

Corporate reports



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 current 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. In March 2019 the Scottish Government announced a review of the Mental Health Act. We will contribute to this review and then develop our new strategic plan once the implications of the review for the strategic direction for the Commission are clearer.

This business plan outlines the actions we intend to take during 2019/20 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

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 seek to play a leading role in the ongoing debate on the reform and improvement of our legislative frameworks for people with mental illness, learning disabilities, dementia and related conditions. This will include:

- Participating in the recently announced review of the Mental Health (Care and Treatment) Act
- Responding to the Scottish Government's development of proposals for changes to the Adults with Incapacity (Scotland) Act 2000, and related work

including the development of a strategy for supported decision making and revision of the Codes of Practice.

- Participating in and providing organisational support for the review of the inclusion of people with learning disability and autism in the Mental Health Act.
- As requested by Scottish Government following the review under s37 of the Mental Health (Scotland) Act 2015, developing a system for investigating all deaths of patients who, at the time of death, were subject to an order under either the Mental Health (Care and Treatment) (Scotland) Act 2003 or part VI of the Criminal Procedure (Scotland) Act 1995 (whether in hospital or in the community, including those who had their detention suspended).
- In all of this work, seeking 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 illness or learning disabilities.

We will seek to influence the development and implementation of national strategies designed to improve the lives 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.
- Continue to monitor and challenge delays in discharge of people with learning disability from long stay hospital, to influence plans to address this issue as part of the next phase of the Keys to Life strategy for people with learning disabilities.

We will continue to participate in the work of the UK National Preventative Mechanism (NPM), including its Scottish Committee and mental health group, focusing in particular 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 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 will monitor and report on the use of advance statements, drawing on our national register.

3.1.3 Information and advice

We will develop a more consistent process to keep our good practice guides and advice notes regularly updated to reflect changes in legislation and practice.

We will publish a good practice guide on the practical, legal and ethical issues to be considered 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 consulted on the content of this guide in November 2018 and intend to extend the guidance to include the use of seclusion for people with learning disability in community settings. We will publish the new guidance during this year.

Last year we investigated a case with some difficult legal and ethical issues around supporting a person lacking capacity and boundaries between responsibilities of a guardian and staff invoking adult support and protection procedures. The service involved asked us to consider producing guidance on the medical management of patients lacking capacity and adult support and protection responsibilities in relation to medical management and risk. We think such guidance would be useful for services throughout Scotland and will produce guidance statements on these topics during the year.

We have some concerns about people being moved from hospital to a care home without the appropriate legal authority. We have sought information from Health Boards and HSCPs and will consider if strengthened guidance is needed to protect people's right not to be deprived of liberty in this situation.

The good practice guides will be developed through consultation with individuals and other relevant stakeholders. When reviewing or developing guidance 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.

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 2019/20 there will be two themed visits:-

- to individuals with functional mental illness in older people wards
- to individuals with eating 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 where it is suggested 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 alcohol related brain damage, acquired brain injury and younger people on indefinite guardianship. This year we will introduce a project to focus on a specific group of people on guardianship – people with alcohol related brain damage. This will allow us to compare their experiences across the country.

We have a target to visit 1,350 individuals in 2019/20. The estimated numbers for each of the different types of visit are outlined below:

Themed visits:

• Individuals in older people wards	175
• Individuals with eating disorder	75
Visits to individuals receiving local services	750
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

- Follow up our work on police use of place of safety powers by reviewing local psychiatric emergency plans, to support the development of a more effective response to people presenting in distress

We will continue to monitor access to age appropriate in-patient services for younger people and review advance statement overrides. We do this by monitoring and following up 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.

In our 2016 [themed visit report](#) to mothers receiving perinatal mental health services we committed to “Work with the Perinatal Managed Clinical Network (once established) and the Information Services Division12 (ISD), to explore how the monitoring of perinatal admissions across Scotland can be improved and reported on

in the future". During this year we will implement a system of monitoring admissions of mothers to general mental health wards and share anonymised data with the managed clinical network.

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.

