



**mental welfare**  
commission for scotland

## **MENTAL WELFARE COMMISSION FOR SCOTLAND**

### **ANNUAL REPORT AND ACCOUNTS FOR YEAR ENDED**

**31 March 2022**

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Edinburgh  
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# MENTAL WELFARE COMMISSION FOR SCOTLAND

## Annual Report and Accounts for year ended 31 March 2022

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## **Performance Report**

### **1. Overview**

The purpose of this overview is to give the reader a short summary of the Commission's purpose, how we have performed during the year, and the key risks to the achievement of our objectives.

The Commission's key performance indicators are outlined on page 12

#### **1.1. Statement from the Chief Executive**

The second year of the pandemic continued to present us with many challenges as our staff and the organisation has adapted to remote and hybrid working and ongoing restrictions. Throughout all of this however we have still been able to influence and promote the rights, safeguards and welfare of people with mental illness, learning disabilities, dementia and other related conditions.

We have been involved and been able to influence the review of mental health and incapacity legislation. It is pleasing to note the direction of this review in promoting rights based care for individuals and suggesting an increased role and powers for the Commission.

In March 2022 we presented two proposals to the Scottish Government on appropriate levels of review when:

- someone dies when subject to an order of the mental health act
- when someone receiving mental health care commits a homicide

Our recommendation is that the Commission oversees these new systems and carries out investigations as appropriate. Should these projects go ahead we think that they fit well into our overall investigations function.

We commenced our project for a new information and casework management system. We believe this will transform how we work digitally in the future. This is a detailed and complicated project for an organisation our size and we are working with various partners to elicit the expertise we need.

2022 is the 60<sup>th</sup> anniversary of the Commission in its current format. We will celebrate this anniversary and look forward to the next 60 years of making a difference.

This year we report an overall budget underspend of 2.07%

#### **1.2. Purpose and Activities of the Commission**

The Mental Welfare Commission for Scotland was originally constituted under the Mental Health Act of 1960, replacing a body that can be traced back to 1857. The current duties of the Commission are embodied in the Mental Health (Care & Treatment) (Scotland) Act 2003 (MHCT Act 2003) as amended by the Public Services Reform (Scotland) Act 2010 and the Mental Health (Scotland) Act 2015; and the Adults with Incapacity (Scotland) Act 2000 (AWI Act 2000). Schedule 1 of the 2003 Act

applies certain provisions of the NHS (Scotland) Act 1978 with regards to annual accounts. The Commission's accounts are consolidated into those of the NHS in Scotland and it follows procedures outlined in the Health Board Annual Accounts Manual.

The Commission's mission, purpose priorities and activities are illustrated in the diagram below.



# Our mission and purpose



### **1.3. Key issues and risks**

The Board sets the strategic direction for the organisation and monitors performance against key strategic objectives. It is also responsible for ensuring sound corporate governance. The strategic and business plans are available on the website.

Through the strategic planning and risk management processes the Board reviews the principal risks and uncertainties facing the Commission. This year the Board identified the key risks as:

- The impact of significant national reviews and other legislative and policy changes in the mental health field and the organisational capacity to respond and influence these reviews
- The impact of the pandemic to the organisational ability to continue to focus on the most vulnerable
- The impact of ongoing remote working and the move to hybrid working on staff wellbeing and productivity

Our strategic risk register was updated substantially in October 2021 reflecting the changing risks from the pandemic.

### **1.4. Performance summary**

#### **Influencing and Empowering**

The main focus during the year was contributing to and influencing the various strands of the Scottish Mental Health Law Review (SMHLR, known as the Scott review). Internally we consulted all staff and set up working groups focussing on the main strands of the review; compulsion, capacity and decision making; children and young people; economic, social and cultural rights and the future role and powers of the Commission. Our Chief Executive attends the adults with incapacity and practitioner reference groups of the review and our Executive Director (Medical) attends the subgroups on capacity and significantly impaired decision-making ability (SIDMA) and has given evidence to the compulsion group and the children and young people group.

A key strand of the Scott review was to review the role and powers of the Commission as the safeguarding body set up and enhanced under successive mental health legislation (1960, 1984 and 2003). The Chief Executive and executive directors had several meetings with the Scott review team during the year. There were also several meetings with ourselves and partner organisations reviewing the assurance mechanisms for the mental health and learning disability landscape. We were pleased to see the proposals in the Scott review consultation document in March 2022 outlining enhanced and expanded powers for the Commission.

We also produced several papers on the use of the MHA and our work as a vital safeguard specifically for the Scott review team to assist their work. Over the summer 2021 we published three reports on the use of the Act started the previous year on how well [significantly impaired decision making](#) (SIDMA) criterion works within the law,

how long [short term detention certificates](#) last and how they end and an estimate of the prevalence of [advance statements](#). The reports about the Commission's safeguarding role were:

- the role of the Commission appointed [Designated Medical Practitioners](#) in ensuring appropriate treatment plans for people being detained against their will and treated without their consent and the efficacy of the safeguard process
- the uniqueness and breadth of the [advice line](#) for both people with lived experiences, carers and the professionals that work with them

These two reports were undertaken by doctors (psychiatrists) attached to the Commission as part of their higher training rotation. This provided an excellent once in a lifetime opportunity to contribute to a national review of mental health legislation.

In December 2021 the Scott review requested us to complete a review on how [compulsory treatment orders](#) in the community were being used across Scotland. This report was published in June 2022.

Following our Authority to Discharge report published in May 2021 we maintained a focus on discharges of vulnerable people from hospital who are unable to consent to their move. In October 2021 we issued a [joint statement](#) with the Scottish Government outlining how these moves should be managed whilst respecting and protecting the individual's human rights. We worked with NHS NES during the year on a proposal to develop a training programme on adults with incapacity for health and social care staff. The Scottish Government approved the funding in April 2022 which will see the Commission recruit a temporary practitioner to provide the expertise to this programme.

We [followed up](#) on our recommendations in the Authority to Discharge report to health and social care partnerships, the Care Inspectorate and Scottish Government. Our report highlights the differing responses across the 31 health and social care partnerships and ensured the rights of this vulnerable group were respected when services are planning discharges.

The Commission continues to contribute to the Sharing Intelligence for Health & Care Group which aims to improve the quality of health and social care by allowing members to share and learn from existing data, knowledge and intelligence. The Commission is one of seven national organisations that make up the Group, along with Audit Scotland, the Care Inspectorate, Healthcare Improvement Scotland, NHS National Services Scotland, NHS Education for Scotland and the Scottish Public Services Ombudsman.

We attend meetings of the Scottish Mental Health Partnership and worked with other organisations to promote a rights based approach to the Government's Mental Health Strategy. We also participate in professional networks including the Mental Health Nursing Forum, the Royal College of Psychiatrists' Scottish Committee and Social Work Scotland, and key interest groups such as the Scottish ECT Accreditation Network and the Alzheimer Scotland Policy Committee.

## **Visiting**

Our visiting activity was again affected by the ongoing challenges of the pandemic. Whilst we were able to plan a programme of local visits throughout the year, many of the visits were cancelled at short notice if the service had an outbreak of Covid and was restricting all visitors. We were also only able to visit one service on an unannounced basis, pre-pandemic we aimed to do 25% of local visits in this format and hope to recommence some of these in the coming year.

We visit people who are being treated under mental health and incapacity law or who are otherwise receiving care and treatment in hospital, community and other settings. When we visit an individual we find out their views of their care and treatment. We also check that their care and treatment is in line with the MHCT Act 2003, the AWI Act 2000 or any other relevant legislation. We make an assessment of the facilities available for their care. We expect to find that the individual's needs are met and their rights respected. If not, we make recommendations for improvement

This year we carried out two national themed visits. These visits are to individuals receiving similar services across Scotland. We produce a national report comparing issues for individuals receiving care and treatment across Scotland and making recommendations. The themed visits were to:

- [individuals with in prison receiving mental health care and treatment](#)
- to individuals with a dual diagnosis of mental illness and substance misuse (report will be published in September 2022)

We published our report [Racial inequality and mental health in Scotland](#) in September 2021. The work for this report was completed in the previous year when we were unable to visit individuals due to the pandemic.

We also carried out 91 local visits to hospitals and care services. We particularly focus on units where there is a major deprivation of liberty, where intelligence gathered from themed visits, previous visits, service user concerns and other sources raise issues about care and treatment or where it has been some time since our last visit. For each local visit we provided feedback and recommendations for improvement to the services involved. The [local visit reports](#) are published on our website. A report summarising the findings and recommendations from our local visits in 2021 will be published in August 2022.

## **Monitoring of Mental Health and Incapacity Legislation**

We have various duties under the MHCT Act 2003 to receive, check and report on statutory interventions and notifications. We also promote the principles of that Act. In addition, we receive statutory notifications of certain welfare interventions under the AWI Act 2000. Our monitoring work involves both checking the paperwork and records of people who are being cared for or treated under mental health or incapacity law and



analysing and reporting on trends and differences in the way the law is being used across the country.

In 2021/22 we processed 38,163 (20/21: 39,514) forms and other notifications related to mental health and incapacity legislation; 3,688 (20/21: 2,418) Guardianship and Intervention Orders. We published our monitoring review of how the [Mental Health Act](#) is used for services to compare practice across the country and the [report on young people admitted to non-specialist services](#).

We also published a second report on how [the Mental health act was being used during the pandemic](#). This was in response to stakeholder concerns at the time and was a follow up to a similar report from November 2020.

Our report on the use of the [Adults with Incapacity Act](#) across Scotland highlighted that the year on year increases in people subject to a guardianship order was significantly slowed by “stop the clock” legal provisions made in response to the pandemic in 2020/21.

During the year we visited 249 people subject to guardianship. This included utilising Near Me video technology to assist with virtual visits for 48 people. We published a [themed guardianship visit](#) to individuals living with alcohol related brain damage from visits done in the previous year.

Under Section 233 of the MHCT Act 2003, the Commission is responsible for appointing Designated Medical Practitioners (DMPs). Their function is to provide a second medical opinion when medical treatments are prescribed under Part 16 of the MHCT Act 2003 (and section 48 of the AWI Act 2000). These are important safeguards and are the highest priority for recovery under our business continuity plans. In the first year of the pandemic when many of these safeguards were completed remotely, a higher percentage were authorised for a shorter period (e.g. for one year rather than 3 years). This has had a knock on effect during this year with a higher number of safeguards organised - 2,599 (20/21: 2,266).

## **Investigations and Inquiries**

We carry out an investigation when we believe something may have gone seriously wrong with an individual's care and treatment. Investigations are at many levels from a telephone call to a service to a more in depth investigation where we might interview individuals and staff involved. Of course, we cannot formally investigate every case of potentially poor treatment, so for our major investigations we choose cases which have implications for services across Scotland.

The newly established investigations unit produced guidance for our staff on different levels of investigation and refined the recording of cases where we take an active intervention. This is now reported in our quarterly performance report.

We published our [report](#) into the care and treatment of nine women prisoners from the comprehensive file review undertaken in the previous year. This raised concerns and

made recommendations for the mental health care and treatment of vulnerable women in prison.

A major project for us during the year was to develop a process to ensure appropriate levels of review when a person dies whilst subject to an order of the mental health act. We developed a process in discussion with stakeholders including many people affected by a loved one's death. The process was consulted on widely from December 21 to February 22 and a report with proposals and costs was submitted to the Scottish Government in March 22, we await the outcome of this.

We also proposed an appropriate level of review for situations where someone who is receiving, or has received within the last year, mental health service commits homicide. This proposal was discussed with several stakeholders including bereaved family members. A report with proposals and costs was submitted to Scottish Government in March 22.

We hope that the Scottish Government accepts both of these proposals which will mean the Commission oversees and carries out appropriate reviews of deaths in detention and homicides.

### **Information and Advice**

The Commission operates a telephone advice line aimed at helping service users, carers, practitioners and others to understand more about individuals' rights and effective use of mental health and incapacity law. This year the advice line continued to be operated by staff working from home between 10 -12 and 2 – 4 each day. The number of telephone calls logged was 4,688 (20/21: 4,433) with 3,956 (20/21 3,815) of these allocated as requests for advice. Much of our work is at the complex interface between the individual's rights, the law and ethics and the care the person is receiving. We work across the continuum of health and social care and are the only organisation to do so. The uniqueness of this service was highlighted in the report completed for the SMHLR, mentioned above.

We regularly carry out a sample audit of advice given out by individual practitioners and this year the accuracy rate was 97% against a target of 97.5%.

During the year we hosted webinars on rights based issues and on issues arising from the Authority to Discharge report. These were well received and part of our ongoing business planning.

During the year we updated 11 good practice guides and 3 advice notes all published on the website. We also published a new good practice guide around appeals when someone is being cared for in a service with higher restrictions than is necessary, we call this [excessive security](#).

## **Continuous Improvement**

We are committed to demonstrating that our work provides value for money and that we strive for improvement. Our work in this area is outlined in the governance report on page 18.

## **Social Matters**

The Commission strives to continually improve inclusiveness by creating a work environment that not only welcomes individuals of all backgrounds, but actively highlights and celebrates the unique mix of people who work for us and use our services. In particular during the year under review, we published a report on [racial inequality and mental health in Scotland](#) in September 2021 and also a [report](#) on the care and treatment of nine women prisoners

In accordance with the Equality Act 2010 and regulations, the Commission promotes equality and celebrates the diversity of the people it serves. The development of equality outcomes provides assurance that the Board meets the equality and diversity needs of people with the nine relevant protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation). We recognise the value a diverse workforce brings in offering different perspectives in how we deliver high quality, safe, effective, person-centred care and maintain a healthy, vibrant, and inclusive culture throughout our organisation.

