



**Mental Welfare
Commission for Scotland**

**External Audit Annual Report
2012/13 to the Board and the
Auditor General for Scotland**

June 2013



Scott-Moncrieff
business advisers and accountants



Mental Welfare Commission for Scotland

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Executive summary

Financial statements

The Mental Welfare Commission for Scotland's annual accounts are due to be approved by the Board on 25 June 2013. We expect to report within our independent auditor's report an unqualified opinion on the financial statements for the year ended 31 March 2013. We also expect to issue an unqualified opinion on the regularity of transactions.

We received draft annual accounts and supporting papers of a good standard, in line with our agreed audit timetable. We are pleased to report that the audit process ran smoothly, and our thanks go to the finance team for their assistance with our work.

Use of resources and performance

The Commission has met all of its key financial targets for 2012/13. The Commission reported a surplus of £49,000 against its RRL (£3.636million). This equates to an under-spend of 1.3% against its RRL.

The Commission has received notification from the Scottish Government that its resource budget for 2013/14 will be set at the same level as in 2012/13 (£3.6million). The Commission has forecast that its resource budget will be set at this level for the next three financial years.

The Commission has five key performance indicators which are monitored by the Board on a quarterly basis. For 2012/13, the Commission reported that it had achieved all of its annual performance targets.

Governance

Our work on the Commission's governance arrangements focussed on reviewing the arrangements to ensure effective systems are in place for internal control, prevention and detection of fraud and irregularity, standards of conduct and the prevention and detection of bribery and corruption. We are pleased to report that our audit identified no issues of concern in relation to the Commission's governance arrangements.

Looking Forward

The Chief Executive has announced his intention to retire in March 2014 and the Chief Medical Officer is due to leave during 2013. The Board is currently reviewing the executive team structure to ensure it meets the needs of the organisation and can adapt to any potential legislative changes.

The Victims and Witnesses (Scotland) Bill (introduced in the Scottish Parliament in February 2013) seeks to establish a National Confidential Forum (NCF) for adults placed in institutional forms of care as children. The functions of NCF are to be delegated to a Committee of the Mental Welfare Commission for Scotland. A Head of the Forum (NCF Head) is to be appointed who will be accountable to the Commission for the work of the Forum. The Forum will consist of the NCF Head and no fewer than two other members, all of whom are to be appointed by Scottish Ministers. It is envisaged that the NCF will be operational from 2014/15.

Conclusion

This report concludes our audit of the Mental Welfare Commission for Scotland for 2012/13. We have performed our audit in accordance with the Code of Audit Practice published by Audit Scotland, International Standards on Auditing (UK and Ireland) and Ethical Standards.

This report has been agreed with the Acting Head of Corporate Services and Finance Manager and we would like to thank all management and staff for their co-operation and assistance during our audit.

Scott-Moncrieff
June 2013

Introduction

1. This report summarises the findings from our 2012/13 audit of the Mental Welfare Commission for Scotland (the Commission). The scope of our audit was set out in our External Audit Plan, which was presented to the Audit Committee at the outset of our audit.
2. The main elements of our audit work in 2012/13 have been:
 - An audit of the financial statements, including a review of the Governance Statement; and
 - A review of governance arrangements, internal controls and financial systems.
3. In addition to this annual report, we have issued the following reports during 2012/13:
 - External audit plan
 - Interim management report

The key issues from these outputs are summarised in this annual report.

4. As part of our audit, we have also made use of the work of other inspection bodies including the Commission's internal audit service and Audit Scotland's Public Reporting Group.
5. This report is addressed to both members of the Board and to the Auditor General for Scotland and will be published on Audit Scotland's website, www.audit-scotland.gov.uk.

Financial statements

Introduction

6. The annual financial statements are the principal means of accounting for the stewardship of the resources made available to the Commission. In this section we summarise the issues arising from our audit of the 2012/13 financial statements.

