The Mental Welfare Commission for Scotland

Annual Report on the 2014/15 audit to the Board and the Auditor General for Scotland

June 2015

Scott-Moncrieff
business advisers and accountants

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Executive summary

Financial statements

The Mental Welfare Commission for Scotland's financial statements were approved by the Board on 23 June 2015. Our audit of the financial statements is complete and our independent auditor's report includes an unqualified opinion.

We received draft financial statements and supporting papers of an adequate standard, in line with our document requests. 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.

The financial statements were submitted to the Scottish Government and the Auditor General for Scotland by the 30 June 2015 deadline.

Use of resources and performance

The Commission met all of its key financial targets for 2014/15, reporting a breakeven position against its revenue resource limit and capital resource limit. The Commission's total resource budget for 2014-15 was £3.6 million, with a further £1 million allocated towards the NCF. The Commission's resource budget however was amended at the year-end (comprising a total resource budget of £4.626 million and a capital budget of £0.212 million). This increase was primarily to support a cessation payment to the Lothian Pension Fund. The £1 million allocation towards the NCF was amended to reflect actual spend in the year; along with a revenue to capital transfer of £212,000.

The Scottish Government has indicated that the Commission's resource budget for 2015/16 will be set at the same level as in 2014/15 (£3.6 million for the Commission and £1 million for the operation of the NCF). An initial allocation letter however has yet to be received. No capital allocation has been awarded at this time. Capital resources will however be required to upgrade the Commission's information management system should proposed changes to the mental health legislation be introduced during the year. The Commission has notified the Scottish Government.

The Commission has five key performance indicators (KPIs) which are monitored by the board on a quarterly basis. For 2014/15, the Commission reported that it had achieved all but one of its annual performance targets. This is in relation to the completion and publication of four investigation reports in the year. Only one investigation report was completed and published by 31 March 2015. The Board has revised this KPI for 2015/16 to state that the Commission will only need to publish two investigations.

Governance

We have reviewed the Commission's corporate governance arrangements, to ensure effective systems are in place for internal control, the prevention and detection of fraud and irregularity, standards of conduct and the detection and prevention of bribery and corruption. Our audit work identified no issues of concern in relation to these arrangements.

During the year, the National Confidential Forum (NCF) was established. The NCF has been set up as a committee of the Commission but operates independently and is led by a Forum Head who carries out hearings alongside at least two Panel members. Support staff manage the day to day running of applications and hearings. The Commission provides shared corporate services for the Forum.

A Memorandum of Understanding (MOU) exists between the Commission and Scottish Ministers which sets out the broad framework for the operation of the NCF. We have reviewed the MOU and assessed compliance with this throughout 2014/15. Our audit work identified no issues or areas of concern.

The Forum Head, three panel members and staff of the NCF were appointed in September 2014. However the planned commencement date for hearings was postponed due to time spent in the interpretation of the legislation and set up of appropriate support systems for potential participants. The first hearings took place in March 2015.

In May 2015 the Forum Head resigned. The Commission is currently working with the Scottish Government Public Appointments Unit in recruiting a replacement. The specific responsibilities of the Forum Head are contained with the MOU. This includes the responsibility to produce a corporate governance statement for the Chief Executive (as Accountable Officer) of the Commission. In the absence of a Forum Head, the Head of Corporate Services for the Commission wrote a statement of assurance for the Chief Executive to allow him to fulfil his role as Accountable Officer. Following our review of this statement and recognising the close involvement the Head of Corporate Services has had over the operation of the NCF we are in agreement that this was the most suitable solution.

Conclusion

This report concludes our audit for 2014/15. Our work has been performed in accordance with the Audit Scotland Code of Audit Practice, International Standards on Auditing (UK and Ireland) and Ethical Standards.

This report has been agreed with the 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 2015

Introduction

1. This report summarises the findings from our 2014/15 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.

2. The main elements of our audit work in 2014/15 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. The Commission's Board is responsible for preparing financial statements that show a true and fair view and for implementing appropriate internal control systems. The weaknesses or risks identified are only those that have come to our attention during our normal audit work, and may not be all that exist. Communication in this report of matters arising from the audit of the financial statements or of risks or weaknesses does not absolve management from its responsibility to address the issues raised and to maintain an adequate system of control.

4. This report is addressed to both 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

5. The Commission's annual financial statements are the principal means of accounting for the stewardship of its resources and its performance in the use of those resources. The respective responsibilities of the Commission and the auditor in relation to the financial statements are outlined in Appendix 1.

6. In this section we summarise the issues arising from our audit of the Commission's 2014/15 financial statements.

Overall conclusion

An unqualified audit opinion on the financial statements

7. The financial statements for the year ended 31 March 2015 were approved by the Board on 23 June 2015. Our independent auditor's report includes:

- an unqualified opinion on the financial statements;
- an unqualified audit opinion on regularity; and
- an unqualified audit opinion on other prescribed matters.