The Fraud Prevention and Investigation Policy covers detailed guidance on key elements of the Bribery Act (2010) and staff conduct with regard to reporting any issues. No matters have been raised this year relating to fraud or anti-bribery legislation.

## **National Confidential Forum (NCF)**

The Forum was formally repealed through the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 on 28 June 2021. During the year Commission staff completed the transfer of records to National Records Scotland and the decommissioning of the office in Glasgow.

## **2. Performance Analysis**

This Performance Analysis summarises the key indicators on how the Commission has performed during 2021/22. Despite the continuing challenges of the pandemic, the Commission continued to perform well against its targets

## Key Performance Indicators

The Commission reports to the Board on a quarterly basis on the progress of the business plan including the key performance indicators set out in that plan.

## Financial Performance

The Commission's core revenue resource allocation from the Scottish Government for 2021/22 was £4,587,000 (prior year £4,842,000). The Commission received £nil capital allocation in 2021/22 (prior year up to £nil).

The revenue resource allocation includes funding for Commission 'core activities', funding for the operation of the National Confidential Forum, for the Reviews of Deaths in Detention and Homicide and for the Information Management System project.

Details of the Commission's financial performance are given below and in the following statements and supporting notes.

	Limit as set by SGMWASCD £'000	Actual Outturn £'000	Variance (Deficit)/Surplus £'000
<b>1 Core Revenue Resource Limit</b>			
• MWC Core	4,056	3,974	82
• NCF	50	38	12
• DIDAHR*	256	257	(1)
• IMS	167	165	2
<b>Non-core Revenue Resource Limit</b>			
• MWC Core	58	58	0
• NCF	0	0	0
• DIDAHR*	0	0	0
• IMS	0	0	0
<b>Total</b>	<b>4,587</b>	<b>4,492</b>	<b>95</b>
<b>2 Core Capital Resource Limit</b>			
• MWC Core	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

\* *The Reviews of Deaths in Detention and Mental Health Homicide*

## MEMORANDUM FOR IN YEAR OUTTURN

	£'000
Reported Surplus in 2021-22	95
Financial flexibility: funding banked with / (provided by) Scottish Government	0
Surplus against in year total Revenue Resource Limit	<u>95</u>
Percentage	100%

The Commission is showing net liabilities of £289,000 (prior year: £240,000 net liabilities).

Under accounting arrangements Health Boards must show liabilities for future years in their accounts without showing funding anticipated from the Scottish Government Mental Health Directorate. This has resulted in net liabilities on the Statement of Financial Position. The Statement of Financial Position reflects liabilities falling due in future years that are expected to be met by the receipt of funding from the Scottish Government. Accordingly the accounts have been prepared on the going concern basis.'

Total current liabilities of £365k (note 9) are £41k higher than as at 31 March 2021.

There were no impairments of receivables (2020/21: nil)

There are no significant remote contingent liabilities.

There are no legal obligations as at 31 March 2022.

### **Performance against Key Non-Financial Targets**

The Commission had eight key performance indicators (KPIs) outlined in its Business Plan for 2021/22. These are outlined below

#### **1 To visit a minimum of 1,200 individuals during 2021 – 2022**

We reviewed the care and treatment of 1113 individuals on visits of which 156 were file reviews only. This is a remarkable achievement considering the pandemic challenges faced last year.

#### **2 To produce the MHA monitoring report by 30 September 2021**

The Mental Health Act Monitoring Report 2020-2021 was published in September 2021

#### **3 To produce a monitoring report on young people admitted to adult wards by 31 October 2021**

The Young People Monitoring Report 2020-2021 was published in October 2021.

#### **4 To produce AWI monitoring report by 3 December 2021**

The Adults with Incapacity Act Monitoring Report 2020-2021 was published in November 2021

- 5 To publish one major investigation report during the year (this year it is about the care and treatment of several female prisoners with mental illness)**

Concerns about the care of women with mental ill health in prison in Scotland: An analysis of the records of nine women in custody report was published in July 2021.

- 6 To publish, in February 2022, our first report on areas for improvement and recommendations from a wider range of our investigations work and promote areas of good practice**

This report was published in June 2022.

- 7 To maintain an accuracy rate of at least 97.5% in random samples of telephone advice given**

Overall 97% accuracy rate for the year; slightly below target.

- 8 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.**

During the 2021 calendar year we made 67 local visits with 171 recommendations. All of the recommendations were followed up and in 162 (95%) cases there was a satisfactory response.

The report on the visit recommendations for this period will be available in August 2022.

### **Payment policy**

The Scottish Government is committed to supporting business in the current economic situation by paying bills more quickly. The intention is to achieve payment of all undisputed invoices within 10 working days, across all public bodies.

- In 2021/22 average credit taken was 2.3 days (2020/21: 3.8 days)
- In 2021/22 the Commission paid 100.0% by value and 100% by volume within 30 days (2020/21: 91.9% and 97.7%)
- In 2021/22 the Commission paid 100% by value and 100% by volume within 10 days (2020/21: 94.2% and 98.0%)

### **Pension Liabilities**

The accounting policy note for pensions is provided in note 1 and disclosure of the costs is shown within note 15 and the Remuneration Report.

**Approval and signing of the Performance Report**

*Julie Paterson*

.....  
Julie Paterson  
Chief Executive Officer

Date: 31 August 2022

## **Accountability Report**

### **1. Corporate Governance Report**

#### **The Directors' Report**

##### **Date of Issue**

The Accountable Officer authorised these financial statements for issue on 22<sup>nd</sup> August 2022.

##### **Appointment of auditors**

The Public Finance and Accountability (Scotland) Act 2000 places personal responsibility on the Auditor General for Scotland to decide who is to undertake the audit of each health body in Scotland. The Auditor General appointed Azets Ltd to undertake the audit of the Mental Welfare Commission. The general duties of the auditors of health bodies, including their statutory duties, are set out in the Code of Audit Practice issued by Audit Scotland and approved by the Auditor General.

##### **Board Membership**

The Commission is a body corporate under the Mental Health (Care & Treatment) (Scotland) Act 2003 as amended by the Public Services Reform (Scotland) Act 2010. The Board members are appointed by Scottish Ministers and the public appointments were made in accordance with the Commissioner for Public Appointments in Scotland's Code of Practice.

<b>Board Member</b>	<b>Date of appointment</b>	<b>Due to demit office</b>
Mr Alexander Riddell (Chair)	1 April 2019	31 March 2023
Mrs Safaa Baxter	1 September 2014	31 March 2023
Ms Mary Twaddle	1 April 2017	31 March 2025
Mr Gordon Johnston	1 April 2017	31 March 2025
Mr David Hall	1 April 2018	31 March 2026
Ms Cindy Mackie	1 April 2018	31 March 2026
Ms Nichola Brown	1 April 2019	31 March 2023
Ms Alison White	1 April 2020	31 March 2024

The Board members' responsibilities in relation to the accounts are set out in a statement below.



### **Statement of Board Members' Responsibilities**

Under the National Health Service (Scotland) Act 1978, the Commission is required to prepare accounts in accordance with the directions of Scottish Ministers which require that those accounts give a true and fair view of the state of affairs of the Commission as at 31 March 2022 and of its operating costs for the year then ended. In preparing these accounts the Board Members are required to:

- Apply on a consistent basis the accounting policies and standards approved for the NHS Scotland by Scottish Ministers.
- Make judgements and estimates that are reasonable.
- State where applicable accounting standards as set out in the Financial Reporting Manual have not been followed where the effect of the departure is material.
- Prepare the accounts on the going concern basis unless it is inappropriate to presume that the Commission will continue to operate.

The Board Members are responsible for ensuring that proper accounting records are maintained which disclose with reasonable accuracy at any time the financial position of the Commission and enable them to ensure that the accounts comply with the National Health Service (Scotland) Act 1978 and the requirements of Scottish Ministers. They are also responsible for safeguarding the assets of the Commission and hence taking reasonable steps for the prevention of fraud and other irregularities.

The Board Members confirm that they have discharged the above responsibilities during the financial year and in preparing the accounts.

### **Board members' and senior managers' interests**

During the year the Mental Welfare Commission for Scotland has not entered into any material related party transactions as per note 17.

Registers of interests are available on <https://www.mwcscot.org.uk>

### **Third party indemnity provisions**

There are no qualifying third party indemnity provisions in place for one or more of the Board members.

### **Remuneration for non-audit work**

Details of any remuneration paid to auditors in respect of any non audit work carried out on behalf of the Commission is disclosed in note 3.

### **Public Services Reform (Scotland) Act 2010**

Sections 31 and 32 of the Public Services Reform (Scotland) Act 2010 impose new duties on the Scottish Government and listed public bodies to publish information on expenditure and certain other matters as soon as is reasonably practicable after the end of each financial year. A statement on this is available on our website <https://www.mwcscot.org.uk>

### **Personal data related incidents reported to the Information Commissioner**

No personal data incidents were reported during the year (2020/21: None)

### **Disclosure of Information to Auditors**

The Board Members who held office at the date of approval of this Directors' report confirm that, so far as they are each aware, there is no relevant audit information of which the Commission's auditor is unaware; and each Board Member has taken all the steps that he/she ought reasonably to have taken as a Board Member to make himself/herself aware of any relevant audit information and to establish that the Commission's auditor is aware of that information.

### **Statement of the Accountable Officer's responsibilities**

Under Section 15 of the Public Finance and Accountability (Scotland) Act 2000, the Principal Accountable Officer (PAO) of the Scottish Government has appointed me as Accountable Officer of the Mental Welfare Commission for Scotland.

This designation carries with it, responsibility for:

- the propriety and regularity of financial transactions under my control;
- the economical, efficient and effective use of resources placed at the Board's disposal; and
- safeguarding the assets of the Commission.

In preparing the Accounts I am required to comply with the requirements of the Government's Financial Reporting Manual and, in particular to;

- observe the accounts direction issued by the Scottish Ministers including the relevant accounting and disclosure requirements and apply suitable accounting policies on a consistent basis;

- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government's Financial Reporting Manual have been followed and disclose and explain any material departures; and
- prepare the accounts on a going concern basis.

I confirm that the Annual Report and Accounts as a whole are fair, balanced and take personal responsibility for the Annual Report and Accounts and the judgements required for determining that it is fair, balanced and understandable.

I am responsible for ensuring proper records are maintained and that the Accounts are prepared under the principles and in the format directed by Scottish Ministers. To the best of my knowledge and belief, I have properly discharged my responsibilities as accountable officer as intimated in the Departmental Accountable Officers letter to me dated 3<sup>rd</sup> August 2020.

## **Governance Statement**

### **Scope of Responsibility**

As Accountable Officer, I am responsible for maintaining an adequate and effective system of internal control that supports compliance with the organisation's policies and promotes achievement of the organisation's aims and objectives, including those set by Scottish Ministers. Also, I am responsible for safeguarding the public funds and assets assigned to the organisation.

### **Purpose of Internal Control**

The system of internal control is based on an ongoing process designed to identify, prioritise and manage the principal risks facing the organisation. The system aims to evaluate the nature and extent of risks, and manage risks efficiently, effectively and economically.

The system of internal control is designed to manage rather than eliminate the risk of failure to achieve the organisation's aims and objectives. As such, it can only provide reasonable and not absolute assurance.

The process within the organisation accords with guidance from Scottish Ministers in the Scottish Public Finance Manual (SPFM) and supplementary NHS guidance, and has been in place for the year up to the date of approval of the annual report and accounts.

The SPFM is issued by Scottish Ministers to provide guidance to the Scottish Government and other relevant bodies on the proper handling and reporting of public funds. The SPFM sets out the relevant statutory, parliamentary and administrative requirements, emphasises the need for efficiency, effectiveness and economy, and promotes good practice and high standards of propriety.

### **Governance Framework**

The Board is responsible for setting the overall strategic direction for the organisation and has corporate responsibility for ensuring that the organisation fulfils its strategic aims and objectives. The Board regularly met throughout the year with members attending both informal 'question and answer' sessions and also formal board meetings (six formal meetings) to progress the business of the Commission.

The Board comprises a Chair and seven Board members. The Board members are appointed by Scottish Ministers and the public appointments were made in accordance with the Commissioner for Public Appointments in Scotland's Code of Practice. The Chief Executive and the executive team are not Board members but attend all meetings.

The Board did not complete a self-assessment during the year but rather reviewed the action plan from the previous assessment to ensure that it was implemented. Part of the action plan was to have additional sessions with invited guests to inform the Board

members of key issues and concerns in the mental health and learning disability landscape. Five information sessions were held during the year for Board members and the Chief Executive. A further self-assessment exercise is scheduled for August 2022.

Each Board member has an appraisal with the Chair. The Chair is subject to appraisal by the Scottish Government sponsor department. A pro forma for the Board appraisal is in operation and any development needs for individuals are identified through this process.

The Standing Orders of the Commission outline the scheme of delegation to the Audit, Risk and Information Governance Committee (A,R & IG committee), the executive directors of the Commission and the Head of NCF (until June 2021). There are two standing committees; the Audit, Risk and Information Governance Committee (renamed the Audit, Performance and Risk committee from June 2022) and the Advisory Committee. The Standing Orders and Standing Financial Instructions are reviewed and updated on an annual basis by the A,R & IG Committee and approved by the Board in February each year. The Procurement Policy is reviewed and approved annually by the A,R & IG Committee ensuring the Commission is compliant with procurement regulations.

