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CORPORATE REPORT

1 Introduction

This business plan should be read in conjunction with the Commission's strategic plan. The strategic plan sets out the direction for the Commission until 2020. We consulted on the strategic plan and are confident that it clearly outlines the role and purpose of the Commission, sets out our main areas of work and the actions we intend to take to achieve our goals.

This business plan outlines the actions we intend to take during 2018/19 to achieve our strategy. It also outlines the key performance indicators that will measure our performance in each area.

This business plan is for the work of the Commission. The role and functions of the National Confidential Forum are set out in separate business plans approved by the Board.

Our mission and purpose

Our Mission

To be a leading and independent voice in promoting a society where people with mental illness, learning disabilities, dementia and related conditions are treated fairly, have their rights respected, and have appropriate support to live the life of their choice.

Our Purpose

We protect and promote the human rights of people with mental illness, learning disabilities, dementia and related conditions.

Our Priorities

To achieve our mission and purpose over the next three years we have identified four strategic priorities.

- To challenge and to promote change
- Focus on the most vulnerable
- Increase our impact (in the work that we do)
- Improve our efficiency and effectiveness

Our Activity

- Influencing and empowering
- Visiting individuals
- Monitoring the law
- Investigations and casework
- Information and advice

2 Working towards our strategy

The Commission's powers and duties are outlined primarily in two pieces of legislation – the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000. Our strategy is based on these statutory duties.

Our 2017-2020 strategic plan identifies four priorities over the three year period:

- To challenge and to promote change
- Focus on the most vulnerable
- Increase our impact (in the work that we do)
- Improve our efficiency and effectiveness

In order to achieve these priorities we have grouped our activities into five main categories:

- 1) Influencing and empowering
- 2) Visiting individuals
- 3) Monitoring the law
- 4) Investigation and casework
- 5) Information and advice

These activities are supported by good governance and management, well-trained and knowledgeable staff and appropriate information management systems.

This business plan outlines the work we intend to do over the coming year to meet our strategic priorities. It also outlines the resources and developments required, and how we intend to measure them.

3.1 To challenge and promote change

3.1.1 Influencing and empowering

We will lead discussions and give opinion on the reform and improvement of our legislative frameworks for people with mental illness, learning disabilities, dementia and related conditions. This will include:

- Responding to the Scottish Government's consultation on changes to the Adults with Incapacity (Scotland) Act 2000, including in relation to deprivation of liberty and compliance with the UN Convention on the Rights of Persons with Disabilities. We will advocate for a more proportionate and rights respecting framework than the current system.

- Participating in the review of the inclusion of people with learning disability and autism in the Mental Health Act.
- Participating in the Scottish Government's review of the system of investigation into the death of detained patients and other in-patients being treated for mental illness, learning disability, dementia and related conditions, to be established under s37 of the Mental Health (Scotland) Act 2015.
- Influencing the long term development of mental health and incapacity legislation in Scotland to increase the focus on rights and to address the implications of the UN Convention on the Rights of Persons with Disabilities. This will require a shift in mental health and learning disability law and practice to maximise respect for the choices and wishes of people with mental health problems and learning disabilities.

We will seek to influence the development and implementation of national strategies designed to improve the experiences of people within our remit. This includes:

- Working with the Scottish Government to determine if any of our monitoring work can help to measure the implementation of its 2017-2027 mental health strategy, and working with others to develop the rights based approach in the strategy.
- Supporting the Scottish Government's third dementia strategy. We will follow up our recommendations from our themed visits in 2017/18 to people with dementia in community hospitals.
- Identifying how we can influence the development of mental health services for children and young people, particularly in relation to the availability of specialist in-patient services, including secure services. This will take account of our corporate parenting duties under the Children and Young People (Scotland) Act 2014.
- Participating in the Scottish Patient Safety programme to promote and protect patient rights and to give information about the work of the Commission.

We will continue to participate in the work of the National Preventative Mechanism (NPM), including its Scottish Committee and mental health group, including on the provision of healthcare, including mental health care, in justice settings.