8. We are also satisfied that there are no matters which we are required to report to you by exception.

Good administrative processes were in place

9. We received draft financial statements and supporting papers of an adequate standard, in line with our document request. 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.

10. The financial statements were submitted to the Scottish Government and the Auditor General for Scotland by the 30 June 2015 deadline.

Our assessment of risks of material misstatement

11. The assessed risks of material misstatement described below are those that had the greatest effect on our audit strategy, the allocation of resources in the audit and directing the efforts of the audit team. Our audit procedures relating to these matters were designed in the context of our audit of the financial statements as a whole, and not to express an opinion on individual financial statements or disclosures. Our opinion on the financial statements is not modified with respect to any of the risks described below.

Risk	How the scope of our audit responded to the risk
National Confidential Forum The Victims and Witnesses (Scotland) Act provides for the creation of a National Confidential Forum (NCF) for adults placed in institutional forms of care as children. The Forum will have a life span of three to five years. The NCF has been set up as a committee of the Commission but operates independently and is led by a Forum Head who carries out hearings alongside at least two Panel members. Support staff manage the day to day running of applications and hearings. The Commission provides shared corporate services for the Forum. The Commission was allocated £1 million resource budget in 2014/15 for the operation of the NCF. There is a risk that this funding and associated expenditure is not accounted for appropriately in the 2014/15 financial statements.	We have worked with the finance team throughout the year to ensure all NCF transactions relating to 2014/15 have been appropriately accounted for. At the year-end we have performed additional audit work on these transactions and reviewed the presentation of those transactions in the financial statements. In addition we have considered governance arrangements specific to the NCF and will continue to monitor and report on these going forward. All members and staff of the NCF were recruited by September 2014, however due to time spent in the interpretation of the legislation and set up of NCF, the planned commencement date for hearings had to be postponed. The first hearings of the NCF took place in March 2015. The establishment of the NCF has involved a significant amount of Commission staff time and resources. Under the terms of the Memorandum of Understanding between the Commission and Scottish Ministers it is expected that support services will be shared. We noted during our audit that no re-charging had taken place between the Commission and the NCF to recognise the utilisation of these resources. Management were unable to quantify the re-chargeable costs for 2014/15. We recommend that management implement a system for re-charging costs going forward. ***Action plan point 1***
Lothian Pension Fund During 2014/15 the Commission employed one active member of the Lothian Pension Fund (LPF). This employee retired on the 30 March 2015 leaving no active members at the Commission. The Commission is therefore required to obtain a cessation value at this date. There is a risk that this is not appropriately presented within the financial statements.	We have reviewed the cessation valuation provided by actuaries, Hymans Robertson LLP. A cessation deficit of £714,000 is payable to the Fund. The Scottish Government has confirmed that they are content to proceed with this valuation and have provided the Commission with funding to cover this payment. On this basis we have proceeded to ensure that all associated accounting entries made in the financial statements are accurate and appropriate. We agreed that the Commission has accounted for the cessation valuation in accordance with the NHS Boards Accounts Manual. The Commission intend to make the payment to the LPF in 2015.
Bequeathed Asset In July 2013 the Commission were notified that they were the joint beneficiary in a Will. This included a property with a home valuation report of £48,000. The	We have reviewed the accounting entries related to the bequest in the 2014/15 financial statements and formed our audit opinion. The bequest has been accounted for as deferred

Risk	How the scope of our audit responded to the risk
Commission were subsequently informed that the son of the individual making the bequest wished to claim for his right to 50% of the movable estate. This claim was successful. Once finalised the Commission received a sum of £28,000 during 2014/15. There is a risk that the transactions associated with this asset are not correctly accounted for in the financial statements.	income; an obligation which requires a future service or action to be performed before the revenue can be recognised. No such restrictions are placed on the bequest however the Commission wishes to utilise the funds for a specific project. Whilst we understand the Commission's wish to utilise the funds appropriately, this accounting treatment does not conform with the requirements of IAS 18 '*Revenue Recognition'*. This has not been adjusted for in the financial statements as it is not considered to be material. (paragraph 22)
Pension liability The Commission has been advised by the Scottish Government's HR Shared Services of an employee who worked for the Commission between 1988 and 1993 for whom the Commission is committed to pay a pension on retirement. At the time there were issues around getting the individual into the Local Government Pension Scheme and the matter concluded with a situation where the Commission was committed to pay a pension to the individual on retirement as if they had been in the Lothian Pension Fund. At the time the Scottish Government committed to fund this liability. Discussions are ongoing with the Scottish Government in respect of the amounts involved and the associated funding for these costs. The financial impact of the pension liability in 2014/15 has been confirmed as £16,500 by Civil Service Pensions. For financial years 2015/16 onwards payments of £4,600 will also be required. The Commission continues to be in discussion with the Scottish Government about future funding for this pension. There is a risk that these transactions and obligations are not appropriately reflected in the 2014/15 financial statements.	The Commission has now concluded discussions around funding arrangements with the Scottish Government and the first payment of £16,500 has been made. We have reviewed the accounting treatment adopted and considered the associated disclosure requirements as part of our final audit visit. The future payments to be made to the individual are an obligation for the Commission and as such should theoretically feature on its balance sheet. However as Scottish Government funding can be obtained to cover these payments there should also be a corresponding asset of the same amount. As the value of the obligation is subject to a high degree of estimation uncertainty, and the net effect of the event is nil on both the Statement of Comprehensive Net Expenditure and the Balance Sheet, we have concluded that it is appropriate to show no asset or liability entry. Payments in subsequent years will simply be charged through expenditure and additional funding obtained from the Scottish Government where necessary.
Revenue recognition Under International Standard on Auditing (UK & Ireland) 240, "The auditor's responsibilities relating to fraud in an audit of financial statements" there is a presumed risk of fraud in relation to revenue recognition. The presumption is that the Commission could adopt accounting policies or recognise income and expenditure transactions in such a way as to lead to a material misstatement in the reported financial position.	While we did not suspect incidences of material fraud and error, we evaluated each type of revenue transaction and documented our conclusions. We have reviewed the controls in place over revenue accounting and found them to be sufficient. We have evaluated key revenue transactions and streams, and carried out testing to confirm that the Board's revenue recognition policy is appropriate and has been applied reasonably.