The A, R & IG Committee remit and membership is outlined in the standing orders. The committee comprises two Board members: Gordon Johnston, Chair and David Hall and a co-opted member (Robin McNaught) who is an external person with expertise in NHS finance (from June 2022 there will be three Board members with Cindy Mackie joining). It met four times during the year to consider the operational effectiveness of the internal control structure, to approve the strategic and annual internal audit plan and external audit arrangements, risk management and information governance and security. The project to implement the new information management system reports to each committee meeting. The committee undertakes an annual self-assessment of its effectiveness and the Chair formally reports to the Board recommending the annual accounts and providing an annual report of A,R & IG Committee activities and objectives for the following year. This year the annual accounts were delayed from June to August and finally reported by the external auditors in November 2021. Minutes of each A,R & IG Committee meeting are presented to the Board. In February 2021 the A,R & IG approved the extension of the internal auditors for a further two years.

By statute the Commission is required to have an advisory committee and it meets twice a year. A review of the committee, membership and structure of meetings was undertaken reporting to the Board in December 2021. Its remit and membership is outlined in the standing orders and includes representatives from relevant stakeholder groups. The Advisory Committee gives the Board advice on the Commission's functions and how it exercises its functions.

The Board retains the scrutiny and decision making on appointments and remuneration. All staff, except medical consultants, are covered by the Scottish Government Pay Policy. The Chief Executive is covered by the Scottish Government Pay Policy for senior appointments. The Board approves the pay remit in line with the

pay policy guidance for approval by Scottish Ministers. Medical consultants' pay mirror those in the NHS in Scotland.

The National Confidential Forum (NCF) was repealed in June 2021. Commission staff finalised the outstanding tasks in line with appropriate Commission policy and procedures.

During the year there was a review of the governance arrangements for the executive team and the Operational Management Group (OMG) was replaced by the Executive Leadership Team (ELT). The ELT assists the Chief Executive on the day to day management of the organisation. It meets fortnightly and covers all the key strategy areas in its remit. It is not a standing committee of the Board but the remit of the group is approved by the Board and it reports to the Board on a regular basis.

The Chief Executive Officer is accountable to the Board through the Chair of the Commission. The Chair, along with the Board, agrees the Chief Executive Officer's annual objectives in line with the Commission's strategic and business plans. The members of the executive team set objectives with the Chief Executive and identify any development needs.

The Commission has a Public Interest Disclosure policy to facilitate investigation of staff concerns and a Complaints against the Commission policy to record and investigate complaints from the public.

The organisation strives to consult and involve all of its key stakeholders. We do this by

- Meeting with the Advisory Committee and consulting on our strategic priorities.
- Our Engagement and Participation officers meet with individuals and groups with lived experience and carers. During the year we negotiated extra funding with the sponsor department to recruit an E&P officer with learning disability or autism.
- Ensuring that the composition of the Board reflects the breadth of stakeholder groups.
- Meeting with the Minister for Mental Health to discuss our strategic and operational plans and highlight the use of the Acts across Scotland and any areas of concern that the Commission has in mental health and learning disability care and treatment.
- Meetings with professional, lived experience and carer groups nationally and locally
- Widening the scope of our themed visits by producing surveys on the areas of concern and distributing widely to individuals with lived experience, carers and professionals working in the services

- We carried out a public consultation on the proposals for reviewing deaths in detention

The Commission has a statutory duty to consult with the Care Inspectorate and Healthcare Improvement Scotland. We have memoranda of understanding with both organisations. We have also had discussions around joint working and where this would add value. During the year we agreed with the Care Inspectorate that they will fund a post within the Commission for a year which will provide them with expertise on adults with incapacity principles and operation for relevant CI inspections. The funding will be for the financial year 2022/23.

### **Review of Adequacy and Effectiveness**

As Accountable Officer, I am responsible for reviewing the adequacy and effectiveness of the system of internal control. My review is informed by:

- executive and senior managers who are responsible for developing, implementing and maintaining internal controls across their areas;
- Board meetings six times during the year;
- periodic reports from the chair of the organisation's A,R & IG Committee, to the Board, concerning internal control;
- the production of, and regular updating, the strategic risk register and developing associated action plans to mitigate the identified risks;
- the work of the internal auditors, who submit to the A,R & IG Committee regular reports which include their independent and objective opinion on the effectiveness of risk management, control and governance processes, together with recommendations for improvement; and
- comments by the external auditors in their management letters and other reports.
- feedback from the delegation chains within the Commission about our business and its use of resources. All staff (including those attached to the Commission as part of their professional training, secondees and Board members) are able to voice any concerns in a responsible and effective manner without fear of reprisal.

### **Risk Assessment**

NHS Scotland bodies are subject to the requirements of the Scottish Public Finance Manual (SPFM) and must operate a risk management strategy in accordance with relevant guidance issued by Scottish Ministers. The general principles for a successful risk management strategy are set out in the SPFM.

Scrutiny of the risk management strategy is delegated to the A,R & IG Committee. A strategic risk register is reviewed by the Executive Leadership Team and presented to the A,R & IG committee and Board three times a year. The Board agreed the key risks for the organisation as:

- The impact of significant national reviews and other legislative and policy changes in the mental health field and the organisational capacity to respond and influence these reviews
- The impact of the pandemic to the organisational ability to continue to focus on the most vulnerable
- The impact of ongoing remote working and the move to hybrid working on staff wellbeing and productivity

These risks are incorporated into the strategic risk register. The strategic risk register was substantially reviewed in October 2021 including a review and delineation of the risk appetite for each risk on the register. Any new project identifies risks as part of the project initiation documentation.

Risks to information are considered in line with the process described above. All projects need to consider a data protection impact assessment (DPIA) as part of the approval documentation. Reports on information governance and IT security are presented to the A,R & IG Committee twice a year.

We adhere to the Scottish Government's cyber resilience strategy. In August 2021 we were awarded our cyber essentials re-accreditation. In March 2022 we contracted with an external company to carry out a penetration test of our systems. There were no critical recommendations from this and we aim to have responded to all other recommendations by August 2022.

During the two years of the pandemic the business continuity strategy has been operational. It was used at the outset to ensure we continued to meet our key priorities. We were able to continue with administering Part 16 second opinions remotely; priority forms for monitoring the MHA continued to be a priority despite significant backlogs of forms at different points in the year; and the telephone advice line continued to run throughout the year on reduced hours. The lessons learnt from these two years has been used to revise and update the business continuity strategy which was finalised in June 2022.

More generally, the organisation is committed to continuous development and improvement: developing systems in response to any relevant reviews and developments in best practice. In particular, during the year the organisation has:

- Implemented a comprehensive corporate performance management framework. Quarterly reports were reviewed by the ELT and from June 2022 the Audit, Performance and Risk committee will provide scrutiny and assurance that this is operating effectively.



- Continued to audit the advice given on the telephone advice line and our local visits. Results from these evaluations are fed back to the practitioners to improve practice and share any learning points.
- Started the project for a new transformational information management and casework system
- Discussed with staff through a pulse survey their own issues around hybrid working and returning to the office
- Carried out self-assessment of the A,R & IG Committee with the Board and Advisory Group reviewing the meetings and implementing improvements.

## **Disclosures**

During the previous financial year, no significant control weaknesses or issues have arisen, and no significant failures have arisen in the expected standards for good governance, risk management and control. There were no significant lapses in data security.

## **2. Remuneration Report**

The Commission determines pay and terms and conditions of employment for staff. This is governed by the Board which recommended the pay remit to Scottish Ministers. Scottish Ministers approved the Pay remit agreed for the year ended 31 March 2023, in February 2022. There have been no departures from the policy in the last seven years.

There are no additional performance related bonuses. All staff with the exception of the Chief Executive Officer, Executive Director (Medical) and medical consultant are covered by the pay remit. Medical consultant pay mirrors those of the NHS in Scotland.

The remuneration of the Board and the Chief Executive Officer is covered by the Public Sector Pay Policy.

Duration of Board appointments can be found in the Accountability report. The Chief Executive Officer and Directors are employed on permanent contracts with three month notice periods. There have been no significant awards made to past senior managers (Prior year: Nil)

The remuneration of senior staff, Board members and other public appointees is outlined as follows and has been audited by the Commission's auditors. Remuneration policy, staff gender composition, sickness absence data, disability policy, diversity and equality, and disclosures under The Trade Union (Facility Time Publication Requirements) Regulations 2017 are not subject to audit

### **Remuneration Table**

	<b>Gross Salary (bands of £5,000)</b>	<b>Bonus Payments (bands of £5,000)</b>	<b>Benefits in Kind</b>	<b>Total Earnings In year</b>	<b>Pension Benefits Note 1</b>	<b>Total Remuneration (bands of £5,000)</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
<b>Executive</b>						
Ms Julie Paterson <i>Chief Executive Started 03.08.20</i>	105 - 110	-	-	105 - 110	27	130 - 135
Mrs A Thomson <i>Executive Director (Nursing) Started 22.10.12</i>	75 - 80	-	-	75 - 80	-	75 - 80
Dr A Chopra <i>Executive Director (Medical) Started:06.01.20,</i>	130 - 135	-	-	130 - 135	35	165 - 170
Ms A McRae <i>(note 2) Head of Corporate Services Started:15.05.00</i>	60 - 65	-	-	60 - 65	1	60 - 65
Ms Suzanne McGuinness <i>Executive Director (Social Work) Started 17.05.21</i>	60 - 65	-	-	60 - 65		60 - 65
Ms C Lamza <i>Interim Executive Director (Practitioners) Started: 02.03.20 Until 17.05.21)</i>	5 - 10	-	-	5 - 10	0	5 - 10

	Gross Salary (bands of £5,000)	Bonus Payments (bands of £5,000)	Benefits in Kind	Total Earnings In year	Pension Benefits Note 1	Total Remuneration (bands of £5,000)
	£'000	£'000	£'000	£'000	£'000	£'000
<b>Board Members</b>					<i>note 3</i>	
Mr A Riddell (Chair)	15 - 20	-	-	15 - 20	-	15 - 20
Mrs S Baxter	0 - 5	-	-	0 - 5	-	0 - 5
Ms N Brown	0 - 5	-	-	0 - 5	-	0 - 5
Mr G Johnston	0 - 5	-	-	0 - 5	-	0 - 5
Mr D Hall	0 - 5	-	-	0 - 5	-	0 - 5
Ms C Mackie	0 - 5	-	-	0 - 5	-	0 - 5
Ms M Twaddle	0 - 5	-	-	0 - 5	-	0 - 5
Ms A White	0 - 5	-	-	0 - 5	-	0 - 5

National Confidential Forum Public Appointees	Gross Fees (bands of £5,000)	Bonus Payment (bands of £5,000)	Benefit s in Kind	Total Earnings In year (bands of £5,000)	Pensio n Benefit s Note 3	Total Remuneration (bands of £5,000)
Ms J Laidlaw Head of Forum (from 09.05.19)	10 - 15	-	-	10 - 15	-	10 - 15
Ms A Blower (Appointed 01.08.18)	0 - 5	-	-	0 - 5	-	0 - 5
Ms K Davidson (Appointed 01.08.18)	0 - 5	-	-	0 - 5	-	0 - 5
Ms K Pennington -Twist (Appointed 01.12.18)	0 - 5	-	-	0 - 5	-	0 - 5

In accordance with the Financial Reporting Manual (FRM), and the Companies Act, 2013-14 was the first year that publication of 'pension benefits' was required. This calculation aims to bring public bodies in line with other industries in disclosing an assessed cumulative pension benefit for a standard 20 year period, which is the estimated life span following retirement.

The 'total earnings in year' column shows the remuneration relating to actual earnings payable in 2021 -22

*Note 1:* The value of pension benefits accrued during the year is calculated as (the real increase in pension multiplied by 20) less (the contributions made by the individual). The real increase excludes increases due to inflation or any increase or decrease due to a transfer of pension rights.

