted to the correct unit was queried. There was a general discussion on same and it was agreed that the lack of centralised data was an issue in determining this issue.

PL highlighted the importance of the ongoing monitoring and the improvements that this can yield.

RS noted that in summary there are currently 50 Conditions attached to approved centres. She also provided an update on an immediate action notice that had been issued in relation to the physical health of a resident in an approved centre. There was then a discussion on access by patients in approved centres to general medical care. RS noted that the MHC would be issuing guidance on this. It was acknowledged that the issue of access to general medical services is not specific to the mental health sector.

RS also gave a summary work done in the area of training and development.

(*) HR – RS gave a general update of the current position and work that will be done before year end. She noted that there will be 10 campaigns relating to the 2001 Act; two of those will be run before the end of December to ensure that the Inspectorate has the relevant resources in place in early 2018 to complete their core work.

Chief Executive

Part One

In relation to No.1.1 and 1.2 PG noted that the DOH were primarily focused on the Inspectorate and do not appreciate the urgent need for resources in other parts of the organisation in particular the corporate spine to ensure the organisation functions in

compliance with all relevant legislation and codes of practice, eg we raised with them the issue of GDPR and they were not aware of the work that this required.

In relation to the issue of Finances, PL noted that there had been an in depth discussion at the ARC in October. Detailed information had been provided by the Executive but further information had to be provided on certain key items. PL queried that approx. €1m would be returned to the DOH. Both JS and PG explained that the allocation to the MHC provided for potential increased activity in relation to review of involuntary detentions and associated legal matters as this was demand led and must be provided. PG also noted that anticipated activity across the organisation was not realised due to the ongoing resources issue. Discussion followed and it was agreed to incorporate the points raised in the draft budget for 2018.

PL then referred to another issue which had been raised at the ARC, which was the timing by the C&AG in auditing the MHC's accounts. He noted that the C&AG commenced the audit in August 2017 for the 2016 accounts. PG advised that since establishment of the MHC in April 2002 the annual audited financial statements have not been available for inclusion in the Annual Report as the Report must be laid before the Houses of the Oireachtas by end June. It was noted that the ARC had suggested certain actions be taken and JS suggested he refer to his report in that regard. It was agreed that the Commission should write to the C&AG about this.

Decision 23 of 2017

Proposed by PL and seconded by NK

Part Two

PG presented the Management Accounts for October. PL also provided an update on the discussion about the budget at the recent ARC meeting. He informed members that further narrative on variances within the budget will be provided in reports to the ARC.

The current authorisation levels regarding allocation of funds between budget heads was discussed and PG advised that the current policy as approved by the previous Commission is being implemented. It was agreed that the Standing Orders should be revisited at the planning meeting in January as a more formalised process may be required.

NC asked (as it was her first meeting) if there was a schedule of matters reserved for the Commission for decision and it was confirmed. It was suggested that the Governance Framework for the Commission is included on the agenda for the planning meeting in January 2018.

PL referred back to the Accounts – v- Budget issue and noted that the ARC would look at variances in terms of money and percentage. He said they also want there to be a closer correlation between the spend and the budget on a month to month basis. It was suggested the Crowleys might attend the next Commission meeting to go through the draft Budget 2018.

In relation to 2.2, PG set out the issue which gave rise to this proposal. There was a general discussion on the presentation of reports at the Commission meeting. It was agreed that this would be discussed in detail at the two-day planning meeting. In the interim it was agreed that the Order of Business be amended so that the Inspectorate and S&QA would only present their reports every three months. It was also agreed that a member of the Commission would lead on the discussion of these reports. This would be done on a

rotational basis. MD will lead the discussion on the Regulatory reports at the end of the first quarter in 2018 (March meeting).

Decision 24 of 2017

Proposed by NK and seconded by NB.

1. Risk Management

OK noted that a number of suggestions were made by the ARC at the meeting in October in relation to the newly formatted Risk Register and the newly revised draft policy documents. The draft documents require to be updated further to the feedback from the ARC but due to resource constraints is currently outstanding. The documentation will be updated for the meeting on 1 December.

6. ARC Report

PL referred to his report. He acknowledged all of the good work done by the Executive for the ARC and to relation to Risk.

1. Attendance at the meetings was noted.
2. Gap Analysis – PI confirmed the work that was done and required to be done.
3. C&AG Audit – addressed earlier.
4. ARC Charter – NB noted one typo. The document was agreed.

Decision 25 of 2017

Proposed by JL and seconded by NB.

5. Work Plan of ARC

Decision 26 of 2017

Proposed by XF and seconded by MG.

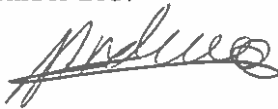
6. Risk – PL addressed this in some detail. He said one of the issue that the ARC had requested is that the Risk Register provide a clearer narrative of the actual risk. In reply to a question from a new member it was noted that there has always been a Risk Register but that the overall risk management framework and associated documents were being revised and the Risk Register will be available to members at every meeting. It was noted that any new key risk should be considered by the Commission at each meeting.

PL said the ARC identified key Risk issues to be addressed with the purpose of addressing what requires to be done to reduce the Risk. His report notes the three issues that are going to be focused on in the early part of 2018.

JS said that he had thought about the meeting with Minister Daly further and the review of the 2001 Act. It was discussed and agreed that the Commission need to follow up the DOH and prepare / implement a plan as to how to progress these issues. JL noted that more are more people are being treated in unregulated services and this needs to be addressed. It was suggested this form part of the two-day planning meeting in January. OK noted that the Risk on the Register relates to a slightly different issue - that certain key work by the MHC in relation to the 2001 Act is outstanding re updating Codes, Rules etc.

Dated: 1 December 2017

Signed:

A handwritten signature in black ink, appearing to read 'Andrew', written over a horizontal line.

Chairman

