MENTAL HEALTH ACT COMMISSION

ANNUAL REPORT AND OPERATING ACCOUNTS

1 APRIL 2005 – 31 MARCH 2006

Presented to Parliament pursuant to section 98 (1c) of the National Health Service Act 1977.

HC 1255 Ordered by the House of Commons to be printed on 19th July 2006

Mental Health Act Commission
Annual Report and Operating Accounts
1 April 2005 – 31 March 2006

Presented to Parliament pursuant to section 98 (1c) of the
National Health Service Act 1977

Ordered by the House of Commons to be printed on 19th July 2006

HC 1255 London: The Stationery Office £15.90

MENTAL HEALTH ACT COMMISSION
ANNUAL REPORT AND OPERATING ACCOUNTS 2005-06

Contents

ANNUAL REPORT 2005-06

Chairman's Foreword

The year to which this report relates, 2005-06, was, to some degree, a year of consolidation following the internal review changes in 2004. Nonetheless it was also a year of continued hard work as Commissioners and staff settled into new roles and as we sought to involve Second Opinion Appointed Doctors (SOADs) more in the overall work of the Commission.

This report documents the significant achievements of the Commission given the limited resources available. Commissioner activity has been impressive and the Commission has become more proactive in addressing the serious abuses of patients' rights that we encounter regularly. SOAD activity has continued to increase at around 6% per year over the last eight years (for Section 58 medication opinions) leading to significant pressure on the Commission's budget.

The Commission was actively involved in discussions about the Mental Health Bill, although in retrospect much of the discussion during 2005-06 was at best preparatory for possible suggestions towards amending the Mental Health Act 1983 as has now been proposed by Government.

Most importantly, last year saw the publication of the Commission's Eleventh Biennial Report – a major compendium of mental health law and practice. There was a time three or four years ago when we thought the Tenth Biennial Report would be the Commission's last; we now think that there is likely be a twelfth report in late 2007, that will be an important milestone reflecting on the operation of the Mental Health Act 1983 over the best part of a quarter of a century prior to an amended Act being implemented in 2008 or 2009.

The Commission continues to work closely with partner organisations through the Concordat, especially the Healthcare Commission and Commission for Social Care Inspection (CSCI) in preparation for the proposed merger in 2008-09 and the creation of a new inspectorate, regulatory and monitoring body for health and social care. The Commission has long argued for the continuation of adequate protections for the rights of detained patients and the importance of visiting services on a regular basis. We will want to ensure that any new organisation has the resources, powers, and processes to ensure adequate protection of patients' rights. Even with the limited resources available to the Commission, this last year has shown that many abuses of patients' rights occur on a day to day basis and that many potential scandals may be averted by the Commission's activity. The Commission will continue to argue strenuously that there must be no dilution in the protections available to detained patients.

The Commission managed the successful implementation of Census 2005 on 31 March 2005 and the subsequent detailed analysis in collaboration with the Healthcare Commission. The final report was published in December 2005. The Commission led the service user survey during late autumn 2005. This has

provided fascinating detail on service user experience and will be published in July 2006.

As always I am indebted to the hard work of the staff, Commissioners and SOADs. I am particularly grateful to the service users that now form the Service User Reference Panel (SURP), for their help and assistance in ensuring that the Commission's work reflects service user need. I am grateful to the Commission Board and to the Department of Health sponsor branch for their assistance in ensuring that the Commission is able to fulfil its statutory duties and to play its part in protecting the rights of the most vulnerable members of society.

Professor Lord Patel of Bradford OBE
June 2006

Mental Health Act Commission

Annual Report 2005-06

Introduction

1. 2005-06 continued the themes of the previous year. Critical highlights included consolidation of the internal review processes as Commissioners settled into their new roles; involvement of Second Opinion Appointed Doctors (SOADs) with Commissioners at a Regional level and through training programmes; continued discussions about the draft Mental Health Bill 2004; data analysis and report writing following the 'Count Me In' Census data collection on 31 March 2005, implementation of the service user survey during the autumn 2005; and preparation and publication of the Eleventh Biennial Report.

2. This report sets out details about each of these areas and describes the Commission's remit and operational activities. The Commission set itself challenging performance indicators. Annual reports were prepared and presented to providers by the end of the financial year. The Commission met and interviewed 5816 patients thus achieving a performance of 3.6 patient interviews per Commissioner day. The new approach to Commission visits uses Commission resources more efficiently and effectively than previously although it does require Commissioners usually to visit on their own. The Commission set itself a tough objective of visiting every ward with detained patients within an 18 month period. During the period October 2004 to March 2006 the Commission visited over 90% of all identified wards with detained patients and was able to tackle many problems identified during those visits. The role of Regional Directors has also developed both in supporting and managing Commissioner activity, and in working with providers to resolve issues found by Commissioners.

3. SOAD activity has continued to increase. This demand led statutory function is an important aspect of the consent provisions of the Act and a necessary protection to patients. As a result of the Government's decision to take a fresh approach to mental health legislation it is likely that the SOAD function will continue in the future. The Commission is proposing a review of the SOAD function during 2006-07. This is timely because of the proposed mental health amendment Bill and the continued increase in SOAD activity, which has placed a serious burden on the Commission's budget. The Commission is seeking ways to involve SOADs in the wider work of the Commission and to develop close working relationships between Commissioners and SOADs at a Regional level.

4. The Commission has placed increasing emphasis on the importance of equality and human rights in all its work. This has led to a number of developments, three of which are worth noting here. First, the Commission has established a Service User Reference Panel (SURP) that is now involved actively in assisting the Commission to undertake its work in a way that is directly relevant to service user experience. Second, the Commission

was one of ten public bodies that took part in a pilot project on the new gender duty that will come into force on 1 April 2007. This was valuable in assisting the Commission to identify gender related issues and in developing guidance relevant to the implementation of the gender duty. Third, the Commission received funding from the Department for Constitutional Affairs (DCA) and the Department of Health (DH) to undertake a project (which continues into 2006-07) on Equality and Human Rights. Entitled 'Making it Real' the project is designed to identify ways in which a public authority can take effectively an equality and human rights perspective on its work. The Commission is particularly keen to develop an encompassing legal, civil and human rights approach recognising that detained patients engage many European Convention on Human Rights (ECHR) and Human Rights Act rights.

5. The Eleventh Biennial Report, *In Place of Fear?*, covering the period 2003 to 2005, was published in January 2006. The report contains a compendium of case law, analysis of the Commission's concerns about mental health care provision, a continued focus on human rights, and a major section on Part III of the Mental Health Act 1983 on criminal justice matters.

6. The Commission has liaised closely with the Healthcare Commission and the Commission for Social Care Inspection (CSCI) towards eventual merger into a new healthcare inspection regulation and monitoring body. Continued close co-operation with the Healthcare Commission has been beneficial in tackling identified abuses of patients' rights especially where these arise in the private and voluntary hospital sector. Following the Wider Regulatory Review undertaken by the Department of Health, the Commission is now in discussion with the Department of Health, the Healthcare Commission and CSCI on the DH proposals for future merger of the three organisations in 2008-09 and the necessary legislation, subject to ministerial direction.

7. The Commission led the management and implementation of the National Mental Health and Ethnicity Census 2005: 'Count me in'. The Census was extremely successful in achieving its main aims. 33,828 records were collated and the data analysis was undertaken by the Healthcare Commission. A report was published in December 2005. During 2005 the Commission also led the implementation of the Census Service User Survey. Altogether 394 complete service user questionnaires were returned, enabling a detailed analysis to be undertaken by the National Centre for Social Research on behalf of the Commission. An interim presentation of the results was made at the Delivering Race Equality (DRE) conference in February and a final report is to be issued in July 2006. In parallel with this activity the Commission planned the implementation of the Census 2006 – extended to include Learning Disability services. The Commission team prepared a range of audio visual materials working closely with National Health Service (NHS) and Private and Voluntary Healthcare (PVH) providers of mental health and learning disability services. The total number of records obtained was in excess of 36,000, and data analysis will again be undertaken by the Healthcare Commission during 2006-07.

Chapter 1: Statutory Functions

Role, Objectives and Organisational Background

Statutory remit

1. The Mental Health Act Commission (the Commission) was established by the Secretary of State under powers provided by the Mental Health Act 1983. Full references to the statutory instruments and orders, which determine the duties of the Commission, are available upon request or from the website www.mhac.org.uk. These duties have been summarised as follows:

- To advise the Secretary of State on implementation and operation of the Mental Health Act 1983 and the Code of Practice;
- To visit, interview patients in private and to review documentation as necessary regarding patients detained under the Act;
- To investigate, at the discretion of the Commission, any complaint involving any patient whilst subject to detention;
- To review decisions to withhold mail of patients detained in high security hospitals;
- To manage and operate the Second Opinion Appointed Doctor (SOAD) Service;
- To publish to the Secretary of State and Parliament a Biennial Report of the work of the Commission.

Mission Statement

2. The Board has adopted the following mission statement to encapsulate the core meaning of the Commission's statutory role:

"Safeguarding the interests of all people detained under the Mental Health Act"

This is supported by the following statements of strategic intent and underlying values, which provide the directional framework on which plans and priorities of the Commission are determined.

Strategic Aims and Ambitions

3. The primary aims of the Commission are twofold:

- To fulfil its statutory functions, as set out in the Mental Health Act 1983, to the highest standards possible;
- To work with Government, the Healthcare Commission, and other regulators and partners to help ensure the best possible protection for patients under the legislation brought in to replace or amend the 1983 Mental Health Act.

Underlying Values

4. The Commission's programme of work intends to make a difference to the lives of detained patients and is set out around the following core values:

- Focus on the needs of patients or service users;
- Proportionality and targeting of resources and expertise;
- Dignity and respect for patients and service users at all times;
- Openness;
- Accountability;
- Maximising user involvement and autonomy;
- Collaborative working with other agencies.

Objectives

5. The Commission's principal objectives are:

a) Promoting human rights: To promote and protect the human rights of patients who are detained under the Mental Health Act.

b) Influencing policy and practice: To influence the direction of mental health legislation, regulation, policy and practice in order to help bring about the most effective services possible to people with severe and enduring mental health problems.

c) Visiting and talking to detained patients: To fulfil to the highest possible standard the visiting function as described at section 120 of the Mental Health Act 1983, which requires the Commission to monitor the operation of the Mental Health Act, to visit and interview detained patients in private and to report findings to the Secretary of State.

d) Providing second opinions about consent to treatment: To manage the Second Opinion Appointed Doctor (SOAD) scheme effectively, and to bring about improvements in this area.

e) Modernising the way we work: To deliver and implement strategies to ensure that the Commission is a modern organisation equipped effectively for purpose.

f) User involvement: To continue to increase the involvement of people with experience of detention in the work of the Commission in order to improve the effectiveness and relevance of our work.

g) Support for 'Delivering Race Equality': To lead and manage the successful delivery of the second National Mental Health and Ethnicity Census, on behalf of the Healthcare Commission and the Department of Health.

h) *Promoting equality and diversity in our workforce and providing support and opportunities of development for all.*

i) *Use of resources:* To manage its resources efficiently and effectively, including fulfilling requirements of the Department of Health's Arms Length Body Review, and ensuring full controls assurance and governance arrangements.

j) *Implementing the Concordats:* Bodies responsible for the regulation, inspection and audit of health and social care in England, and separately in Wales, have published a Concordat which sets out the principles and practices all the signatories have agreed to follow in carrying our inspection activity. The Commission is a signatory to both the English and Welsh Concordats and will continue to embed these practices in its work in order to reduce any unnecessary burden on provider organisations and reduce duplication of activity. It will continue to develop better ways of sharing information and co-ordinating activity to improve the overall quality of mental health services in both countries.

k) *Transitional Planning.* The Commission will work closely with the Department of Health, the Healthcare Commission, and Commission for Social Care Inspection, to develop transitional plans towards changes in organisational structures, probably in 2008-09. It will endeavour to provide support to staff and equip them for change through promotion of training and development opportunities.

Disability

6. The Mental Health Act Commission operates a guaranteed interview scheme where a candidate with a disability meets the essential criteria for recruitment/appointment. During employment, arrangements are made to support any specific needs in relation to travel, assistance on visits, visits to the office or premises alterations.

Commission Membership

7. The Commission currently has 95 Commissioners who work in small teams within a Strategic Health Authority (SHA) or Welsh Region area. SHAs and Welsh Regions are clustered together into four Mental Health Act Commission regions, each overseen by a full time Regional Director. Details of these regional boundaries are shown at **Appendix 1**. A recruitment exercise is currently underway and reported at paragraph 18.