Overall conclusion

An unqualified audit opinion on the financial statements

7. The Commission's annual accounts are due to be approved by the Board on 25 June 2013. We expect to report, within our independent auditor's report, an unqualified opinion on the financial statements for the year ended 31 March 2013.
8. The information given in the Operating and Financial Review and Directors' Report for the financial year for which the financial statements are prepared is consistent with the financial statements. In addition, the part of the Remuneration Report to be audited has been properly prepared in accordance with applicable legislation and directions made thereunder by Scottish Ministers.
9. We are also satisfied that the Governance Statement complies with guidance from Scottish Ministers.

An unqualified audit opinion on regularity

10. The Public Finance and Accountability (Scotland) Act 2000 imposes a responsibility on auditors to certify that, in all material respects, the expenditure and income shown in the financial statements was incurred or applied in accordance with applicable enactments and guidance issued by the Scottish Ministers. We expect to issue an unqualified opinion on the regularity of transactions.

Good administrative processes were in place

11. We received draft annual accounts and supporting papers of a good standard, in line with our agreed audit timetable. We are pleased to report that the audit process ran smoothly, and our thanks go to the finance team for their assistance with our work.
12. Arrangements are in place to enable the annual accounts to be submitted to the Scottish Government and the Auditor General for Scotland prior to the 30 June 2013 deadline.

Board Members' responsibilities

13. It is the responsibility of the Board and the Chief Executive, as Accountable Officer, to prepare the financial statements in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder. This means:
 - applying on a consistent basis the accounting policies and standards approved for NHS Scotland by Scottish Ministers;
 - making judgements and estimates that are reasonable and prudent;

- stating whether applicable accounting standards as set out in the Financial Reporting Manual (FReM) have been followed, subject to any material departures disclosed and explained in the financial statements; and
- preparing the accounts on a going concern basis unless it is inappropriate to presume that the Board will continue to operate.

14. 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 for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Auditor responsibilities

15. We audit the financial statements and the part of the Remuneration Report to be audited and give an opinion on:

- whether they give a true and fair view of the financial position of the Commission and its net operating cost for the year then ended;
- whether they were prepared properly in accordance with relevant legislation, applicable accounting standards and other reporting requirements;
- whether the part of the Remuneration Report to be audited has been properly prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers;
- whether the information given in the Operating and Financial Review and Directors' Report for the financial year for which the financial statements are prepared is consistent with the financial statements; and
- whether expenditure and income has been incurred and applied in accordance with guidance from Scottish Ministers (the regularity opinion).

16. We also report by exception as to whether the governance statement does not comply with guidance from Scottish Ministers. In arriving at our opinion we:

- consider the adequacy of the process put in place by the Chief Executive as Accountable Officer to obtain assurances on systems of internal control; and
- assess whether disclosures in the statement are consistent with our knowledge of the Commission.

Independence

17. International Standard on Auditing (UK & Ireland) 260, "communication with those charged with governance" requires us to communicate on a timely basis all facts and matters that may have a bearing on our independence. We can confirm that we have complied with the APB's Ethical Standard 1 – Integrity, Objectivity and Independence. In our professional judgement the audit process has been independent and our objectivity has not been compromised.

Internal Audit

18. Internal audit is a key component of the Commission's corporate governance arrangements. The Commission's internal audit service for 2012/13 was provided by KPMG. This was the first year of their appointment.
19. In accordance with ISA 610 – Considering the work of internal audit, *“the external auditor should perform an assessment of the internal audit function when internal auditing is relevant to the external auditor's risk assessment.”* Overall we concluded that KPMG provides a service which complies with Government Internal Audit Standards and is a service which we can place reliance on. To avoid duplication of effort and to ensure an efficient audit process we have made use of internal audit work where appropriate. We are grateful to the internal audit team for their assistance during the course of our audit work.

Key areas of audit focus and significant findings

20. We are required by International Auditing Standards to report to the Board the main issues arising from our audit of the financial statements. The most significant issues are noted below.

