



**mental welfare**  
commission for scotland

**MENTAL WELFARE COMMISSION FOR SCOTLAND  
MEETING OF THE BOARD  
HELD ON TUESDAY 20 August 2024  
AT 11.00AM Via Teams**

**Present:**

Sandy Riddell (Chair)  
Gordon Johnson  
Mary Twaddle  
Cindy Mackie  
Kathy Henwood  
Alison White  
David Hall  
Nichola Brown attended up to item 7.5

**In attendance:**

Julie Paterson, Chief Executive  
Suzanne McGuinness, Executive Director (Social Work)  
Claire Lamza , Executive Director (Nursing)  
Julie O'Neill, Business Change and Improvement Manager  
Ashley Dee, Head of Culture and Corporate Services  
Arun Chopra, Executive Director (Medical) attended from item 7.6

**Secretary:**

**1. Welcome and Apologies**

The Chair welcomed all to the meeting. It was noted that AC would join the Board meeting around 12.30.

**2. Board Declarations and Register of Interests**

No declarations or register of interests were given.

**3. Chair Update and Announcements**

The Chair firstly advised that he had received a letter from the Minister at the beginning of last month thanking us for having been given an advance copy of our Annual Report. The Minister stated that she welcomed the work of the Commission in protecting and promoting the rights of people living with mental ill health in Scotland and that working with the Commission and other partners continues to be of huge importance as we all work to achieve the changes we want to see.

In relation to the Minister, the Chair noted that he was still hopeful that she will be able to attend our planned national event in November. He has discussed the event on a few occasions with JP and they will be meeting this coming Monday to firm up on the arrangements for the day. The programme is likely to consist of a few keynote presentations from the Commission, the Minister and the sponsor department, in addition to a world café type event involving focussed discussion and ending with a Q&A panel discussion. A 'Hold The Date' notice has been sent out.

The Chair reminded the Board that it planned for Stephen Gallagher to attend next month's Q&A for an informal, introductory meeting with the Board. Once Stephen has left the meeting, the Chair wants to provide an opportunity for some reflection on what was raised in the last Board self-assessment with a view to considering what still needed to be progressed. He asked that the self-assessment report that was presented to the Board at the beginning of the year be circulated in advance for information.

The Chair reminded everyone that the October Board will be in-person only. It is hoped to have some development time organised for the day following the formal Board meeting and that colleagues should expect the meeting to end by 3.30 p.m.

The Chair added that we have been advised that Diane Strachan who heads up the Mental Health Act Reform within our sponsor department is leaving at the end of this month. She has been excellent in this role, very supportive and helpful towards the Commission and will be missed.

The Chair advised the Board that we have followed up with the Public Appointments Team on the need to recruit two new Board members. They have confirmed that they are aware, will be in touch shortly and envisage the process taking around 5-6 months.

Finally, he explained that he and JP were advised last week by the sponsor department that there had been another commission issued on public bodies, this time by the Cabinet Office. Specifically, we were asked for information on two areas, namely 1) have the Board and Accountable Officer completed all relevant training on the Governance Hub and 2) to what extent is our body delivering on the First Minister's 4 priorities (i.e. eradicating child poverty, growing the economy, invest in Net Zero and Public Services Reform). This information was needed by yesterday. The Chair advised that he and JP had not previously been advised of the Governance Hub and have now set up accounts and have undertaken a number of the courses that appear relevant. There are perhaps only a small number of courses that would be relevant for the Board as there are some that appear to be developed by board members specifically for new board members and some that are specifically for JP in her role as accountable officer. The Chair and JP are meeting later this week and will review what is available and will then suggest what would be worth following up on. It will be necessary to support colleagues in the setting up of access to the Hub and we will need to agree an end date by which board members will need to give the Chair assurance that the few courses being suggested have been completed.

#### **4. CEO Update**

The CEO advised that the iMatter survey was due again next month. She advised that, on reflection and following external advice, it is likely that we will focus on three main areas of improvement following this survey instead of the five last year. Five may have been too ambitious and we have a fair bit of work to do to progress all actions discussed and agreed at the follow up focus groups from January 2024 in response to our first iMatter.

JP also advised that ELT had recently learned (last week) that two new questions had been added to iMatter. The questions are:

1. I am confident that I can safely raise concerns about issues in my workplace.
2. I am confident that my concerns will be followed up and responded to.

