

**MENTAL WELFARE COMMISSION FOR SCOTLAND  
MINUTES OF THE MEETING OF THE BOARD  
ON TUESDAY 15 DECEMBER 2020  
AT 10.30 AM**

**Board members meeting at 10.00am**

**Present:**

Sandy Riddell (Chair)  
Safaa Baxter  
Mary Twaddle  
David Hall  
Cindy Mackie  
Gordon Johnston  
Nicola Brown

**In attendance:**

Julie Paterson, Chief Executive  
Alison Thomson, Interim Chief Executive  
Alison McRae, Head of Corporate Services (HOCS)  
Kate Fearnley, Executive Director (Engagement and Participation)  
Arun Chopra, Executive Director (Medical)

**Secretary:**

Katrina Thomson

**1. Welcome and Apologies**

Apologies were received from Alison White and Claire Lamza.

**2. Declaration of Interest**

No declaration of interests.

**3. Chair Update and Announcements**

The Chair informed the Board that an introductory meeting with himself and the Chief Executive has been arranged with Hugh McAloon, SG Sponsor Department for the following Monday 21 December. The Board were also informed that there was a press release issued for National Human Rights Day highlighting the importance of human rights in the current review of mental health and other legislation. He also said that he and Julie Paterson would be attending a follow up evidence session with the Scott Review.

Following discussion it was agreed to hold the Q & A Session on Monday 25<sup>th</sup> January at 11.00am where discussion would be on future priorities and reflections of the Commission.

#### **4. CE Update**

The CE told the Board that there is now an organised structure within the Commission to facilitate feeding into the work streams of the Scott Review.

The Equality and Human Rights Commission (EHRC), supported by the Mental Welfare Commission (MWC), recently settled legal proceedings against NHS Greater Glasgow and Clyde (NHSGGC) and HC One Oval Ltd, after NHSGGC ended their practice of transferring adults with incapacity into two commissioned units in a registered care home, without legal authority to do so. She added that this had been a good piece of work and that a joint letter from the EHRC and MWC is being issued to all health and social care partnerships about the case.

Linked to the case noted above and to local intelligence gathering, the Commission is seeking information from H&SCPs across Scotland regarding people moved from hospital to a care home during the early months of the pandemic. This will involve looking at a sample of 500 cases and it is hoped to report back to the Board in March 2021. It was noted that this piece of work has received significant interest.

Arun Chopra updated the Board on the review of detentions during the pandemic report that was published on 11 December.

#### **5. (a) Minutes of Board meeting held on 27 October**

The minutes were approved.

#### **(b) Action Points (Open Session)**

Referring to the Action Points it was noted that the Mid Year Budget Review is on the agenda for this meeting.

Date set for 25 January 2021 for Q & A Session.

The second opinion costs will be discussed at the meeting arranged with the Sponsor department at SG for Chair and CE

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

##### ***6.1 Advance statement overrides – monitoring report (Arun Chopra)***

AC informed the Board that this was a report on our work on reviewing overrides to advance statements. He explained that the Commission is notified when an individual's advance statement is overridden and that this report outlines what we do to review this and reports on that work. We are making recommendations to Health Boards to ensure the process around registering an Advance Statement with the MWC is clear. We will also make recommendations to the Scottish Mental Health Law Review on the

gaps we identify in this report on when and how Advance Statements are operationalised.

Discussion followed on this being a good, informative report and that there needs to be strong recommendations made to the health boards on the need to manage the advance statement process.

The Board approved the report for publication.

## **6.2 Budget Update (Alison McRae)**

AM explained that there was a larger underspend than was originally thought which is mainly due to the late notification of the budget allocation, reduction in travel budget and staffing vacancies. However the most unusual aspect was the reduction in the spend on the second opinion budget for the first time in over ten years, this is an emerging trend and further analysis is required. It is planned to utilise the under spend by bringing in additional resource for the hospital to care home project and both the project manager for the new IMP system and another part-time consultant psychiatrist will start by the end of January 2021.

The Board noted the contents of the paper.

## **6.3 Legal Contract (Alison McRae)**

AM explained this paper has been discussed by the Executive Group and that it was felt that the Commission required legal input in updating some of our Good Practice guides and on issues related to our powers under the MHA. Although we do have access to legal advice from Anderson Strathern we do not have in house legal advice. The Executive team believe that Colin McKay would be the best person to carry out this work as he has knowledge about the organisation and how legal issues interact with care, treatment and ethics. We have agreed for a contract for £5k however it may be that there may be more work involved. It is suggested that the Board is best placed to make the decision to ensure transparency given the contract is to the former CE.

The Chair acknowledged that it is important for transparency and governance. He has some concerns over whether there may be a conflict of interest given CM's role in the Scott Review. The Board discussed the issue with some members expressing concern about the contract and others agreeing that CM would be a very relevant person to do this work.