<i>Note 2</i>	<b>Full time equivalent Annualised Gross Salary (Bands of £5,000)</b>
Ms A McRae	75 - 80
Ms C Lamza	70 - 75
Ms S McGuinness	70 - 75

*Note 3:* Board members and NCF public appointees are not in receipt of Pension benefits

### Pensions Values Table

	<b>Accrued Pension at age 60 as at 31/03/22 (bands of £5,000)</b>	<b>Total accrued lump sum at age 65 at 31 March 2022 (bands of £5,000)</b>	<b>Real Increase In pension At age 60 (bands of £2,500)</b>	<b>Real Increase in lump sum at age 65 at 31 March 2022 (bands of £2,500)</b>	<b>CETV At 31/03/22</b>	<b>CETV At 31/03/21</b>	<b>Real Increase In CETV</b>
<b>Executive</b>	<b>£'000</b>		<b>£'000</b>		<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Ms J Paterson	0 - 5	0 - 5	0 - 2.5	0 - 2.5	45	17	28
Dr A Chopra	10 - 15	0 - 5	2.5 – 5.0	0 - 2.5	144	113	31
Ms A McRae	15 - 20	55 - 60	0 - 2.5	0 – 2.5	344	330	5
Ms C Lamza	25 -30	0 - 5	0 - 2.5	0 - 2.5	418	410	6

Remuneration Report for the year ended 31 March 2021

	Gross Salary (bands of £5,000)	Bonus Payments (bands of £5,000)	Benefits in Kind	Total Earnings In year	Pension Benefits Note 1	Total Remuneration (bands of £5,000)
	£'000	£'000	£'000	£'000	£'000	£'000
<b>Executive</b>						
Ms Julie Paterson <i>Chief Executive Started 03.08.20</i>	65 - 70	-	-	65 - 70	17	85 - 90
Mrs A Thomson <i>Interim Chief Executive Officer From 02.03.20 Started 22.10.12</i>	85 - 90	-	-	85 - 90	-	85 - 90
Dr A Chopra <i>Executive Director (Medical) Started:06.01.20,</i>	125 - 130	-	-	125 - 130	34	155 - 160
Ms A McRae <i>(note 2) Head of Corporate Services Started:15.05.00</i>	50 - 55	-	-	50 - 55	16	70 - 75
Ms A K Fearnley <i>(note 2) Executive Director (Engagement and Participation) Started: 16.02.15 Retired 31.03.21</i>	50 - 55	-	-	50 - 55	-	50 - 55
Mr M Diamond <i>Executive Director (Social Work) Started:23.03.15 Retired 30.09.20</i>	35 - 40	-	-	35 - 40	-	35 - 40
Ms M Connolly <i>Interim Executive Director (Medical) Started:19.11.18 Until</i>	15 - 20	-	-	15 - 20	-	15 - 20
Ms C Lamza <i>Interim Executive Director (Practitioners) Started: 02.03.20</i>	65 - 70	-	-	65 - 70	12	80 - 85

	<b>Gross Salary (bands of £5,000)</b>	<b>Bonus Payments (bands of £5,000)</b>	<b>Benefits in Kind</b>	<b>Total Earnings In year</b>	<b>Pension Benefits Note 1</b>	<b>Total Remuneration (bands of £5,000)</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
<b>Board Members</b>					<i>note 3</i>	
Mr A Riddell (Chair)	15 - 20	-	-	15 - 20	-	15 - 20
Mrs S Baxter	5 - 10	-	-	5 - 10	-	5 - 10
Ms N Brown	0 - 5	-	-	0 - 5	-	0 - 5
Mr G Johnston	0 - 5	-	-	0 - 5	-	0 - 5
Mr D Hall	0 - 5	-	-	0 - 5	-	0 - 5
Ms C Mackie	0 - 5	-	-	0 - 5	-	0 - 5
Ms M Twaddle	0 - 5	-	-	0 - 5	-	0 - 5
Ms A White	0 - 5	-	-	0 - 5	-	0 - 5

<b>National Confidential Forum Public Appointees</b>	<b>Gross Fees (bands of £5,000)</b>	<b>Bonus Payment (bands of £5,000)</b>	<b>Benefits in Kind</b>	<b>Total Earnings In year (bands of £5,000)</b>	<b>Pension Benefits Note 3</b>	<b>Total Remuneration (bands of £5,000)</b>
Ms J Laidlaw Head of Forum (from 09.05.19)	65 - 70	-	-	65 - 70	-	65 - 70
Ms A Blower (Appointed 01.08.18)	5 - 10	-	-	5 - 10	-	5 - 10
Ms K Davidson (Appointed 01.08.18)	15 - 20	-	-	15 - 20	-	15 - 20
Ms M Ramage (Appointed 01.08.18)	0 - 5	-	-	0 - 5	-	0 - 5
Ms K Pennington – Twist (Appointed 01.12.18)	10 - 15	-	-	10 - 15	-	10 - 15

In accordance with the Financial Reporting Manual (FRM), and the Companies Act, 2013-14 was the first year that publication of 'pension benefits' was required. This calculation aims to bring public bodies in line with other industries in disclosing an assessed cumulative pension benefit for a standard 20 year period, which is the estimated life span following retirement.

The 'total earnings in year' column shows the remuneration relating to actual earnings payable in 2020-21

*Note 1:* The value of pension benefits accrued during the year is calculated as (the real increase in pension multiplied by 20) less (the contributions made by the individual). The real increase excludes increases due to inflation or any increase or decrease due to a transfer of pension rights.

<i>Note 2</i>	<b>Full time equivalent Annualised Gross Salary (Bands of £5,000)</b>
Ms Julie Paterson	100 - 105
Ms A McRae	70 - 75
Ms K Fearnley	70 - 75
Mr M Diamond	70 - 75

*Note 3:* Board members and NCF public appointees are not in receipt of Pension benefits.

	<b>Accrued Pension at age 60 as at 31/03/21 (bands of £5,000)</b>	<b>Total accrued lump sum at age 65 at 31 March 2021 (bands of £5,000)</b>	<b>Real Increase In pension At age 60 (bands of £2,500)</b>	<b>Real Increase in lump sum at age 65 at 31 March 2021 (bands of £2,500)</b>	<b>CETV At 31/03/21</b>	<b>CETV At 31/03/20</b>	<b>Real Increase In CETV</b>
<b>Executive</b>	<b>£'000</b>		<b>£'000</b>		<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Ms J Paterson	0 - 5	0 - 5	0 - 2.5	0 - 2.5	16	0	16
Dr A Chopra	10 - 15	0 - 5	0 - 2.5	0 - 2.5	107	81	26
Ms A McRae	15 - 20	50 - 55	0 - 2.5	2.5 - 5.0	400	370	21
Ms C Lamza	25 - 30	0 - 5	0 - 2.5	0 - 2.5	398	375	14

**Fair Pay Disclosure**

The Commission is required to disclose the relationship between the remuneration of the highest paid executive and the median remuneration of the Commission's workforce as follows;

	<b>2021-22</b>	<b>2020-21</b>	<b>Change</b>
	<b>£000's</b>	<b>£000's</b>	<b>%</b>
Range of Staff Remuneration	19.9 – 131.5	20.3 – 125.2	-2% - 5%
Highest Earning Executive's Total Remuneration (£000s)	130 - 135	120 - 130	8%
Median Total Remuneration	42.9	40.3	6%
Ratio	3.09	3.11	-1%
25 <sup>th</sup> Percentile	27.2	28.6	-5%
Ratio	4.87	4.38	11%
75 <sup>th</sup> Percentile	60.1	59.5	1%
Ratio	2.21	2.11	5%
<b>Commentary</b>			
<p>These figures exclude employer pension contributions to improve comparability. The Executive remuneration disclosure is mid salary range using the £5k banding system. The median ratio has increased slightly due to changes in staff composition. The highest earning Executive was a consultant psychiatrist and is remunerated in line with medical consultant pay of the NHS in Scotland.</p> <p>The calculations are based on salary only as Commission staff are not in receipt of any additional benefits.</p>			

**Staff Report**

**a) Higher Paid Employees' Remuneration**

<b>Band (bands of £5,000)</b>	<b>2022 Number of Staff</b>	<b>2021 Number of Staff</b>
<b>Clinicians</b>		
£70,001 to £80,000	4	3
£80,001 to £90,000	-	-
£90,001 to £100,000	-	-
£100,001 to £110,000	-	-
£110,001 to £120,000	1	2
£120,001 to £130,000	-	1
£130,001 to £140,000	1	-
<b>Other</b>		
£70,001 to £80,000	3	3
£80,001 to £90,000	-	-
£90,001 to £100,000	-	-
£100,001 to £110,000	1	1



b) Staff Costs and numbers

31 March 2021 Total £'000	STAFF COSTS	Executive £'000	Board Members £'000	Permanent Staff £'000	Inward Secondees £'000	Other Staff £'000	NCF Head and Members £'000	31 March 2022 Total £'000
2,676	Salaries and fees	427	35	2067	77		10	2,616
281	Taxation and social security costs	54	1	207	10		2	274
428	NHS scheme employers' pension costs	62	-	333	16			411
332	Second Opinion Doctors	-	-	-		416		416
6	Short term staff	-	-	-		92		92
<b>3,723</b>	<b>TOTAL</b>	<b>544</b>	<b>37</b>	<b>2,607</b>	<b>103</b>	<b>508</b>	<b>12</b>	<b>3,810</b>

**STAFF NUMBERS**

65.2	Whole Time Equivalent (WTE)	4.7	8.0	44.0	2.0	1.0		59.7
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**c) Staff Composition**

	<b>2022</b>			<b>2021</b>		
	<b>Male</b>	<b>Female</b>	<b>Total</b>	<b>Male</b>	<b>Female</b>	<b>Total</b>
Executive Directors	1	4	5	2	5	7
Board Members	3	5	8	3	5	8
NCF Staff	-	-	-	2	5	7
Other	19	49	68	17	40	57
<b>Total Headcount</b>	<b>23</b>	<b>58</b>	<b>81</b>	<b>24</b>	<b>55</b>	<b>79</b>

**d) Sickness absence data**

	<b>2022</b>	<b>2021</b>
Sickness Absence Rate	1.17%	1.92%

**e) Staff turnover data**

	<b>2022</b>	<b>2021</b>
Staff Turnover Rate	20.44 %	18.18%

**f) Staff Policies**

As an equal opportunities employer the Commission welcomes applications for employment from people with disabilities and actively seeks to provide an environment where they and any employees who become disabled can continue to contribute to the work of the Commission. As such the Commission has been awarded the disability symbol employer status.

The Commission provides employees with information on matters of concern to them as employees by means of monthly team briefs, staff meetings and internal communications.

Employees are encouraged to participate in a variety of forums on matters affecting staff including sustainability, dignity at work and office accommodation. Our staff policies are regularly updated for any new legislation and recommended practice. Policies affected by legislation are a mandatory read for all staff.

Pay policy is approved annually by the Board and Scottish Government.

**g) Trade Union Regulations**

The Trade Union (Facility Time Publication Requirements) Regulations 2017 came into force on 1 April 2017. The regulations place a legislative requirement on relevant public sector employers to collate and publish, on an annual basis, a range of data on the amount and cost of facility time within their organisation. The data is required to be published on a website maintained by or on behalf of the employer before 31st July each year. The Commission will be reporting a nil return for the year to 31<sup>st</sup> March 2022 (2020/21 Nil).

**h) Exit packages**

There were no exit packages agreed in year (Prior year: nil).

**3. Parliamentary Accountability Report**

The Board were not required to approve the write off of any losses or make any large special payments during the financial year under review (2020/21 - £Nil)

**Approval and signing of the Accountability Report**

Signed.....*Julie Paterson*.....

Julie Paterson  
Chief Executive Officer  
Accountable Officer

Date: 31 August 2022

**Independent auditor's report to the members of Mental Welfare Commission for Scotland, the Auditor General for Scotland and the Scottish Parliament****Reporting on the audit of the financial statements****Opinion on financial statements**

We have audited the financial statements in the annual report and accounts of Mental Welfare Commission for Scotland for the year ended 31 March 2022 under the National Health Service (Scotland) Act 1978. The financial statements comprise the Statement of Comprehensive Net Expenditure, the Statement of Financial Position, the Statement of Cash Flow, the Statement of Changes in Taxpayers' Equity and notes to the financial statements, including significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and UK adopted international accounting standards, as interpreted and adapted by the 2021/22 Government Financial Reporting Manual (the 2021/22 FReM).

In our opinion the accompanying financial statements:

- give a true and fair view in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers of the state of the board's affairs as at 31 March 2022 and of its net expenditure for the year then ended;
- have been properly prepared in accordance with UK adopted international accounting standards, as interpreted and adapted by the 2021/22 FReM; and
- have been prepared in accordance with the requirements of the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers.

**Basis for opinion**

We conducted our audit in accordance with applicable law and International Standards on Auditing (UK) (ISAs (UK)), as required by the Code of Audit Practice approved by the Auditor General for Scotland. Our responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of our report. We were appointed by the Auditor General on 31 May 2016. The period of total uninterrupted appointment is 11 years. We are independent of the board in accordance with ethical requirements that are relevant to our audit of the financial statements in the UK including the Financial Reporting Council's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. Non-audit services prohibited by the Ethical Standard were not provided to the board. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

**Conclusions relating to going concern basis of accounting**

We have concluded that the use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work we have performed, we have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt

**Independent Auditor's Report****31 March 2022**

on the body's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from when the financial statements are authorised for issue.

These conclusions are not intended to, nor do they, provide assurance on the board's current or future financial sustainability. However, we report on the board's arrangements for financial sustainability in a separate Annual Audit Report available from the Audit Scotland website.

**Risks of material misstatement**

We report in our Annual Audit Report the most significant assessed risks of material misstatement that we identified and our judgements thereon.

**Responsibilities of the Accountable Officer for the financial statements**

As explained more fully in the Statement of the Chief Executive's Responsibilities as the Accountable Officer, the Accountable Officer is responsible for the preparation of financial statements that give a true and fair view in accordance with the financial reporting framework, and for such internal control as the Accountable Officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Accountable Officer is responsible for assessing the board's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless there is an intention to discontinue the board's operations.

**Auditor's responsibilities for the audit of the financial statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of users taken on the basis of these financial statements.

Irregularities, including fraud, are instances of non-compliance with laws and regulations. We design procedures in line with our responsibilities outlined above to detect material misstatements in respect of irregularities, including fraud. Procedures include:

- obtaining an understanding of the applicable legal and regulatory framework and how the board is complying with that framework;
- identifying which laws and regulations are significant in the context of the board;
- assessing the susceptibility of the financial statements to material misstatement, including how fraud might occur; and
- considering whether the audit team collectively has the appropriate competence and capabilities to identify or recognise non-compliance with laws and regulations.

The extent to which our procedures are capable of detecting irregularities, including fraud, is affected by the inherent difficulty in detecting irregularities, the effectiveness of the board's controls, and the nature, timing and extent of the audit procedures performed.

Irregularities that result from fraud are inherently more difficult to detect than irregularities that result from error as fraud may involve collusion, intentional omissions, misrepresentations, or the override of internal control. The capability of the audit to detect fraud and other irregularities depends on factors such as the skilfulness of the perpetrator, the frequency and extent of manipulation, the degree of collusion involved, the relative size of individual amounts manipulated, and the seniority of those individuals involved.

