



mental welfare
commission for scotland

Business Plan 2020-21

Corporate reports

20 March 2020



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

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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 2023.

This business plan outlines the actions we intend to take during 2020/21 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.

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 2020-2023 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

- Influencing and empowering
- Visiting individuals
- Monitoring the law
- Investigation and casework
- 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.

2.1 To challenge and promote change

2.1.1 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 review of the Mental Health (Care and Treatment) Act including how this interacts with other relevant legislation such as the Adults with Incapacity (Scotland) Act 2000 and Adult Support and Protection (Scotland) Act 2007
- 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 policy and strategies designed to improve the lives of people within our remit. This includes:

- Participating in the review of forensic mental health services and its follow up
- Participating in the ministerially led Quality and Safety Board for mental health services

- 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.
- 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 and autism from hospital, to influence plans to address this issue as part of the current phase of the Keys to Life strategy for people with learning disabilities, and the Autism strategy.

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.

2.1.2 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 develop a programme of more in-depth analysis on the use of the mental health act including an analysis of the rise in the use of detention for young people and the revocation periods for short term detention certificates. 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.

2.1.3 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.

In 2018 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 have started work to develop them. They will be published during the year.

We have some concerns about people being moved from hospital to a care home without the appropriate legal authority. We were involved in a judicial review along with the Equalities and Human Rights Commission against an area health board placing people in care homes against their will without a proper legal process. There was a provisional settlement in January 2020 with the Board agreeing to stop this practice and to regularise the legal position for around 40 people. We are overseeing that process and hope the case will be resolved satisfactorily by March 2020. We will produce guidance on this issue during the year to protect people's right not to be deprived of liberty in this situation.

This year we intend to update our good practice guides on Right to treat - delivering physical healthcare to people who lack capacity and refuse or resist treatment and Rights, risks and limits to freedom which aims to help thinking around the use of restraint.

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.

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

2.2 Focus on the most vulnerable

2.2.1 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 2020/21 there will be two themed visits:-
 - to individuals using mental health services in prisons
 - to individuals with a dual diagnosis of mental illness and substance misuse

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.

2. 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 2020/21. The estimated numbers for each of the different types of visit are outlined below:

Themed visits:	
• Individuals in prisons	100
• Individuals with dual diagnosis	100
Visits to individuals receiving local services	800
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.

2.2.2 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.

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”. We monitored these admissions during 2019/20 and will report on this in 2020.

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.

2.2.3 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 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 continue to work with them to implement a suitable system.

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

2.3.1 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 borderline personality disorder](#)
- [Individuals in mental health rehabilitation wards](#)
- [Individuals with autistic spectrum disorder](#)
- individuals with functional mental illness in older people wards

2.3.2 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 AWI monitoring report;
- Undertake more in-depth analysis on the use of CTOs, STDCs and EDCs;
- Produce a report on young people admitted to adult wards;
- Report on care experienced people we come into contact with through our monitoring of young people admitted to adult wards.

2.3.3 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:

- [Ms ST](#)

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. 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.

2.3.4 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:

- Research into using Podcasts in our communications
- 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.

2.4 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. During 2019/20 we carried out a workforce planning exercise to identify the skills and organisation structure needed to help us develop, organise our work more efficiently and to continue to have impact and influence. To continue to improve our efficiency and effectiveness we will:

- Implement agreed recommendations from the workforce planning and skill mix exercise;
- Implement agreed recommendations from the stakeholder survey completed in March 2020;
- Review our key performance indicators and identify other performance indicators and trend analyses to support an overall performance framework;
- Continue to review our ongoing financial sustainability;
- Develop a communications plan to support the business plan;
- Review business benefits of access to Office 365 licences and develop an implementation plan;
- Assess the business case for digitalisation of Part 16 MHA administration and seek funding for implementation of any agreed project;
- 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 the Deaths in Detention project requested by Scottish Government.

2.5 Key Performance Indicators

1. To visit a minimum of 1,350 individuals during 2020-21
2. To ensure that at least 25% visits to individuals in local services are in the unannounced format
3. To produce AWI biennial monitoring report by 30 September 2020
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.

2.6 Budget for 2020/21

Our core budget for 2020/21 is £4 million. In addition there is a budget of £200k for a project to develop a system of review of deaths in mental health detention.