8. The roles of Local and Area Commissioners are different:

- Area Commissioners, usually one for each SHA area or Welsh Region take the lead in establishing and maintaining good working relationships with senior managers within key agencies and preparing an annual report for each mental health service provider.
- In addition two or three Local Commissioners within each area work independently, visiting services, interviewing detained patients, checking

documents and lawfulness of detentions, and discussing issues of concern with patients/service users.

- Where there is a high number of detained patients, the team may be larger, the maximum is two Area Commissioners and three Local Commissioners.
- Each Regional Director has responsibility for Commissioners in their area, and provides a high profile credible presence of the Commission at regional level.

9. The figures in **Tables 1 and 2** illustrate the diversity of the current Commissioner and SOAD membership.

Table 1:
Analysis of Commissioner and Second Opinion Appointed Doctor (SOAD) Membership

Region	Category (i) Gender (ii) Ethnicity	Area Commissioners	Local Commissioners	SOADs
1	Male	6	2	35
	Female	2	15	11
	British(White)	8	15	29
	Black	0	0	1
	South Asian	0	1	9
	All Other	0	1	6
	Not Stated	0	0	1
2	Male	3	7	30
	Female	3	7	6
	British(White)	5	11	14
	Black	1	1	2
	South Asian	0	0	9
	All Other	0	2	11
	Not Stated	0	0	0
3	Male	5	7	38
	Female	2	10	5
	British(White)	6	12	23
	Black	0	0	1
	South Asian	0	1	8
	All Other	1	4	9
	Not Stated	0	0	2
4	Male	5	5	18
	Female	2	14	8
	British(White)	6	10	13
	Black	0	3	0
	South Asian	0	2	3
	All Other	1	4	8
	Not Stated	0	0	2
Total by Gender	**Male**	**19**	**21**	**121**
	Female	**9**	**46**	**30**
Total by Ethnicity	**British(White)**	**25**	**48**	**79**
	Black	**1**	**4**	**4**
	South Asian	**1**	**6**	**29**
	All Other	**1**	**9**	**33**
	Not Stated	**0**	**0**	**5**

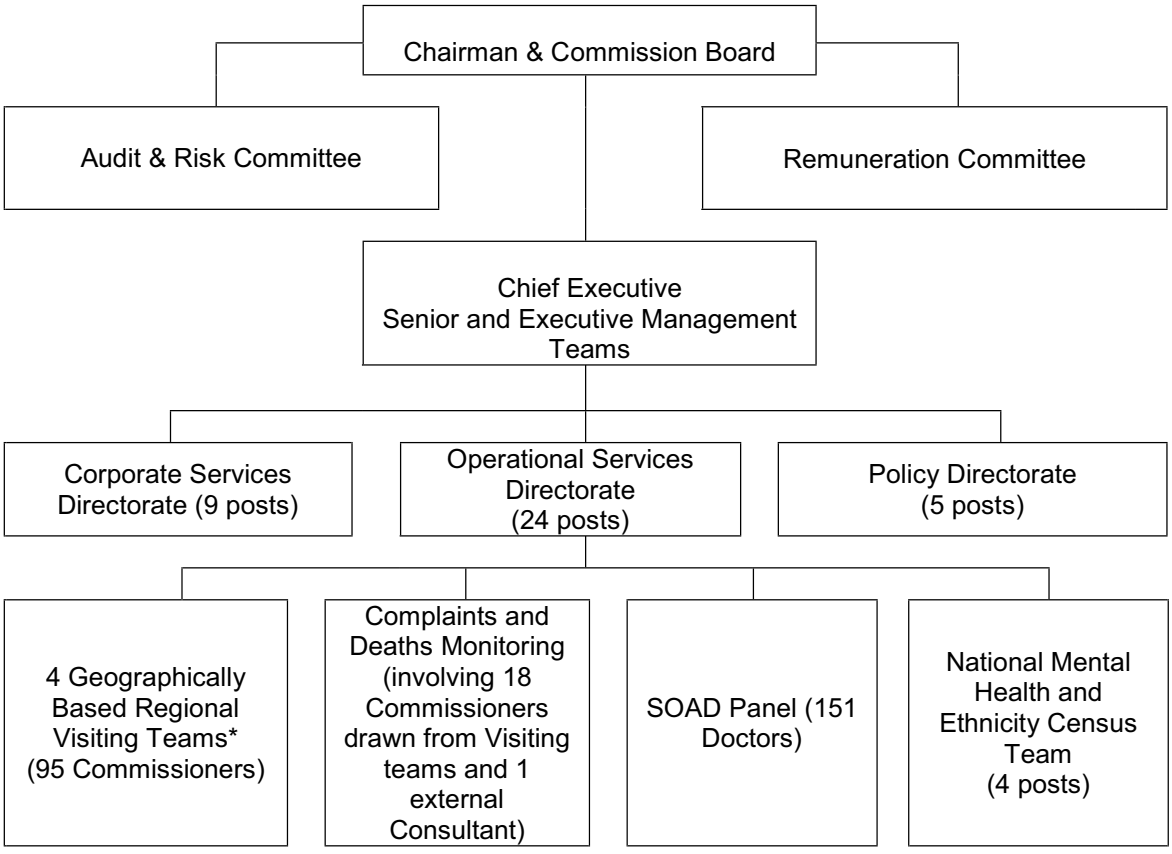
Table 2: Analysis of Commissioner Membership by Specialism

Specialism	Region 1 (Northern)	Region 2 (Central & Eastern)	Region 3 Wales & South West	Region 4 (London & South East)
Legal	1	1	2	3
Medical/Psychiatry	0	0	2	0
Nurse	2	5	6	6
Lay	6	3	4	3
Other	7	1	1	3
Social Work	9	10	9	11
TOTAL	**25**	**20**	**24**	**26**

Organisational Structure

10. **Table 3** below summarises the structure and organisational arrangements of the Commission. Commissioners and SOADs are based throughout England and Wales and normally visit or work with detained patients being cared for within their respective areas.

Table 3 – Organisational Structure of the Commission



* Each regional team is overseen by a full time Regional Director

Core Work of the Commission

Visiting Programme

11. Mental Health Act Commission visits continue to be ward based requiring minimal support from provider staff. The Commission has a minimum visiting frequency for each hospital/facility of once every 12 months, and each ward with detained patients within those facilities once every 18 months. The documentation completed by Commissioners provides a standardised approach to visiting across all regions and informs a Visit Priority Rating (VPR) allowing Commissioners and Regional Directors to identify wards where, if resources allow, Commissioners might visit above the agreed minimum frequency.

12. Commissioners leave a summary sheet with ward staff at the end of each visit recording any necessary action and agreed timescales which headquarters staff monitor or follow-up as necessary by phone call or correspondence.

13. Mental Health Act Commission annual reports are a summary of all visiting activity undertaken by the Commission within a provider during a reporting cycle. Copies of annual reports, which are public documents and, wherever possible, provider responses, are posted on the Commission's website, www.mhac.org.uk 28 days after formal presentation to provider senior management or Board.

Recruitment & Training

14. The Commission held a number of Conference and training events for Commissioners and SOADs in 2005-06. Details of the events and numbers of attendees are shown in **Table 4** below.

Table 4: Conference and Training events held in 2005-06

Date(s)	Venue	Purpose	Attendees
10 & 11 May 2005	Bristol	Commissioner training event	96 Commissioners, plus Regional Directors and staff
9 & 10 November 2005	Stoke on Trent	Commissioner and SOAD training event	93 Commissioners, 74 SOADs, 5 SURP members plus Regional Directors and staff

Joint SOAD/Commissioner Conference

15. This year saw the first joint SOAD/Commissioner Conference which took place on 9 and 10 November 2005. This provided an opportunity for SOADs and Commissioners to meet in regional groups to explore more effective

communication, to build contacts and to share experiences of attending hospitals in their specific roles.

16. There was also specific training for SOADs on the requirements of their role and a session highlighting the importance of understanding and listening to the patient's perspective which involved a presentation from the lead for Service User Involvement drawing on personal experience and also a survey of views received from the Service User Reference Panel.

Area Commissioner Away Day

17. Area Commissioners were invited to attend an Away Day on 22 September 2005. The event provided an opportunity for Area Commissioners to meet and discuss the opportunities and challenges of the role with Regional Directors and other members of the Senior Executive Team. A small group of Area Commissioners also met with the Interim Deputy Chief Executive in March 2006 to develop positive practice guidance about the Area Commissioner role.

Commissioner Recruitment

18. A number of vacancies for Area and Local Commissioners were advertised in January 2006. As Commissioners are public appointees the recruitment process is managed by the NHS Appointments Commission. Interviews were held regionally throughout April 2006 and interview panels included members from both organisations. Appointments of successful candidates took effect from 1 June 2006.

Staff Away Day

19. All headquarters staff were invited to attend an away day event on 22 November 2005. The aim of this initiative, which was supported by the Department of Health's (DH) Organisational Development Team, was to provide a developmental opportunity and forum for staff with the opportunity to:
    - Reflect on their work at MHAC, and its opportunities and challenges
    - Propose ways in which the organisation might develop in order to:
        - Improve working lives for Nottingham staff
        - Improve the lives of people detained under the MHA 1983
    - Explore how to deal with challenging phone calls/visitors and how to terminate such calls/interaction

20. An action plan to take forward some new initiatives has since been prepared.

Communications

21. The purpose of the Commission's Communications Strategy is to ensure that the organisation uses communication effectively and clearly to achieve its aims.

22. Effective communication is facilitated within the Commission in a number of ways:

- The Management Staffside Liaison Group, a formal forum within which the Senior Executive Team meet with elected representatives of the staff, to discuss and exchange views and reach agreement on issues relating to headquarters staff.
- A monthly meeting held by the Chief Executive to ensure all staff at the Commission's headquarters are kept informed of matters of interest and importance.
- A monthly team brief from the Chief Executive circulated to headquarters staff which summarises issues affecting the Commission on a number of levels.
- A monthly bulletin from the Chief Executive for all Commissioners and SOADs to inform the wider membership of current issues and discussions at the Senior Executive Team.
- Two regional team meetings per year providing an opportunity for Regional Directors to facilitate discussion, training and development within their teams and for any issues raised by Commissioners to be fed back to the Commission and responded to in a co-ordinated and consistent way.

Children and Minors

23. The Commission continues to require providers to notify every admission under the Mental Health Act of a minor to an adult ward and providers are issued with the Commission's monitoring tool to assist an assessment of the patient's care and treatment which can be returned to the Commission.

Programmatic Activity

24. The Commission's programmatic activity is co-ordinated through the Programme Development Group (PDG) which meets quarterly. During 2005-06 the PDG agreed revised terms of reference to address a wider remit that includes specific visiting activity, and also broader programmatic activity. Membership was also reviewed and since December 2005, two new Commissioner members, a Second Opinion Appointed Doctor and two members from the Service User Reference Panel have been appointed to the PDG.

25. The wider programme of activity led by the Commission's Programme Development Group during 2005-06 has included:

- Publication of '*Back on Track?*' A report following a collaborative project with the Sainsbury Centre for Mental Health to monitor the Care Programme Approach arrangements for patients who were currently detained, and who had previously been detained within the last three years. A copy of the briefing paper from the report is available at http://www.scmh.org.uk/80256FBD004F3555/vWeb/flKHAL6EHCDE/$file/briefing+29.pdf
- A short pilot programme of seven joint visits, between her Majesty's Inspectorate of Prisons (HMIP) inspectors and MHAC Commissioners, to help develop mutual understanding of the issues faced in prisons by those with mental health difficulties, and to inform the improvement of services to those detained under the 1983 Mental Health Act who have been transferred from prisons. This pilot project was supported by the Department of Health in relation to its work on the safer transfer of prisoners. A review meeting in February 2006 provided the opportunity to reflect on the pilot and the unique contribution that Mental Health Act Commissioners had been able to offer to the inspection visits.
- Over-occupancy on admission wards - a series of visits in March 2006 to wards which on more than one occasion have faced challenges in dealing with high demand for inpatient beds.
- Mental health and deafness – exploration of more effective communication materials for deaf patients, inclusion of a deaf awareness workshop for all Commissioners at the November 2005 conference.
- Communication materials for patients with a learning disability – development of information leaflets specifically for patients with a learning disability.
- Facilitation of focus group discussions with detained patients from Black or minority ethnic groups as part of the Department of Health's Race Equality Impact Assessment (REIA) on the Draft Mental Health Bill.