Risk	How the scope of our audit responded to the risk
Management override In any organisation, there exists a risk that management have the ability to process transactions or make adjustments to the financial records outside the normal financial control processes. Such issues could lead to a material misstatement in the financial statements. This is treated as a presumed risk area in accordance with International Standard on Auditing (UK & Ireland) 240, “The auditor’s responsibilities relating to fraud in an audit of financial statements”.	While we did not suspect any incidences of management override leading to financial reporting issues, we reviewed the accounting records for significant transactions outside the normal course of business and obtained evidence to ensure that these were valid and accounted for correctly. Based on our audit work to detect potential material misstatement via a range of controls, we have not identified any indications of such management override during the year.

Other matters identified during our audit

12. During the course of our audit we noted the following:

CNORIS 2 provision

13. In April 2015, the Scottish Government provided each NHS board with guidance on recognising an additional provision in relation to its participation in CNORIS (Clinical Negligence and Other Risks Indemnity Scheme). This required a prior year adjustment. The Commission’s total provision for its participation in CNORIS as at 31 March 2015 was £30,000. This amount has been fully matched with funding from the Scottish Government. The Commission had not acted on this guidance in the draft annual accounts however all relevant accounting entries have now been made.

NCF related party disclosures

14. The Commission has published on its website a register of interests, covering both the Board and Executive team. We identified however that the published register has not been updated to include either the Forum Head or panel members of the NCF. The register of interests is one way that the Commission can identify its related parties. There is a risk, should the register not be updated, that the Commission does not identify and report all related party transactions in its financial statements.

Action plan point 2

NHS Superannuation Scheme

15. The Commission participates in the NHS Superannuation Scheme for Scotland. This is a defined benefit scheme, where contributions are credited to the Exchequer and are deemed to be 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. The most recent actuarial valuation was for the year ended 31 March 2012 which identified a shortfall of £1.4 billion in the national fund which will be repaid by a supplementary rate of 2.6% of employer’s pension contributions for fifteen years from 1 April 2015. The next actuarial valuation will be undertaken as at 31 March 2016.

16. We reviewed the national developments in relation to the valuation of the NHS Superannuation Scheme for Scotland. We considered the extent to which these impacted on the Commission and were appropriately reflected within the annual accounts. Based on our audit work, we are satisfied that the Commission has correctly accounted for pension costs and made the correct disclosures in accordance with the Scottish Public Pensions Agency (SPPA) guidance.

Our application of materiality

17. The assessment of what is material is a matter of professional judgement and involves considering both the amount and the nature of the misstatement. This means that different materiality levels will be applied to different elements of the financial statements. For example, the expected degree of accuracy of senior staff and Board members' emoluments may be much greater than that for non-current assets.

18. Our initial assessment of materiality for the financial statements was £70,000 and it remained at this level throughout our audit. Our assessment of materiality equates to approximately 1.5% of the Commission's Revenue Resource Limit (RRL). A key target for the Commission is achieving a breakeven position against its Revenue Resource Limit. We consider the RRL to be one of the principal considerations for the users of the financial statements when assessing the financial performance of the Commission.

19. We set a performance (testing) materiality for each area of work which was based on a risk assessment for the area. We then performed audit procedures on all transactions and balances that exceeded our performance materiality. This meant that we were performing a greater level of testing on the areas deemed to be of significant risk of material misstatement. Performance testing thresholds used are set out in the table below:

Area risk assessment	Weighting	Performance materiality
High	50%	£35,000
Medium	60%	£42,000
Low	75%	£52,500

20. We agreed with the Audit Committee that we would report to the Committee all audit differences in excess of £700, as well as differences below that threshold that, in our view, warranted reporting on qualitative grounds. We also report to the Audit Committee on disclosure matters that we identified when assessing the overall presentation of the financial statements.