Business Objectives 2020-21

Strategic priority 1: to challenge and to promote change

Activity	Development need	Responsible	Timescale	Progress	Status
Influencing and empowering	Promote development of human rights based MH and incapacity law and practice by leading MWC input to review of Mental Health Act	Exec Dir (Medical)	Ongoing		
	Develop a system of review for deaths in detention that is agreed with stakeholders and present costed business case to Scottish Government	Exec Dir (Medical)	June 2021		
Monitoring the law	Publish information on the use of advance statements, as part of monitoring the MHA	Exec Dir (Medical)	October 2020		
	To develop a programme of more in depth analysis on the use of the mental health act: <ul style="list-style-type: none"> • Analysis of rise in use of detention for young people • Analysis of MHO consent in EDCs for young people • Revocation period for STDC 	Exec Dir (Medical)	August 2020 August 2020		
Visiting individuals	Produce two national reports on visits to individuals in services across Scotland providing similar care and treatment (from visits in 2019/20) <ul style="list-style-type: none"> • to individuals in older people wards • to individuals with eating disorders 	Exec Dir Nursing Exec Dir Nursing	April 2020 June 2020		
Information and advice	We will review and revise the following good practice guides:	Overall: ED (E&P)			

Activity	Development need	Responsible	Timescale	Progress	Status
	<ul style="list-style-type: none"> Right to treat 	Exec Dir (Medical)	March 2021		
	<ul style="list-style-type: none"> Rights, risks & limits to freedom 	ED (Nursing)	October 2020		
	<ul style="list-style-type: none"> To produce a flowchart on the medical management patients lacking capacity 	Exec Director (Medical)	July 2020	These good practice flowcharts were suggested by a service following a low level investigation by us	
	<ul style="list-style-type: none"> To produce a flowchart on adult support and protection responsibilities in relation to medical management and risk 	Exec Director (Medical)	July 2020		
	<ul style="list-style-type: none"> To provide up to date guidance on appropriate legal process of moving people without capacity to care home (update 13za) 	Exec Dir (Social Work)	June 2020		

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 a dual diagnosis of mental illness and substance misuse to individuals in prisons 	Exec Dir Medical	March 2021		
		Exec Dir Nursing	January 2021		
	To consult with individuals and/or carers prior to each of the themed visits	Exec Dir lead as above			
	To implement an improvement 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 2020		
Monitoring and law	To implement the actions outlined in the corporate parent plan	Exec Dir (SW)	Ongoing		
	To publish report on admissions to perinatal units	Exec Dir (Medical)	June 2020		
Investigations and casework	To undertake a themed investigation of individuals in prison and pathways of mental health care	Exec Dir (SW)	January 2021		
	To continue to work with Scottish Government on review of homicides by people in touch with mental health services	Executive Adviser	Ongoing		

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 2019/20	Exec Dir Nursing	August 2020		
	To follow up recommendations from previous themed visits –		Closure reports to Board by:		
	<ul style="list-style-type: none"> Individuals with borderline personality disorder Individuals in rehabilitation psychiatric wards Individuals with ASD Individuals in older people wards 	Exec Dir (N) Exec Dir (SW) Exec Dir (Medical) Exec Dir (N)	June 2020 February 2021 October 2020 March 2021		
Monitoring and law	To follow up recommendations from previous investigations <i>Ms ST</i>	<i>Exec Dir (E&P)</i>	October 2020		
	To produce the biennial report on AWI monitoring	Exec Dir (SW)	October 2020		
	More in-depth analysis on the use of CTOs, STDCs and EDCs	Exec Adviser	June 2020		
Investigations and casework	To produce a report on lessons learnt from our investigations	Exec Dir (SW)	December 2020		
Information and advice	Contribute to Board and Regional educational events to engage with	Exec Dir Medical	Ongoing		

Activity	Development need	Responsible	Timescale	Progress	Status
	Psychiatrists and GPs in training				
	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 produce updated strategic plan	HOCS	April 2020		
	To develop a communications plan to support the business plan	HOCS	April 2020		
	To implement agreed recommendations from stakeholder survey	CEO	December 2020		
Investigations and casework	Implement investigations unit	Exec Dir SW/ HOCS	April 2020		
Monitoring the Acts	Dependent on business case - implement new system for Part 16 administration	HOCS			
Information and advice	<i>Review case for producing series of podcasts</i> <i>Or</i> <i>Produce short information films on the use of mental health legislation – dependent on reviewing what MHTS is producing</i>	HOCS			
Continuous improvement	Develop a learning, development and improvement culture	All Exec Dir			
	Implement agreed recommendations from workforce plan/ skill mix review	All Exec Dir			
	To review KPIs for business plan and consider other performance indicators and trend analysis	CEO	March 2021		
	Review benefits of access to Office 365	HOCS	May 2020		

Activity	Development need	Responsible	Timescale	Progress	Status
	licences and develop an implementation plan		(review)		
	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		



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