3.1.2 Monitoring the law

We publish information on how mental health and incapacity legislation is being used throughout Scotland. This information shows that there are differences in how the law is being applied in different health boards and local authorities, but no information on why these differences occur. This year we intend to pursue, with the Scottish Government, options for a more in-depth analysis on the use of the mental

health act. We think this will require additional funding. A better understanding on how the current legislation is used will be helpful in any future reform.

We intend to monitor how mental health officers are discharging their responsibilities under mental health and incapacity legislation and use this data to support the Chief Social Work Officer in the Scottish Government in consultations on work streams around health and social care governance.

We will follow up on our recommendations from the report on how health boards and local authorities provide and promote [advocacy services](#). This year we will monitor and publish a report on how health boards are promoting the use of advance statements.

3.1.3 Information and advice

We will finalise the revisions to all of our good practice guides and advice notes pertaining to mental health legislation that need updating to reflect the implementation of the Mental Health (Scotland) Act 2015. As part of this review we will consider the need for specific attention to be paid to issues for young people and signpost any appropriate guidance published elsewhere, for example by the Child Law Centre.

We will publish good practice guides on the practical, legal and ethical issues to be considered in supporting people with alcohol related brain damage and in relation to capacity and young people with emergent diagnoses such as borderline personality disorder.

In our themed visit [report](#) to people in medium and low secure forensic wards, we said we would review our guidance on the use of seclusion. We intend to extend this guidance to include the use of seclusion for people with learning disability in community settings. We will draft and consult on the guidance during this year.

The good practice guides will be developed through consultation with individuals and other relevant stakeholders.

Each of these priorities will have an Executive lead and a project plan overseen by Executive Group.

3.2 Focus on the most vulnerable

3.2.1 Visiting individuals

One of the best ways to check that people are aware of their rights and are getting the care and treatment they need is to meet with them, find out their views and check

their care and treatment are lawful. We visit individuals in a variety of care settings and in their own homes and, where appropriate, also speak to their carers, friends or relatives. Some people are subject to mental health or incapacity legislation and others are not.

We carry out different types of visits to individuals in services.

1 National themed visits to individuals in facilities with a similar function in a specified timeframe. The visits will follow a standard format and there will be a national report comparing services across Scotland. During 2018/19 there will be two themed visits:-

- to individuals in mental health rehabilitation wards
- to individuals with autistic spectrum disorder

2 Local visits to individuals in facilities. We may prioritise some of these visits based on intelligence gathered from themed visits, previous visits, service user concerns and other sources suggesting that individuals in that service may be at greater risk of not receiving appropriate care and treatment. We regularly visit individuals in settings where their rights may be restricted through legislation. We visit the four regional in-patient units for young people with mental illness. Each Commission area team will have an annual schedule for these visits. Where the Commission has specific concerns about the care and treatment of individuals we may do a follow up visit. These visits may be used to follow up recommendations made by the Commission or could be used to escalate concerns by, for example, inviting senior managers to be present. The local visit reports are published on our [website](#).

Twenty five per cent of these visits will be unannounced.

3 Visits to individuals on guardianship. We will continue to visit a sample of all people on guardianship. Along with people with dementia and learning disability, we will also focus on people with severe and enduring mental illness, alcohol related brain damage, acquired brain injury and younger people on indefinite guardianship. This year we will introduce a themed guardianship visit where we visit, for example, people with learning disability and can compare their experiences across the country.

We have a target to visit 1,350 individuals in 2018/19. The estimated numbers for each of the different types of visit are outlined below:

Themed visits:

- | | |
|---|-----|
| • Individuals in mental health rehabilitation wards | 250 |
| • Individuals with autistic spectrum disorder | 50 |
| • Visits to individuals receiving local services | 700 |
| • Guardianship visits | 350 |

TOTAL 1,350

We engage with carers and relatives on all of our visits wherever possible. This ensures that we get a more complete picture of the care and treatment of individuals and that their rights are being respected. We will report annually on how many carers and relatives we meet.

