

**MENTAL WELFARE COMMISSION FOR SCOTLAND
MINUTES OF THE MEETING OF THE BOARD
HELD ON MONDAY 30 AUGUST 2021
(via teams) AT 10.30AM**

Present:

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

In attendance:

Julie Paterson, Chief Executive
Arun Chopra, Executive Director (Medical)
Suzanne McGuinness, Executive Director (Social Work)
Alison McRae, Head of Corporate Services (HOCS) (Items 1-5, 6.8 and 6.9)

Secretary:

Katrina Thomson

1. Welcome and Apologies

Apologies were received from Alison Thomson.

2. Declaration of Interest

No declaration of interests.

3. Chair Update and Announcements

The Chair informed the Board that he and the Chief Executive have an introductory meeting with the Minister, Kevin Stewart on Monday 6 September. The meeting will give an overview of the work of the Commission providing an opportunity to give our thoughts and ideas for the Commission's future role and responsibilities. The Chair said that his opinion was that the Scottish Government view the Commission positively and that they were very impressed by the work undertaken during the pandemic and genuinely wish to know what we have to offer going forward.

He suggested that the meeting should be followed up with a bullet points note to make clear what is being offered and said he would keep the Board up to date.

Action: SR and JP to produce a bullet point note following the meeting with the Minister.

4. CE Update

JP said that the Commission has been involved in some high profile individual cases lately which the Scottish Government are aware of, and said it reinforced the importance of our focus on the individual.

The Business Change and Improvement Manager post is advertised with interviews planned for 17 September. This post is important as we evolve and develop and will hopefully attract applicants of a high calibre.

JP said she had attended the Adult Support and Protection and Safeguarding - Five Nations Conference Series and was pleased that the Chair had made reference to the Commission's Authority to Discharge report. Safaa Baxter added that the Commission is well regarded by the Adult Support and Protection Committees.

5. (a) Minutes of Board meeting held on 29 June 2021

The minutes were approved.

(b) Action Points (Open Session)

Action Points are in hand or completed. The action log will be updated for the next meeting.

6. Items for discussion and/or approval

6.1 Ethnicity Project Report (Paper) (Arun Chopra)

AC explained that this is the report from the ethnicity project completed under our powers under Section 5 of the MH Act. It was undertaken following the global events of last summer following the death of George Floyd and is based on evidence from analysis of MHA forms, interviews with people with lived experience and questionnaires to staff. The importance of the report has been highlighted over the past few weeks with Scotland considering how it plays its part for the Afghan refugees.

The Chair acknowledged that this report will have a huge impact and asked for reflections on the content. CM acknowledged the considerable amount of hard work in producing the report and asked, given the report highlights shortfalls in the Commission's work, if the Commission can support what is issued. It was also noted that there should be a balance to the language used, no personal opinions and that we can evidence what is reported. AC reassured the Board that the Communications manager has already reviewed the report and that the organisations to which recommendations are targeted were aware of them.



GJ stated that the report was shocking but, unfortunately, not surprising. It is therefore important to shine a light on the issues and bring them to the fore. It will be important to ensure that we follow up on the recommendations.

Other comments received included concerns on how the press will report; to make it clear who has responsibility for recording ethnicity data; and the length of the report could mean it loses impact on the key messages the Commission wishes to convey and it might be better to chunk it up into smaller reports.

The Chair said this was a huge piece of work with a variation of themes and political issues and said there could be a danger of hijacking the report. He said caution was needed in the language used and requested that the report be reviewed taking this into account. Given there was some work to be done, he asked whether the 16 September was feasible for the publication date. There was some discussion about this and whether the report should be brought back to the October Board for final approval. However, on balance, it was felt that the report could go ahead once the work on the language, recommendations and communications plan were complete.

The Chair said the report should go to the press with the clear messages that we wish to convey and that the Commission should be ready to field any political issues that may arise. He said the Board will welcome an advance copy of the report along with a copy of the press statement that will be issued.