26. Areas currently under development are[1]:

- 'Question of the Moment' – a process for recording the detained patient perspective on up to four key areas over the two years 2006-08 to inform provider annual reports.
- Action 16 Family Visiting - a collaborative project with Barnados and Care Services improvement Partnership (CSIP) to gather information on the provision of, and policies about family visiting in the full range of in-patient mental health care settings.
- Gender issues – an exploration of further work looking at matters of concern.
- Short-term MHAC placement for 3rd year nursing students as part of their professional development training.
- Deaf awareness training for Commissioners undertaking visits to specialist deaf services.
- Review of unnatural deaths within providers and follow up of recommendations.

[1] The financial consequences of the areas of development are captured within the overall budget allocation for 2006-07.

- A notification process to advise the Commission when patients are detained in general [acute] hospitals.

Issues of Serious Concern

27. Issues of Serious Concern are brought to the Commission's attention by visiting Commissioners, stakeholder colleagues, regulatory bodies, patients, carers or staff and are recorded and monitored centrally. Identified serious issues are reported to operational business meetings and overseen by the Assistant Director, Operations. Issues of serious concern are wide ranging and in the reporting period have related to patient safety, privacy and dignity, and allegations of serious abuse. Follow up action is progressed as appropriate through telephone contact or correspondence with the provider, in collaboration with other regulators such as the Healthcare Commission or the Local Authority Protection of Vulnerable Adults Team or by direct contact with relevant provider staff by Commissioners or Regional Directors.

National Mental Health and Ethnicity Census

28. The first National Mental Health & Ethnicity Census (2005), which underpinned the wider Delivering Race Equality (DRE) Programme of the Department of Health and the National Institute for Mental Health in England (NIMHE), took place on 31 March 2005. The 2005 Census was led by the Mental Health Act Commission, in collaboration with the Healthcare Commission and NIMHE and in the two weeks following the Census date 33,828 individual patient records were uploaded to the MHAC website from 211 providers.

29. The report on the Census findings was published 7 December 2005. A copy of the report is available via the Commission's website www.mhac.org.uk/census . Sub-national level data is also available through the Healthcare Commission website - http://www.healthcarecommission.org.uk/NationalFindings/NationalThemedReports/MentalHealth/MentalHealthReports/fs/en?CONTENT_ID=4013944&chk=AhKek4

30. Provider level data, which are not for publication because they include small numbers of patients in sub-categories, and carry a risk of compromising patient confidentiality, have also been made available to individual providers through their secure account on the census website.

31. The Healthcare Commission has overall responsibility for the 2006 Census, supported by the MHAC and NIMHE. It will form an important element of DRE and the Healthcare Commission's continuing information collection programme and it will support the development of standards against which assessment, inspection and monitoring of services can take place.

32. The 2006 Census will include not only all in-patients in NHS and independent mental health services; but also includes people in learning disability residential settings run by the NHS or registered as independent

providers under Section 2 of the Care Standards Act. One of the main aims of the Census is for benchmarking and measuring change. Therefore this second Census is essentially the same as the first with some amendments to the dataset.

The Concordats and work with the Healthcare Commission

33. The Concordat between organisations involved in the inspection, regulation and audit of healthcare in England is a code of objectives and practices setting out what bodies providing healthcare can expect from the main inspecting bodies. The Commission became a signatory to the new Welsh Concordat when this was launched in 2005. Copies of both Concordats are available on our website, and further details about the English Concordat are available at www.concordat.org.uk, a new website to which all signatories including the Commission contribute, and which was launched on 1 March 2005. During the year the number of signatories to the English Concordat increased from nine to twenty but the main liaison around monitoring of mental health services remains primarily with the Healthcare Commission, with sharing of information about current and planned programme activity also taking place on a regular basis with the Audit Commission, National Audit Office and Commission for Social Care Inspection.

34. The first annual review of progress towards implementation of the ten principles and related practices of the English Concordat was completed in July 2005. Notable practice towards these objectives is listed on the Concordat website (www.concordat.org.uk). During the year the Commission has continued to contribute actively to the programme of implementation. Key achievements have included reaching agreement on guidelines for making recommendations to service providers, and developing and launching a web-based scheduling tool on 1 March 2006. The scheduling site is intended as a one-stop-shop to check what inspection, audit and review activities are planned for NHS trusts and registered independent healthcare providers in England, and is aimed at staff in those providers and in the signatory organisations. Where available, links to Commission reports associated with activities are shown too. The site provides a useful tool for Commissioners which will aid them in developing closer partnership working, primarily with the Healthcare Commission, in the year ahead.

New Mental Health Legislation and Future Monitoring Arrangements

35. In 2004-05 the Commission had developed close working with the newly formed Healthcare Commission in expectation of a future merger of the two organisations. This has continued in 2005-06 with closer operational liaison (including some joint visit activity to some mental health service providers) as the Healthcare Commission put in place its regional structures. In September 2005 the Department of Health began a "Wider Regulatory Review" to consider how best to implement the Government's intentions (announced in March 2005) to streamline the regulation of the health and

social care sector. This review ran alongside implementation of the Report of the Arms Length Body Review (published in July 2004). The consequences of this for the Commission are an expectation the Commission will form part of a three-way merger with the Healthcare Commission and the Commission for Social Care Inspection in 2008, and the three organisations are collaborating in discussions with the Department of Health about future arrangements for the monitoring and regulation of services.

36. Towards the end of the annual report period, in March 2006, the Department of Health announced that it would not be publishing the mental health bill on which it had been working since 1998 but would instead bring forward in 2006 a Bill to amend the Mental Health Act 1983.

Service User Involvement and Equality and Human Rights

37. The Commission agreed a Service User Involvement strategy in 2005 that included the development of a Service User Reference Panel. This activity has grown substantially in 2005-06 and is now making a significant difference to the way in which the Commission works, with the 28 members of the panel now being involved in a wide range of activities and projects, and providing feedback about the effectiveness of the Commission. The Commission plans to continue to build on the successes to date and develop this activity further in 2006-07.

38. During 2005 the Commission undertook a fundamental review of its Race Equality Scheme and published a new Scheme and Action Plan in May 2005 in accordance with the requirements of the Race Relations Amendment Act 2000. Work has also been undertaken, through participation in a pilot project for the Equal Opportunities Commission, to prepare for the new public sector gender duty which takes effect in April 2007. Progress was made during the year more widely on development of work on equality and human rights throughout the Commission. At the time of writing the Commission is part way through a case-study project funded by the Department for Constitutional Affairs and Department of Health, which demonstrates how the Commission incorporates equality and human rights into its activity in order to increase the effectiveness of the organisation in its monitoring of the Mental Health Act. The project began in November 2005 and will be completed in September 2006, when a report of the project will be published.

Mental Health Act Commission Biennial Report

39. The MHAC's Eleventh Biennial Report 2003-05, *In Place of Fear?,* was laid before Parliament and published in January 2006. Alongside wide-ranging discussion on issues in civil and criminal mental health law, it contained a number of important recommendations, most of which were addressed to Government. The report received coverage in the national general and specialist press. A copy of the text is available on the Commission's website www.mhac.org.uk.

Responses to Consultations and Legislation

40. During the year the Commission contributed to a number of consultations, including Department of Health consultations on the *Bournewood* judgement, and on the social care Green Paper *Independence, Well-being and Choice*, and the Department of Trade and Industry consultation on the forthcoming public sector gender duty. All Commission responses to formal consultations were published on the MHAC website.

Guidance Notes

41. The Commission published new guidance notes this year on issues relating to voting and detained patients, and nurses' classifications and section 5(4) of the Act. The guidance note on the status of the Code of Practice following the *Munjaz* Judgement of 2003 was withdrawn following the House of Lords Judgement of 2005, and replaced by guidance for Commissioners on monitoring the use of seclusion. Revisions were made to guidance notes throughout the year as required to reflect case law and other changes.

42. In addition to 'as and when' revisions, the Commission reviews the content of all guidance notes every two years; present guidance notes are being revised as a part of this process, for reissue early in 2006-07. All guidance notes are available on the Commission website www.mhac.org.uk.

Welsh Language Scheme

43. A full review of the Commission's Welsh Language Scheme was undertaken during 2005-06 in consultation with the Welsh Language Board. A public consultation on the revised Scheme followed. Responses to this consultation were all positive. A new Scheme has been approved by the Welsh Language Board and the Commission Board and was published in May 2006.

44. The Commission continues to report annually to the Welsh Language Board on the operation of the Scheme. This report is published in English and Welsh on the Commission website www.mhac.org.uk.

Complaints

45. The Commission has a discretionary power under Section 120 (1) (b) of the Mental Health Act 1983 to investigate complaints made by detained patients about matters that occurred whilst they were detained and any other complaints about the use of the Act in respect of a detained patient.

46. In general, the Commission's remit dictates that complaints are investigated at a local level first. It is the Commission's policy to allow complaints to be referred for local resolution and then independent review by the Healthcare

Commission through the NHS Complaints Procedure prior to making a decision whether or not to use its own investigatory powers.

47. This has meant that the Commission does not undertake its own investigation except on rare occasions. In this period, the Commission has instigated one such investigation. However, the Commission gives advice on the provisions of the Mental Health Act 1983 (MHA) and offers to raise and monitor the progress of complaints on behalf of detained patients. When monitoring complaints, the Commission seeks to ensure that these are responded to appropriately and in a timely manner.

48. The Commission's Complaints function is demand led and is initiated through contact with detained patients, carers, relatives or advocates either directly through correspondence, telephone contact with the Secretariat or meetings with Commissioners on visits.

Complaints and Visiting

49. The Commission continues to promote links between the complaints and visiting two functions, with Regional Directors involved in decision making and responses to complaints and visits arranged as a result of complaints received. A visit may be instigated as a result of a serious complaint to ensure that all appropriate action is being taken or where a serious breach of the Mental Health Act has occurred.

50. The Commission has also continued to develop its methodology for themed visits to providers looking at the management of complaints raised by detained patients. Themed visits will include the scrutiny of complaints records but will also focus on the patient's experience through meetings with patients both those that have complained and those that have not.

Notification of Deaths of Detained Patients

51. As part of its general remit, the Commission is notified of the deaths of detained patients. These are then recorded onto a database and any unnatural cause of death is the subject of a review and further action may be taken. Natural cause deaths are scrutinised by a medical consultant to see if these raise any practice issues.

52. When reviewing deaths, the Commission will request preliminary information from the Provider which is referred to a trained Commissioner to decide whether to visit or to attend the inquest.

53. The Commission will seek, through its review, to establish whether good practice, as defined in the Code of Practice attached to the Act, has been followed. The main concern is to ensure that lessons are learned which make similar tragedies less likely in future.

54. In the period, the Commission has received notification of 371 deaths (290 natural and 81 unnatural causes) and has attended 57 inquests and visited on three occasions.

Deaths by Hanging

55. In the Eleventh Biennial Report it was noted that hanging remains the predominant method of suicide, accounting for up to 43% of all suicides of detained patients.

56. Each of these deaths will be reviewed and on conclusion any concerns will be raised with the Provider. Whilst this approach ensures that matters of concern relating to individual deaths are identified and pursued, the Commission wants to ensure that providers continue to take action themselves to reduce potential risks and ensure that good practice is followed at all times.

57. The Complaints Unit has begun a systematic trawl of the death review case files involving deaths by hanging, with the aim of producing follow up work for those providers involved. This follow up will take place during forthcoming routine visits over the course of the first six months of 2006-07, the outcomes of which will form the basis of a further report.

Gender Balance

58. The Commission has a strong track record of raising issues of equality and diversity and has worked hard to ensure ethnic diversity amongst its Commissioners and SOADs. The gender balance of Commissioners is fairly even; however, there are only 30 women of 151 doctors on the SOAD panel (19%).

59. In order to begin to address this, the Commission has consulted with women SOADs to identify reasons for this imbalance. One positive step has been an article addressing this issue in the Royal College of Psychiatrist's Women in Psychiatry Special Interest Group Newsletter which has resulted in an increase in expressions of interest from women consultants. Whilst this has resulted in a small increase in this period, the gender balance will remain a focus for the SOAD Review.

General Medical Council (GMC)

60. The Commission has reviewed its current processes for verification of qualifications. Whilst all applicants to the SOAD panel are required to provide details of their GMC registration the Commission has now implemented a positive annual check to confirm their status. The Commission also receives notification from the GMC if any SOAD is the subject of a complaint and will provide to the GMC relevant details as to performance.

Judicial Reviews

61. Over the course of the reporting year 2005-06, the Commission received one request for action under the judicial review pre-action protocol where a further second opinion was arranged without prejudice to the original decision on the grounds of preventing further costly legal action.