Lothian Pension Fund

21. The Commission participates in the Lothian Pension Fund, which is a local government pension scheme. The scheme is accounted for as a defined benefit pension scheme where the assets and liabilities can be separately identified each year by an actuary. As at 31st March 2013 the Commission reported a net pension liability of £61,000 on its balance sheet.
22. The net pension liability has decreased since 2011/12; from £106,000 as at 31 March 2012 to £61,000 as at 31 March 2013. The main reason for the decrease in the pension liability since 2011/12 is the increase in fair value of employer assets. At the 31 March 2013 the fair value of assets was £1.692 million in comparison to £1.632 million at 31 March 2012.

NHS Superannuation Scheme

23. The Commission also participates in the NHS Superannuation Scheme for Scotland. This is a defined benefit pension scheme, where contributions are credited to the Exchequer and are invested in a portfolio of Government securities. The Commission is unable to identify its share of the underlying assets and liabilities on a consistent and reasonable basis and therefore accounts for the scheme as if it were a defined contribution scheme. As a result, the amount charged to the statement of comprehensive net expenditure represents the Commission's contributions payable to the scheme in respect of the year.
24. The amount charged to expenditure each year in respect of this scheme equates to the Commission's annual contributions to the scheme which are based on a five yearly actuarial valuation. The most recent actuarial valuation was for the year 31 March 2004. Given that the Scheme ought to be subject to a full actuarial valuation every five years, we would have expected a more up to date valuation to have been reflected in the 2012/13 accounts. The periodic actuarial valuation is key to determining the adequacy of employer and employee contributions to the scheme.
25. In common with all NHS Boards in Scotland, the information in relation to the scheme, as disclosed in the Commission's accounts, is out of date. There is a risk that, as the level of contributions from employers

and employees have not been recently revised, there is uncertainty as to the adequacy of current contribution levels for meeting the future commitments of the pension scheme.

Going Concern

26. The Commission is reporting a 'net liability' position on its balance sheet (£163,000). In common with similar public bodies, the future financing of the Commission's liabilities will be met by grant funding from the Scottish Government. The approval of funding for 2013/14 has already been given and there is no reason to believe that future approvals will not be forthcoming. The Commission have accordingly considered it appropriate to adopt a going concern basis for the preparation of the 2012/13 financial statements.

Management override

27. Management is in a unique position to perpetrate fraud because of management's ability to manipulate accounting records and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. Although the level of risk of management override of controls will vary from entity to entity, the risk is nevertheless present in all entities. Due to the unpredictable way in which such override could occur, it is a risk of material misstatement due to fraud and therefore a significant risk.
28. We have reviewed the accounting records for significant transactions outside the normal course of business and have obtained, where applicable, supporting evidence to ensure that such transactions (if any) are valid and accounted for correctly.

Audit adjustments and unadjusted items

29. We did not identify any audit adjustments during our audit other than amendments to the disclosure notes. We identified one unadjusted item. It was agreed with the Finance Manager that this item was not considered material and therefore has not been adjusted for in the financial statements. This item has been referred to in the representation letter.

Management representations

30. We have requested that a signed representation letter, covering a number of issues, be presented to us at the date of signing the financial statements.

Qualitative aspects of accounting practices and financial reporting

31. During the course of our audit, we consider the qualitative aspect of the financial reporting process, including items that have a significant impact on the relevance, reliability, comparability, understandability and materiality of the information provided by the financial statements. The following observations have been made:

Qualitative aspect considered	Audit conclusion
The appropriateness of the accounting policies used.	We have reviewed the significant accounting policies, which are disclosed in the financial statements, and we consider these to be appropriate to the Commission.
The timing of the transactions and the period in which they are recorded.	We did not identify any significant transactions where we had concerns over the timing or the period in which they were recognised.
The appropriateness of the accounting estimates and judgements used.	No significant accounting estimates or judgements were required in the preparation of the financial statements. The valuation of the defined benefit pension liability is provided by the Commission's actuary, Hymans Robertson.
The potential effect on the financial statements of any uncertainties, including significant risks and disclosures such as pending litigation that are required to be disclosed in the financial statements.	There are no uncertainties, including any significant risk or required disclosures, that should be included in the financial statements.
The extent to which the financial statements have been affected by unusual transactions during the period and the extent that these transactions are separately disclosed in the financial statements.	From our testing performed, we identified no unusual transactions in the period.
Apparent misstatements in the directors' report or material inconsistencies with the financial statements.	There has been no misstatement or material inconsistency with the financial statements included in the directors' report.
Any significant financial statement disclosures to bring to your attention.	There are no significant financial statement disclosures that we consider should be brought to your attention. All disclosures made are required by relevant legislation and applicable accounting standards.
Disagreement over any accounting treatment or financial statement disclosure.	There was no disagreement during the course of the audit over any accounting treatment or disclosure.
Difficulties encountered in the audit.	There were no difficulties encountered in the audit.

Use of resources and performance

32. This section of the report sets out the main findings from our review of how the Commission manages its key resources in terms of financial performance.

The Commission's financial performance in 2012/13

The Commission has met its key financial targets in the year

33. The Commission is required to work within the resource limits and cash requirements set by the Scottish Government Health and Social Care Directorate. As shown below, the Commission has met all of its key financial targets.

Performance against key financial targets

Financial Target	Target £'000	Actual £'000	Underspend £'000	Target achieved
Revenue Resource Limit - Core	3,636	3,516	120	Yes
Revenue Resource Limit – Non core	0	71	(71)	Yes
Capital Resource Limit	0	0	0	Yes
Cash Requirement	3,636	3,587	49	Yes

(Source: Annual Accounts for year ended 31 March 2013)

34. The Commission reported a £49,000 under-spend against its Revenue Resource Limit (RRL). At the start of the financial year, the Scottish Government confirmed an allocation of £3.6 million for 2012/13. The Commission was subsequently awarded a further £36,000 for a distinction award.
35. At the outset, the Commission forecast to breakeven at the year-end. The budget was revised during the year to reallocate any known under-spend and ensure the funding was being used effectively. In February 2013, the Commission forecast an under-spend in the region of £20,000.
36. The increased level of under-spend at the year-end has arisen due to a number of unexpected savings. These include a reduction in the travel and subsistence costs, lower costs for the production of the annual report and reduced printing costs by publishing some documents online only. In addition there was a £10,000 credit resulting from the accounting entries provided by the Lothian Pension Fund actuary after the year end. One area which the Commission is unable to forecast with certainty is costs associated with second opinion doctor fees. This is an area in which the Commission has statutory responsibilities but is unable to predict the number of second opinions required in any year. A small overspend was incurred in this area in 2012/13 (£12,000).

Financial plans

37. The Commission has received confirmation from the Scottish Government that its resource budget for 2013/14 will be set at the same level as in 2012/13 (£3.6million). The Commission has forecast that its resource budget will remain at this level for the next three financial years.

Performance framework

38. To ensure effective performance, the Commission needs both a clear strategy that defines what it aims to achieve and appropriate processes in place to effectively monitor and measure its outputs. The Board has approved a five year strategic plan. Each year an annual business plan is also developed and approved by the Board.
39. The Commission has five key performance indicators (KPIs) which have been agreed with the Scottish Government. These targets are incorporated into the five year strategic plan and annual business plan and progress against these indicators is reported to the Board on a quarterly basis. The table below summarises performance against these targets for 2012/13. Overall, the Commission has met all its performance targets for the year.