A further description of the auditor's responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website [www.frc.org.uk/auditorsresponsibilities](http://www.frc.org.uk/auditorsresponsibilities). This description forms part of our auditor's report.

## **Reporting on regularity of expenditure and income**

### **Opinion on regularity**

In our opinion in all material respects the expenditure and income in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers.

### **Responsibilities for regularity**

The Accountable Officer is responsible for ensuring the regularity of expenditure and income. In addition to our responsibilities in respect of irregularities explained in the audit of the financial statements section of our report, we are responsible for expressing an opinion on the regularity of expenditure and income in accordance with the Public Finance and Accountability (Scotland) Act 2000.

## **Reporting on other requirements**

### **Opinion prescribed by the Auditor General for Scotland on the audited part of the Remuneration and Staff Report**

We have audited the parts of the Remuneration and Staff Report described as audited. In our opinion, the audited part of the Remuneration and Staff Report has been properly prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers.

### **Other information**

The Accountable Officer is responsible for other information in the annual report and accounts. The other information comprises the Performance Report and the Accountability Report excluding the audited part of the Remuneration and Staff Report.

Our responsibility is to read all the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the course of the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required

**Independent Auditor's Report****31 March 2022**

to determine whether this gives rise to a material misstatement in the financial statements themselves. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon except on the Performance Report and Governance Statement to the extent explicitly stated in the following opinions prescribed by the Auditor General for Scotland.

**Opinions prescribed by the Auditor General for Scotland on the Performance Report and Governance Statement**

In our opinion, based on the work undertaken in the course of the audit:

- the information given in the Performance Report for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers; and
- the information given in the Governance Statement for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers.

**Matters on which we are required to report by exception**

We are required by the Auditor General for Scotland to report to you if, in our opinion:

- adequate accounting records have not been kept; or
- the financial statements and the audited part of the Remuneration and Staff Report are not in agreement with the accounting records; or
- we have not received all the information and explanations we require for our audit; or
- there has been a failure to achieve a prescribed financial objective.

We have nothing to report in respect of these matters.

**Conclusions on wider scope responsibilities**

In addition to our responsibilities for the annual report and accounts, our conclusions on the wider scope responsibilities specified in the Code of Audit Practice are set out in our Annual Audit Report.

**Use of our report**

This report is made solely to the parties to whom it is addressed in accordance with the Public Finance and Accountability (Scotland) Act 2000 and for no other purpose. In accordance with paragraph 120 of the Code of Audit Practice, we do not undertake to have responsibilities to members or officers, in their individual capacities, or to third parties.

*Karen Jones*

Karen Jones (for and on behalf of Azets Audit Services)  
Exchange Place 3  
Semple Street  
Edinburgh  
EH3 8BL

Date: 31 August 2022



Statement of Comprehensive Net Expenditure  
For the Year ended 31 March 2022

31 March 2021		31 March 2022
£'000		Note £'000
3,723	Staff costs	3a 3,810
850	Other operating expenditure	3b 682
<u>4,573</u>	<b>Gross expenditure for the year</b>	<u>4,492</u>
-	Less: operating income	-
<u>4,573</u>	<b>Net expenditure for the year</b>	<u>4,492</u>
-	<b>Other Comprehensive Net Expenditure</b>	-
<u>4,573</u>	<b>Comprehensive Net Expenditure</b>	<u>4,492</u>

The Notes to the Accounts, numbered 1 to 17, form an integral part of these Accounts.

Statement of Financial Position

31 March 2021 £'000		Note	31 March 2022 £'000	31 March 2022 £'000
	<b>Non-current assets:</b>			
172	Property, plant and equipment	6(a)	114	
0	Intangible assets	5(a)	0	
<u>172</u>	<b>Total non-current assets</b>			<u>114</u>
	<b>Current Assets:</b>			
	Financial assets:			
32	Trade and other receivables	7	29	
6	Cash and cash equivalents	8	7	
<u>38</u>	<b>Total current assets</b>			<u>36</u>
<u>210</u>	<b>Total assets</b>			<u>150</u>
	<b>Current liabilities</b>			
	Financial liabilities:			
(324)	Trade and other payables	9	(365)	
<u>(324)</u>	<b>Total current liabilities</b>			<u>(365)</u>
<u>(114)</u>	<b>Non-current assets plus/less net current assets/liabilities</b>			<u>(215)</u>
	<b>Non-current liabilities</b>			
(126)	Provisions	10	(74)	
<u>(126)</u>	<b>Total non-current liabilities</b>			<u>(74)</u>
<u>(240)</u>	<b>Assets less liabilities</b>			<u>(289)</u>
	<b>Taxpayers' Equity</b>			
(240)	General Fund	SOCTE		(289)
<u>(240)</u>	<b>Total taxpayers' equity</b>			<u>(289)</u>

The financial statements on pages 40 to 71 were approved by the Board on 22nd August 2022 and signed on their behalf by

Signed *Alexander Riddell*  
.....  
Alexander Riddell  
Chair

Signed *Julie Paterson*  
.....  
Julie Paterson  
Chief Executive Officer  
Accountable Officer

Date: 31 August 2022

Date: 31 August 2022

The notes to the Accounts, numbered 1 to 17, form an integral part of these Accounts.

Statement of Cash Flow  
For the year ended 31 March 2022

2021 £'000		Note	2022 £'000	2022 £'000
<b>Cash flows from operating activities</b>				
(4,573)	Net expenditure	SOCNE	(4,492)	
58	Adjustments for non-cash transactions	2 (a)	58	
35	Movements in working capital	2 (b)	(8)	
<b>(4,480)</b>	<b>Net cash outflow from operating activities</b>		<b>(4,442)</b>	
<b>Cash flows from investing activities</b>				
0	Purchase of property, plant and equipment		0	0
<b>Cash flows from financing activities</b>				
4,474	Funding	SOCTE	4,443	
0	Movement in general fund working capital	SOCTE	0	
4,474	Cash drawn down			
<b>4,474</b>	<b>Net Financing</b>			<b>4,443</b>
<b>Net Increase / (decrease) in cash and cash equivalents in the period</b>				
(6)				1
<b>Cash and cash equivalents at the beginning of the period</b>				
12				6
<b>Cash and cash equivalents at the end of the period</b>				
6				7
<b>Reconciliation of net cash flow to movement in net debt/cash</b>				
(6)	Increase/(decrease) in cash in year			1
12	Net debt/cash at 1 April	8		6
<b>6</b>	<b>Net Cash at 31 March</b>	<b>8</b>		<b>7</b>

The notes to the Accounts, numbered 1 – 17, form an integral part of these Accounts.

Statement of Changes in Taxpayers' Equity

Year ended 31 March 2022	Note	General Fund £'000	Total Reserves £'000
<b>Balance at 31 March 2021</b>		<b>(240)</b>	<b>(240)</b>
<b>Changes in taxpayers' equity for 2021/22</b>			
Net operating cost for the year	CFS	(4,492)	(4,492)
<b>Total recognised income and expense for 2021/22</b>			
<b>Funding:</b>			
Drawn down	CFS	4,443	4,443
Movement in General Fund (Creditor) / Debtor			
<b>Balance at 31 March 2022</b>	<b>SoFP</b>	<b>(289)</b>	<b>(289)</b>
Year ended 31 March 2021	Note	General Fund £'000	Total Reserves £'000
<b>Balance at 31 March 2020</b>		<b>(141)</b>	<b>(141)</b>
<b>Changes in taxpayers' equity for 2020/21</b>			
Net operating cost for the year	CFS	(4,573)	(4,573)
<b>Total recognised income and expense for 2020/21</b>		<b>(4,573)</b>	<b>(4,573)</b>
<b>Funding:</b>			
Drawn down	CFS	4,474	4,474
Movement in General Fund (Creditor) / Debtor		-	-
<b>Balance at 31 March 2021</b>	<b>SoFP</b>	<b>(240)</b>	<b>(240)</b>

The notes to the Accounts, numbered 1 – 17, form an integral part of these Accounts.

## **Notes to the Accounts**

### **1) Accounting Policies**

#### **a) Authority**

In accordance with the accounts direction issued by Scottish Ministers under section 19(4) of the Public Finance and Accountability (Scotland) Act 2000 appended, these Accounts have been prepared in accordance with the Government Financial Reporting Manual (FReM) issued by HM Treasury, which follows International Financial Reporting Standards as adopted by the United Kingdom, IFRIC Interpretations and the Companies Act 2006 to the extent that they are meaningful and appropriate to the public sector. They have been applied consistently in dealing with items considered material in relation to the accounts.

The preparation of financial statements in conformity with IFRS requires the use of certain critical accounting estimates. It also requires management to exercise its judgement in the process of applying the accounting policies. The areas involving a higher degree of judgement or complexity, or areas where assumptions and estimates are significant to the financial statements, are disclosed in note 1(v) below.

#### **(i) Standards, amendments and interpretations effective in current year**

There are no new standards, amendments or interpretations effective in current year.

#### **(ii) Standards, amendments and interpretation early adopted this year**

There are no new standards, amendments or interpretations early adopted this year.

#### **(iii) Standards, amendments and interpretation issued but not adopted this year**

IFRS 16 Leases supersedes IAS 17 Leases and is being applied by HM Treasury in the Government Financial Reporting Manual (FReM) from 1 April 2022. IFRS 16 introduces a single lessee accounting model that results in a more faithful representation of a lessee's assets and liabilities, and provides enhanced disclosures to improve transparency of reporting on capital employed.

Under IFRS 16, lessees are required to recognise assets and liabilities for leases with a term of more than 12 months, unless the underlying asset is of low value. While no standard definition of 'low value' has been mandated, NHS Scotland have elected to utilise the capitalisation threshold of £5,000 to determine the assets to be disclosed. The Commission expects that its existing finance leases will continue to be classified as leases. All existing operating leases will fall within the scope of IFRS 16 under the 'grandfathering' rules mandated in the FReM for the initial transition to IFRS 16. In future years, new contracts and contract renegotiations will be reviewed for consideration under IFRS 16 as implicitly identified right-of-use assets. Assets recognised under IFRS 16 will be held on the Statement of Financial Position as (i) right of-use assets which represent the Board's right to use the underlying leased assets; and (ii) lease liabilities which represent the obligation to make lease payments.

The bringing of leased assets onto the Statement of Financial Position will require depreciation and interest to be charged on the right-of-use asset and lease liability, respectively. Cash repayments will also be recognised in the Statement of Cash Flows, as required by IAS 7.

Impact of the new standard

The Commission has assessed the impact that the application of IFRS 16 would have on the comprehensive net expenditure for the financial year ending 31 March 2022 and on the Statement of Financial Position at that date.

The standard is not expected to increase total expenditure in 2022-23. Right-of-use assets totalling £428k will be brought onto the Statement of Financial Position, with an associated lease liability of £428k.

**b) Going Concern**

The accounts are prepared on the going concern basis, which provides that the Commission will continue in operational existence for the foreseeable future.

**c) Accounting Convention**

The Accounts are prepared on a historical cost basis.

**d) Funding**

The expenditure of the Commission is met from funds advanced by the Scottish Government within an approved revenue resource limit. Cash drawn down to fund expenditure within this approved revenue resource limit is credited to the general fund.

All other income receivable by the Commission that is not classed as funding is recognised in the year in which it is receivable.

Where income is received for a specific activity which is to be delivered in the following financial year, that income is deferred.

Income from the sale of non-current assets is recognised only when all material conditions of sale have been met, and is measured as the sums due under the sale contract.

Non-discretionary expenditure is disclosed in the accounts and deducted from operating costs charged against the RRL in the Summary of Resource Outturn.

Funding for the acquisition of capital assets received from the Scottish Government is credited to the general fund when cash is drawn down.

Expenditure on goods and services is recognised when, and to the extent that they have been received, and is measured at the fair value of those goods and services. Expenditure is recognised in the Statement of Comprehensive Net Expenditure except where it results in the creation of a non-current asset such as property, plant and equipment.

**e) Property, plant and equipment**

The treatment of capital assets in the accounts (capitalisation, valuation, depreciation, particulars concerning donated assets) is in accordance with the NHS Capital Accounting Manual.

## **Recognition**

Property, Plant and Equipment is capitalised where: it is held for use in delivering services or for administrative purposes; it is probable that future economic benefits will flow to, or service potential be provided to, the Commission; it is expected to be used for more than one financial year; and the cost of the item can be measured reliably.

All assets falling into the following categories are capitalised:

- 1) Property, plant and equipment assets which are capable of being used for a period which could exceed one year, and have a cost equal to or greater than £5,000.
- 2) Assets of lesser value may be capitalised where they form part of group of similar assets purchased at approximately the same time and cost over £20,000 in total, or where they are part of the initial costs of equipping a new development and total over £20,000.

## **Measurement**

### **Valuation:**

All property, plant and equipment assets are measured initially at cost, representing the costs directly attributable to acquiring or constructing the asset and bringing it to the location and condition necessary for it to be capable of operating in the manner intended by management.

All assets are measured subsequently at fair value as follows:

Specialised land, buildings, equipment, installations and fittings are stated at depreciated replacement cost, as a proxy for fair value as specified in the FReM.

Non specialised land and buildings, such as offices, are stated at fair value.

Non specialised equipment, installations and fittings are valued at fair value. The Commission values such assets using the most appropriate valuation methodology available (cost). A depreciated historical cost basis is used as a proxy for fair value in respect of such assets which have short useful lives or low values (or both).