JON, as lead for iMatter, undertook further research and learned that these new questions, first reported in November 2023, are not mandatory and Health Boards/HSCPs are not reporting at a team level or within the index scores.

Having considered the views of ELT, JP advised that the preferred approach is not to suddenly introduce these two new questions next month but to first engage with staff and introduce the questions to the staff focus groups in January 2025. The focus groups will give the opportunity to discuss before adding to the questionnaire in September 2025.

NB noted her support for this approach to the new questions stating that the iMatter survey is a somewhat blunt instrument and the softer approach to the inclusion of these questions with a focus on staff engagement is welcome. CM confirmed her full support stating that the proposed focus group approach engenders openness and transparency, the type of culture that we want. The Chair welcomed the opportunity to be able to compare with last year's iMatter. He also reflected on his experience where questions were suddenly included in an appraisal which was not helpful, he therefore agreed that this proposed approach was staff centred and welcomed this considered plan of introduction of the new questions.

## **5. (a) Minutes of Board meeting held on 25 June 2024**

The minutes were approved as an accurate record.

### **(b) Action Points (Paper)**

Actions noted to be completed or in hand.

## **6. Advisory Committee**

### **6.1 Advisory Committee Update**

MT reported that the Advisory Committee Chairs had had planning meetings with JP and the Chair and with AC in recent months.

MT updated the Board that the next Committee meeting is scheduled for 30 August 2024 and will be held virtually. A significant part of this meeting will focus on how to strengthen lived experience voices e.g. should we have a reference panel or are there other models we should consider.

Both MT and SR reminded Board members that they are welcome to attend the Advisory Committee at any time.

The Chair thanked MT and NB for their continued work and proposed that a progress report be available for September, covering what has been delivered already by the Committee and the items currently in progress.

**Action:** Progress report on tangible actions taken to date (AC/MT/NB)

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

### **7.1 Budget Update**

JP presented the budget report noting that the Commission is fortunate to have the budget confirmed for 2024-25 and that this includes the additionality of year 2 of the previously agreed pay award and the £418k cap for DMP fees, which is a demand led service.

The Chair agreed with JP and advised that the current challenging fiscal climate means we must continue to evidence our impact and justify our expenditure.

**The Board** approved the budget update

## **7.2 Business Plan Progress Report as at 8 August 2024**

JON introduced the paper, noting that it covered the first quarter of the second year of the strategic plan.

The Chair started by commending the progress in the recording and detail of the information presented.

The Chair enquired whether the importance of performance management was increasingly being recognised within the Commission. JON confirmed that there is evidence of a cultural shift within the Commission, with managers and staff understanding the importance of performance measures, knowing where things are working well and having plans in place for areas which need to improve. JP agreed and reflected on CL and JP's first meeting with the external company Hanya prior to implementation of a performance framework and where we are now. JP suggested that a reflection report might be interesting. The Chair thought this was a good idea.

**Action:** Reflective report to assess the progress made over the past four years (JP).

GJ thanked JON for her thorough work, highlighting that the report's detail made it easy to follow, particularly in terms of tracking progress and understanding the reasons for any delays. GJ noted that a new Communications Manager is to be appointed and asked that Board members be advised when new staff join the Commission. AD explained that Terry Rogers is temporarily covering this post and that the candidate who was offered the post has since withdrawn so no appointment has yet been made to this post.

The discussion then turned to aspects of the business plan and the activity in relation to people in mental health/learning disability wards for 10 years or more. JP advised that this work arose from the information published by Public Health Scotland last year and the subsequent ask by Scottish Government for us to look at the circumstances of the 30 people reported to have been in hospital for more than 10 years. Following our approach to HSCPs, we have learned that the figure is now 55 and we are looking at the circumstances of the individual cases and will complete analysis by end September and bring a report to the Board thereafter. KH said it will be interesting to know what age people were when they were first admitted.

KH also advised that the terminology 'hard to reach' within the plan should be updated to 'less represented groups'.

**Action:** Terminology within the business plan to be altered from 'hard to reach groups' to 'less represented groups' (JON)

CM inquired about potential wellbeing issues within the Casework Admin Team related to workload noted in the plan, and how these concerns are managed and assessed. AD responded that the Commission has established 1:1 sessions and would expect any workload and wellbeing issues to be captured there by managers with HR advice taken where required. The Commission also has wellbeing champions. There isn't however a mechanism to report on collective wellbeing issues. CM wondered whether this might be useful to do.