3.2.2 Monitoring the law

The Commission has the duty to monitor the operation of the 2003 Act, and to promote best practice in its use. We also have protective duties under the 2000 Act. This year we will

- Work with Police Scotland to review the police standing operating procedures for people with mental illness and consider the implications for local psychiatric emergency plans

We will continue to monitor age appropriate services for younger people and strengthen our review of advance statement overrides. We do this by monitoring paperwork sent to us by services. We also monitor other areas of the Acts, such as places of safety and specified persons, by reviewing paperwork that is sent to us and producing a report with recommendations for improvements, if appropriate.

We work to ensure that individual service users are being treated lawfully and within the principles of the legislation. We have internal targets for action on any compulsory treatment that appears to us to be unlawful or challengeable.

We will continue to administer the systems that provide safeguards for individuals if they are to be treated under Part 16 of the Mental Health (Scotland) Act 2003. We appoint Designated Medical Practitioners (DMPs) to provide an independent opinion on proposed treatments.

We also provide safeguards for all individuals who are offered neurosurgery for mental disorder. During the next year any Scottish patients offered this procedure will receive the treatment in England. We have a Sharing Information Agreement with the Care Quality Commission regarding these cases.

3.2.3 Investigations and casework

In 2016 we presented a proposal to the Scottish Government for a system to review and investigate, where appropriate, all homicides by people currently receiving mental health services, following concerns raised during the passage of the Mental Health (Scotland) Act 2015. The proposal outlines that the Commission should review all such homicides and investigate where appropriate. We would require additional funding to do this. The Scottish Government has consulted on the proposal and, if it is accepted and funded, we will take forward this work during the year.

3.3 Increase our impact (in the work that we do)

3.3.1 Visiting individuals

From our local visits to individuals receiving care and treatment, we make recommendations to local services to improve that care and treatment and promote a rights based approach. Each year we publish a [report](#) on the main themes and issues of what we find for service managers to review and consider any changes in their area.

This year we will follow up the recommendations from recent themed visit reports and produce a closure report on this work. The themed visits we will follow up this year are:

- Individuals with dementia in community hospitals
- Individuals with borderline personality disorder
- [Individuals in adult acute psychiatric wards](#)
- [Individuals in mental health forensic services](#)
- [Individuals who are homeless](#)
- [Individuals with severe and enduring mental illness supported in the community](#)
- [Individuals in perinatal services](#)

On all relevant visits, we find out if there are any care experienced people, offer to meet with them and report on this activity.

3.3.2 Monitoring the law

Until 2017 we published annual monitoring statistics and analysis on the operation of both Mental Health (Scotland) Act 2003 (MHA) and Adults with Incapacity (Scotland) Act 2000 (AWI). Following a review to look at the impact of our monitoring we decided to publish these on a biennial basis – MHA one year and AWI the next.

This will allow us to focus on some in-depth analysis on the use of the Acts. Alongside this, we will produce more information in the Open Data format, which will provide important information for commissioners and researchers. Although not publishing both annually, we will continue to monitor yearly MHA and AWI data in-house.

This year we will:

- Produce an annual AWI monitoring report
- Produce MHA monitoring figures without analysis through open data on our website
- Produce a monitoring report on the use of Emergency Detention Certificates, in the light of their significantly increased use
- Encourage NHS Boards to provide better data on ethnicity of people subject to detention
- We will report on care experienced people we come into contact with through our monitoring of young people admitted to adult wards

3.3.3 Investigations and casework

This year we will follow up the recommendations from recent investigation reports and publish a closure report on this work. The reports we will follow up this year are:

- [Mr QR](#)
- [Ms OP](#)
- [Ms MN](#)

Our investigatory work is very broad. It includes all actions to review individuals' care and treatment, ranging from basic action to address poor or unlawful treatment, case review and major investigation.

We complete around 20 case reviews a year that are monitored by our Operational Management Group. This year we will implement improvements from a review of our investigations.

