**MENTAL WELFARE COMMISSION FOR SCOTLAND**

**MINUTES OF THE BOARD MEETING HELD**

**ON TUESDAY 30 OCTOBER 2018**

**IN CONFERENCE ROOM, THISTLE HOUSE, EDINBURGH**

**AT 10.30 AM**

**Present:**

**The Very Rev’d Dr Graham Forbes CBE**

**Mrs Safaa Baxter**

**Mr Paul Dumbleton**

**Ms Mary Twaddle**

**Mr Gordon Johnston**

**Mr Sandy Riddell**

**Ms Cindy Mackie**

**Dr David Hall**

**In attendance:**

**Colin McKay, Chief Executive**

**Alison McRae, Head of Corporate Services**

**Alison Thomson, Executive Director, Nursing**

**Mike Diamond, Executive Director, Social Work**

**Kate Fearnley, Executive Director, Engagement and Participation**

**Secretary: Mrs Katrina Thomson, Office Manager**

**1. Welcome and Apologies**

Apologies were received from Dr Gary Morrison

**2. Declaration of Interest**

None.

**3. Announcements**

Sandy Riddell informed the Board that he had been appointed as a member of Grampian Health Board

**4. Minutes of Board meeting held on 28 August 2018**

 The minutes were approved subject to a minor amendment.

**5. CEO Update**

The advert for the new Chair appointment will be published on 15 November 2018 and the advert for the appointment of Carer member will be advertised middle of December 2018.

The Chair and Chief Executivemet with the new minister, Ms Claire Haughey and discussed delayed discharges for people with learning disability, NCF and mental health children’s services. A new Director of Mental Health has been created at Scottish Government and it was agreed that they be invited to the December Board meeting.

The themed visit report to people with borderline personality disorder was published on 30 August and has been well received. We have a timescale to ask Boards for actions plans, follow those up and a report on this follow up will be presented to the Board in October 2019.

The visits to people in rehabilitation wards have concluded and data is now being analysed before writing the report which is scheduled for the February Board.

The visits to autistic people are progressing. We have visited people on guardianship and are now looking at detained patients and specialised services.

At the Forensic Network there has been some progress on women in high security, and managing phones and tablets in hospital settings, following recommendations in the MWC forensic themed visit report.

The monitoring report on the use of the Adults with Incapacity Act was published at the end of September. We will publish a report on young people and the early analysis is showing a rise in young people being admitted to non-specialist units although not to levels of a few years ago.

There is a meeting arranged between HMIPS and Scottish Government which we will also attend to discuss a review of prison mental health services. This is following the deaths of two young people in prison.

Colin McKay is speaking at an event about the Scottish Government’s mental health strategy being run by See Me.

We are revising our good practice guide onseclusion and a consultation event is being held on 14 November.

The Advisory Committee met on 6 September where they discussed rights in the mental health strategy and reviewed our Engagement Strategy**.**

Our Accommodation Project Manager has started. We have appointed a new social worker, nurse, part time consultant psychiatrist and an interim medical director. Their starting dates will be confirmed over the next few months.

 The Commission Annual report will be published in November.

Graham Morgan, Engagement and Participation officer published a book recently.

**6. Items for discussion and/or approval**

 ***6.1 Business Plan mid-year progress Report***

The Board were informed that this was an outline of where we are at present and it was explained that the yellow highlighted section would be reviewed next year – as previously agreed at the Board, these items were removed from this year’s business plan as a result of staffing shortfalls.

***6.2 Board Financial Commentary***

It was reported that the current underspend a vacancy factor will be utilised in the accommodation budget. Concern was raised that if the accommodation project was not completed in this financial year, the Commission would have to reapply for funding for next financial year. The Building warrant approval was the main concern although it had been agreed that the tender for the building work could be issued without the warrant being approved.

Board members noted the concerns raised.

***6.3 Three year budget projection***

The Board were informed that although there will be savings from the accommodation project, the projected pay increases of 3% mean we do not have a balanced budget in 2020/2021. The rent and rates will also increase due to increased capital charges on the valuation of the property being passed on by the landlord. We also require an ongoing commitment from the sponsor department to fund the second opinions above the current 11% of our budget beyond 2019/20.

The Board requested the Chief Executive to request additional funding from the Scottish Government.

***6.4 Accommodation review***

Work is currently underway, by contracted consultants, to review our digital infrastructure. This is likely to recommend an upgrade our phone system which we hope to implement as part of the accommodation project. We aim to tender before Christmas to replace the office furniture as the current furniture is too large for the new office space. Office protocols and policies will require to be reviewed.

**6.5 Update on AWI Reform**

Colin McKay gave an update on the Scottish Government’s consultation on the Adults with Incapacity Act review.

The consultation outlined two levels of guardianship, both still to the sheriff court. One level will require application by a section 22 doctor plus a mental health officer and the other is any doctor and any social worker. The Commission had recommended three levels and that applications go to a Tribunal. We are disappointed that the current proposals keep the sheriff court as it is not an accessible forum and it makes it harder to converge mental health and incapacity legislation in the future.

Power of attorney (POA) role would be expanded to allow for a supported / co decision maker and a POA could authorise deprivation of liberty. There would be a short term order to allow for urgent situations which is likely to cover moving people to care homes but the safeguards around its use are unclear.

**6.6 Update on Section 37 Review**

The Scottish Government has commissioned a review into how to investigate the deaths of detained and other in-patients in mental health services. The review is chaired by Professor Craig White and is due to report in December 2018. The review was set up following pressure from stakeholders to hold a fatal accident inquiry into the death of every detained patient. The Commission’s view is that an FAI is not required but the current system is not clear and does not comply with section 2 of ECHR which requires an independent investigation of any death of a person in State detention.

It is likely that report will recommend that the Commission develops a system to investigate all deaths of people subject to MHA or CPSA at time of death – taking account of other reviews which take place. Potentially we can build on what we already do and we have flagged the need for proper resourcing There is still much detail to discuss but, at this stage, looking to get initial thoughts from Board to inform further discussion and influence the shape of the recommendation before it appears.

The Board agreed that it was important to take this forward and that resources must be made available to train staff accordingly.

**6.7 Investigation update**

The Board were informed that we are currently investigating the case of a 60 year old with a learning disability and who was a delayed discharge for 18 months. It is intended to undertake a number of interviews in December and January and to provide the Board with a report in summer 2019.

**6.8 Statistics on delayed discharge**

The Board agreed that this should be taken up as a policy issue with the Scottish Government and that a letter should be sent from the Chair to the Minister.

 **Action:** Chair to send a letter to the Minister.

 ***7.* Items for Information**

**7.1 Advisory Committee note of meeting held on 6 September 2018**

It was noted that the meeting had been reasonably well attended, although the membership was now low on people with lived experience with the resignation of one of the members. Although there are currently two members from VOX there is a requirement for a carer representative and a suggestion that future consideration be given to having someone with a learning disablity. It was agreed to revamp the membership and to see if there is also scope for a younger representative.

Membership would be looked at following the results of the survey report.

**7.2 Audit, Risk and Information Governance Committee minutes**

The contents of the paper was noted.

**8. Update from The independent review of Learning Disability and Autism in the Mental Health Act.**

Andrew Rome and Simon Webster gave a presentation to the Board members, which was well received. The scope and rigour of their work was complimented by the Board.

**9. Any Other Business**

Cindy Mackie said that she had attended a Commission local visit and said that it had been a positive experience.

**10. Date of next meeting** – **Tuesday 11 December 2018**