

Mental Health Commission
Minutes of Meeting on 23 September 2016
11:00 – 16:00
Held in St Martin's House, Waterloo Road, Dublin

Present:

Commission Members	Initials
Colette Nolan	CN
Ned Kelly	NK
Catherine O'Rorke	CoR
John Saunders	JS
Yvonne O'Neill	YoN
Michael Byrne	MB
Mary Keys	MK
Mary O'Hanlon	MoH
Patricia O'Sullivan Lacy	PoSL
Xavier Flanagan	XF
Maeve Doyle	MD
Pauline Gill	PG

Apologies:	
None	

Absent:	
John Redican	JR

Executive in Attendance:		
Patricia Gilheaney	Chief Executive	PCG
Ray Mooney	Secretary to the Commission	RM

In Attendance		
Vincent Teo CDFK for Item 2		VT
Dr Susan Finnerty for Item 2.6		SF

JS opened the meeting and advised Members that the presentation on Corporate Governance was scheduled for 11.30 and the Inspection Reports at 12.45. JS advised that he proposed to deal with Research under AOB. Agreed

1. Minutes of Commission meeting held on 27th July 2016

The Minutes of the meeting held on 27th July 2016 were approved following a proposal from MD which was seconded by PoSL.

a) Matters Arising

None

2 Chairman's Business and matters for mention

2.3 Code of Practice for the Governance of State Bodies (2016)

JS welcomed VT to the meeting who gave a presentation on the changes introduced by the *Code of Practice for the Governance of State Agencies* (DPER, 2016). VT advised Members that the Commission is required to have fully implemented the new Code by September 2017 and that most of what is contained in the Code is already in place in the Commission. In the discussion which followed it was noted that the Executive and Audit Committee would deal in detail with many of the changes. Members noted that the Secretary's role has been enhanced and will require a specific governance skillset. PoSL advised that each member of the Audit Committee would be attending specific training related to the new Code and the Audit Committee would be suggesting that the Members would endeavour to do likewise in the coming months. How this could be done will be discussed further at the next Commission meeting.

2.4 Membership of the Audit Committee

PoSL reminded Members that one of the current external members of the Audit Committee is due to resign at year end and outlined the process which has been utilised to seek a replacement. Expressions of interest in joining the Audit Committee have been received from a number of individuals and these have been reviewed by PoSL and JS. PCG noted that the Code requires that an organisation of the MHC size should have three external members. Members agreed to replace the outgoing external member and that the new Commission in April 2017 can when appointing the new audit committee address the matter at that stage.

Arising from this, (CL) was proposed as the preferred candidate and details were given to the Members on professional background and skillset. However PoSL advised that before this person is approached to join the Audit Committee, the Commission should seek to establish what fee they should be paid to attend meetings of the Committee. This fee should also be applied to external members of the Governance Committee. PCG advised that sanction would be required from the DOH to make such a payment as Commission members do not receive fees and it was agreed that a letter would issue to the Department of Health (DoH) on this matter. As part of the discussion it was noted that membership of the Committee would cease in line with the termination of the current term of appointment of Commission Members in 2017. It was agreed that the names of the other interested parties would be held on file for consideration by the new Commission Members for appointment to the Audit Committee at that time.

Following a proposal by PoSL which was seconded by PG it was agreed to issue an invitation to CL to join the Audit Committee when the matter of fees had been

clarified with the DoH. Agreed

2.1 Acknowledgement letter received from Minister of State Helen McEntee to invitation by MHC to September meeting

JS advised that the Minister had acknowledged and accepted the Members' invitation to meet with them at the October 2016 meeting. JS outlined the points that he proposed to raise for discussion with the Minister and invited Members suggestions.

2.2 Board Self-Assessment Report

JS advised that as previously agreed the Report will be presented at the next meeting of the Commission.

2.5 Review of the Report of the Mental Health Act 2001

JS referred to the above mentioned report and progress regarding implementation of recommendations. PCG advised that the Executive has asked the Department of Health at the recent Governance meeting for an update.

2.6 Inspection Reports for September Commission Meeting

JS welcomed SF to the meeting to present her reports on recent inspections.

Details were given on the findings of the inspection at the Department of Psychiatry (DOP) Portlaoise.

In relation to Sycamore Unit Members noted that residents admitted to this unit must agree to a DNR in order to be admitted. SF advised that, to her knowledge, this was the only unit in the country where this was required noting that it was a high dependency unit. Arising from the discussion which ensued, it was agreed that this matter should be re-visited at a later Commission meeting.

SF advised that the DoP Waterford was non-compliant in a number of areas as a result of which the Inspectorate had carried out a focussed inspection the report of which is currently in draft form.

(MB absented himself of the discussion on DoP Portlaoise)

PCG gave details of the enforcement actions arising from the inspections and advised that a proposal to close the DoP Portlaoise had been issued to the HSE on 7th September 2016. The HSE has until 28th September to make representations in accordance with Section 64 Mental Health Act 2001. The implications of a decision to close this unit were outlined in detail. In light of same a comprehensive appropriate response is anticipated.

JS thanked SF for her report and she left the meeting.

MB re-joined the meeting

3 Chief Executive's Report

Part 1

1.0 Regulatory Enforcement

PCG updated Members on the information presented in her report.

1.8 MHC Staffing Update

Members wished David Hickey well in his new post and expressed their thanks to him for his work whilst with the Commission.