JP provided some background that the review of the casework admin function highlighted collective areas for improvement. For example, there were tasks that casework were

undertaking but could be undertaken by other parts of the service, so these tasks were transferred. The review also highlighted the need to create additional resource so another post was introduced to manage the workload. CM acknowledged that this context information was helpful.

CM also asked whether the recruitment training provided to staff was consistent across the board. AD confirmed that the training is standardised for all staff members involved in the recruitment of staff.

The Chair asked for an update on the collaboration with SAMH on peer support. CL confirmed that there is a scheduled meeting in September to discuss how to operationalise. The Chair said it would be good to reflect this collaboration at our event in November.

NB welcomed the paper and queried if the EMP section could include more detail regarding geographical spread and wondered whether we have perhaps focussed on the central belt to date. CL explained that there is a new EMP manager and she will be continuing to look to expand the range of visits throughout the year. SM highlighted that previous engagement had extended to Aberdeen, the Western Isles and Argyll and Bute but probably less so on the south.

**The Board** approved the business plan

### **7.3 IMS Project Progress Update**

SM presented the report for information and advised that the contract between CDS and the Commission has been agreed via the parties' respective legal teams and development activity has commenced.

The project has been agreed to be delivered in two overarching phases, with a functional system planned for Go Live by April 2025, and a subsequent eight-week period for enhancements, due for completion/handover during May 2025.

SM informed that timeframes at this point are however projected and will depend on the findings through the discovery phase and may therefore be subject to change.

**The Board** noted and welcomed the update

### **7.4 Local Visit Recommendation report for 2023 to 2024**

The Chair initiated the discussion noting the impressive nature, scope, and range of visits conducted. CL was then invited to present the Local Visit Recommendation Report.

CL presented the report, noting that the data had been reformatted for improved readability. The Chair appreciated the comparison provided by the report, with CM concurring that it represented strong evidence-based reporting. AW particularly welcomed the trend information and MT said she found the report very helpful.

During the discussion, DH inquired whether the data on staffing concerns reflected the broader challenges faced by NHS boards. CL confirmed that staffing issues were not always the sole factor, there were other risk factors related to, for example, locked doors with no policy in place and specified person restrictions that were not being lawfully authorised.

**The Board** approved the paper

### **7.5 Closure report: Prison themed visit**

CL confirmed that for this closure report we had requested a joint response from NHS and SPS. For 11 of the 15 prisons, the SMART action plans incorporated the work undertaken by both SPS and NHS as a joint response. The remaining four prisons gave separate self evaluations as an NHS and an SPS response but did provide interlinked activity, audit and responsibilities.

All services provided good quality responses to the recommendations on the Commission's SMART action plan template.

CL explained that the ongoing actions will be monitored through the now regular programme of meetings with SPS and the Commission. The action plans received will also be embedded into the Commission's local visit programme to HMP services across Scotland. CL noted that this will ensure ongoing scrutiny and review of the activity around the recommendations and agreed actions progressing. There is also a plan, with permissions, to share all responses with all prisons to support learning.

DH explained the report showed a greater dedication to mental health within the prison service, but wished to query if mental health within prisons would continue to appear on the agenda of mental health organisations. MT concurred raising that it was important to keep the issue prominent, and make sure organisations are held to account. CL explained that this report would go to Scottish Government who would pass it through their networks. CL also advised that the intention was to undertake this themed visit again in 2027 to ensure the focus was not lost.

KH welcomed the section regarding carers, asking if there was any work to help with inclusion. Recommendation 9 refers to the family strategy and the work of SPS and CL assured this would also be taken account of within this year's carers themed visit programme.

**The Board** approved the paper for publication.

### **7.6 The Right to Advocacy Report 2023: follow up on recommendations**

JON presented the follow up on the right to advocacy report. SR and DH questioned why some geographic areas were missing. JON confirmed that this is a follow up report and reflected on those areas which had outstanding actions. All other geographical areas have completed all outstanding actions. JON advised that this exercise will be repeated in 2025.

**The Board** approved the paper

### **7.7 New Good Practice Guide: Recall of Guardianship**

SM presented the good practice guide to the Board for approval noting that this was produced because numerous questions on this subject had been raised via the telephone advice line and directly to practitioners.