The Board approved the report subject to further discussions between AC, JP and the Communications manager.

Action: AC and JP to discuss the various comments received in relation to the report along with the Communications manager. When ready for issue an advance copy to be sent to the Board with a copy of the press release.

6.2 STDC Report (Paper) (Arun Chopra)

AC informed the Board that this was a critical element in the legislation and has arisen under the Commission's duties in monitoring the Act. Following the Milan review of the 1984 Act there was a lack of data from the Commission on various aspects of the use of Act. This paper shows that there has been progress in mental health over the last few years and it demonstrates the Commissions' capabilities in monitoring the use of the Act.

The Board agreed this was an excellent report and it was acknowledged that if the Commission did not do this work, who would do it. The question was asked if this was to be extended to CTOs, but was noted that this type of analysis was



beyond the Commission alone and would require sophisticated analysis alongside several other organisations.

AC said it is planned to publish this report in September or early October but further discussions will take place as there are several reports due for publication over the next month. The Chair asked that the Board be informed before it is sent for publication.

The Board approved the report for publication

Action:AC to inform the Board prior to publication, as per usual template, once a date is agreed with the executive team.

6.3 Alcohol Related Brain Damage (ARBD) Guardianship Report (Paper) (Julie Paterson)

JP reported that this was our first themed visit report from guardianship visits and relates to our good practice guide on alcohol related brain damage ; it aims to recognise the challenges of supporting the rights of this vulnerable group. The Commission visited 50 individuals with a diagnosis of ARBD and a small number from this group required follow up. She said that there is still work to do and we will have discussions with the Care Inspectorate on care home registration. She also highlighted the four recommendations for the HSCPs.

The Chair said this was an interesting report and integrated impact assessment (IIA) and referred to the particular criminal justice and social work issues.

CM suggested that a timescale needs to be added in relation to actions the Commission is taking. JP agreed to add 'within 6 months'.

The Board approved the report.

6.4 Key Themes from MHA Monitoring (Verbal Julie Paterson)

JP reported that:-

1. A total of 6,699 detention episodes began in 2020-21, 10.5% more than in 2019-2020 and higher than the average year on year increase in the previous years of 4.5%
2. For the first time since we started monitoring, we are reporting the level of deprivation according to the Scottish Index of multiple deprivation. For EDC/STDC/CTOs there is a clear gradient with a higher proportion of detentions of individuals from the most deprived parts of Scotland (category1); 38.3% EDCs and 32.2% for STDcs.



3. The MHO is a critical safeguard in relation to decision about EDCs. Consent continues to fall and is at its lowest it has ever been in the last 10 years at 42.5% (26.4% in Greater Glasgow & Clyde and 81.2% in Dumfries and Galloway)
4. SCR completion continues on a very concerning downward trend at 38.9% of STDC.
5. Use of nurses holding powers has reduced slightly; use is higher with females
6. The number of place of safety orders has reduced slightly.
7. Detentions under the Criminal Procedures legislation is the lowest figure in the last 10 years.
8. Advance statements and engagement with our register remains very low, as previously reported.

JP advised that the Commission will be picking up performance with individual HSCPs in relation to advance statements/SCRs/MHO consent to EDC and looking for actions being taken to improve this.

The Chair said this was good information identifying themes and trends. Referring to his recent articles in the Herald and the Holyrood magazine, he suggested the Commission may wish to do more of these articles and enter into the narrative of where Scotland should be in relation to the use of the Acts, and he asked Board members to give some thought to this.

The Board noted the update.

JP said the report will be circulated to the Board in advance of publication.

Action: JP to send MHA Monitoring Report to the Board for information before publication.

6.5 Annual Accounts (including Public Sector Sustainability Report for 2020/21) (Gordon Johnston)

6.5 (i) Audit, Risk & Information Governance (AR&IG) Committee Report to Board on 2020/21 Accounts

The Chair of the AR&IG (GJ) Committee said that all Board members have an assurance responsibility and confirmed that the AR&IG committee are content all assurances are in place.