1.9 Organisational Review

PCG advised Members that the Organisational Review Report being prepared by Mazars will include a review of the inspection structure and the implications of the Decision Support Service under the Assisted Decision-Making Capacity Act 2015. In order to provide additional information to Mazars an additional workshop was requested by Mazars and was facilitated by the Executive. Mazars have been requested to complete the report as soon as possible so that it may be considered by the Commission.

1.12 Deprivation of Liberty Safeguards

PCG updated the meeting on the steps taken on this item since the last meeting. These include the preparation of a draft discussion document which the Legislation Committee will consider prior to reverting to the Members with a suggested position on this matter which can be adopted by the Commission.

The Legislation Committee discussed this item at its meeting this morning and is addressed under item 5.2.

1.13 MHC/DoH Governance Meeting

PCG advised that no governance issues had been raised by the DoH at the recent meeting. PCG further advised that staffing had been raised by the Commission as a matter of concern given the work that is required to establish the DSS within the MHC in the absence of appropriate resources.

1.16 Long Stay Contributions Framework

PCG advised the meeting that the introduction of this scheme will have implications for mental health patients in long term care facilities. In the ensuing discussion it was noted that up to now, different services had been charging different rates for patients across the country. It was further noted that there does not appear to be a standard definition for a community residence and that this leads to variations in charges applied.

PART TWO

2.1 Establishment of the Decision Support Service (DSS) in the MHC

PCG referred to the report in the meeting papers regarding the business case for resources that has been submitted to the DoH. The necessary steps to enable the recruitment of the Director of the DSS through the PAS in accordance with the Assisted Decision Making (Capacity) Act 2015 require that an order is made to include the MHC under the Public Service Management (Recruitment and

Appointments Act) 2004 for the purposes of the appointment of the Director. This is being addressed by the DoH and the Department of Justice and Equality (DoJE). A draft Business Case for the Director post was presented by PCG with a request for Members approval.

PCG advised that as part of the review of resources required to carry out the current and expanded role of the MHC she had prepared a draft business case for the engagement of a Head of Legal Services. During discussion PCG outlined the practical benefits and cost savings that would accrue if the revised structure was implemented. Members noted and were in agreement with the plan and submission to the DoH.

PoSL advised the meeting of the discussion which the Audit Committee had on resources within the Commission and reiterated that staffing was a critical area of risk for the organisation as a whole. MK as Chair of the Legislation committee concurred with this point.

In the discussion which followed it was noted that the Commission welcomed the introduction of the DSS and is eager to commence early implementation. This is only possible if additional resources are provided. PCG advised that a business case for an Implementation Team has been submitted to the DoH. It was noted that the provision of this resource is outside the control of the Commission and rests with the relevant government departments. Members were advised that a response to the request for resources is awaited.

Members decided that they were not in a position to make a decision on the job specification and recruitment of the Director of the DSS in the absence of the availability of the resources requested. This matter will be re-visited when information is provided by the DoH for their consideration.

2.2 Department of Health Statement of Strategy 2016 - 2019

JS reminded Members that their responses to this document were awaited.

2.3 Management Accounts for April 2016

RM presented the Management Accounts for June 2016. The accounts were adopted following a proposal from MB which was seconded by MK.

RM presented the Management Accounts for July 2016. The accounts were adopted following a proposal from MD which was seconded by PG.

RM presented the Management Accounts for August 2016. The accounts were adopted following a proposal from YoN which was seconded by PoSL.

Balanced Score Card Reporting(BSC)

PCG Referred members to the BSC in their papers and provided a background to same. This is a first iteration and will develop over time. The co-operation of all staff in its development was noted and welcomed. Members' comments were welcomed and will be incorporated into the monthly reports.

5. Reports of Committees

5.1 Audit Committee

PoSL advised the meeting that the Committee had met on the 1st September 2016 and drew Members' attention to the draft Minutes of that meeting which was included with today's meeting papers. The key areas of note were that the self-assessment review of the Committee's work had identified a gap in training which it was planned to address in the short term. Three errors in the processing of MHT information were noted and corrective and preventative actions had been introduced to mitigate the risk of re-occurrence. The findings of the internal audit on registration and ICT general controls were detailed in the Minutes and it was noted that the findings had been addressed by the Executive while the auditors were still on-site. PoSL advised the meeting that three more internal audits were planned before year end.

It was agreed that the annual compliance reports in relation to ancillary legislation that pertains to the Commission that are included in the MHC Annual Report will be specifically brought to members attention at the approval of Annual Report stage. PoSL also advised that an invitation will issue to the C&AG to attend the next Audit Committee meeting.

5.1 Legislation Committee

MK updated Members regarding the Heads of Bill in relation to deprivation of liberty safeguards which had been provided by the DoH to the MHC for comment. The Committee considered these and were proposing significant changes which were currently being collated before circulation to the Committee for further review. It was the view of the Committee that many of the proposals would have an impact on the operation of DSS. It was noted with concern that the manner in which submissions were being sought led to a fragmented approach which is unhelpful.

6. A.O.B.

Research

This item was deferred to the next meeting.

7. Date of Next Meeting

The next meeting of the Commission will take place on 21 October 2016. Members were advised that if a reply was received from the DoH on the matter of resources for the DSS they may be asked to meet prior to this date.

Item No.		Person Responsible	Timeframe
Chair's Business Item 2.3	Discussion at October meeting regarding training for MHC in relation to the new Code of Practice for the Governance of State Bodes	JS	October Meeting
Chair's Business 2.4	Re Membership of Audit Committee – request to DOH re payment of fee to external Audit Committee Member	PCG	Prior to October Meeting

Signed:



**John Saunders
Chairman**

Date:

21/10/16