62. The Commission has not received any new judicial reviews involving Second Opinion Appointed Doctors; however, two decisions reached by the High Court are the subject of ongoing appeals, one to the Court of Appeal and one to the House of Lords.

R (on the application of B) v (1) Dr A Haddock, Responsible Medical Officer, (2) Dr J Rigby (SOAD) and (3) Dr Wood (SOAD)

63. The case that has progressed to the Court of Appeal is in essence a challenge against the decision to administer treatment without the patient's consent. There has been a hearing where arguments were put forward as to whether medical necessity had been established and whether a diagnosis needs to be convincingly shown. The Court has reserved judgment which will be handed down later in the year.

R (on the application of DB) v The Secretary of State for the Department of Health (Dr SS - RMO and Dr G – SOAD 1ST and 2ND respondents in the Court of Appeal)

64. A petition has been submitted to the House of Lords seeking leave to appeal against the Court of Appeal's decision to dismiss a claim that Section 58 is incompatible with Articles 3, 8 and 14 of the European Convention of Human Rights. This is now a challenge of principle with the claimant accepting the decision made by the High Court and Court of Appeal regarding the SOAD's and RMO's treatment decisions.

Corporate Governance

The Mental Health Act Commission Board and its Committees

65. The membership of the Board and number of attendances at meetings in 2005-06 are detailed below:

Non-executives
Chair, Prof. Kamlesh Patel (7)
Vice–Chair, Deborah Jenkins (5)
Ann Curno (6)
Barry Delaney (6)
Simon Armson (7)
Kay Sheldon (5)
June Tweedie [to 30/09/05] (1)

Executives
Prof. Christopher Heginbotham, Chief Executive (7)
Martin Donohoe (7)

66. The Board may also co-opt two persons who are members of the Commission. The Board operates as the focal point for corporate governance, approving policies, strategic direction, business planning including risk assessment and related expenditure profiling inclusive of the Annual Accounts. The Board meets formally every two months and met seven times in 2005-06. In line with the Commission's Standing Orders, Board meetings are publicised and members of the public are entitled to attend the entire meeting with the exception of items deemed to be of a confidential nature.

67. The Chief Executive, Christopher Heginbotham, is employed by the Department of Health on a two year contract until 31 March 2007. The Executive Members of the Board, the Chief Executive and the Director of Finance are salaried staff of the Commission. The Chair, Vice Chair and Members of the Board are paid an honorarium for their work on the Commission Board at rates approved by the Secretary of State.

The Board has two sub-committees:

The Audit and Risk Committee

68. This committee met for the first time on 16 September 2005 following the Board's decision to amalgamate the work of the Audit and Best Value and the Corporate Governance and Risk Management Committees. The Committee consists of three non-executive members and three meetings have taken place. The non-executive membership of the Committee and number of attendances at meetings in 2005-06 are detailed below:

Simon Armson, Chairman (2)
Barry Delaney, Vice Chairman (3)
Ann Curno, Non Executive Member (3)

69. In line with the Commission's Standing Orders, the Chief Executive and Director of Finance are invited to attend together with representatives from the Commission's internal and external auditors. The Committee's functions are to foster awareness of risk management throughout the Commission at all levels, ensuring that an Assurance Framework is developed, monitored, and compliant with all statutory and mandatory requirements and also to act as the Board Health and Safety Committee. The Committee is also tasked with ensuring that effective financial controls are in place together with robust reporting mechanisms, ensuring that best value is achieved across the Commission's activity areas. Review and revision of Standing Orders and Standing Financial Instructions is undertaken by this committee.

Remuneration Committee

70. This committee comprises the non-executive members of the Board. The Chief Executive is in attendance except where issues of his own performance are being considered. Meetings are held on an "as required" basis. In 2005-06 five meetings were held.

71. The membership of the Committee and attendances at meetings in 2005-06 are detailed below:

Kamlesh Patel, Chair (5)
Deborah Jenkins, Vice Chair (4)
Ann Curno, Non-Executive Member (5)
Barry Delaney, Non-Executive Member (5)
Simon Armson, Non-Executive Member (4)
Kay Sheldon, Non-Executive Member (3)
June Tweedie, Non-Executive Member [to 30.09.05] (2)

72. Meetings are to advise the authority on performance, remuneration and terms of service of the Executive Directors, the discretionary aspects of the Commission's pay structure, personal performance, costs and increases in fees payable to Commissioners and SOADs.

Declaration of Interests

73. A complete and up to date register of interests for all members of the Commission is maintained. This register is open for public inspection at any time during working hours.

External Audit

74. The Commission's external audit function is provided on behalf of the Comptroller and Auditor General by the National Audit Office (NAO) and paid for by the Commission. A cost-efficient service supported by a programme of work is agreed annually. Costs relating to this activity are detailed in the Annual Accounts.

75. So far as the Accounting Officer is aware, there is no relevant audit information of which the entity's auditors are unaware; and the Accounting Officer has taken all available steps that he is required to take to make himself aware of any relevant audit information and to establish that the Commission's auditors are aware of that information.

Information Governance

76. During the year, the Commission completed an Information Governance work programme addressing the following areas:

- Confidentiality Code of Practice;
- Data Protection;

- Freedom of Information;
- Health Records;
- Information Governance Management;
- Information Quality Assurance;
- Information Security;
- National Programme.

77. The Commission assessed its level of compliance against the 85 requirements and achieved a compliance score of 88%.

Freedom of Information (FOI)

78. The Freedom of Information Act (2000) came into force fully on 1 January 2005. The following documents are available to download from the Commission's website:
    - The Publication Scheme;
    - A comprehensive guidance document, for staff and Commissioners comprises of general background guidance, providing further details about the Exemptions and an Aide Memoir to promote an efficient and consistent internal approach to dealing with requests within the given timeframes;
    - The FOI complaints procedure.

79. The Commission has appointed a non-executive Board member as Freedom of Information Champion, Ann Curno, who is responsible for ensuring compliance with the Publication Scheme and Freedom of Information Act, and is the formal liaison point with the Information Commissioner.

80. The Commission received 24 requests during the period 1 April 2005 to 31 March 2006.

Statement on Internal Control

81. The Statement on Internal Control can be found within the Commission's Annual Accounts for 2005-06.

Emergency Preparedness

82. The Commission has in place a comprehensive Business Continuity Plan developed with assistance from the Institute of Business Continuity and Property Advisers to the Civil Estate (PACE). This document will be fundamentally reviewed during 2006-07 to ensure it is fully compliant with the Commission's current business practices.

Chapter 2: Management Commentary

Performance

Visiting Programme Statistics 2005-06

Patient related activity

1. Although there has been an apparent reduction in the number of patients seen (11%), it is important to note when considering this statistic that the methodology and, in particular, the documentation used on visits changed significantly on 1 October 2004 and therefore a true comparison of year on year activity has not been possible. (See **Table 5** below)

2. The changes introduced by the Commission from 1 October 2004 were intended to increase the Commission's presence within providers, reduce the burden on provider staff, improve the number of patients seen by Commissioners and the level of monitoring carried out. During 2005-06 the Commission achieved a 30% greater presence within providers with an increase in the average patient related activity per Commissioner day of 15%. This was achieved with a 26% reduction in the number of Commissioner days used and includes visits on all days of the week (5% being at the weekends).

3. Documentation completed by Commissioners during a visit is collated under four categories:

   - Factual (e.g. numbers of patients on a ward, number of available beds, frequency of ward meetings, age range of patients on ward);
   - Ward environment and culture (the visiting Commissioner's assessment against a number criteria);
   - Issues raised by patients in meetings with Commissioners;
   - Documentation checks.

4. Information from each of these categories is used to identify the overall Visit Priority Rating (VPR) for every ward visited. VPRs are *not* a rating of the quality of service provided on a particular ward; but are a means of identifying where any additional MHAC visiting resources might best be targeted. It should also be noted that in addition to the document checks recorded in **Table 5** and described above, as part of a private meeting with a detained patient, Commissioners may check:
   - Statutory documentation relating to detention;
   - Documentation relating to consent to treatment where the patient has been detained for three months or more;
   - Documentation relating to the queries and concerns raised by patients during a meeting.

Table 5: Commission Activity Report 2005-06

Visiting Activity	Activity Reported		
	Apr 04– Mar 05	Apr 05 – Mar 06	% Change
Meetings with Detained patients Private Meetings/Significant Contacts/patients seen in groups	**6532**	**5816**	**-11%**
Documentation Reviews Total number of patient Documents Checked	**6467**	**5543**	**-14%**
Number of Commissioner days used for visiting activity[2]	**2183**	**1613**[3]	**-26%**
Total Patient Related Activity *(see Paragraph 1)*	**12999**	**11358**	**-13%**
Average patient related activity per Commissioner day	**5.95**	**7.04**	**15%**
Total Number of Visits to Providers	**1150**	**1647**	**30%**

[2] Commissioners are able to plan their Commission activity around other commitments and may therefore work for part of several days rather than two full days each month. A 'Commissioner day' of approximately 7 ½ hours is therefore used as an approximate guide for reporting purposes

[3] While some Area Commissioners may undertake visiting activity the majority of this activity has been done by the 71 Local Commissioners.

Table 5a: Summary of Recorded Patient Ethnicity

Recorded Patient Ethnicity	Summary of patients seen by Commissioners in private					
	Region 1 (North)	Region 2 (Mids & East)	Region 3 (Wales, W.Mids/S.W)	Region 4 (London & S.E)	Total	**BME %**
White						
British	988 (70.07%)	1031 (77.58%)	936 (77.04%)	724 (45.42%)	3679 (66.31%)	**79.20**
Irish	5 (0.35%)	10 (0.75%)	9 (0.74%)	28 (1.76%)	52 (0.94%)	**2.20**
Any Other White Background	65 (4.61%)	48 (3.61%)	46 (3.78%)	128 (8.03%)	287 5.17%	**3.10**
Mixed						
White & Black Caribbean	12 (0.85%)	14 (1.05%)	11 (0.91%)	11 (0.69%)	48 (0.87%)	**0.80**
White & Black African	0 (0.00%)	4 (0.30%)	5 (0.41%)	3 (0.19%)	12 (0.22%)	**0.20**
White & Asian	3 (0.21%)	6 (0.45%)	1 (0.08%)	6 (0.38%)	16 (0.29%)	**0.30**
Any Other Mixed Background	2 (0.14%)	1 (0.08%)	4 (0.33%)	10 (0.63%)	17 (0.31%)	**0.50**
Asian						
Indian	10 (0.71%)	13 (0.98%)	15 (1.23%)	31 (1.94%)	69 (1.24%)	**1.30**
Pakistani	23 (1.63%)	8 (0.60%)	15 (1.23%)	15 (0.94%)	61 (1.10%)	**1.00**
Bangladeshi	7 (0.50%)	4 (0.30%)	1 (0.08%)	27 (1.69%)	39 (0.70%)	**0.50**
Any Other Asian Background	6 (0.43%)	7 (0.53%)	2 (0.16%)	23 (1.44%)	38 (0.68%)	**0.80**
Black or Black British						
Caribbean	42 (2.98%)	63 (4.74%)	52 (4.28%)	196 (12.30%)	353 (6.36%)	**4.10**
African	13 (0.92%)	22 (1.66%)	10 (0.82%)	104 (6.52%)	149 (2.69%)	**1.90**
Any Other Black Background	17 (1.21%)	9 (0.68%)	6 (0.49%)	52 (3.26%)	84 (1.51%)	**1.70**
Other Ethnic Groups						
Chinese	3 (0.21%)	5 (0.38%)	1 (0.08%)	7 (0.44%)	16 (0.29%)	**0.20**
Any Other Ethnic Groups	5 (0.35%)	7 (0.53%)	3 (0.25%)	22 (1.38%)	37 (0.67%)	**1.10**
Not Stated						
Not stated	209 (14.82%)	77 (5.79%)	98 (8.07%)	207 (12.99%)	591 (10.65%)	**1.20**
Total	**1410**	**1329**	**1215**	**1594**	**5548**	

The table above shows the ethnicity (where recorded) of patients seen in private by Commissioners during 2005-06, where Commissioners meet with patients in groups individual patient ethnicity is not recorded. Due to the changes to documentation and recording of data a comparison with patients seen in 2004-05 is not possible.

Complaints

5. Complaints have increased significantly on the previous year. Complaints that fall within the Commission's statutory remit referred directly to the Secretariat and raised on visits have effectively doubled. (See **Table 6** below) It is difficult to analyse why this has happened as this is a demand led service, however, it is clear that this is an area that requires further monitoring.