Audit differences

21. We are pleased to report that there were no material adjustments to the draft financial statements that have had an impact on the outturn against the Revenue Resource Limit. We identified some disclosure and presentational adjustments during our audit, which have been reflected in the final set of financial statements.

22. We identified one audit difference during our fieldwork that the financial statements have not been adjusted for. This is not considered to be material to the financial statements. Through discussion with

the Head of Corporate Services the decision was taken not to adjust the financial statements. This audit difference is included in the representation letter and shown in the table below:

No	Narrative	DR £	CR £
1.	Deferred income	28,000	
	Net operating costs		28,000
	Recognition of bequeathed asset revenue in 2014/15		
	Net potential impact on core resource outturn	**-**	**28,000**
	Net potential impact on non-core resource outturn	**-**	**-**

An overview of the scope of our audit

23. The scope of our audit was detailed in our External Audit Plan, which was presented to the Audit Committee in November 2014. The plan explained that we follow a risk-based approach to audit planning that reflects our overall assessment of the relevant risks that apply to the Commission. This ensures that our audit focuses on the areas of highest risk. Planning is a continuous process and our audit plan is subject to review during the course of the audit to take account of developments that arise.

24. At the planning stage we identified the significant risks that had the greatest effect on our audit. Audit procedures were then designed to mitigate these risks.

25. Our standard audit approach is based on performing control tests on the significant accounting systems, substantive tests and detailed analytical review. We also obtain and review a service audit report in relation to the Scottish Government Shared Services functions utilised by the Commission.

26. Tailored audit procedures, including those designed to address significant risks, were completed by the audit fieldwork team and the results were reviewed by the audit manager and audit partner. In performing our work we have applied the concept of materiality, which is explained above.

Regularity

27. We have planned and performed our audit recognising that non-compliance with statute or regulations may materially impact on the financial statements. Our audit procedures included the following:

- Reviewing minutes of relevant meetings;
- Enquiring of senior management and the Commission's solicitors the position in relation to litigation, claims and assessments; and
- Performing detailed testing of transactions and balances.

28. We are pleased to report that we did not identify any instances of concern with regard to the regularity of transactions or events.

Follow up of previous audit recommendations

29. As part of our interim audit we followed up the recommendations we raised in 2013/14. We are pleased to report that these recommendations have now been fully implemented.

Total number of recommendations raised in 2013/14	Complete
2	2

30. During our 2014/15 interim audit we made a recommendation that the Commission pursue, as a matter of priority, obtaining a lease agreement with the Scottish Legal Aid Bureau (SLAB) on Thistle House. The Commission has been working closely with SLAB to arrive at a final agreement however at the time of writing this is still in draft. Management should continue to pursue a final signed agreement. Rental charges have been agreed and are being factored into 2015/16 budgets. This point has been reflected in our action plan at Appendix 2.

Board representations

31. 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. This letter includes the Board's confirmation that the audit difference referred to above (paragraph 22) is not considered material to the financial statements.

Qualitative aspects of accounting practices and financial reporting

32. We have considered the qualitative aspects 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 table summarises our findings.

Qualitative aspect considered	Audit conclusion
The appropriateness of the accounting policies used.	The significant accounting policies, which are disclosed in the financial statements, are considered appropriate to the Commission.
The timing of the transactions and the period in which they are recorded.	We did not identify any concerns over the timing of transactions or the period in which they were recognised.

Qualitative aspect considered	Audit conclusion
The appropriateness of the accounting estimates and judgements used.	The accounting estimates and judgements used by management in preparing the financial statements are considered appropriate. The principal areas of estimates and judgements have been: asset depreciation rates and the valuation of provisions. Where appropriate, the Commission has utilised the work of independent experts or industry practice to support the estimates made. In 2014/15 the most significant area of expert estimation was on the Lothian Pension Fund cessation value.
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.	We have not identified any uncertainties, including any significant risk or required disclosures, which 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 the testing performed, we identified no significant unusual transactions in the period.
Apparent misstatements in the annual report or material inconsistencies with the financial statements.	We did not identify any material misstatements or inconsistencies with the financial statements in the Management Commentary.
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 the disclosures required by relevant legislation and applicable accounting standards have been made appropriately.
Disagreement over any accounting treatment or financial statement disclosure.	There were no material disagreements over any accounting treatment to be adopted or disclosure to be made.
Difficulties encountered in the audit.	There were no significant difficulties encountered during the audit.

Use of resources and performance

33. 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. Overall, we have found that the Commission has adequate arrangements in place for financial management and the use of resources. Our conclusions are based on a review of the Commission's financial performance, underlying financial position, financial plans and financial reporting.

The Commission's financial performance in 2014/15

The Commission met its key financial targets for the year

34. The Commission is required to work within the resource limits set by the Scottish Government Health and Social Care Directorate (SGHSCD). As shown below, the Commission met all of its key financial targets in 2014/15.