Progress against key performance indicators for 2012/13

Target	2012/13 performance
Visit at least 1,900 individual services users and complete 30 focussed visits in the unannounced format	<p>The Commission made 1,916 visits to individuals during 2012/13.</p> <p>The Commission also completed 29 focussed unannounced visits. While this is fewer than the target of 30, this number allowed the Commission to meet the target that 25% of focussed visits would be in the unannounced format.</p>
Produce statistics and analysis on the use of mental health and incapacity legislation on time, within six months of the end of the year	Statistics and analysis were posted on the website in September 2012.
Complete and publish four investigation reports by the end of March 2013	The Commission completed four investigation reports and continue to investigate a further seven cases.
Assess samples of telephone advice and aim for at least 97.5% of all advice to be accurate	The Commission has audited 361 of the estimated 4,099 calls for advice received during the year. They identified only 6 cases of inaccurate advice, which gives an accuracy percentage of 98%

Target	2012/13 performance
Publicly report, within agreed timescales, the outcome of recommendations made to service in 90% of cases	The Commission made 491 recommendations following 133 focused visits during the year to 31 December 2012. They have followed up on 97% of these recommendations and confirmed 93% have been fully implemented or resulted in significant service progress.

(Source: Annual Accounts for year ended 31 March 2013. Note these are not subject to audit.)

Governance

40. Corporate Governance is concerned with the structures and processes for decision-making, accountability, control and behaviour at the upper levels of organisations. Through the accountable officer and the Board, the Commission is responsible for ensuring the proper conduct of its affairs, including compliance with relevant guidance, the legality of activities and transactions and for monitoring the adequacy and effectiveness of these arrangements.

Governance Arrangements

41. There have been no significant changes to the governance arrangements operating at the Commission during 2012/13. The Mental Welfare Commission Board comprises a Chair and seven Board members. The Board was established on 1 April 2011 following changes made to the structure and functions of the Commission under the Public Services Reform (Scotland) Act 2010. The Board is responsible for setting the strategic direction for the Commission. Board members have no role in relation to visits and investigations.
42. To support the Board there are two standing committees; the Audit Committee and the Advisory Committee. The Standing Orders outline the remits of the Board and the standing committees and the delegated authority to the Audit Committee, Chief Executive and executive team members. The Commission has co-opted a non-commission member to sit on the Audit Committee, to provide relevant NHS financial experience.
43. By Statute the Commission is required to have an advisory committee and this was established during the year. The Advisory Committee gives the Board advice on the Commission's functions and how it exercises its functions. The inaugural meeting was held in February 2013.
44. The operational management group (OMG) comprising the Chief Executive, Head of Corporate Services, Chief Social Work Officer, Chief Nursing Officer and Chief Medical Officer, is responsible for preparing and reporting progress against the business plan, strategic plan and financial plan to the Board. Looking forward, the Chief Executive has announced his intention to retire in March 2014 and the Chief Medical Officer is due to leave at the end of September 2013. The Board is currently reviewing the executive team structure to ensure it meets the needs of the organisation and can adapt to any potential legislative changes.
45. In April 2012, the Board participated in a facilitated seminar to evaluate the Board's effectiveness following a year in existence. The seminar focused on five key areas:
- Board processes and procedures;
 - Board's focus;
 - Roles and responsibilities;
 - Capability and capacity of the Board to be effective; and
 - Approach taken to performance review.
46. An improvement action plan was developed following this session. This was presented to the Board in June 2012. Since that time Board members have completed a self-assessment using the NHS Board

Diagnostic developed by the Scottish Government. The findings of were reported to the Board in May 2013 and an action plan agreed.

47. In the spirit of being open and transparent with the public and stakeholders, the Commission publishes Board minutes on its website. Looking forward Board meetings will also be open to the public. Two sessions will be held; one in public and one in private. The dates of the Board meetings are now being more widely publicised to increase the awareness of the public and media, perhaps leading to requests to attend.