6. It is the Commission's policy either to respond in full to any complaints correspondence within one week or acknowledge receipt and respond fully within three weeks. In 2005-06, the Complaints Unit reviewed its performance in this area and can report that the average time to issue a full response was seven days with 58% of correspondence responded to within five days and 98% within 21 days.

Second Opinion Service

7. The number of Second Opinions received by the Commission has increased again by 11.8%, which is a significant increase from the previous year. The figures in **Table 6** show that requests for Electro-Convulsive Therapy (ECT) have remained relatively constant in relation to the last reporting period whilst medication second opinions have risen steadily. **Table 7** shows the increase year on year which has to be absorbed in terms of activity and funding. Nonetheless, this is a demand led statutory function which must continue.

Table 6: Complaints, Deaths And Second Opinion Activity

Complaints Activity	**2004/5**	**2005/6**	**Change**
New Complaints Referred to the Commission	248	443	**+195**
Complaints Raised on Behalf of Patients during a Visit	27	53	**+80**
Correspondence and Enquiries Outside Commission remit	663	585	**-78**
Total Activity	**938**	**1081**	**+143**
Deaths Activity	**2004/5**	**2005/6**	**Change**
Deaths Reported by natural causes	252	290	**+38**
Deaths Reported by unnatural causes	70	81	**+11**
Total Deaths Reported	**322**	**371**	**+49**
Second Opinion Activity			
Medication Only Opinions	8,558	9,616	**+1058**
ECT Opinions	1,853	2,008	**+155**
Combined Medication & ECT Opinions	89	116	**+27**
Average Calls Required to Allocate Second Opinion Requests	3.2	1.2[4]	**-2**
Percentage Medication Opinions Arranged within 5 Days	86%	88%[5]	**+2%**
Percentage ECT Opinions within 3 Days	84%	78%	**-6%**
Total Second Opinions	**10,500**	**11,740[6]**	**+11.8%**

[4] Due to volume of work pressures during the year there have been periods where administrators have recorded only the appointed SOAD.
[5] The percentages for attendance for ECT and Medication relate to those second opinions where the post visit report has been received.
[6] This figure relates to all requests received and includes second opinions marked subsequently as cancelled as these still require action to be taken by the Secretariat.

Table 6a: Complaints by Ethnicity

Ethnic Background	Complaints	Complaints from Visits	General Correspondence	Total	BME %[7]
White					
British	230 [51.92%]	24 [45.28%]	128 [21.88%]	382 [35.34%]	**79.20**
Irish	2 [0.45%]	0 (0%)	2 [0.34%]	4 [0.37%]	**2.20**
Any Other White Background	25 [5.64%]	3 [5.66%]	15 [2.56%]	43 [3.98%]	**3.10**
Mixed					
White and Black Caribbean	4 [0.90%]	3 [5.66%]	6 [1.03%]	13 [1.20%]	**0.80**
White and Black African	0 (0%)	0 (0%)	1 [0.17%]	1 [0.09%]	**0.20**
White and Asian	0 (0%)	2 [3.77%]	1 [0.17%]	3 [0.28%]	**0.30**
Any Other Mixed Background	2 [0.45%]	0 (0%)	3 [0.51%]	5 [0.46%]	**0.50**
Asian					
Indian	6 [1.35%]	0 (0%)	0 (0%)	6 [0.56%]	**1.30**
Pakistani	6 [1.35%]	0 (0%)	0 (0%)	6 [0.56%]	**1.00**
Bangladeshi	2 [0.45%]	1 [1.89%]	0 (0%)	3 [0.28%]	**0.50**
Any Other Asian Background	2 [0.45%]	0 (0%)	2 [0.34%]	4 [0.37%]	**0.80**
Black or Black British					
Caribbean	18 [4.06%]	3 [5.66%]	16 [2.74%]	37 [3.42%]	**4.10**
African	5 [1.13%]	0 (0%)	9 [1.54%]	14 [1.30%]	**1.90**
Any Other Black Background	5 [1.13%]	3 [5.66%]	4 [0.68%]	12 [1.11%]	**1.70**
Other Ethnic Group					
Chinese	2 [0.45%]	0 (0%)	0 (0%)	2 [0.19%]	**0.20**
Any Other Ethnic Group	3 [0.68%]	0 (0%)	9 [1.54%]	12 [1.11%]	**1.10**
Not Stated					
Not Stated	131 [29.57%]	14 [26.42%]	389 [66.50%]	534 [49.40%]	**1.20**
Totals	**443**	**53**	**585**	**1081**	

[7] The final column of this report shows the percentage of in-patients of each ethnic group as recorded in the 'Count Me In Census 2005'

Table 6b: Deaths by Ethnicity

Ethnic Background	Unnatural	Natural	Total	BME %
White				
British	57 [70.37%]	225 [77.59%]	282 [76.01%]	**79.20**
Irish	3 [3.70%]	4 [1.38%]	7 [1.89%]	**2.20**
Any Other White Background	7 [8.64%]	24 [8.28%]	31 [8.36%]	**3.10**
Mixed				
White and Black Caribbean	0 (0%)	0 (0%)	0 (0%)	**0.80**
White and Black African	0 (0%)	0 (0%)	0 (0%)	**0.20**
White and Asian	0 (0%)	1 [0.34%]	1 [0.27%]	**0.30**
Any Other Mixed Background	1 [1.23%]	2 [0.69%]	3 [0.81%]	**0.50**
Asian				
Indian	0 (0%)	4 [1.38%]	4 [1.08%]	**1.30**
Pakistani	0 (0%)	0 (0%)	0 (0%)	**1.00**
Bangladeshi	3 [3.70%]	1 [0.34%]	4 [1.08%]	**0.50**
Any Other Asian Background	0 (0%)	1 [0.34%]	1 [0.27%]	**0.80**
Black or Black British				
Caribbean	3 [3.70%]	5 [1.72%]	8 [2.16%]	**4.10**
African	1 [1.23%]	5 [1.72%]	6 [1.62%]	**1.90**
Any Other Black Background	0 (0%)	1 [0.34%]	1 [0.27%]	**1.70**
Other Ethnic Groups				
Chinese	0 (0%)	2 [0.69%]	2 [0.54%]	**0.20**
Any Other Ethnic Group	0 (0%)	1 [0.34%]	1 [0.27%]	**1.10**
Not Stated				
Not Stated	6 [7.41%]	14 [4.83%]	20 [5.39%]	**1.20**
Totals	**81**	**290**	**371**	

Table 6c: Second Opinions by Ethnicity

Ethnic Background	Medicine	ECT	Both	Total	BME %
White					
British	6601 (68.65%)	1688 [84.06%]	91 [78.45%]	8380 [71.38%]	**79.20**
Irish	102 [1.06%]	18 [0.90%]	3 [2.59%]	123 [1.05%]	**2.20**
Any Other White Background	361 [3.76%]	53 [2.65%]	2 [1.72%]	416 [3.54%]	**3.10**
Mixed					
White and Black Caribbean	111 [1.15%]	4 [0.20%]	0 (0%)	115 [0.98%]	**0.80**
White and Black African	33 [0.34%]	2 [0.10%]	0 (0%)	35 [0.30%]	**0.20**
White and Asian	28 [0.29%]	0 (0%)	0 (0%)	28 [0.24%]	**0.30**
Any Other Mixed Background	100 [1.04%]	9 [0.45%]	0 (0%)	109 [0.93%]	**0.50**
Asian					
Indian	185 [1.92%]	39 [1.95%]	8 [6.90%]	232 [1.98%]	**1.30**
Pakistani	129 [1.34%]	29 [1.44%]	0 (0%)	158 [1.35%]	**1.00**
Bangladeshi	69 [0.72%]	5 [0.25%]	0 (0%)	74 [0.63%]	**0.50**
Any Other Asian Background	99 [1.03%]	14 [0.70%]	0 (0%)	113 [0.96%]	**0.80**
Black or Black British					
Caribbean	778 [8.09%]	34 [1.69%]	2 [1.72%]	814 [6.93%]	**4.10**
African	366 [3.81%]	25 [1.25%]	2 [1.72%]	393 [3.35%]	**1.90**
Any Other Black Background	83 [0.86%]	6 [0.30%]	0 (0%)	89 [0.76%]	**1.70**
Other Ethnic Groups					
Chinese	36 [0.37%]	4 [0.20%]	0 (0%)	40 [0.34%]	**0.20**
Any Other Ethnic Group	116 [1.21%]	21 [1.05%]	2 [1.72%]	139 [1.18%]	**1.10**
Not Stated					
Not Stated	419 [4.36%]	57 [2.84%]	6 [5.17%]	482 [4.11%]	**1.20**
Any Other White Background	71 [0.74%]	8 [0.40%]	0 (0%)	79 [0.67%]	**0.00**
Totals	**9616**	**2008**	**116**	**11740**	

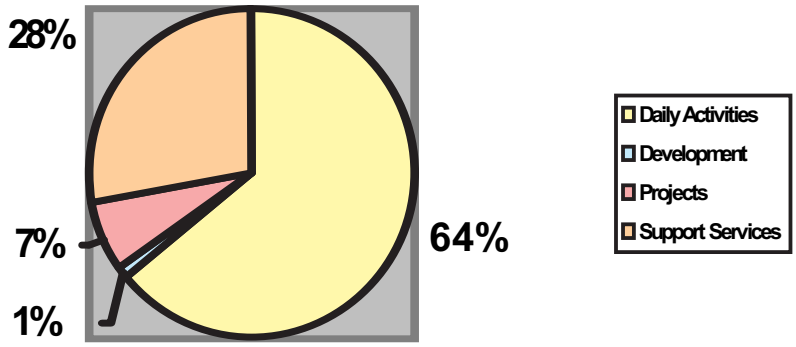
Table 7: Second Opinion Requests Received 1997-98 to 2005-06 showing percentage changes

Year	Number of Second Opinions	% change +/-
1997/98	7003	
1998/99	8424	+20
1999/00	8031	-4.7
2000/01	8226	+2.4
2001/02	9179	+11.6
2002/03	9440	+2.8
2003/04	10,363	+10
2004/05	10,500	+2.5
2005/06	11,740	+11.8

Financial Issues

Resources

8. The Commission's revenue resource limit for 2005-06 was £5,186m utilised in the areas detailed in the pie chart below:-



The Commission also received £9,000 capital.

Financial Risks

9. The Commission has over the years witnessed an increase in the number of Second Opinion requests resulting in the main from the European Court of Human Rights' judgment in HL v. United Kingdom[8] (the *Bournewood* case). Other factors which may be related to the increased number of opinions received are:-

- the changing general clinical profiles of detained patients i.e. an increasingly 'unwell' population who are less likely to be able or willing to consent to treatment; and/or
- a growing appreciation and care on the part of clinicians to consider whether apparent consent from a patient has a genuine basis, rather than being based upon inadequate understanding, capacity or freedom of choice; and/or

[8] Application no. 4508/99, decision of 05/10/04

- an increasing desire on the part of clinicians to offset their accountability and liability in prescribing psychiatric medication to detained patients in view of a perceived increase in litigation in this area.

10. These costs have been factored into the requested allocations for 2006-07, however a further considerable rise could have an impact on the Commission's ability to complete fully its visiting programme without additional financial support.

Annual Accounts 2005-06

11. The accounts for the year ended 31 March 2006 have been prepared in accordance with the direction given by the Secretary of State in accordance with Section 98(2) of the NHS Act 1977 dated 2001 and in a format as instructed by the Department of Health with the approval of Treasury.

12. The regulations which make provision concerning the membership and procedure of the Commission (S.I. 1983/894) were laid before Parliament on 1 July 1983 and came into force on 1 September 1983. These were subsequently amended by S.I. 1990/1331 and S.I. 1995/2630, the latter being made on 9 October 1995 and coming into operation on 1 November 1995. S.I. 1996/707 (coming into force on 1 April 1996) amended Regulation 9 of the Mental Health Act Commission Regulations 1983 to accord with the Health Authorities (Membership and Procedure) Regulations 1996 (see Schedule 5(1)). S.I. 1996/707 also requires the Commission to adopt Standing Orders (SOs) for the regulation of its proceedings and business. In accordance with the "Directions on Financial Management in England" issued under HC(96)12 in 1996, the Commission must also adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals.

13. S.I. 1995/2630 dictates that a full meeting of the Commission shall be held in any year.

14. Operating against a revenue resource limit of £5,186,000 (2004-05: £5,049,000), the Commission's expenditure for 2005-06 equates £5,129,000 (2004-05: £4,964,000). The Commission looked to undertake the maximum activity possible to ensure that it made the best use of its resources during the year.