	Original budget (£million)	Revised budget (£million)	Actual (£million)	Saving/(Excess) (£million)	Target achieved
Core revenue resource limit					
• Mental Welfare Commission	3.600	4.199	4.173	0.26	
• National Confidential Forum	1.000	0.427	0.427	0	
Non-core revenue resource limit					
• Mental Welfare Commission	0	0	0.26	(0.26)	
• National Confidential Forum	0		0	0	
Revenue Resource Limit	**4.600**	**4.626**	**4.626**	**0**	**Yes**
Capital resource limit					
• Mental Welfare Commission	0	0	0	0	
• National Confidential Forum	0	0.212	0.212	0	
Capital resource limit	**0**	**0.212**	**0.212**	**0**	**Yes**

(Source: Financial Statements for the year ended 31 March 2015)

35. The Commission met all of its key financial targets for 2014/15, reporting breakeven position against its revenue resource limit and capital resource limit. The Commission's total resource budget for 2014-15 was £3.6 million, with a further £1 million allocated towards the NCF. During the year, the Scottish

Government approved a revenue to capital transfer of £212,000. This transfer was used to finance the creation of the NCF database (£130,000) and fit out costs associated with the Glasgow based offices for the NCF (£82,000).

36. Due to the delays in the commencement of hearings there was a significant underspend against the NCF revenue allocation. The Commission received an amended allocation letter in 2015 which represented the actual allocation utilised by the NCF and additional in-year funding allocated to the Commission for the cessation payment to the LPF.

Future financial plans

37. The Scottish Government has indicated that the Commission's resource budget for 2015/16 will be set at the same level as in 2014/15 (£3.6 million for the Commission and £1 million for the operation of the NCF). An initial allocation letter however has yet to be received. No capital allocation has been awarded at this time. Capital resources will however be required to upgrade the Commission's information management system should proposed changes to the mental health legislation be introduced during the year. The Commission has notified the Scottish Government.

Financial capacity in public bodies

38. The Auditor General for Scotland and the Accounts Commission are interested in the impact reductions in staff numbers are having on back-office functions and specifically finance. As part of the 2014/15 audit we have collected baseline information on the finance department at the Commission. This information will be submitted to Audit Scotland who will be assessing the findings across a number of public sector organisations, to identify any common or emerging issues.

39. A summary of our findings are highlighted below;

Theme	Audit Findings
Financial Capacity	The Commission's Revenue Resource Limit has remained at £3.6million for the past three years. In 2014/15 a further £1 million was received for the NCF and this is level of funding is expected in all subsequent years in which the NCF is operational. The size and structure of the finance function has not changed significantly throughout the period of our engagement. The Head Of Corporate Services is the most senior finance officer position who has responsibility over finance, operations, IT, HR, communications and corporate governance. The individual in this position is not a professionally qualified accountant, nor a member of the Board(none of the executive team are members of the Board), they are however part of the Operational Management Group. Of the remaining 1.7 WTE operational staff members in the finance team, 0.7 WTE are professionally qualified. Given the size of the organisation and the relatively low volume and complexity of transactions this is deemed reasonable. Management has considered the impact of the NCF on the finance

Theme	Audit Findings
	function and has increased the hours worked by the Finance Manager by five hours per week. This is a temporary measure for the life of the NCF. Although the strain on the Commission's support services has been significant in 2014/15 it is anticipated that this will be less so in future years. We did not notice any deterioration in the quality of audit working papers provided to us in 2014/15.
Financial strategy and sustainability	Financial plans are prepared in line with annual business plans which in turn are aligned to a five year Strategic Plan. Each year the Strategic Plan is updated. Financial planning is not done beyond a five year period. Given the 'stable' funding position and the nature of the Commission's operations this is deemed reasonable. Every effort is taken to keep the financial management and reporting activities of the Commission and the NCF separate so that independence is preserved. Financial plans and budget monitoring reports for the NCF are prepared and presented alongside those for the Commission. The Commission is mindful of the need to have robust financial planning arrangements in place to sustain current performance and service delivery. High level scenario planning exercises have been performed but further work is still required as these have not been formally documented. Any plans should take into account the likely impact of a reduction in staff numbers. ***Action plan point 3***
Budget monitoring and control	The Commission has effective controls in place to ensure that spend against its revenue budget is appropriately monitored and controlled throughout the year. The Commission's scheme of delegation, financial operating procedures and standing financial instructions provide an established framework for officers to follow. Budget monitoring reports are presented on a regular basis to the Board and the Operational Management Group (OMG). A mid-year budget reforecast is performed which is repeated in each subsequent month. Explanations for any variances against original budget are reported on. Regular reporting and close budget monitoring of this kind should ensure that, were staffing numbers to reduce, any impact upon financial sustainability would be identified promptly.

Performance management framework

40. 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. As noted previously, the Commission has approved a five year Strategic Plan. Each year an annual business plan is also developed and approved by the board.