Following discussion the Board approved the appointment of the legal contract to Colin McKay with a £5k limit.

**Action:** **AM** to proceed with awarding the legal services contract with a £5k limit.

#### **6.4 Business Plan 21-22 (Alison McRae)**

AM explained that the Executive Team are working on a draft and that there is a meeting scheduled for Friday. It is planned to roll the Prison and Dual Diagnosis themed visits into the next year, and look at new Good Practice Guidance.

**Action:** **AM** to bring Draft Business Plan 21-22 to the February Board meeting.

#### **6.5 Strategic risk register (Alison McRae)**

AM explained that the Strategic Risk Register has been updated by OMG and discussed at the AR&IG Committee and that the Board should note that 2 new risks have been added - the impact of the MHA Scott review and other national policy reviews and the replacement of our business critical information management portal (IMP). The replacement of the IMP system is a major project and the new Project Manager for this work begins at the end of January 2021. She also said that it is intended to review the risk register in January 2021 by combining some of the risks and take it to the AR&IG Committee for discussion in February 2021.

The Chair acknowledged this was a good opportunity to review the risk register and Gordon Johnston said it would form a good discussion at the AR&IG Committee meeting as they know they are big issues.

The Board approved the Strategic Risk Register.

#### **6.6 Staff Wellbeing (Alison McRae)**

The Chair acknowledged that this report was presented to the Board to provide details of what has been done for staff with concerns around isolation from ongoing remote working He said he was reassured by the report provided.

AM said that home workplace assessment questionnaires have been completed, however some staff cannot take equipment that is being offered due their own home working arrangements but we do still encourage this.

The Commission is trying to assist with emotional wellbeing but some staff do still feel isolated. The HR team are looking into the future of our workplace and what requirements will be needed such as social distancing once we are able to return to the office. She informed the Board that she had attended a SFT (Scottish Future's Trust) meeting where they were describing the 'desk' as being obsolete and that this was to be discussed further by the Executive group.

The Chair acknowledged that when there is a return to the office there will need to be a balance around business needs and interim arrangements such as safeguards for travel.

AM informed the Board that staff were informed at the start of the lockdown that annual leave should be used and have encouraged staff to use it. They can still carry over the 5 days permitted.

Staff have been informed that they are likely to be remote working until the end of April 2021 in line with Scottish Government guidance.

The Chair said this had been a good discussion and that a further update should be provided to the February 2021 Board meeting.

**Action: AM to provide a further Staff Wellbeing and remobilisation update to the February 2021 Board meeting.**

### **6.7 Board Self- Assessment (Alison McRae)**

AM said that all the returns have been collated and the risk management section will be used to inform the revisions to the strategic risk register. The Chair noted that the informal meetings and Q&A sessions were well received by Board members. He welcomed the Board agenda planning document at this meeting.

The Chair referred to the 1:1 meetings organised for Board members during January/February 2021 and said that discussions would focus around this paper.

### **6.8 Discretionary Points System (Alison McRae)**

AM explained that a policy had been approved, in principle, by the Board in 2017 but has never been used, but now that we have 3 consultant psychiatrists a policy is required. DH said that this is a vital requirement and that he will provide assistance if required in progressing a policy and process.

There was general discussion and agreement from the Board that the Commission consultant psychiatrists should not be discriminated against. AM said she would discuss a draft policy with DH and bring back to the Board for final consideration.

**Action:** **AM** to discuss and progress a policy/process for Discretionary Points System with DH and bring back to a later Board meeting.

## **6.9 Communication Plan and external engagement (Alison McRae)**

AM said that all reports being issued have a media release and are circulated to the relevant services to highlight recommendations. Referring to the example of the Board Communication Planner she said this would enable planning for key dates.

The Chair referred to the Commission being 60 years in 2021 and that at the meeting with the Minister it was suggested that the ministerial office support an event at Holyrood to mark this occasion. He said key events that the Commission should be present at should be fixed in advance to allow Board members the opportunity to attend. He acknowledged that this was a good framework for moving ahead.

(after the meeting it was confirmed that the Commission was established in June 1962)

## **7. Items for Information**

### **7.1 Feedback on what to look for on visits to individuals in hospital (Paper - Kate Fearnley)**

The Board acknowledged that this was a very useful report which should be published on the website. However, it was noted that it had taken some time between the visits and the publication of the report.

**Action:** **KF**, together with Exec colleagues, to take appropriate action to ensure timely publication.

## **8. Board Agenda Planning**

The Chair noted that both the February and April 2021 meetings will be busy meetings. He said that the schedule provided some clarity on what would be coming to the various meetings but suggested that there needs to be development time included. He said that he and JP will meet next month to discuss the self- assessment and how to keep a balance of what is useful.

**Action:** SR and JP to meet to discuss self-assessment and feed into Board planning

**9. Any Other Business**

No items for discussion.

**10. Date of next meeting – Tuesday 23 February 2021**