15. The Commission has a number of claims outstanding from SOADs relating to the financial year 2004-05 or earlier, totalling £57,000. Extensive attempts have been made to encourage the SOADs to submit claims, however as these remain outstanding they have been treated within the 2005-06 Accounts as Contingent Liabilities.

16. The balance sheet (page 62) indicates that the Mental Health Act Commission has net liabilities. This is not an indication of potential going concern difficulties as the funding of NHS bodies by the Secretary of State will cover appropriate liabilities. The NHS (Residual Liabilities) Act also requires the

Secretary of State to exercise his statutory powers to deal with the liabilities of a Special Health Authority, if it ceases to exist.

17. The full set of Accounts for the year 2005-06 is attached to this report at **Appendix 2**, incorporating:

- Accounting Officer's Statement of Responsibilities;
- The Auditor's Report;
- The Statement on Internal Control;
- Four Primary Statements (Operating Cost Statement, Balance Sheet, Statement of Total Recognised Gains and Losses and Cash Flow Statement);
- Notes to the Accounts.

Better Payment Practice Code

18. The Commission's performance can be found at note 2.3 of the Accounts representing the period 1 April 2005 – 31 March 2006.

Chapter 3: Remuneration Report

Human Resources

1. The Commission has three main groups of personnel:

   - Commissioners are public appointees of the Secretary of State. Commissioners are professionals or lay people with significant experience of mental health services and empathy with the plight of detained patients. Commissioners receive a daily fee for 30 days per year, 26 of which are payable on a regular monthly basis with the remaining four payable upon completion of training events.
   - Second Opinion Appointed Doctors are Consultant Psychiatrists of at least five years' standing who attend patients (under the care of other psychiatrists) who are unable or unwilling to consent to the medication or ECT procedures recommended for them. SOADs are paid an attendance fee for each second opinion undertaken. The Commission also appoints psychiatrists and lay persons to form panels when a proposal is made to undertake Neurosurgical procedures for Mental Disorder (NMD) on a patient in England and Wales. These panellists are also paid an attendance fee for each opinion provided.
   - Staff at the MHAC headquarters are all civil servants on secondment and subject to the Department of Health's Terms and Conditions. Salary payments are made in line with DH pay policies. These policies incorporate opportunity for salary enhancement or special bonuses, subject to a Chief Executive approved Business Case.

2. When appropriate, additional support is 'bought in' from external experts to provide the additional skills required for specific projects.

Commissioner and SOAD Fees

3. Area Commissioners receive £300 for each day's activity and Local Commissioners receive £225. SOADs receive £160 per second opinion undertaken. NMD panel members receive £160 per decision made. The levels of fees are considered by the Remuneration Committee on an ongoing basis.

4. Commissioners are allocated to an SHA or Welsh Region within reasonable travelling distance of their home. This factor and the flexibility of the Commission's visiting arrangements, which has both unannounced and short notice visits, means that Commissioners are able to plan their Commission activity to suit their own personal work or life commitments.

5. Regional Directors monitor Commissioner activity to ensure paid commitments are fulfilled. Procedures are also in place to ensure Commissioners advise their Regional Director if they are unable to fulfil their commitments for a prolonged period due to illness or other reasons so that, if necessary, monthly payments can be suspended.

Senior Management

6. Detailed in **Table 8** below is the remuneration of senior management of the Commission and members of the Board. Chief Executive and Director salaries are reviewed by the Remuneration Committee which may also approve special bonus payments or salary enhancements.

Table 8 Salaries and allowances

Name and title	2005-06			2004-05		
	Salary (bands of £5,000)	Other Remuneration (bands of £5,000)	Benefits in kind (rounded to the nearest £00)	Salary (bands of £5,000)	Other Remuneration (bands of £5,000)	Benefits in kind (rounded to the nearest £00)
	£000	£000	£000	£000	£000	£000
Mr Christopher Heginbotham (Chief Executive)	80 to 85	0	0	100 to 105*	0	64-65
Ms. Cheryl Robinson (Deputy Chief Executive/Director of Finance 1/04/04 - 30/09/04)	0	0	0	55 – 60	0	0
Ms. Cheryl Robinson (Deputy Chief Executive 1/10/04 - 28/2/05/Career break 1/3/05 - 31/10/05)						
***Ms. Rachel Munton (Interim Deputy Chief Executive)	45 to 50	0	0	10 to 15	0	0
Dr. Chris Perring (Director of Policy and Practice Development 1/04/04 -31/12/04)	0	0	0	45 to 50	0	0
Mr. Martin Donohoe (Director of Corporate Services 1/10/04 - 31/03/05)	45 to 50		0	40 to 45	0	0
Mrs. Gemma Pearce (Director of Strategy and Policy Development)	45 to 50		0	20 to 25	0	0
Mr. Philip Wales (Regional Director)	Consent to disclose salary withheld			Consent to disclose salary withheld		
Mrs Suki Desai (Regional Director)	Consent to disclose salary withheld			20 to 25	0	0
Mrs. Susan Mc Millan (Regional Director)	45 to 50		0	20 to 25	0	0
Mr. Steven Klein (Regional Director)	45 to 50		0	20 to 25	0	0
Prof. Kamlesh Patel (Chairman)	0	25 to 30	0	0	25 to 30	0
Ms. Deborah Jenkins (Vice Chairman)	0	25 to 30	0	0	35 to 40	0
Mrs Ann Curno (Non Executive)	0	5 to 10	0	0	5 to 10	0
Mr. Barry Delaney (Non Executive)	0	25 to 30	0	0	20 to 25	0
Mrs. Kay Sheldon (Non Executive)	0	15 to 20	0	0	10 to 15	0
Ms. June Tweedie (Non Executive 1/04/05 - 30/09/05)	0	5 to 10	0	0	15 to 20	0
Mr. Simon Armson (Non Executive)	0	20 to 25	0	0	15 to 20	0

The figure reported in the previous year's accounts was incorrect

****** = Salary paid by the National Institute for Mental Health England for period 1/4/05 – 30/6/05***

Signed 

Accounting Officer

Date 19 June 2006

Pension Costs

7. The Commission participates in the Principal Civil Service Pension Scheme (PCSPS), the Civil Service Compensation Scheme (CSCS) and other statutory schemes made under the Superannuation Act 1972.

8. Past and present employees are covered by the provision of the Civil Service Pension Scheme which are described in **Table 9** below. The defined benefit elements of the schemes are unfunded and are non-contributory except in respect of dependents benefits. The Commission recognises the expected cost of these elements on a systematic and rotational basis over a period during which it benefits from its employees' services by payment to the Principal Civil Service Pension Schemes (PCSPS) of amounts calculated on an accruing basis. Liability for the payment of future benefits is a charge on the PCSPS. In respect of the defined contribution elements of the schemes, the Commission recognises the contributions payable for the year.

9. The PCSPS is an un-funded multi-employer defined benefit scheme but the Mental Health Act Commission is unable to identify its share of the underlying assets and liabilities. A full actuarial valuation was carried out as at 31 March 2003. Details can be found in the resource accounts of the Cabinet Office: Civil Superannuation (www.civilservice-pensions.gov.uk)

10. For 2005-06, employer's contributions of £164,000 were payable to the PCSPS (2005-06 £118,000) at one of four rates in the range 12 to 18.5 per cent of pensionable pay, based on salary bands. The scheme's Actuary reviews employer contributions every four years following a full valuation. The contribution rates reflect benefits as they are accrued, and reflect past experience of the scheme.

11. Employees joining after 1 October 2002 could opt to open a partnership pension account; a stakeholder pension with an employer contribution. No Employer contributions were paid to one or more of a panel of four appointed stakeholder pension providers. Employer contributions are age related and range from 3 to 12.5 per cent of pensionable pay. No Employer contributions (0.8 per cent of pensionable pay) were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement.

12. Contributions due to partnership pension providers at the balance sheet date were nil. Contributions prepaid at that date were nil.

13. The Chief Executive is not a member of the Principal Civil Service Pension Scheme. During 2005-06 the Commission paid the standard NHS employers contribution of £11,794.00 into a personal portable pension scheme.

Table 9: Pension Benefits

Name and title	Real increase in pension at age 60 (bands of £2,500)	Lump sum at age 60 related to real increase in pension (bands of £2,500)	Total accrued pension at age 60 at 31 March 2006 (bands of £5,000)	Lump sum at age 60 related to accrued pension at 31 March 2006 (bands of £5,000)	Cash Equivalent Transfer Value at 31 March 2006	Cash Equivalent Transfer Value at 31 March 2005	Real increase in Cash Equivalent Transfer Value	Employer's contribution to stakeholder pension
	£000	£000	£000	£000	£000	£000	£000	£0
Mr. Christopher Heginbotham (Chief Executive)				See Note below				
Ms. Cheryl Robinson (Deputy Chief Executive 1/10/04 - 28/02/05/Career break 1/3/05 - 31/10/05))	0 to -2.5	0 to -2.5	25 to 30	75 to 80	462 to 463	369 to 370	-7 to '-8	562
Ms. Rachel Munton (Interim Deputy Chief Executive)	0 to 2.5	0 to 2.5	20 to 25	65 to 70	358 to 359	258 to 259	11 to 12	967
Mr. Martin Donohoe (Director of Corporate Services)	0 to 2.5	2.5 to 5	10 to 15	40 to 45	234 to 235	159 to 160	19 to 20	693
Mrs. Gemma Pearce (Director of Strategy and Policy Development)	0 to 2.5	0 to 2.5	5 to 10	15 to 20	87 to 88	55 to 56	8 to 9	720
Mr. Philip Wales				Consent to disclose pension details withheld				
Mrs. Suki Desai				Consent to disclose pension details withheld				
Mrs Susan McMillan	0 to 2.5	0	10 to 15	0	225 to 226	4 to 5	16 to 17	1618
Mr. Steven Klein	0 to 2.5	0	15 to 20	0	341 to 342	5 to 6	32 to 33	1596
Prof. Kamlesh Patel (Chairman)	0		0		0	0	0	0
Ms. Deborah Jenkins (Vice Chairman)	0		0		0	0	0	0
Mrs. Ann Curno (Non Executive)	0		0		0	0	0	0
Mr. Barry Delaney (Non Executive)	0		0		0	0	0	0
Mrs. Kay Sheldon (Non Executive)	0		0		0	0	0	0
Ms. June Tweedie (Non Executive 01/04/05 - 30/09/05)	0		0		0	0	0	0
Mr. Simon Armson (Non Executive)	0		0		0	0	0	0

As Non-Executive members do not receive pensionable remuneration, there are no entries in respect of pensions for Non-Executive members

Cash Equivalent Transfer Value

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capital value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension p

The CETV figure, and from 2004-05 the other pension details, include the value of any pension benefits in another scheme or arrangement which the individual has transferred to the NHS pension scheme. They also include any additional pension benefit accrue

Real Increase in CETV

This reflects the increase in CETV effectively funded by the employer. It takes account of the increase in accrued pension due to inflation, contributions paid by the employer (including the value of any benefits transferred from another scheme or arrang

CEO Pension
The Chief Executive is not a member of the Civil Service Pension Scheme. During 2005/06 The Commission paid employers contribution of £11,794.00 into a personal portable pension scheme.

Signed
Accounting Officer
Date 19 June 2006

Chapter 4: Future Work

Funding for 2006-07

1. The Commission has been advised of its revenue resource limit for 2006-07, equating to £5,016,000. Capital of £331,000 has been allocated to fund the Commission's ICT Phase II Development.

2. An additional business case (£326,000) relating to the increased number of Second Opinions is being considered by the Commission's Business Support Unit (BSU).