6.5 (ii) 2021 Annual Accounts Commentary

The Chair said this paper was supported by the Governance Statement from the Head of the NCF.

6.5 (iii) 2021 Annual Accounts for Board



He thanked HOCS, AR&IG committee and the finance staff for all the work undertaken in producing the Annual Accounts.

The Board formally approved the Annual Accounts.

6.5 (iv) Mental Welfare Commission Scotland-Annual Report

The Board noted the comments of the report.

6.5 (v) Azets' 2020-21 Annual Report on the Audit

The Board noted the contents of the report.

6.5 (vi) Public Services Reform (Scotland) Act 2020-21 disclosures

The Board approved the report for publication on the website.

6.6 AR&IG minutes 14 June (Gordon Johnston)

6.6(i) Draft AR&IG minutes 3 August 2021 (Gordon Johnston)

The Board noted the contents of the minutes from 14 June 2021 and 3 August 2021.

6.7 Executive Leadership Team: terms of reference (Paper) (Julie Paterson)

JP informed the Board that following a review of the governance arrangements Operational Management Group is now replaced with the ELT (Executive Leadership Team) with renewed focus on leadership, strategy and performance which links into the Board Governance.

The Chair acknowledged that the Board had requested this and said it was really helpful as a first step and said going forward the groups that link into the ELT should also be reviewed.

JP said this will be followed up with a six month scorecard highlighting our performance framework and it will be presented to the Board in January 2022.

The Board approved the terms of reference for ELT.

Action:JP to bring the 6 monthly performance scorecard to the Board in January 2022.

6.8 Business Plan Quarterly Update (Paper) (Alison McRae)



AM said the current plan outlines the objectives and where we are now and is monitored by the ELT. The main slippage is the IMP system which has now moved to red. Interviews are taking place today for a Business Analyst, but this is a very buoyant market as all organisations are recruiting. She told the Board that the IMP Project Manager is working with the NSS colleagues to see what work can be done whilst waiting for the business analyst to start.

Referring to the Scott Review, the Chair asked if the Commission staff were involved in any of the monitoring projects. JP said that the additional work we had anticipated has not been asked for. AC agreed that the pace of the review has not matched expectations of where it should be, likely due to the pandemic and meetings being rescheduled. He also added that none of the groups met during the summer. JP said that she is a member of the practitioner group and also the AWI group. Both groups started in May 2021. The AWI group is expected to complete by December.

Referring to the stakeholder survey, the Chair referred to stakeholders having provided comments but they have not heard anything in return and suggested they should be informed on what is happening.

The Board noted the contents of the paper provided.

6.9 Granting Access to Testimonies Provided to the Forum and Transferred to the NRS (Paper) (Alison McRae)

AM explained that all testimonies have been transferred to NRS and said that in the future they may receive requests from researchers to access these testimonies and this will require NRS seeking approval from the Commission. She said consideration was being given to having a Panel with two Mental Welfare Commission Board members and one external member, for example a CELSIS member or someone from the Scottish Human Rights Commission or the Interaction Action Plan Review Group and should be someone with experience of child issues, along with the Information Governance Manager.

The Chair said this was a complicated arrangement and it would require someone on the panel with data protection experience. He said this will be a massive challenge and people would require technical knowledge and expertise and suggested that our lawyers should be approached if there is a need for legal advice. It was suggested that the panel members should not make their decision until after seeking legal advice.

The Board approved the setup of a panel as and when requests are received, subject to the above caveats.



7. Items for Information

7.1 *SIGN Eating Disorders consultation*

Item deferred to October Board meeting.

8. Board Agenda Planning

See Appendix 1 attached

9. Any Other Business

10. Date of next meeting – Tuesday 26 October 2021 (2.00pm)