We prioritise cases based on the impact and lessons that can be learned to improve practice across Scotland. For these investigation reports we will disseminate the learning points and assess their impact.

3.3.4 Information and advice

We aim to produce information and advice that promotes a system to empower individuals to have autonomy, choice and control. This year we will:

- Produce and disseminate training modules on the patient rights care pathway and the use of advance statements, based on the LearnPro system used in many health boards.
- Publish a regular e-newsletter to include advice and guidance on the use of the Acts and information on the work of the Commission.
- Develop contacts at relevant levels of the Integrated Joint Boards to target appropriate information and advice.
- Develop guidance in relation to mental health nursing care planning in partnership with key stakeholders including the Scottish Government Chief Nurse Officer, mental health nurse leads, the Recovery Network, Healthcare Improvement Scotland and the Care Inspectorate.
- Hold a series of engagement events with mental health nurses in adult services across Scotland. This will include consulting on the draft guidance on mental health care planning.
- Pilot two engagement events for psychiatrists and GPs in training.
- Hold a series of engagement events with mental health officers.

All our stakeholders tell us how much they value our assistance and advice. We audit our telephone advice line and consistently meet our target of 97.5% accuracy. We will continue to audit this advice.

3.4 Improve our efficiency and effectiveness

All of these strategic areas need to be underpinned by sound management, governance, staffing and information technology. We are committed to improvements in this area to further modernise the organisation, streamline our management and information systems and demonstrate value for public money. To continue to improve our efficiency and effectiveness we will:

- Develop a communications plan to support the business plan
- Consolidate and mainstream our patient rights care pathway into our work
- Implement new investigation and casework procedures
- Embed our internal question and answer process and develop some external information for inclusion in the newsletter
- Review and revise the engagement strategy for [individuals and carers](#) and [stakeholder organisations](#)
- Implement the action plan following the staff survey including team development sessions, rolling out the LearnPro training modules to all staff and implement the dignity at work policy
- Implement the action plan to ensure compliance with GDPR
- Implement the action plan from the Scottish Government's cyber resilience strategy including gaining cyber essential accreditation

- Implement the records management improvement plan
- To review and revise the overall risk management strategy to incorporate recommendations from the internal audit report in 2017
- Complete a self-assessment of the operation of the Board, Audit, risk and information governance committee and Operational Management Group
- Provide shared corporate services to the National Confidential Forum and Scottish Government's review of Mental Health (Scotland) Act 2003 for people with learning disability and autism

We will continue to review our ongoing financial sustainability. The Commission's budget has remained static for nine years. We will develop scenarios for our future work given these ongoing budget restraints. This will include prioritising work and reviewing the skill mix of staff to take our work forward and ensure our sustainability. We have identified that we could make savings by reducing our office space and adopting the principles of the Scottish Government policy of Smarter working. We are currently working with our landlords and other public bodies to reduce our office space within Thistle House. This requires a business case to be submitted to the Scottish Government for funding of the project. Should this go ahead it is a significant organisational development change requiring major investment in change management, development of new policies and technology to support the changes. This may impact on the achievement of all of our objectives in this business plan.

3.5 Key Performance Indicators

1. To visit a minimum of 1,350 individuals during 2018-19
2. To ensure that at least 25% visits to individuals in local services are in the unannounced format
3. To produce Adults with Incapacity (Scotland) Act 2000 annual monitoring report by 30 September 2018
4. To maintain an accuracy rate of at least 97.5% in random samples of telephone advice given
5. We will follow-up all our recommendations to services arising out of local visits and achieve satisfactory responses in no less than 95% of cases within the agreed timescale. We will publicly report upon this.

3.6 Budget for 2018/19

Our core budget for 2018/19 is £3.655 million. Staff costs comprise 75% of this budget. If the fees for second opinion doctors are added to this, it rises to 84%.

In addition there is a budget of £200,000 for the support to the independent review of the Mental Health (Care and Treatment) (Scotland) Act 2003 for people with learning disability and autism, and non-recurring funding of £94,000 to upgrade the hardware and software for our patient database.