41. 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 2014/15. Overall, the Commission has met all but one of its performance targets for the year.

Progress against key performance indicators for 2014/15

Target	Performance
Visit at least 1,900 individual services users and complete 30 focussed visits in the unannounced format	The Commission made 1,921 visits to individuals during 2014/15 and reviewed 173 files. The Commission also completed 30 focussed unannounced visits.
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 published on the Commission's website in October 2014. The slight delay was to allow the Commission to promote these reports nationally in the media.
Complete and publish four investigation reports by the end of March 2015	• The Commission progressed 21 investigations during the year, of these 12 were new and one was published on their website. • Eight cases were remitted back to local services after initial investigation with recommendations for further internal investigation. In an additional case the Commission was satisfied with the level of investigation conducted by local services. • In two cases they were satisfied that there was no deficiency in care. • Nine cases are still under investigation. • Although the Commission did not achieve their in-year KPI they completed other work on the investigations guidelines and with other organisations to identify a lead organisation for investigations. The Board has revised the KPI for 2015/16 to state that the Commission will publish only two investigations.
Assess samples of telephone advice and aim for at least 97.5% of all advice to be accurate	The Commission estimates the number of calls received requesting advice was 4,629 during 2014/15. Of these calls 4.5% were audited to assess the accuracy of the advice provided. This produced an accuracy rate of 99.5%.
Publicly report, within agreed timescales, the outcome of recommendations made to services in 90% of cases	The Commission made 409 recommendations following 125 focused visits during the year to 31 December 2014. The Commission has undertaken follow up action on 99.66% of its recommendations.

(Source: Financial statements for year ended 31 March 2015. Note this information is not subject to audit.)

42. We noted during our audit that the Commission's strategic and business plan do not cover the NCF. The Commission's Strategic plan states that a separate plan will be published in relation to the NCF as well as a Business plan. There are currently no such documents. There are also therefore no key performance indicators by which to measure the performance of the NCF. We recommend that management ensure that these are put in place as a priority.

Action plan point 4

Governance

43. 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, 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.

44. We have found that the Commission has appropriate governance arrangements in place. Our audit work has included reviewing corporate governance arrangements as they relate to:

- systems of internal control;
- the prevention and detection of fraud and irregularity; and
- standards of conduct and the prevention and detection of bribery and corruption.

Governance arrangements

45. The Commission updated its strategic plan during the year following consultation with an advisory committee of key stakeholders. Although not signalling a change in direction, the plan refers to the NCF and the role it will play going forward.

Appointment of NCF Board member

46. A new Board member was appointed to the Commission in September 2014 for a three year term. Safaa Baxter has experience of institutional childcare and can advise the Board on NCF issues. This appointment is in accordance with the memorandum of understanding. Safaa has undergone board induction training in line with the Commission's standard practices for new members.

Succession planning arrangements

47. Following the departure of Dr Donald Lyons as Chief Executive on 1 April 2014 the Commission identified a requirement for additional medical expertise within the executive team. Kate Fearnley, former deputy CEO of Alzheimer Scotland, has been appointed to the new role of Executive Director of Engagement and Participation. She is due to take up this position in February 2015. Following this appointment, the current Executive Director (Medical), Dr Gary Morrison, will be relieved of his duties as a team leader and move into an 'influence and challenge' role, utilising his medical expertise more fully. We will continue to monitor how these new arrangements will work in practice.

National Confidential Forum

48. Formed under the provisions of the Victims and Witnesses (Scotland) Act, the National Confidential Forum (NCF) appointed both a Forum Head and panel members between July and September 2014. The NCF operates independently of the Commission but is accountable to the Board through the Forum Head. The Chief Executive of the Commission is the Accountable Officer for the NCF.

49. The overall operating framework and governance requirements for the NCF are detailed within the Memorandum of Understanding (MOU) between Scottish Ministers and the Commission. This places a number of requirements on the Forum Head. These include;

- Accounting to the Commission for the work of the NCF
- Producing a Corporate Governance Statement for the Chief Executive
- Attending all Commission Board and Audit Committee meetings.
- Preparing an annual report and consulting the Commission before publication

(Source: Memorandum of Understanding between Scottish Ministers and the Commission

50. We have conducted audit testing on the governance arrangements at the NCF. This included specific testing on whether the above provisions of the MOU had been complied with. This audit work identified no issues or areas of concern.

51. There have been three meetings of the NCF during 2014/15 each of which were attended by the Forum Head. Testing of Commission Board and Audit Committee minutes found that the Forum Head was in attendance at each such meeting following the date of their appointment. The NCF annual report is scheduled to be presented at the June 2015 Board meeting. Due to the absence of a Forum Head (see below) this is being authored by the members of the Forum.

52. In May 2015 the Forum Head resigned and the Commission is currently working with the Scottish Government Public Appointments Unit in recruiting both a replacement Forum Head and additional panel members in order to attain an improved gender balance.