Taking Forward Our Objectives

3. Activity is planned across the business areas to take forward all of the objectives described in section 12 above. The key elements of this activity are described below;

a) Promoting equality and human rights

- Continue to ensure equality and human rights strategy is embedded in all aspects of Commission activity.
- Monitor activity in relation to benefits and outcomes for detained patients in relation to their privacy, dignity and individual needs.
- Provide informative and relevant training opportunities for Commissioners, staff and SOADs.

b) Visiting and talking to detained patients

- Regular and ongoing training for Commissioners in the Mental Health Act, legal updates, and effective working practices.
- Regular performance appraisal and personal development opportunities through training as above.
- Development of qualitative outcome reporting.

c) Providing second opinions about consent to treatment

- Review the quality and effectiveness of the current arrangements for SOADs and implement any changes needed.
- Review recruitment processes to try and improve skills and gender balance of SOADs.
- Review training and guidance for SOADs to increase awareness of current and emerging case law.

d) User involvement

- Supporting and building on the Service User Reference Panel established in 2005-06, including reviewing and making any necessary changes to increase its effectiveness.
- Appointing user members to key groups such as the Programme Development Group.
- Involving users in evaluation of Commissioner and SOAD activity.

e) Influencing policy and practice

- Influence the direction of mental health legislation, regulation, policy and practice in order to ensure safeguards for detained patients.
- Contribute to the development of the new Mental Health Bill Code of Practice.
- Collect & analyse data to inform publications such as the Twelfth Biennial Report, due 2007.

f) Support for 'Delivering Race Equality in mental health care'

- Lead and manage the delivery of the second national mental health and ethnicity census, on behalf of the Healthcare Commission and the Department of Health, including an expansion to incorporate learning disability services, and publish the findings by December 2006.
- Support the continuation of an annual Census, including a repetition in 2007.
- Train staff, SOADs and Commissioners to enable them to be able to challenge discrimination in mental health services and improve quality of care to patients from Black and Minority Ethnic groups.

SOAD Review

4. The second opinion service is an important safeguard for a detained patient in the event that treatment is proposed which they refuse or where they lack capacity to make an informed decision.

5. The Commission aims to undertake a fundamental review of the operation, management and effectiveness of the current Second Opinion Service to identify changes that will improve the quality and efficacy of the service.

6. Six main objectives have been identified in addition of the core aim of ensuring that the service provides an effective protection for patients. These are in the following areas: Recruitment, Appraisal, Training and Support, Affordability and Efficiency, Use of Information and Research, Practice Issues and Future Legislation. Initial consideration has begun on the development of a project plan and full implementation of recommendations is envisaged by April 2007.

Information and Communication Technology (ICT) Strategy

7. Since 2004 the Commission has changed its operational and strategic direction. The revised working methodologies highlighted a number of areas where the current IT systems would not support business requirements.

8. Consequently the ICT Strategy was revised and a number of short term and long term objectives and associated work streams were developed with the funding available. Work was suspended on the long term developments and the ICT Strategy adjusted to take account of the revised circumstances and available funding.

9. Work streams developed and completed are:

- Support for the new visiting arrangements;
- Manual data entry system to support Commissioners;
- Visit planning document giving support to Commissioners;
- Web site incorporating a secure area;
- Training and user manual;
- Skills and equipment audit.

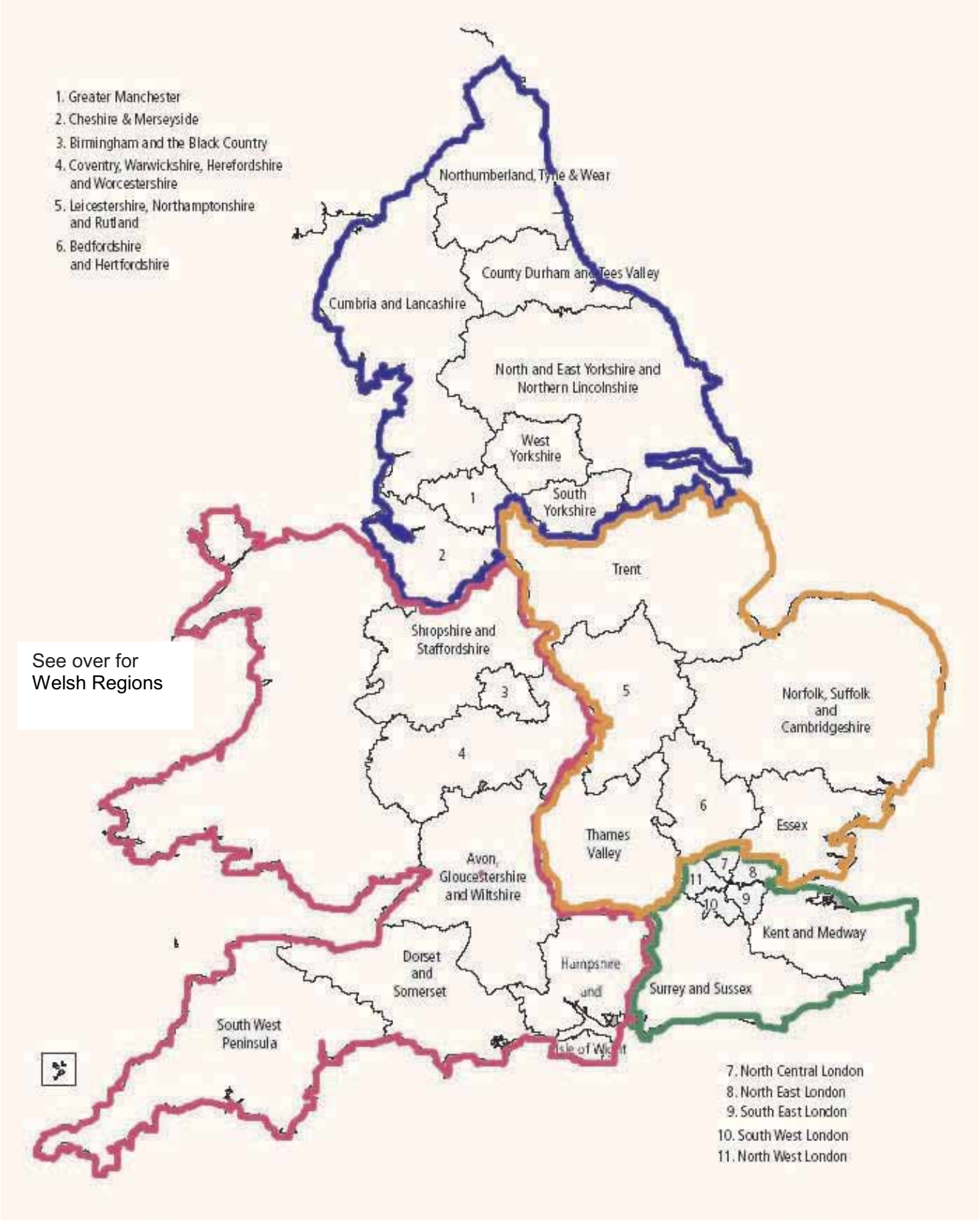
10. A revised comprehensive Phase II Strategy and Strategic Outline Business Case was submitted to the Department of Health in May 2005 seeking to obtain sufficient capital and revenue resources to enable the Commission to fully develop its systems during 2005-06. Funding has now been confirmed and will be made available in 2006-07.

Signed 

Accounting Officer **Date** 19 June 2006

APPENDIX 1

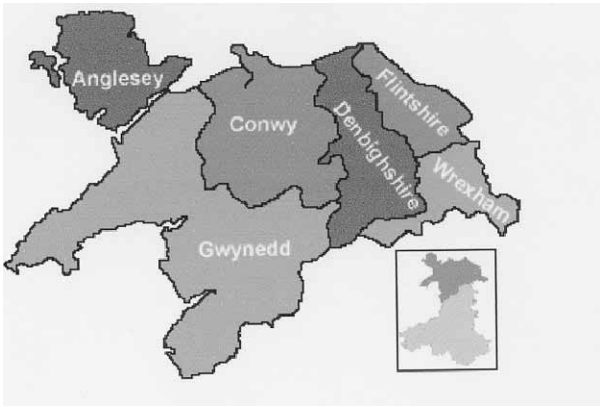
REGIONAL MAPS



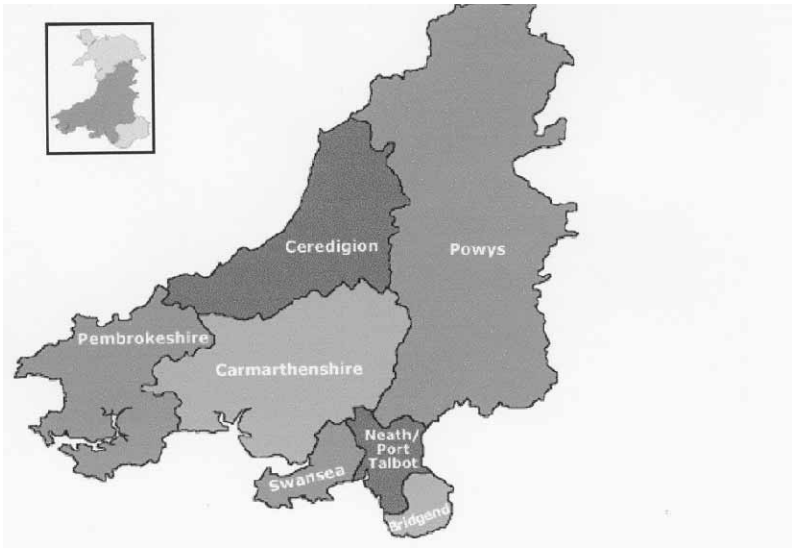
Blue – Region 1: Sue McMillan – sue.mcmillan@mhac.org.uk
Orange – Region 2: Suki Desai – suki.desai@mhac.org.uk
Pink – Region 3: Phil Wales – phil.wales@mhac.org.uk
Green – Region 4: Stephen Klein – stephen.klein@mhac.org.uk

Welsh Regions

North Wales



Mid and West Wales



South and East Wales

APPENDIX 2

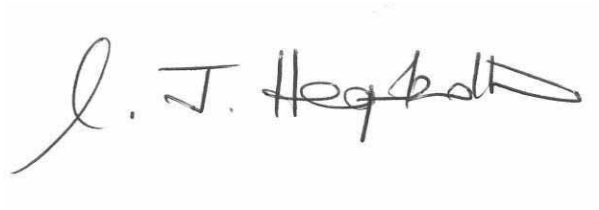
ANNUAL ACCOUNT OF THE MENTAL HEALTH ACT COMMISSION SPECIAL HEALTH AUTHORITY 2005-06

STATEMENT OF THE CHIEF EXECUTIVE'S RESPONSIBILITIES AS THE ACCOUNTING OFFICER OF THE COMMISSION

The Secretary of State has appointed the Chief Executive as the Commission's Accounting Officer. The relevant responsibilities of Accounting Officers are set out in the Accounting Officer's Memorandum issued by the Department of Health. These include ensuring that:

- there are effective management systems in place to safeguard public funds and assets and assist in the implementation of corporate governance;
- value for money is achieved from the resources available to the Commission;
- the expenditure and income of the Commission has been applied to the purposes intended by Parliament and conform to the authorities which govern them;
- effective and sound financial management systems are in place; and
- annual statutory accounts are prepared under the National Health Service Act 1977 in such form as directed by the Secretary of State with the approval of the Treasury to give a true and fair view of the state of affairs as at the end of the financial year and the net operating cost, recognised gains and losses and cash flows for the year.

To the best of my knowledge and belief, I have properly discharged the responsibilities set out in my letter of appointment as an Accounting Officer.

Signed 

Accounting Officer Date 19 June 2006

STATEMENT ON INTERNAL CONTROL

1. Scope of Responsibility

The Board is accountable for internal control. As Accounting Officer, and Chief Executive of the Mental Health Act Commission, I have responsibility for maintaining a sound system of internal control that supports the achievement of the Commission's policies, aims and objectives. I have responsibility for safeguarding public funds and the organisation's assets for which I am personally responsible as set out in the Accounting Officer Memorandum.

My review of the effectiveness of the systems of internal control has taken account of the work of the Senior and Executive Management teams which have responsibility for the development and maintenance of the internal control framework. Areas highlighted within the 2005-06 statement have been addressed and I can confirm that:-

- The Commission has undertaken a self-assessment exercise against the core Controls Assurance standards (Governance, Financial Management and Risk Management).
- An action plan has been developed and implemented to meet any gaps.
- As part of its risk identification and management process, the Commission has in place arrangements to monitor compliance with other key standards, including relevant Controls Assurance standards covering areas of potentially significant organisational risk.
- The Commission has made strenuous efforts to identify all risks from all sources to its business and put in place arrangements to minimise the impact if any risks materialise.

2. The Purpose of the System of Internal Control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on a continuing process designed to:

- identify and prioritise the risks to the achievement of the organisation's policies, aims and objectives.
- evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

The system of internal control has been in place in the Mental Health Act Commission Special Health Authority for the year ended 31 March 2006 and up to the date of the approval of the Annual Report and Accounts.

3. Capacity to Handle Risk

The Commission has made a major investment to ensure it has the necessary infrastructure to handle known and potential risks.

Each director has a responsibility for ensuring that risks relevant to their directorates are captured and built in to the annual programme of work and assessed for risk. A dedicated manager is in post to ensure that all identified risks are addressed within the time frames agreed.