Assets under construction are valued at current cost. This is calculated by the expenditure incurred to which an appropriate index is applied to arrive at current value. These are also subject to impairment review.

Subsequent expenditure: Subsequent expenditure is capitalised into an asset's carrying value when it is probable the future economic benefits associated with the item will flow to the Commission and the cost can be measured reliably. Where subsequent expenditure does not meet these criteria the expenditure is charged to the Statement of Comprehensive Net Expenditure. If part of an asset is replaced, then the part it replaces is de-recognised, regardless of whether or not it has been depreciated separately.

## **Depreciation**

Items of Property, Plant and Equipment are depreciated to their estimated residual value over their remaining useful economic lives in a manner consistent with the consumption of economic or service delivery benefits.

Depreciation is charged on each main class of tangible asset as follows:

- 1) Buildings, installations and fittings are depreciated on current value over the estimated remaining life of the asset, as advised by the appointed valuer. They are assessed in the context of the maximum useful lives for building elements.
- 2) Assets in the course of construction are not depreciated until the asset is brought into use by the Commission.
- 3) Equipment is depreciated over the estimated life of the asset.

Depreciation is charged on a straight line basis.

Except for the assets of the National Confidential Forum which are dealt with separately below, the following asset lives have been used:

Computing equipment	: Servers	5 years
Computing equipment	: Laptops	3 years
Land & Buildings	: Alterations	5 years

#### National Confidential Forum (NCF) Assets

The NCF was established under the Victims and Witnesses (Scotland) Act 2014 which provided funding for three years. The assets of the NCF are fully depreciated

### **f) Intangible Assets**

#### **Recognition**

Intangible assets are non-monetary assets without physical substance which are capable of being sold separately from the rest of the Commission's business or which arise from contractual or other legal rights. They are recognised only where it is probable that future economic benefits will flow to, or service potential be provided to, the Commission and where the cost of the asset can be measured reliably.

Intangible assets that meet the recognition criteria are capitalised when they are capable of being used in a Commission's activities for more than one year and they have a cost of at least £5,000.

The main classes of intangible assets recognised are:

#### **Internally generated intangible assets:**

Expenditure on research is not capitalised.

Expenditure on development is capitalised only where all of the following can be demonstrated:

- the project is technically feasible to the point of completion and will result in an intangible asset for sale or use;
- the Commission intends to complete the asset and sell or use it;
- the Commission has the ability to sell or use the asset;



- how the intangible asset will generate probable future economic or service delivery benefits e.g. the presence of a market for it or its output, or where it is to be used for internal use, the usefulness of the asset;
- adequate financial, technical and other resources are available to the Commission to complete the development and sell or use the asset; and
- the Commission can measure reliably the expenses attributable to the asset during development.

Expenditure so deferred is limited to the value of future benefits.

#### **Software:**

Software which is integral to the operation of hardware e.g. an operating system, is capitalised as part of the relevant item of property, plant and equipment. Software which is not integral to the operation of hardware e.g. application software, is capitalised as an intangible asset.

#### **Software licences:**

Purchased computer software licences are capitalised as intangible fixed assets where expenditure of at least £5,000 is incurred.

#### **Other:**

Other comprises capitalised software for internal use and video conferencing equipment.

#### **Measurement**

##### **Valuation:**

Intangible assets are recognised initially at cost, comprising all directly attributable costs needed to create, produce and prepare the asset to the point that it is capable of operating in the manner intended by management.

Subsequently intangible assets are measured at fair value. Where an active (homogeneous) market exists, intangible assets are carried at fair value. Where no active market exists, the intangible asset is revalued, using indices or some suitable model, to the lower of depreciated replacement cost and value in use where the asset is income generating. Where there is no value in use, the intangible asset is valued using depreciated replacement cost. These measures are a proxy for fair value.

Intangible assets under construction are valued at current cost. This is calculated by the expenditure incurred to which an appropriate index is applied to arrive at current value. These are also subject to impairment review.

##### **Revaluation and impairment:**

Increases in asset values arising from revaluations are recognised in the revaluation reserve, except where, and to the extent that, they reverse an impairment previously recognised in the Statement of Comprehensive Net Expenditure, in which case they are recognised in income.

Permanent decreases in asset values and impairments are charged gross to the Statement of Comprehensive Net Expenditure. Any related balance on the revaluation reserve is transferred to the General Fund.

Temporary decreases in asset values or impairments are charged to the revaluation reserve to the extent that there is an available balance for the asset concerned, and thereafter are charged to the Statement of Comprehensive Net Expenditure.

Operational assets which are in use delivering front line services or back office functions, and surplus assets with restrictions on their disposal, are valued at current value in existing use. Assets have been assessed as surplus where there is no clear plan to bring the asset back into future use as an operational asset

### **Amortisation**

Intangible assets are amortised to their estimated residual value over their remaining useful economic lives in a manner consistent with the consumption of economic or service delivery benefits.

Amortisation is charged to the Statement of Comprehensive Net Expenditure on each main class of intangible asset as follows:

- 1) Internally generated intangible assets: Amortised on a systematic basis over the period expected to benefit from the project.
- 2) Software. Amortised over their expected useful life
- 3) Software licenses: amortised over the shorter term of the license and their useful economic lives.
- 4) Intangible assets in the course of construction are not amortised until the asset is brought into use by the Commission

Amortisation is charged on a straight line basis.

The following asset lives have been used:

Software	5 years
Licences	5 years

### **g) Sale of Property, plant and equipment and intangible assets**

Disposal of non-current assets is accounted for as a reduction to the value of assets equal to the net book value of the assets disposed. When set against any sales proceeds, the resulting gain or loss on disposal will be recorded in the Statement of Comprehensive Net Expenditure.

### **h) Leasing**

#### **Operating leases**

Other leases are regarded as operating leases and the rentals are charged to expenditure on a straight-line basis over the term of the lease. Operating lease incentives received are added to the lease rentals and charged to expenditure over the life of the lease.

#### **Leases of land and buildings**

Where a lease is for land and buildings, the land component is separated from the building component and the classification for each is assessed separately. Leased land is treated as an operating lease unless title to the land is expected to transfer.

The Commission does not lease assets to others.

**i) General Fund Receivables and Payables**

Where the Commission has a positive net cash book balance at the year end, a corresponding payable is created and the general fund debited with the same amount to indicate that this cash is repayable to the SGMWASCD. Where the Commission has a net overdrawn cash position at the year end, a corresponding receivable is created and the general fund credited with the same amount to indicate that additional cash is to be drawn down from the SGMWASCD.

**j) Inventories**

Inventories of consumables are not material, are not carried on the Statement of Financial Position and have not been valued.

**k) Losses and Special Payments**

Operating expenditure includes certain losses which would have been made good through insurance cover had the Commission not been bearing its own risks. Had the Commission provided insurance cover, the insurance premiums would have been included as normal revenue expenditure.

**l) Employee Benefits**

**Short-term Employee Benefits**

Salaries, wages and employment-related payments are recognised in the year in which the service is received from employees. The cost of annual leave earned but not taken by employees at the end of the year is recognised in the financial statements to the extent that employees are permitted to carry-forward leave into the following year.

**Pension Costs**

The Commission participates in the NHS Superannuation Scheme (Scotland). This scheme is an unfunded statutory pension scheme with benefits underwritten by the UK Government. The scheme is financed by payments from employers and those current employees who are members of the scheme and paying contributions at progressively higher marginal rates based on pensionable pay as specified in the regulations. The Commission is unable to identify its share of the underlying notional assets and liabilities of the scheme on a consistent and reasonable basis and therefore accounts for the scheme as if it were defined contribution scheme, as required by IAS 19 'Employee Benefits'. As a result, the amount charged to the Statement of Comprehensive Net Expenditure represents the Commission's employer contributions payable to the scheme in respect of the year. The contributions deducted from employees are reflected in the gross salaries charged and are similarly remitted to the Exchequer. The pension cost is assessed every four years by the Government Actuary and this valuation determines the rate of contributions required. The most recent actuarial valuation is published by the Scottish Public Pensions Agency and is available on their website.

Additional pension liabilities arising from early retirements are not funded by the scheme except where the retirement is due to ill-health. The full amount of the liability for the additional

costs is charged to the Statement of Comprehensive Net Expenditure at the time the Commission commits itself to the retirement, regardless of the method of payment.

**m) Clinical and Medical Negligence Costs**

Employing health bodies in Scotland are responsible for meeting medical negligence costs up to a threshold per claim. Costs above this threshold are reimbursed to Boards from a central fund held as part of the Clinical Negligence and Other Risks Indemnity Scheme (CNORIS) by the Scottish Government. The Commission participates in this scheme however medical staff do not operate in clinical environment and the risk of clinical negligence are therefore minimal.

**n) Related Party Transactions**

Material related party transactions are disclosed in line with the requirements of IAS 24 in note 19. Transactions with health bodies e.g. sharing administration costs or with individuals are disclosed if material.

**o) Value Added Tax**

The Mental Welfare Commission for Scotland was separately registered for VAT on 1<sup>st</sup> April 2016 (Registration Number 654463916) (2016: part of the Scottish Government VAT Group (Registration Number 888842551 (GD425))). The Commission remains able to reclaim input VAT under the Customs and Excise Contracting Out Direction published in the Edinburgh Gazette dated 10 January 2003.

**p) Provisions**

The Commission provides for legal or constructive obligations that are of uncertain timing or amount at the Statement of Financial Position date on the basis of the best estimate of the expenditure required to settle the obligation. Where the effect of the time value of money is significant, the estimated cash flows are discounted using the discount rate prescribed by HM Treasury.

**q) Contingencies**

Contingent assets (that is, assets arising from past events whose existence will only be confirmed by one or more future events not wholly within the Commission's control) are not recognised as assets, but are disclosed in note 11 where an inflow of economic benefits is probable.

Contingent liabilities are not recognised, but are disclosed in note 11, unless the probability of a transfer of economic benefits is remote. Contingent liabilities are defined as:

- possible obligations arising from past events whose existence will be confirmed only by the occurrence of one or more uncertain future events not wholly within the entity's control; or
- present obligations arising from past events but for which it is not probable that a transfer of economic benefits will arise or for which the amount of the obligation cannot be measured with sufficient reliability.

**r) Corresponding Amounts**

Corresponding amounts are shown for the primary statements and notes to the financial statements. Where the corresponding amounts are not directly comparable with the amount to be shown in respect of the current financial year, IAS 1 'Presentation of Financial Statements' requires that they should be adjusted and the basis for adjustment disclosed in a note to the financial statements.

**s) Financial Instruments**

**Financial assets**

**Classification**

The Commission classifies its financial assets in the following categories: at fair value through profit or loss, loans and receivables, and available for sale. The classification depends on the purpose for which the financial assets were acquired. Management determines the classification of its financial assets at initial recognition.

**(a) Financial assets at fair value through profit or loss**

Financial assets at fair value through profit or loss comprise derivatives. Assets in this category are classified as current assets. The Commission does not trade in derivatives and does not apply hedge accounting.

**(b) Loans and receivables**

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. They are included in current assets, except for maturities greater than 12 months after the Statement of Financial Position date. These are classified as non-current assets. Loans and receivables comprise trade and other receivables and cash at bank and in hand in the Statement of Financial Position.

**Recognition and measurement**

Financial assets are recognised when the Commission becomes party to the contractual provisions of the financial instrument.

Financial assets are derecognised when the rights to receive cash flows from the asset have expired or have been transferred and the Commission has transferred substantially all risks and rewards of ownership.

**(a) Financial assets at fair value through profit or loss**

Financial assets carried at fair value through profit or loss are initially recognised at fair value, and transaction costs are expensed in the Statement of Comprehensive Net Expenditure.

Financial assets carried at fair value through profit or loss are subsequently measured at fair value. Gains or losses arising from changes in the fair value are presented in the Statement of Comprehensive Net Expenditure.

**(b) Loans and receivables**

Loans and receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment. A provision for impairment of loans and receivables is established when there is objective evidence that the Commission will not be able to collect all amounts due according to the original terms of

the receivables. Significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy or financial reorganisation, and default or delinquency in payments (more than 30 days overdue) are considered indicators that the loan and receivable is impaired. The amount of the provision is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the original effective interest rate. The carrying amount of the asset is reduced through the use of an allowance account, and the amount of the loss is recognised in the Statement of Comprehensive Net Expenditure. When a loan or receivable is uncollectible, it is written off against the allowance account. Subsequent recoveries of amounts previously written off are credited in the Statement of Comprehensive Net Expenditure.

## **Financial Liabilities**

### **Classification**

The Commission classifies its financial liabilities in the following categories: at fair value through profit or loss, and other financial liabilities. The classification depends on the purpose for which the financial liabilities were issued. Management determines the classification of its financial liabilities at initial recognition.

#### **(a) Financial liabilities at fair value through profit or loss**

Financial liabilities at fair value through profit or loss comprise derivatives. Liabilities in this category are classified as current liabilities. The Commission does not trade in derivatives and does not apply hedge accounting.

#### **(b) Other financial liabilities**

Other financial liabilities are included in current liabilities, except for maturities greater than 12 months after the Statement of Financial Position date. These are classified as non-current liabilities. The Commission's other financial liabilities comprise trade and other payables in the Statement of Financial Position.

### **Recognition and measurement**

Financial liabilities are recognised when the Commission becomes party to the contractual provisions of the financial instrument.

A financial liability is removed from the Statement of Financial Position when it is extinguished, that is when the obligation is discharged, cancelled or expired.