Key strategy 1: To challenge and to promote change

Activity	Development need	Responsible	Timescale
Influencing and empowering	Promote development of human rights based MH law and practice, including working with others to develop rights aspect of MH strategy, and identifying opportunities to promote law reform agenda outlined in May 2017 report	Chief Executive	Ongoing
	To influence and be involved in the review of the AWIA – specifically response to Scottish Government consultation	Exec Dir SW/Chief Executive	Response 30 April 2018
	To contribute to the Scottish Government group working on developing supported decision making and any follow up	Chief Executive	Ongoing
	Contribute to s37 review of deaths and review MWC process	Chief Executive, Exec Dir (Medical)	Ongoing
Visiting individuals	Produce two national reports on visits to individuals in services across Scotland providing similar care and treatment (from visits in 2017/18) <ul style="list-style-type: none"> • to individuals with dementia in community hospitals • to individuals with borderline personality disorder 	Exec Dir E&P	May 2018
		Exec Dir Nursing	August 2018
Monitoring the law	To pursue with the Scottish Government options, including funding, for more in depth analysis on the use of the mental health act	Exec Dir (Medical)	Ongoing

Activity	Development need	Responsible	Timescale
	To publish report on Place of Safety project	Exec Dir (Medical)	April 2018
	To monitor how MHOs are discharging their responsibilities under mental health and incapacity law and use data to support the Chief Social Work Officer in Scottish Government in consultations on work streams around health and social care governance and work with Care Inspectorate to develop their plans for themed inspection in 19/20	Exec Dir SW	Ongoing
	Follow up on recommendations from advocacy report	Exec Dir E&P	February 2019
	To monitor and publish a report on how health boards are promoting the use of advance statements	Exec Dir Medical	December 2018
Information and advice	We will review and revise the following good practice guides:	Overall: ED (E&P)	
	Specified persons	ED (Nursing)	December 2018
	Suspension of detention	ED (Medical)	August 2018
	Carers & confidentiality	ED (E&P)	July 2018
	Rights, risks & limits to freedom	ED (Nursing)	February 2018
	Nutrition by artificial means	ED (Medical)	August 2018
	Cross border transfers	ED (Nursing)	August 2018
	Preparation of care plans	ED (Medical)	August 2018
	Non-compliance with CCTOs	ED (Medical)	August 2018
	To publish good practice guide on capacity and ARBD	Chief Exec	Approval at June Board 2018

Activity	Development need	Responsible	Timescale
	To consult and publish a good practice guide on capacity and young people	Chief Exec	December 2018
	To consult and publish a revised good practice guide on use of seclusion, extended to people with learning disability and community settings (With Healthcare Improvement Scotland).	Exec Dir (Nursing)	March 2019

Strategic Priority 2: Focus on the most vulnerable

Activity	Development need	Responsible	Timescale
Visiting individuals	To undertake visits to individuals for the following themed visits <ul style="list-style-type: none"> to individuals in rehabilitation wards to individuals with autistic spectrum disorder 	Exec Dir SW	December 2018
	To consult with individuals and/or carers prior to each of the themed visits	Chief Executive	February 2019
	To implement a project to focus on a specific group or people on guardianship	Exec Dir lead as above	
		Exec Dir SW	To start from September 2018
Monitoring the law	As a follow up to place of safety monitoring work with police to review standing operating procedures for people with mental illness and consider implications for local Psychiatric Emergency Plans	Exec Dir (Medical)	Report to December Board 2018
	To implement the actions outlined in the corporate parent plan	Exec Dir (SW)	Ongoing with reports to OMG twice a year
Investigations and casework	Work with Scottish Government once a decision is taken on system of review of homicides by people receiving mental health services	Exec Dir (Medical)	Depends on SG

Strategic Priority 3: Increase our impact (in the work that we do)