MT wondered if it might be possible to add another flow chart about who is responsible for recall applications as it might not be easily understood by those not involved in the recall process. SM clarified that this new good practice guide was primarily written for staff in health and social work to provide clarity about roles and responsibilities. The Chair

acknowledged that the target audience will dictate how a good practice guide will be written and welcomed SM's suggested consideration of review in 12 months in light of MT's comment.

**The Board** approved the paper

### **7.8 Mr TU Closure Report (verbal)**

SM said that Board members will recall that Mr TU was our first homicide report published as part of the DIDR/MHH project. There was a great deal of learning for ourselves in relation to this first project piece of work; this included a high media profile.

We agreed that in 2024-25 we would begin completing closure reports for investigations, similar to those introduced in 2021 for themed visits. This was to 'close the loop' of our work and show follow up in relation to investigations.

Our aim was to start with Mr TU but this has proved more complex than initially anticipated. We are still working on this however our intention is now to bring forward Mr E (2024) and the associated closure report. This is less complex and will be somewhat more straight forward to learn from as our first closure report. Mr E was published in January 2024. The closure report will be completed post a final meeting with the service early in October 2024 and will come to the Board that month. This learning will also inform Mr TU and the other investigations closure reports thereafter. SM offered apologies for the delay in presenting Mr TU but hoped the Board are assured that the new commitment to closure reports is still progressing.

GJ and MT expressed their appreciation for the update and agreed with the rationale provided by SM. There was a collective view of the importance of getting the new approach right rather than chasing a deadline.

**The Board** noted the update.

### **7.9 AWI Monitoring report 2023-24**

AC provided headline details, noting that the AWI monitoring report is due for completion on 30 August 2024. AC highlighted that there is a total of 19,078 individuals subject to guardianship, this has doubled in the last decade and linked to the previous discussion of the new good practice guide, there have been 35 recalls by local authorities and 5 by sheriff courts in the 10 years.

MT queried if there were an explanation regarding where the increase was coming from, for example, does it relate to older people? AC confirmed that there was no data which highlighted a demographic change and the most prevalent diagnosis remains learning disability. He suggested that growing awareness of AWI may be a factor in the increasing numbers.

It was noted that the full monitoring report will be available for publication in September and the Board will receive a copy prior to publication.

**Action:** AWI monitoring report to be circulated to board members for information prior to publication in September

**The Board** noted the update

### **7.10 SBAR Business Hours and 35 hour week**

AD presented the paper for information and explained that the transition to a 35 hour working week from 1 October 2024 necessitated a review of the Commission's business hours and Flexi-Time Policy, to agree how the reduced working week can be accommodated. He reflected on the fact that there are some discrepancies around the current business hours and flexi-time arrangements and the need to consider some options for how to manage this from 1 October 2024.

AD explained that a decision had been reached in principle at the last ELT meeting that the window for accruing flexi could be reduced however following a review by H.R., it was suggested to retain meantime and review at a later date.

The Chair acknowledged the paper and reminded of the importance of managers managing consistently and not allowing informal custom and practice to creep in, creating variation as seems to be what has happened previously.

CM noted her support stating that the underpinning processes evidence fairness and equity.

**The Board** noted the update

## **8 For information**

### **8.1 Definition of Mental Disorder: Scottish Mental Health Law Review**

JP explained that the paper presented related to 19 people, with a sole diagnosis of learning disability, detained according to compulsory treatment orders (CTOs) in 2022-23.

Early findings of the attached paper were shared at a meeting with Scottish Government and various stakeholders on 7 March 2024 to inform discussions about whether learning disability should be retained within mental health law or not. The Commission has always been clear on its position that learning disability should be retained and JP suggested that the vignettes within the paper hopefully give a flavour of how the law ensures appropriate access to specialist medical and nursing care when this is required.

JP suggested that this paper be added to our website alongside our response to the SMHLR. This was agreed.

**Action: to add the paper to the website as agreed.**

### **8.2 SBAR Response to Consultation: Assisted Dying Bill**

AC confirmed the submission of the consultation response on behalf of the Commission has been made and the commitment to ensuring a focus on people with mental health related conditions. GJ noted the excellent focussed response.

**The Board** noted the update.

## **9. Board Agenda Planning**

No changes were made to the board agenda at the meeting

## **10. Date for next Board meeting Tuesday 22 October In Person**