#### **(a) Financial liabilities at fair value through profit or loss**

Financial liabilities carried at fair value through profit or loss are initially recognised at fair value, and transaction costs are expensed in the income statement.

Financial liabilities carried at fair value through profit or loss are subsequently measured at fair value. Gains or losses arising from changes in the fair value are presented in the Statement of Comprehensive Net Expenditure.

#### **(b) Other financial liabilities**

Other financial liabilities are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method.

**t) Segmental reporting**

Operating segments are reported in a manner consistent with the internal reporting provided to the chief operating decision-maker, who is responsible for allocating resources and assessing performance of the operating segments. This has been identified as the Board within the Commission.

Operating segments are unlikely to directly relate to the analysis of expenditure shown in note 4.

**u) Cash and cash equivalents**

Cash and cash equivalents, includes cash in hand and deposits held at call with banks. Bank overdrafts are shown within borrowings in current liabilities on the Statement of Financial Position.

**v) Key sources of judgement and estimation uncertainty**

Estimates and judgements are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances.

The financial statements include an estimate of the exit liabilities relating to the lease held on the office space used by the National Confidential Forum until 31<sup>st</sup> March 2021. The provision relating to this potential liability at 31<sup>st</sup> March 2022 is as follows:

	<b>2022</b>	<b>2021</b>
	<b>£000's</b>	<b>£000's</b>
Rent	0	43
Dilapidations	41	50
<b>Total</b>	<b>41</b>	<b>93</b>

We anticipate that this liability will be fully resolved in the financial year to 31<sup>st</sup> March 2023.

2 a) Summary of Resource Outturn

Summary of Resource Outturn	Note	£'000	£'000
<b>Net Expenditure</b>	SOCNE		4,492
Total Non Core Expenditure *			(58)
<b>Total Core Expenditure</b>			4,434
Core Revenue Resource Limit			4,529
<b>Saving/ (excess) against Core Revenue Resource Limit</b>			95

\* Depreciation

Summary of Resource Outturn	Resource	Expenditure	Saving/ (Excess)
Core	4,529	4,434	95
Non Core	58	58	-
<b>Total</b>	<b>4,587</b>	<b>4,492</b>	<b>95</b>

2 b) Notes to the Cash Flow Statement

a) Consolidated adjustments for non-cash transactions

2021 £'000	Note	2022 £'000
<b>Expenditure not paid in cash</b>		
58 Depreciation	6	58
<b>58 Total expenditure not paid in cash</b>	<b>CFS</b>	<b>58</b>



b) Consolidated movements in working capital

2021 Net Movement £'000	Note	2022 Opening Balances £'000	2022 Closing Balances £'000	2022 Net Movement £'000
<b>TRADE AND OTHER RECEIVABLES</b>				
2 Due within one year	7	32	29	
		<u>32</u>	<u>29</u>	
<b>6 Net Decrease/(Increase)</b>				<b>3</b>
<b>TRADE AND OTHER PAYABLES</b>				
48 Due within one year	9	324	365	
Less: General Fund Creditor - included in above	9	(5)	(5)	
		<u>319</u>	<u>360</u>	
<b>48 Net (Decrease)/Increase</b>				<b>41</b>
<b>PROVISIONS</b>				
(15) Balance Sheet		126	74	
<b>(15) Net (Decrease)/Increase</b>		<b>126</b>	<b>74</b>	<b>(52)</b>
<b>NET MOVEMENT</b>				
<b>35 (Decrease)/Increase</b>				<b>(8)</b>

3) Operating Expenses

a) Staff Costs

2021 Total £'000	Note	2022 Total £'000
683 Board and Executive		581
1200 Practitioner staff Costs		1327
1051 Casework Administration and Corporate Services		1091
332 Second Opinion Doctors Fees		416
297 NCF: Head and Members		12
0 IMP : Administration staff		146
160 DIDAHR : Administration Staff		237
<b>3,723 Total</b>	<b>SOCNE</b>	<b>3,810</b>

Further detail and analysis of staff costs can be found in the Remuneration and Staff Report, forming part of the Accountability Report.

b) Other Operating Expenditure

31 March 2021 £'000		31 March 2022 £'000
21	Travel and Subsistence	57
193	Accommodation Costs	175
58	Depreciation / Amortisation	58
202	Computer Equipment and Supplies	196
89	Office administration costs	59
42	Human Resources	33
54	Communications	15
86	Legal and Professional	51
67	Good Practice Projects	30
21	NCF Closure Provision	(9)
<b>833</b>	<b>Total</b>	<b>665</b>
31 March 2021 £'000		31 March 2022 £'000
	<b>Other health care expenditure</b>	
	External auditor's remuneration	
17	- Statutory audit fee	17
<b>17</b>	<b>Total</b>	<b>17</b>
<b>4,573</b>	<b>Total</b>	<b>4,492</b>

4) Segmental Information

Segmental information as required under IFRS has been reported based on Financial Information used by Management to operate the Commission.

	2021/22					2020/21			
	MWC	NCF	DIDR	IMP	Total	MWC	NCF	DIDR	Total
	£'000	£'000	£'000	£'000	£'000	£'000	£000	£000	£000
<b>Net operating cost</b>	<b>3,974</b>	<b>38</b>	<b>257</b>	<b>165</b>	<b>4,434</b>	<b>3,788</b>	<b>535</b>	<b>192</b>	<b>4,515</b>
Depreciation and amortisation	58	-	-		58	58	-	-	58

The Commission considers that the Board is the Chief Operating decision maker as it is the highest level of authority within the Commission.

Three segments have been reported as follows;

- 1) The Executive Leadership Team (ELT) is presented with monthly segment accounts for the 'Core' operations of the Commission.
- 2) The National Confidential Forum for Scotland (NCF) was a Committee of the Commission and operated independently, led by a Forum Head until its cessation in 2021.
- 3) The Reviews of Deaths in Detention and Homicides.
- 4) The project to replace the Commission's core patient database

The following financial results for the year were presented to the May 2022 Management Groups:

<b>Current year - 2021/22</b>	<b>MWC 'Core'</b>	<b>NCF</b>	<b>DIDAHR</b>	<b>IMP</b>	<b>Total</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Reported to ELT 24.05.22	4,027	47	252	165	4,492
Late adjustments	5	(9)	4	-	-
Per Annual Accounts	<u>4,032</u>	<u>38</u>	<u>256</u>	<u>165</u>	<u>4,492</u>

<b>Prior year - 2020/21</b>	<b>MWC 'Core'</b>	<b>NCF</b>	<b>DIDAHR</b>	<b>Total</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Reported to OMG 18.05.21	3,799	514	192	4,505
Late adjustments	47	21	-	68
Per Annual Accounts	<u>3,846</u>	<u>535</u>	<u>191</u>	<u>4,573</u>

### 5a) Intangible Assets

	<b>Software Licences</b>	<b>Information Technology</b>	<b>Other Intangible</b>	<b>Total</b>
<b>Cost or Valuation:</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
At 1 April 2021	4	120	0	124
<b>At 31 March 2022</b>	<u><b>4</b></u>	<u><b>120</b></u>	<u><b>0</b></u>	<u><b>124</b></u>
<b>Amortisation</b>				
At 1 April 2021	4	120	0	124
Provided during the year	-	-	-	-
<b>At 31 March 2022</b>	<u><b>4</b></u>	<u><b>120</b></u>	<u><b>0</b></u>	<u><b>124</b></u>
<b>Net Book Value at 1 April 2021</b>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<b>Net Book Value at 31 March 2022</b>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

5a) Intangible Assets (Prior Year)	Software Licences	Information Technology	Other Intangible	Total
	£'000	£'000	£'000	£'000
<b>Cost or Valuation:</b>	<b>14</b>	<b>796</b>	<b>13</b>	<b>823</b>
As at 1 April 2020				
Assets written off	(10)	(676)	(13)	(699)
<b>At 31 March 2021</b>	<b>4</b>	<b>120</b>	<b>0</b>	<b>124</b>
<b>Amortisation</b>				
At 1 April 2020	14	796	13	823
Provided during the year	-	-	-	-
Amortisation on assets written off	(10)	(676)	(13)	(699)
<b>At 31 March 2021</b>	<b>4</b>	<b>120</b>	<b>0</b>	<b>124</b>
<b>Net Book Value at 1 April 2020</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Net Book Value at 31 March 2021</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

**6a) Property, Plant and Equipment (Purchased Assets)**

Year ended 31 March 2022	Buildings (excluding dwellings) £'000	Information Technology £'000	Total £'000
<b>Cost or valuation</b>			
At 1 April 2021	362	-	362
Assets written off	-	-	-
<b>At 31 March 2022</b>	<b>362</b>	<b>-</b>	<b>362</b>
<b>Depreciation</b>			
At 1 April 2021	190	-	190
Provided during the year	58	-	58
Depreciation written off	-	-	-
<b>At 31 March 2022</b>	<b>248</b>	<b>-</b>	<b>248</b>
<b>Net book value at 1 April 2021</b>	<b>172</b>	<b>-</b>	<b>172</b>
<b>Net book value at 31 March 2022</b>	<b>114</b>	<b>-</b>	<b>114</b>
<b>Asset Financing</b>			
Owned	114	-	114
<b>Net Book value at 31 March 2022</b>	<b>114</b>	<b>-</b>	<b>114</b>

**6a) Property, Plant and Equipment (Purchased Assets)**

Year ended 31 March 2021	Buildings (excluding dwellings) £'000	Information Technology £'000	Total £'000
<b>Cost or valuation</b>			
At 1 April 2020	620	205	825
Assets written off	(258)	(205)	(463)
<b>At 31 March 2021</b>	<b>362</b>	<b>-</b>	<b>362</b>
<b>Depreciation</b>			
At 1 April 2020	390	205	595
Provided during the year	58	-	58
Depreciation written off	(258)	(205)	(463)
<b>At 31 March 2021</b>	<b>190</b>	<b>-</b>	<b>190</b>
<b>Net book value at 1 April 2020</b>	<b>230</b>	<b>-</b>	<b>230</b>
<b>Net book value at 31 March 2021</b>	<b>172</b>	<b>-</b>	<b>172</b>
<b>Asset Financing</b>			
Owned	172	-	172
<b>Net Book value at 31 March 2021</b>	<b>172</b>	<b>-</b>	<b>172</b>

**6b) Donated Assets**

All Property, Plant and Equipment is purchased and there are no donated assets (prior year: £nil).

**7) Trade and Other Receivables**

31 March 2021 £'000		31 March 2022 £'000
	<b>Receivables due within one year</b>	
32	Prepayments	29
<b>32</b>	<b>Total Receivables due within one year</b>	<b>29</b>
<b>32</b>	<b>TOTAL RECEIVABLES</b>	<b>29</b>
	<b>WGA Classification</b>	
32	Balances with bodies external to Government	29
<b>32</b>	<b>Total</b>	<b>29</b>

There is no provision for impairment of receivables (2020/21: £nil)

There are no receivables assessed as individually impaired.

Receivables that are less than three months past their due date are not considered impaired. As at 31 March 2022, receivables of carrying value of £nil (2020/21: £nil) were past their due date but not impaired.

The credit quality of receivables that are neither past due nor impaired is assessed by reference to external credit ratings where available. Where no external credit rating is available, historical information about counterparty default rates is used.

The maximum exposure to credit risk is the fair value of each class of receivable. The Commission does not hold any collateral as security.

<b>31 March 2021 £'000</b>		<b>31 March 2022 £'000</b>
	The carrying amount of receivables are denominated in the following currencies:	
32	Pounds	29
<u>32</u>		<u>29</u>

## 8) Cash and Cash Equivalents

	<b>Note</b>	<b>2022 £000</b>	<b>2021 £000</b>
Balance at 1 April		6	12
Net change in cash and cash equivalent balances	CFS	1	(6)
<b>Balance at 31 March</b>	<b>SoFP</b>	<b>7</b>	<b>6</b>
Overdrafts		0	0
<b>Total Cash - Cash Flow Statement</b>		<u><b>7</b></u>	<u><b>6</b></u>

The following balances at 31 March were held at:

Commercial banks and cash in hand	7	6
<b>Balance at 31 March</b>	<u><b>7</b></u>	<u><b>6</b></u>

Cash at bank is with a major UK bank. The credit risk associated with cash at bank is considered to be low.

9) Trade and Other Payables

31 March 2021 £'000	31 March 2022 £'000
<b>Payables due within one year NHS Scotland</b>	
0 Boards	7
<b>0 Total NHS Scotland Payables</b>	<b>7</b>
5 General Fund Payable	5
24 Trade Payables	1
290 Accruals	347
5 Income tax and social security	5
<b>324 Total Payables due within one year</b>	<b>358</b>
<b>324 TOTAL PAYABLES</b>	<b>365</b>
<b>WGA Classification</b>	
0 NHS Scotland	7
41 Central Government Bodies	50
0 Whole of Government Bodies	0
283 Balances with bodies external to Government	308
<b>324 Total</b>	<b>365</b>

There are no borrowings in either 2021/22 or 2020/21

The carrying value of short term payables approximates their fair value. The carrying amount of payables is denominated in the following currencies;

31 March 2021 £'000	31 March 2022 £'000
324 Pounds	365
<b>324</b>	<b>365</b>

10) Provisions	Participation in CNORIS £'000	Other provisions £'000	2022 Total £'000
At 1 April 2021	34	92	126
Arising during the year	-	(51)	(51)
<b>At 31 March 2022</b>	<b>34</b>	<b>41</b>	<b>74</b>

**Analysis of expected timing of  
discounted flows to 31 March  
2022**

	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Payable in one year	8	41	49
Payable between 2 - 5 years	21	0	21
Payable between 6 - 10 years	2	0	2
Thereafter	3	0	3
<b>At 31 March 2022</b>	<b>34</b>	<b>41</b>	<b>74</b>

**Participation in CNORIS**

The Commission holds a provision for its share of CNORIS liability for NHS Scotland and the charge for 2021/22 is £34,000 (2020/21: £34,000)

**Other**

A provision has been created in respect of the costs associated with the cessation of the National Confidential Forum.