Activity	Development need	Responsible	Timescale
Visiting individuals	Produce overview report of local visits for 2017/18	Exec Dir Nursing	August 2018
	To follow up recommendations from previous themed visits –		Closure reports to Board by:
	Individuals with dementia in community hospitals	Exec Dir (E&P)	April 2019
	Individuals with borderline personality disorder	Exec Dir (N)	August 2019
	Individuals in adult acute psychiatric wards	Exec Dir (N)	June 2018
	Individuals in mental health forensic services	Exec Dir (N)	August 2018
	Individuals who are homeless	Exec Dir (E&P)	October 2018
	Individuals in perinatal services	Exec Dir (Medical)	June 2018
	Individuals with severe and enduring mental illness supported in the community	Exec Dir (SW)	June 2018
Monitoring	To produce an annual AWI monitoring report	Exec Dir SW	30 September 2018

Activity	Development need	Responsible	Timescale
the law	To produce MHA monitoring figures without analysis through open data on our website (Need more analysis to determine resources for this and ongoing data quality).	Exec Dir (Medical)	30 September 2018
	To produce a monitoring report on the use of EDCs and reasons for use instead of STDCs	Exec Dir (Medical)	March 2019
	To follow up recommendations from previous investigations		Closure report to Board by:
	<i>Mr QR</i>	Exec Dir (SW)	December 2018
	<i>Ms OP</i>	Exec Dir (N)	June 2018
	<i>Ms MN</i>	Exec Dir (M)	June 2018
Information and advice	To produce and disseminate learn pro modules on advance statements and patient rights pathway	Exec Dir (E&P)	PRCP May 2018 Advance statements December 2018
	To develop regular newsletter with link to Q&As where appropriate	Chief Executive	Ongoing

Activity	Development need	Responsible	Timescale
	Develop contacts at relevant levels of Integrated Joint Boards	Chief Executive at CEO level Team leaders and CWM at other levels	Ongoing
	Hold a series of engagement events with nurses to all NHS Boards (possibly around good practice in mental health care planning developed prior to the events). Content to be confirmed at nurses away day March 2018.	Executive Director (Nursing)	All events to be carried out January - April 2019.
	Develop good practice guidance in relation to nursing care planning. Consultation with key partners- SG CNO office, mental health nurse leads, recovery network, HIS, CI. Will use engagement events to consult on draft guidance.	Executive Director (Nursing)	June 2019
	Pilot two engagement events for psychiatrists and GPs in training	Exec Dir Medical	September 2018
	Series of engagement events with MHOs (ten throughout the year)	Exec Dir SW	Ongoing

Strategic priority 4: Improve our efficiency and effectiveness

Activity	Development need	Responsible	Timescale
Influencing and empowering	To develop a communications plan to support the business plan	HOCS	May 2018
Visiting individuals	To consolidate and mainstream our patient rights pathway into the Commission's work	Exec Dir (E&P)	ongoing
Investigations and casework	To implement new investigation and casework procedures	Exec Dir SW	May 2018
Information and advice	To embed Q&A review process	Exec Dir (E&P)	Ongoing
	To revise and update the engagement strategy	Exec Dir (E&P)	October 2018
Develop our staff	To implement action plan from staff survey (including team development sessions for various staff groups)	All executive directors	Review action plan by March 2018 and implement
	To continue to develop and promote learnpro for staff	HOCS	Ongoing
Ensure our financial	Accommodation downsizing , if going ahead	HOCS	Business plan to SG May 2018

Activity	Development need	Responsible	Timescale
sustainability	Develop other scenarios for discussion	HOCS	September 2018
Continuous improvement	To prepare and ensure compliance with GDPR	HOCS and all exec directors	May 2018
	Implement the action plan from the Scottish Government's cyber resilience strategy	HOCS	November 2018
	To implement the records management improvement plan	HOCS	March 2019
	To review and implement the risk management strategy	HOCS	Risk management strategy approved in June 2018
	Complete the self-assessment of the operation of the Board, Audit Committee and Operational Management Group	HOCS	Ongoing





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