3.2.3 Investigations and casework

We will complete our major investigation into an individual with learning disability being delayed in hospital for 18 months. Some of the reasons for the investigation were disagreements between services and the guardian about an appropriate discharge plan and care package. We intend to publish this investigation in the autumn and hope it will have important learning for all local authorities throughout Scotland.

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 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 we will continue to work with them to implement a suitable system.

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 with severe and enduring mental illness supported in the community](#)

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 MHA and AWI Acts. 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.

This year we will:

- Produce the biennial MHA monitoring report
- Produce a report on young people admitted to adult wards
- 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 produce a closure report on this work. The reports we will follow up this year are:

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

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 review the improvements made from a review of our investigation processes during 2018/19.

We prioritise cases based on the impact and lessons that can be learned to improve practice across Scotland. For these investigation cases 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:

- Disseminate a training module on the patient rights care pathway based on the learnpro system used in many health boards.
- Publish guidance in relation to mental health nursing care planning following consultation with key stakeholders during 2018/19
- Produce a series of short films to give information on the use of, and the experiences of people being detained under mental health legislation or informally, involving people with lived experience
- Identify opportunities to engage with 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:

- Consult on our priorities for our strategic plan in light of the review of mental health and incapacity legislation
- Develop a communications plan to support the business plan
- Launch a revised and updated website to make it easier for different stakeholders to find relevant information
- Upgrade our cyber essentials accreditation to cyber essentials plus
- Implement the records management improvement plan and submit a revised plan to National Records Scotland
- 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 MHA for people with learning disability and autism

We will continue to review our ongoing financial sustainability. The substantial rise in public pension employers' contributions from 1 April 2019 has given us significant challenges despite a 46% reduction in our accommodation costs following the major investment to reduce our office space and adopt a policy of Smarter and agile working. As part of the strategic planning process 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.

3.5 Key Performance Indicators

- 1 To visit a minimum of 1,350 individuals during 2019-20
- 2 To ensure that at least 25% visits to individuals in local services are in the unannounced format
- 3 To produce MHA biennial monitoring report by 31 October 2019
- 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 2019/20

Our core budget for 2019/20 is £4 million. In addition there is a budget of £192k for a project to develop a system of review of deaths in mental health detention and £203k for the support to the independent review of the Mental Health (Care and Treatment) (Scotland) Act 2003 for people with learning disability and autism.

Business Objectives 2019-20

Key strategy 1: to challenge and to promote change

Activity	Development need	Responsible	Timescale	Progress	Status
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 leading MWC input to review of Mental Health Act	Chief Executive	Ongoing		
	Participate in Scottish Government plans to improve AWI law and practice	Exec Dir SW/Chief Executive	Ongoing		
	Consider recommendations of s37 review of deaths and develop business case to Scottish Government for any new role for the Commission	Chief Executive, Exec Dir (Medical)	May 2019		
Monitoring the law	Publish information on the use of advance statements, as part of monitoring the MHA	Exec Dir (Medical)	October 2019		
	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		
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 in rehabilitation wards • to individuals with ASD 	Exec Dir SW Chief Exec	June 2019 June 2019		

Activity	Development need	Responsible	Timescale	Progress	Status
Information and advice	We will review and revise the following good practice guides:	Overall: ED (E&P)			
	<ul style="list-style-type: none"> Specified persons 	ED (Nursing)	October 2019		
	<ul style="list-style-type: none"> Suspension of detention 	ED (Medical)	October 2019		
	<ul style="list-style-type: none"> Rights, risks & limits to freedom 	ED (Nursing)	August 2019		
	<ul style="list-style-type: none"> Nutrition by artificial means 	ED (Medical)	June 2019		
	<ul style="list-style-type: none"> Cross border transfers 	ED (Nursing)	September 2019		
	<ul style="list-style-type: none"> Preparation of care plans 	ED (Medical)	September 2019		
	<ul style="list-style-type: none"> Non-compliance with CCTOs 	ED (Medical)	June 2019		
	To produce a flowchart on the medical management patients lacking capacity	Exec Director (Medical)	July 2019	These good practice flowcharts were suggested by a service following a low level investigation by us	
	To produce a flowchart on adult support and protection responsibilities in relation to medical management and risk	Exec Director (Medical)	October 2019		
	To publish a good practice guide on capacity and young people	Chief Exec	June 2019		
	To publish a revised good practice guide on use of seclusion, extended to people with learning disability and community settings.	Exec Dir (Nursing)	June 2019		
	To update guidance on discharge from hospitals to care homes (13ZA)	CEO/Exec Dir (Social Work)	August 2019		