<b>10 (a) Provisions Prior Year</b>	<b>Participation in CNORIS £'000</b>	<b>Other provisions £'000</b>	<b>2020 Total £'000</b>
At 1 April 2020	34	107	141
Arising during the year	-	(15)	(15)
<b>At 31 March 2021</b>	<b>34</b>	<b>92</b>	<b>126</b>

**Analysis of expected timing of  
discounted flows to 31 March  
2021**

	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Payable in one year	0	92	92
Payable between 2 - 5 years	0	0	0
Payable between 6 - 10 years	0	0	0
Thereafter	34	0	34
<b>At 31 March 2021</b>	<b>34</b>	<b>92</b>	<b>126</b>



**10b) Clinical Negligence and Other Risks Indemnity Scheme (CNORIS)**

<b>2021</b>	<b>Note</b>	<b>2022</b>
<b>£000</b>		<b>£000</b>
0		0
0		0
34		34
<b>34</b>		<b>34</b>

The Clinical Negligence and Other Risks Scheme (CNORIS) has been in operation since 2000. Participation in the scheme is mandatory for all NHS boards in Scotland. The scheme allows for risk pooling of legal claims in relation to clinical negligence and other risks and works in a similar manner to an insurance scheme. CNORIS has an agreed threshold of £25k and any claims with a value less than this are met directly from within boards' own budgets. Participants e.g. NHS boards contribute to the CNORIS pool each financial year at a pre-agreed contribution rate based on the risks associated with their individual NHS board. If a claim is settled the board will be reimbursed by the scheme for the value of the settlement, less a £25k "excess" fee. The scheme allows for the risk associated with any large or late in the financial year legal claims to be managed and reduces the level of volatility that individual boards are exposed to.

When a legal claim is made against an individual board, the board will assess whether a provision or contingent liability for that legal claim is required. If a provision is required then the board will also create an associated receivable recognising reimbursement from the scheme if the legal claim settles. The receivable is netted off against the provision to reflect reimbursement from the scheme.

As a result of participation in the scheme, boards also recognise that they will be required to make contributions to the scheme in future years. Therefore a second provision that recognises the board's share of the total CNORIS liability of NHS Scotland has been made and this is reflected in the table above.

Therefore there are two related but distinct provisions required as a result of participation in the scheme. Both of these provisions as well as the associated receivable have been shown in the note above to aid the reader's understanding of CNORIS.

Further information on the scheme can be found at: <http://www.clo.scot.nhs.uk/our-services/cnoris.aspx>

**11) Contingent Assets and Liabilities**

There are no Contingent Assets or Liabilities that have not been provided for in the accounts (2020/21: £nil).

## 12) Events after the end of the reporting year

There were no other events after the reporting period which have a material effect on the accounts.

## 13) Commitments

The Commission has no Capital Commitments as at 31 March 2022 (2020/21: £nil).

### Other financial commitments

The Commission has entered into non-cancellable contracts (which are not leases or PFI contracts), for the provision of professional support and software support services.

The payments to which the Commission is committed during 2021/22 analysed by the period during which the commitments expire are as follows:

	<b>31 March 2022</b>	<b>31 March 2021</b>
	<b>£'000</b>	<b>£'000</b>
Expiry within 1 year	51	49
Expiry within 2 to 5 years	4	55
Total	<u>55</u>	<u>104</u>

The Commission has not entered into any Financial Guarantees, Indemnities or provided any letters of Comfort.

## 14) Commitments under Leases

### Operating Leases

Total future minimum lease payments under operating leases are given the in the table below for the each of the following periods:

<b>31 March 2021</b>		<b>31 March 2022</b>
<b>£'000</b>	<b>Operating Leases</b>	<b>£'000</b>
	Total future minimum lease payments under operating leases are given the in the table below for the each of the following periods.	
	<b>Obligations under operating leases comprise:</b>	
	<b>Land</b>	
19	Not later than one year	15
15	Later than one year, not later than two years	15
14	Later than two years not later than five years	-
	<b>Buildings</b>	
169	Not later than one year	141
138	Later than one year, not later than two years	132
129	Later than two years not later than five years	-

	<b>Other</b>	
2	Not later than one year	2
-	Later than one year, not later than two years	1
-	Later than two years not later than five years	1
	<b>Amounts charged to Operating Costs in the year were:</b>	
4	Hire of equipment (including vehicles)	3
181	Other operating leases	194
<b>185</b>	<b>Total</b>	<b>197</b>

There are no contingent rents or Finance Leases.

### 15) Pension Costs

The Commission participates in the NHS Pension Scheme (Scotland). The scheme is an unfunded statutory public service pension scheme with benefits underwritten by the UK Government. The scheme is financed by payments from employers and from those current employees who are members of the scheme and paying contributions at progressively higher marginal rates based on pensionable pay, as specified in the regulations. The rate of employer contributions is set with reference to a funding valuation undertaken by the scheme actuary. The last four-yearly valuation was undertaken as at 31 March 2016. This valuation informed an employer contribution rate from 1 April 2019 of 20.9% of pensionable pay and an anticipated yield of 9.6% employees' contributions.

The Commission has no liability for other employers' obligations to the multi-employer scheme.

As the scheme is unfunded there can be no deficit or surplus to distribute on the wind-up of the scheme or withdrawal from the scheme.

The scheme is an unfunded multi-employer defined benefit scheme.

It is accepted that the scheme can be treated for accounting purposes as a defined contribution scheme in circumstances where the Commission is unable to identify its share of the underlying assets and liabilities of the scheme.

The employer contribution rate for the period from 1 April 2021 is 20.9% of pensionable pay. The employee rate applied is variable and is anticipated to provide a yield of 9.6% of pensionable pay.

While a valuation was carried out as at 31 March 2016, work on the cost cap valuation was suspended by the UK Government following the decision by the Court of Appeal (McCloud (Judiciary scheme)/Sargeant (Firefighters' Scheme) cases) that the transitional protections provided as part of the 2015 reforms unlawfully discriminated on the grounds of age. Following consultation and an announcement in February 2021 on proposals to remedy the discrimination, the UK Government confirmed that the cost control element of the 2016 valuations could be completed. The UK Government has also asked the Government Actuary to review whether, and to what extent, the cost control mechanism is meeting its original objectives. The 2020 actuarial valuations will take the report's findings into account. The interim report is complete (restricted) and is currently being finalised with a consultation. Alongside these announcements, the UK Government confirmed that current employer contribution rates would stay in force until 1 April 2024.

The Commission's level of participation in the scheme is 0.033% based on the proportion of employer contributions paid in 2020-21.

**The new NHS Pension Scheme (Scotland) 2015**

From 1 April 2015 the NHS Pension Scheme (Scotland) 2015 was introduced. This scheme is a Career Average Re-valued Earnings (CARE) scheme. Members will accrue 1/54 of their pay as pension for each year they are a member of the scheme. The accrued pension is re-valued each year at an above inflation rate to maintain its buying power. This is currently 1.5% above increases to the Consumer Prices Index (CPI). This continues until the member leaves the scheme or retires. In 2021-22 members paid tiered contribution rates ranging from 5.2% to 14.7% of pensionable earnings. The normal pension age (NPA) is the same as the State Pension age. Members can take their benefits earlier but there will be a deduction for early payment.

**The existing NHS Superannuation Scheme (Scotland)**

This scheme closed to new joiners on 31 March 2015 but any benefits earned in either NHS 1995 or NHS 2008 sections are protected and will be paid at the section's normal pension age using final pensionable pay when members leave or retire. Some members who were close to retirement when the NHS 2015 scheme launched will continue to earn benefits in their current section. This may affect members who were paying into the scheme on 1 April 2012 and were within 10 years of their normal retirement age. Some members who were close to retirement but did not qualify for full protection will remain in their current section beyond 1 April 2015 and join the 2015 scheme at a later date.

All other members automatically joined the NHS 2015 scheme on 1 April 2015.

Further information is available on the Scottish Public Pensions Agency (SPPA) web site at [www.sppa.gov.uk](http://www.sppa.gov.uk).

**16) Financial Instruments**

**(a) Financial Instruments by category**

<b>2021 Total £'000</b>	<b>AT 31 March Assets per Statement of Financial Position</b>	<b>Note</b>	<b>Loans and Receivables £'000</b>	<b>2022 Total £'000</b>
6	Cash and cash equivalents	8	7	7
<b>6</b>			<b>7</b>	<b>7</b>

<b>2021 Total £'000</b>	<b>AT 31 March</b>	<b>Note</b>	<b>Other financial liabilities £'000</b>	<b>2022 Total £'000</b>
	<b>Liabilities per Statement of Financial Position</b>			
	Trade and other payables excluding statutory liabilities (VAT and income tax and social security)	9	348	348
<b>314</b>			<b>348</b>	<b>348</b>

### **Exposure to Risk**

The Commission's activities expose it to a variety of risks:

Credit risk - the possibility that other parties might fail to pay amounts due.

Liquidity risk – the possibility that the Commission might not have funds available to meet its commitments to make payments.

Market risk – the possibility that financial loss might arise as a result of changes in such measures as interest rates, stock market movements or foreign exchange rates.

Because of the largely non-trading nature of its activities and the way in which health bodies are financed, the Commission is not exposed to the degree of financial risk faced by business entities.

### **Financial Risk Factors**

**Risk Management policies:** The Commission provides written principles for overall risk management, as well as written policies covering standing financial Instructions and Financial Operating procedures.

#### **(a) Credit Risk**

Credit risk arises from cash and cash equivalents, deposits with banks and other institutions, as well as credit exposures to customers, including outstanding receivables and committed transactions.

For banks and other institutions, only independently rated parties with a minimum rating of 'A' are accepted.

Customers are assessed, taking into account their financial position, past experience and other factors, with individual credit limits being set in accordance with internal ratings in accordance with parameters set by the Commission.

No losses are expected from non-performance by any counterparties in relation to deposits.

**(b) Liquidity Risk**

The Scottish Parliament makes provision for the use of resources by the Commission for revenue and capital purposes in a Budget Act for each financial year. Resources and accruing resources may be used only for the purposes specified and up to the amounts specified in the Budget Act. The Act also specifies an overall cash authorisation to operate for the financial Year. The Commission is not therefore exposed to significant liquidity risks.

The table below analyses the financial liabilities into relevant maturity groupings based on the remaining period at the Statement of Financial Position to contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows. Balances due within 12 months equal their carrying balances as the impact of discounting is not significant.

<b>31 March 2022</b>	<b>Less than 1 year £'000</b>
Trade and other payables excluding statutory liabilities	348
<b>Total</b>	<b>348</b>

<b>31 March 2021</b>	<b>Less than 1 year £'000</b>
Trade and other payables excluding statutory liabilities	314
<b>Total</b>	<b>314</b>

**(c) Market Risk**

The Commission has no powers to borrow or invest surplus funds. Financial assets and liabilities are generated by day-to-day operational activities and are not held to manage the risks facing the Commission in undertaking its activities.

**Cash flow and fair value interest rate risk**

The Commission has no significant interest bearing assets or liabilities and as such income and expenditure cash flows are substantially independent of changes in market interest rates.

**Foreign Currency Risk**

The Commission is not exposed to foreign exchange rates.

**Price risk**

The Commission is not exposed to equity security price risk.

The carrying value less impairment provision of trade receivables and payables are assumed to approximate their fair value.

The fair value of financial liabilities for disclosure purposes is estimated by discounting the future contractual cash flows at the current HM Treasury interest rate that is available for similar financial instruments.

## **17) Related Party Transactions**

The Commission has not entered into any material transactions with other Government departments and other Central Government organisations.

The Scottish Government provides the majority of the Commission's funding and prescribes the terms of many of the transactions that the Commission has with other parties (e.g. payment policy)

No Board Member, key manager or other related party has undertaken any material transaction with the Commission during the year.

Remuneration paid to Board and Executive Team members is given in the Remuneration Report on pages 24 to 30.

## Direction by the Scottish Ministers



### MENTAL WELFARE COMMISSION FOR SCOTLAND

#### DIRECTION BY THE SCOTTISH MINISTERS

1. The Scottish Ministers, in pursuance of sections 86(1), (1B) and (3) of the National Health Service (Scotland) Act 1978, as applied by Schedule 1 paragraph 9(c) of the Mental Health (Care and Treatment) (Scotland) Act 2003, hereby give the following direction.
2. The statement of accounts for the financial year ended 31 March 2006, and subsequent years, shall comply with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual (FRM) which is in force for the year for which the statement of accounts are prepared.
3. Subject to the foregoing requirements, the accounts shall also comply with any accounts format, disclosure and accounting requirements issued by the Scottish Ministers from time to time.
4. The accounts shall be prepared so as to give a true and fair view of the income and expenditure and cash flows for the financial year, and of the state of affairs as at the end of the financial year.
5. This direction shall be reproduced as an appendix to the statement of accounts. The direction given on 30 December 2002 is hereby revoked.

  
Signed by the authority of the Scottish Ministers

Dated 10/2/2006