53. The resignation of the Forum Head presented governance issues in respect of the provision of a governance statement to the Chief Executive as Accountable Officer. An assurance statement has been prepared by the Head of Corporate Services to address this issue. Following our review of this statement and recognising the close involvement the Head of Corporate Services has had over the operation of the NCF we are in agreement that this was the most suitable solution.

Systems of internal control

54. In line with International Standards on Auditing (ISAs) we have considered the internal controls in place over the Commission's key financial systems. We identified no significant weaknesses in relation to the operational internal financial controls in place over the Commission's key accounting systems. We found the internal financial controls to be generally well designed and operating effectively.

55. The Commission's Governance Statement reports no significant control weaknesses or issues have arisen during the year and no significant failures have arisen in the expected standards for good governance, risk management and control. This assessment is supported by the findings of internal audit. Internal audit did not identify any significant or critical findings during the year, although several moderate and minor findings were identified which, if addressed, would strengthen the Commission's control framework. Our work did not identify any issues that we considered required disclosure in the Governance Statement.

Internal audit

56. An effective internal audit service is an important element of the Commission's governance arrangements. The Commission's internal audit service is provided by KPMG. In accordance with International Standards on Auditing we have considered the function provided by KPMG and have concluded that the service is fit for purpose. To avoid duplication of effort and to ensure an efficient audit process, we have taken cognisance of internal audit work where appropriate and we are grateful to the KPMG internal audit team for their assistance during the course of our audit work.

Risk management

57. Responsibility for Risk Management at the Commission is delegated to three main bodies, the Audit Committee, Risk Management Group and the Operational Management Group. Progress on the implementation of identified mitigating actions is reported on to the Audit Committee.

58. The development of the NCF as a committee of the Commission was identified by the Board as a major risk. Overall we found the Commission has developed appropriate risk management arrangements to manage this risk; along with the risks identified for the Commission. For the 2014/15 financial year, a risk universe has been developed for the NCF and a set of proposed controls to mitigate these risks identified. A risk management action plan has been developed for the NCF which was approved by the Board in March 2015.

Prevention and detection of fraud and irregularity

59. Our audit was planned to provide a reasonable expectation of detecting material misstatements in the financial statements resulting from fraud and irregularity. During the year we found the Commission's arrangements for the prevention and detection of fraud and other irregularities to be adequate.

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

60. In our opinion the Commission's arrangements in relation to standards of conduct and the prevention and detection of bribery and corruption are adequate. Our conclusion has been informed by a review of the arrangements for adopting and reviewing standing orders, financial instructions and schemes of delegation and complying with national and local codes of conduct. We have also considered the controls in place to ensure compliance with the regulatory guidance that is produced by the SGHSCD throughout the year.

Appendix 1: Respective responsibilities of the Board and the Auditor

Responsibility for the preparation of the financial statements

It is the responsibility of the Board and the Chief Executive, as Accountable Officer, to prepare financial statements in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder.

In preparing the financial statements, Board members and the Chief Executive, as Accountable Officer are required to:

- observe the financial statements direction issued by Scottish Ministers, including the relevent accounting and disclosure requirements and apply suitable accounting policies on a consistent basis;
- make judgements and estimates that are reasonable and prudent; and
- state whether applicable accounting standards as set out in the Financial Reporting Manual (FReM) have been followed and disclose and explain any material departures; and
- prepare the financial statements on a going concern basis.

Board members are also responsible for:

- keeping proper accounting records which are up to date; and
- taking reasonable steps for the prevention and detection of fraud and other irregularities.

Auditor responsibilities

We audit the financial statements and give an opinion on whether:

- they give a true and fair view in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by Scottish Mininsters of the state of the board's affairs as at 31 March 2015 and of its net operating cost for the year then ended;
- they have been properly prepared in accordance with IFRSs as adopted by the European Union, as interpreted and adapted by the 2014/15 FReM;
- they have been prepared in accordance with the requirements of the National Health Service (Scotland) Act 1978 and directions made thereunder by Scottish Minister;
- expenditure and income in the financial statements was incurred or applied in accordance with any applicable enactments and guidance issued by Scottish Mininster;
- 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 Scottish Ministers; and
- the information given in the Management Commentary for the financial year for which the financial statements are prepared is consistent with the financial statements.

We are also required to report if, in our opinion:

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

The special accountabilities that attach to the conduct of public business, and the use of public money, mean that public sector audits must be planned and undertaken from a wider perspective than in the private sector. This means providing assurance, not only on the financial statements and associated documents such as governance statements, but providing a view also, where appropriate, on matters such as propriety, performance and the use of resources in accordance with the principles of Best Value and 'value for money'.

Our main responsibilities under the Code of Audit Practice, in respect of best value, use of resources, performance and corporate governance can be summarised follows:

Best value, use of resources and performance

- To review the Commission's arrangements for managing its performance and for securing economy, efficiency and effectiveness in its use of resources .