National Confidential Forum

48. In September 2009, the Scottish Government launched an independent pilot forum 'time to be heard'. The purpose of 'time to be heard' was to test the appropriateness and effectiveness of a confidential forum for giving former residents of residential schools and children's homes the opportunity to recount their experiences in care, especially abusive experiences, to an independent and non-judgemental panel.
49. The findings following the pilot were published in 2011. The report concluded that a forum should be made available to all adults who had been cared for in Scotland. There was evidence that the opportunity to describe their experiences in residential care positively affected their health and wellbeing, particularly when the participants are treated with great courtesy and provided with the support they needed.
50. The Victims and Witnesses (Scotland) Bill (introduced in the Scottish Parliament in February 2013) seeks to establish a National Confidential Forum (NCF) for adults placed in institutional forms of care as children. Section 26 of the Bill establishes the NCF as part of the Mental Welfare Commission for Scotland. The Commission will be required to establish and maintain a committee of the Commission known as the NCF. The functions of NCF are to be delegated to a Committee within the Commission, enabling a significant degree of operational independence for the Forum within the accountability structure of the Commission. A Head of the Forum (NCF Head) is to be appointed who will be accountable to the Commission for the work of the Forum in discharging its functions. The Forum will consist of the NCF Head and no fewer than two other members, all of whom are to be appointed by Scottish Ministers.
51. The Bill sets out the projected costs for the setting up and operation of the NCF. It is anticipated that start-up costs of approximately £260,000 will be incurred in 2013/14 and annual running costs will be in the region of £850,000 (from 2014/15).

Systems of internal control

52. During the year we reviewed the Commission's key accounting systems and internal financial controls. As reported in our interim management report, we identified no significant weaknesses in relation to the internal financial controls in place over the Commission's key accounting systems. We found the internal financial controls to be well designed and operating effectively.
53. The governance statement included within the Commission's 2012/13 annual accounts discloses no material internal control weaknesses. Our audit identified no issues which we consider need to be disclosed in the governance statement. This is in keeping with the findings from internal audit which reported that *'the Commission's systems provide a reasonable basis for maintaining control and the*

control framework provides reasonable assurance regarding the effective and efficient achievement of strategic objectives.'

Risk Management

The Commission's risk management arrangements continue to be developed and embedded across the organisation.

54. The Commission has delegated responsibility for the overall risk management strategy to the Audit Committee. They ensure the strategy is incorporated into the business plan and monitored and reviewed regularly. There is a separate risk management group responsible for the implementation of the Commission's risk management strategy and for the development of the Commission's risk register (referred to as the risk universe). Responsibility for managing the risks in the risk universe lies with the operational management group. It develops a risk management action plan based on the risk universe, which is reported to the audit committee at least three times a year.
55. During the year, the Commission held a risk workshop (facilitated by the Commission's internal auditors). New risks, and the controls that are in place, have been added to the risk universe on the establishment of NCF and on succession planning.
56. Overall we concluded, following our interim review, that the risk management arrangements continue to be developed and embedded across the organisation.

Prevention and detection of fraud and irregularity

57. Our audit was planned to provide a reasonable expectation of detecting material misstatements in the financial statements resulting from fraud and irregularity. As part of our governance work we reviewed the Commission's arrangements to prevent and detect fraud and irregularity. We concluded that the Commission's internal controls and financial procedures were adequate to prevent and detect material fraud and irregularity.

Standards of conduct and arrangements for the prevention and detection of bribery and corruption

58. We have reviewed the arrangements for adopting and reviewing standing orders, financial instructions and schemes of delegation and complying with national and local codes of conduct. We also considered controls over register of interests. We are pleased to report that our audit identified no significant issues of concern in relation to standards of conduct and the prevention and detection of bribery and corruption.

Fees payable to Designated Medical Practitioners (DMPs)

59. Following correspondence between the Scottish Government and the Commission with regard to fees payable to Designated Medical Practitioners, it was identified that the Commission had been paying fees above the level set within the Mental Health (Fees Payable to Designated Medical Practitioners) (Scotland) (No.2) Regulations 2005. Within these regulations the fee is set at £141.56. The Commission however has applied a rate of £153.08 which is based on continued practice of uprating the DMP fee in line with the exceptional consultants fee as set out in the annual NHS PCS (DD) circular. The Commission was not aware of the 2005 Regulations on fees payable to designated medical practitioners.

60. The Commission has subsequently agreed with the Scottish Government to continue to pay the higher rate and not seek to recover overpaid fees. The Scottish Government intend to amend the Regulations to restore the link between the DMP fee and the exceptional consultation fee.

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