Strategic Priority 2: Focus on the most vulnerable

Activity	Development need	Responsible	Timescale	Progress	Status
Visiting individuals	To undertake visits to individuals for the following themed visits <ul style="list-style-type: none"> to individuals with functional mental illness in older people wards to individuals with eating disorders 	Exec Dir Nursing	March 2020		
		Exec Dir Nursing	August 2020		
	To consult with individuals and/or carers prior to each of the themed visits	Exec Dir lead as above			
	To implement a project to focus on a specific group, likely to be people with ARBD, of people on guardianship. This will be a subset of the 350 guardianship visits	Exec Dir (SW)	To start in April 2019		
Monitoring and law	To implement the actions outlined in the corporate parent plan	Exec Dir (SW)	Ongoing		
	As a follow up to place of safety monitoring work with police to review local Psychiatric Emergency Plans	Exec Dir (Medical)	August 2019		
Investigations and casework	To carry out a pilot of review of homicides by people receiving mental health services in partnership with COPFS and Scottish Government.	Chief Exec	March 2020		
	To undertake an investigation into individual delayed in hospital for 18 months	Exec Dir (E&P)	October 2019		

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

Activity	Development need	Responsible	Timescale	Progress	Status
Visiting individuals	Produce overview report of local visits for 2018/19	Exec Dir Nursing	August 2019		
	To follow up recommendations from previous themed visits –		Closure reports to Board by:		
	<ul style="list-style-type: none"> Individuals with dementia in community hospitals 	Exec Dir (E&P)	June 2019		
	<ul style="list-style-type: none"> Individuals with borderline personality disorder 	Exec Dir (N)	September 2019		
	<ul style="list-style-type: none"> Individuals in adult acute psychiatric wards 	Exec Dir (N)	June 2019		
Monitoring and law	To follow up recommendations from previous investigations <i>Mr QR</i>	<i>Exec Dir (SW)</i>	June 2019		
	<i>Ms OP</i>	<i>Exec Dir (N)</i>	June 2019		
	To produce the biennial report on MHA monitoring	Exec Dir (Medical)	October 2019		
	To produce the young person report on MHA	Exec Dir (Medical)	October 2019		

Activity	Development need	Responsible	Timescale	Progress	Status
Information and advice	Publication of learn pro modules on patient rights pathway	Exec Dir (E&P)	June 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.	Executive Director (Nursing)	June 2019		
	Contribute to Board and Regional educational events to engage with Psychiatrists and GPs in training	Exec Dir Medical	Ongoing		
	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	Progress	Status
Influencing and empowering	To consult on the next strategic plan in light of changes to mental health and incapacity legislation	HOCS	Feb 2020		
	To develop a communications plan to support the business plan	HOCS	Feb 2020		
Investigations and casework	Carry out a review of the new investigation and casework procedures	Exec Dir SW	October 2019		
Develop our staff	To consolidate and support staff with the move to agile and smarter working	All executive directors	Ongoing		
Ensure our financial sustainability	To review skill mix and structure to ensure we meet future business needs	HOCS	December 2019		
Continuous improvement	Upgrade our cyber resilience accreditation to cyber essentials plus including pen test	HOCS	July 2019 December (pen test)		
	Implement the records management improvement plan and submit a revised	HOCS	August 2019		

Activity	Development need	Responsible	Timescale	Progress	Status
	plan to National Records Scotland				
	Publish revised branding and website	Exec Dir (E&P)	June 2019		
	Produce short information films on the use of mental health legislation	Exec Dir (E&P)	March 2020		
	Review and implement the risk management strategy	HOCS	Ongoing		
	Complete the self-assessment of the operation of the Board, Audit Committee and Operational Management Group	HOCS	Ongoing	OMG – March / April	



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