Corporate governance

- To review and report on the Commission's corporate governance arrangements as they relate to:

    - its review of its systems of internal control, including its reporting arrangements
    - the prevention and detection of fraud and irregularity
    - standards of conduct and prevention and detection of corruption
    - the Commission's financial position

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Independence

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.

During 2014, Scott-Moncrieff has provided taxation advice to the Commission. This was provided by staff with no involvement in the audit of the financial statements.

We confirm that we will comply with APB Ethical Standard 1 – Integrity, Objectivity and Independence. In our professional judgement, the audit process is independent and our objectivity has not been compromised in any way. In particular there are and have been no relationships between Scott-Moncrieff and the Commission, its Board members and senior management that may reasonably be thought to bear on our objectivity and independence.

Appendix 2: Action plan

Our annual report action plan details the control weaknesses and opportunities for improvement that we have identified during our final audit visit in addition to any reportable matters arising from our review of performance and governance systems.

The action plans detail the officers responsible for implementing the recommendations and implementation dates. The Board should assess these recommendations for their wider implications before approving the action plan.

It should be noted that the weaknesses identified in this report are only those that have come to our attention during the course of our normal audit work, and may not be all that exist. The audit cannot be expected to detect all errors, weaknesses or opportunities for improvements in management arrangements. Communication in this report of matters arising from the audit of the financial statements or of risks or weaknesses does not absolve management from its responsibility to address the issues raised and to maintain an adequate system of control.

Grading

The grading structure for our recommendations is as follows:

Grade	Explanation
Grade 5	Very high risk exposure - Major concerns requiring Commission attention.
Grade 4	High risk exposure - Material observations requiring management attention.
Grade 3	Moderate risk exposure - Significant observations requiring management attention.
Grade 2	Limited risk exposure - Minor observations requiring management attention
Grade 1	Efficiency / housekeeping point.

Issues identified during 2014/15 final audit

No	Title	Issue Identified	Risk and Recommendation	Management Comments
1	**Recharging to the NCF** (Paragraph 11)	The Commission are not recharging staff time to the NCF despite a significant allocation of staff resources during the year.	There is a risk that the true operating costs of the NCF are not being accurately reflected in the outturn position. This could ultimately put a strain on the finances of the Commission as staff take on more duties but no further funding is received. We recommend that an exercise is undertaken to estimate the amount of staff time spent on NCF activities and that an appropriate charge is made in recognition of this. **Grade 3**	Agree **Responsible officer:** Finance Manager **Implementation date**: July 2015
2	**NCF register of interests** (Paragraph 14)	The published register of interests does not include interests for the Forum Head or panel members of the NCF	There is a risk that the Commission are not aware of all its related parties and as such those transactions are not disclosed in the financial statements.. Management should obtain disclosures from all members of the NCF as a matter of priority. **Grade 3**	Completed – register of interests will be presented to June Board **Responsible officer:** Finance Manager **Implementation date:** June 2015

No	Title	Issue Identified	Risk and Recommendation	Management Comments
3	**Scenario Planning** (Paragraph 39)	No scenario planning exercises have been formally documented for use in financial planning.	Management should produce formally documented scenario plans. These should address the likelihood impact of a reduction in finance staff. There is a risk that without formally documented plans that not all relevant factors are considered and appropriate action taken to mitigate against them. **Grade 3**	Agree **Responsible officer**: Head of Corporate Services **Implementation date**:December 2015
4	**NCF performance management** (Paragraph 42)	A strategic and business plan for the NCF has yet to be prepared. We also note that there are currently no key performance indicators by which to monitor the performance of the NCF.	Without clear strategic direction and planning there is a risk that the NCF does not achieve it's intended outcomes. Equally without the development of appropriate performance indicators, the NCF are unable to demonstrate performance levels attained. **Grade 3**	To be discussed at June Board meeting **Responsible officer:** Chair **Implementation date**: TBA

Follow-up of issue identified during the 2014/15 interim audit

No	Title	Issue identified & recommendation	Original management response	2014/15 update
1.	**Thistle House Lease Agreement** (Paragraph 30)	The Commission offices at Thistle House are now owned by the Scottish Legal Aid Board (SLAB). The existing lease is with the Scottish Government and a new agreement with SLAB has yet to be drawn up. Without a formal agreement in place the Commission has no legal right to continue occupying the premises. In addition there is a risk to budgetary systems if the value of rental charges for 2015/16 and beyond are not formally agreed upon. Management must ensure that this situation is monitored and that a new agreement is put in place as soon as possible.	The MWC met with SLAB in February 2015 to discuss the lease and other facilities management issues. The 2014/15 rent was agreed at the SG quoted amount of £149k. A sample MOTO has been received from SLAB and MWC staff are reviewing the contents. SLAB confirmed that the contents will be substantially the same as those enjoyed with the SG.	**Audit update:** The Commission has been working closely with SLAB to arrive at a final agreement however at the time of writing this is still in draft. Management should continue to pursue a final signed agreement. **Management response:** Agreed **Responsible officer:** Finance Manager **Implementation date: July 2015**