4. The Risk and Control Framework

At the commencement of each year, the Senior Executive team takes the lead on producing the annual Business Plan and the Corporate Plan. All managers employed by the Commission are involved in this process to ensure that all business flows are captured. Objectives are identified and an associated benefits/risk analysis is completed. A formal review is completed on a quarterly basis to ensure that objectives are being met and any breaches are assessed for organisational impact.

The Commission's Assurance Framework encompasses all key workstreams identified within the Business and Corporate Plans. The Assurance Framework also provides the Commission with its Risk Register by identifying the following:-

- Principal Risks
- Impact/Likelihood analysis

- Key Controls and Assurances
- Gaps in Controls and Assurances
- Responsible Director and target date for completion of identified task.

An action log has also been developed to ensure that all action taken is captured. The Assurance Framework is reviewed each month by directors who then report on progress monthly into the Audit and Risk Committee who meet on a quarterly basis and the Board.

The Assurance Framework is then used in conjunction with the business continuity plans (one for normal business continuity, and a second concerned specifically with the transition to the proposed new inspectorate for health care bringing together the Mental Health Act Commission, Healthcare Commission and the Commission for Social Care and Inspection).

5. Review of Effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed in a number of ways. The head of internal audit provides me with an opinion on the overall arrangements for gaining assurance through the Assurance Framework and on the controls reviewed as part of the internal audit work. Executive managers within the organisation who have responsibility for the development and maintenance of the system of internal control provide me with assurance. The Assurance Framework itself provides me with evidence that the effectiveness of controls that manage the risks to the organisation achieving its principal objectives have been reviewed.

My review is informed by comments made by external auditors including informal contact from time to time; discussion at the Audit and Risk Committee and the Commission Board; feedback from mental health providers about the performance of the Commission and Commissioners in undertaking their roles and reports from the Healthcare Commission during 2005-06 on any matters they raised.

I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Board and the Audit and Risk Committee.

My review concludes that the Assurance Framework meets the requirements of the 2005-06 Statement on Internal Control, incorporates robust systems to ensure that all organisational risks are identified and reviewed, and provides reasonable assurance that the principal risks are managed effectively. The Assurance Framework records associated controls and assurances and incorporates an action plan identifying action to be taken to remedy identified gaps.

I have considered the limited assurance given by internal audit as part of the review of the Commission's financial systems and the comments made by the National Audit Office within its Interim Management Letter 2005-06 which identified significant weaknesses in budgetary and financial control putting at risk the Commission's duty to remain within the resource limit set by the Department of Health. The Commission has been aware for some time of the need to recruit qualified expertise at a managerial level in order to address continuing issues raised and to assist in the wider development of the financial expertise within the organisation. During the early part of 2005-06, the Commission's attempts to bring in such expertise were unsuccessful. However following successful recruitment in November 2005, the Commission has made some progress towards the achievement of full assurance which will be the focus of the 2006-07 financial work programme.

Signed 

19 June 2006

MENTAL HEALTH ACT COMMISSION SPECIAL HEALTH AUTHORITY

THE CERTIFICATE AND REPORT OF THE COMPTROLLER AND AUDITOR GENERAL TO THE HOUSES OF PARLIAMENT

I certify that I have audited the financial statements of the Mental Health Act Commission for the year ended 31 March 2006 under the National Health Service Act 1977. These comprise the Operating Cost Statement, the Balance Sheet, the Cashflow Statement and Statement of Recognised Gains and Losses and the related notes. These financial statements have been prepared under the accounting policies set out within them.

Respective responsibilities of the Chief Executive and auditor

The Chief Executive is responsible for preparing the Annual Report, the Remuneration Report and the financial statements in accordance with the National Health Service Act 1977 and directions made thereunder by the Secretary of State with the approval of the Treasury and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Chief Executive's Responsibilities.

My responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the National Health Service Act 1977 and directions made thereunder by the Secretary of State with the approval of the Treasury. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. I also report to you if, in my opinion, the Annual Report is not consistent with the financial statements, if the Mental Health Act Commission has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by relevant authorities regarding remuneration and other transactions is not disclosed.

I review whether the statement on pages 57-58 reflects the Mental Health Act Commission's compliance with HM Treasury's guidance on the Statement on Internal Control, and I report if it does not. I am not required to consider whether the Accounting Officer's statements on internal control cover all risks and controls, or form an opinion on the effectiveness of the Mental Health Act Commission's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises all except pages 42 and 44 of the Annual Report. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

Basis of audit opinion

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Chief Executive in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Mental Health Act Commission's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the National Health Service Act 1977 and directions made thereunder by the Secretary of State with the approval of the Treasury, of the state of the Mental Health Act Commission's affairs as at 31 March 2006 and of its net operating costs, recognised gains and losses and cashflows for the year then ended;

- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the National Health Service Act 1977 and directions made thereunder by the Secretary of State with the approval of the Treasury; and

- in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

I have no observations to make on these financial statements.

John Bourn
Comptroller and Auditor General

14 July 2006

National Audit Office
157-197 Buckingham Palace Road
Victoria
London SW1W 9SP

Operating Cost Statement for the year ended 31 March 2006

	Notes	31st March 2006 £000	Prior Year £000
Programme costs	2.1	**5,713**	5,343
Operating income	4	**(584)**	(379)
Net operating cost before interest		**5,129**	4,964
Net operating cost		**5,129**	4,964
Net resource outturn	3.1	**5,129**	4,964

All income and expenditure is derived from continuing operations

Statement of Recognised Gains and Losses for the year ended 31st March 2006

There were no recognised gains or losses in the year

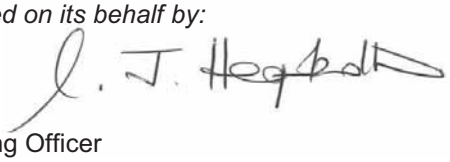
The notes at pages 64 to 73 form part of these accounts.

Balance Sheet as at 31 March 2006

	Notes	31 March 2006 £000	Prior Year £000
Fixed assets:			
Tangible assets	5	**143**	196
		143	196
Current assets			
Debtors	6	**154**	217
Cash at bank and in hand	7	**0**	14
		154	231
Creditors: amounts falling due within one year	8	**(604)**	(901)
Net current assets/(liabilities)		**(450)**	(670)
Total assets less current liabilities		**(307)**	(474)
		(307)	(474)
Taxpayers' equity			
General Fund	10	**(307)**	(474)
		(307)	(474)

The balance sheet indicates that the Mental Health Act Commission has net liabilities. This is not an indication of potential going concern difficulties as the funding of NHS bodies by the Secretary of State will cover appropriate liabilities. The NHS (Residual Liabilities) Act 1996 also requires the Secretary of State to exercise his statutory powers to deal with the liabilities of a Special Health Authority, if it ceases to exist.

The financial statements on pages 61 to 73 were approved by the Board on 15 June 2006 and signed on its behalf by:

Signed:  Date: 19 June 2006

Accounting Officer

Cash Flow Statement for the year ended 31 March 2006

	Notes	31st March 2006 £000	Prior Year £000
Net cash (outflow) from operating activities	11	**(5,315)**	(4,814)
Capital expenditure and financial investment:			
(Payments) to acquire tangible fixed assets		**(9)**	0
Net cash inflow/(outflow) from investing activities		**0**	0
Net cash (outflow) before financing		**(5,324)**	(4,814)
Financing			
Net Parliamentary funding	10	**5,310**	4,828
Increase/(decrease) in cash in the period	7	**(14)**	**14**

The notes at pages 64 to 73 form part of these accounts.

Notes to the Accounts

1. Accounting Policies.

The financial statements have been prepared in accordance with the Government Financial Reporting Manual issued by HM Treasury. The particular accounting policies adopted by the Commission are described below. They have been consistently applied in dealing with items considered material in relation to the accounts.

1.1 Accounting Conventions.

This account is prepared under the historical cost convention, modified to account for the revaluation of tangible fixed assets and stock where material, at their value to the business by reference to current cost. This is in accordance with directions issued by the Secretary of State for Health and approved by HM Treasury.

Acquisitions and Discontinued Operations.

Activities are considered to be 'acquired' only if they are acquired from outside the public sector. Activities are considered to be 'discontinued' only if they cease entirely. They are not considered to be 'discontinued' if they transfer from one NHS body to another.

1.2 Income.

Income is accounted for by applying accruals convention. The main source of funding for the Commission is Parliamentary grant from the Department of Health from Request for Resource1/2 within an approved cash limit, which is credited to the general fund. Parliamentary funding is recognised in the financial period in which the cash is received.

Operating income is income which relates directly to the operating activities of the Commission. It principally comprises of fees and charges for services provided on a full-cost basis to external customers, as well as public repayment work, but it also includes other income such as that from investments and from other Departments. It includes both income appropriated-in-aid and income to the Consolidated Fund which HM Treasury has agreed should be treated as miscellaneous income. Where operating income is received for a specific activity which is to be delivered in the following financial year, that income is deferred. A recharge is made to the Welsh Assembly Government. These payments are recorded as income.

1.3 Taxation.

The Mental Health Act Commission is not liable to pay corporation tax. Expenditure is shown net of recoverable VAT. Irrecoverable VAT is charged to the most appropriate expenditure heading or capitalised if it relates to an asset.

1.4 Capital Charges.

The treatment of fixed assets in the account is in accordance with the principal capital charges objective to ensure that such charges are fully reflected in the cost of capital. The interest rate applied to capital charges in the financial year 2005-2006 was 3.5% (2004-05: 3.5%) on all assets less liabilities, except for donated assets and cash balances with the Office of the Paymaster General, (OPG), where the charge is nil.

1.5 Fixed Assets.

a. Capitalisation

All assets falling into the following categories are capitalised:

I. Intangible assets where they are capable of being used for more than one year and have a cost, individually or as a group, equal to or greater than £5,000.
II. Purchased computer software licenses are capitalised as intangible fixed assets where expenditure of at least £5,000 is incurred.
III. Tangible assets which are capable of being used for more than one year, and they:

- Individually have a cost equal to or greater than £5,000.
- Collectively have a cost of at least £5,000, where the assets are functionally interdependent, they had broadly simultaneous purchase dates, and anticipated to have simultaneous disposal dates and are under single managerial control; or
- Form part of the initial equipping and setting-up cost of a new building, ward or unit irrespective of their individual or collective cost.

IV. Donated fixed assets are capitalised at their current value on receipt, and this value is credited to the donated asset reserve.

b. Valuation.

Tangible Fixed Assets

Tangible fixed assets are stated at the lower of replacement cost and recoverable amount. On initial recognition they are measured at cost (for leased assets, fair value) including any costs such as installation directly attributable to bringing them into working condition. They are restated to current value each year. The carrying values of tangible fixed assets are reviewed for impairment in periods if events or changes in circumstances indicate the carrying value may not be recoverable.

I. Land and buildings (including dwellings).
The Commission does not have any assets classified under this heading.

II. Assets in the course of construction are valued at current cost, using the index as for land and buildings. These assets include any existing land or buildings under the control of a contractor.

c. Depreciation and Amortisation.

Depreciation is charged on each individual fixed asset as follows:

I. Intangible assets are amortised, on a straight line basis, over the estimated lives of the assets.

II. Purchased computer software licences are amortised over the shorter of the term of the license and their useful economic lives.

III. Land and assets in the course of construction are not depreciated.

IV. Each equipment asset is depreciated evenly over the expected useful life. The Commission undertakes an annual revaluation exercise and depreciates its IT assets over a 5 year period from date of purchase.

1.6 Losses and Special Payments.

Losses and special payments are items that Parliament would not have contemplated when it agreed funds for the health service or passed legislation. By their nature they are items that ideally should not arise. They are therefore subject to special control procedures compared with the general payments. They are divided into different categories, which govern the way each individual case is handled.

Losses and special payments are charged to the relevant functional headings, including losses which would have been made good through insurance cover had the Mental Health Act Commission not been bearing their own risks (with insurance premiums then being included as normal revenue expenditure).

1.7 Research and Development.

The Commission has not incurred any research and development costs.

1.8 Leases.

Assets held under finance leases and hire purchase contracts are capitalised in the balance sheet and are depreciated over their useful lives. Rentals under operating leases are charged on a straight-line basis over the terms of the lease. Details of the Commission's operating leases are given at Note 14.

2.1 Authority programme expenditure

	Notes	£000	31st March 2006 £000	Prior Year £000
Non-executive members' remuneration			110	110
Other salaries and wages	2.2		1,277	1,250
Establishment Expenses**			393	271
Commissioner Fees			928	837
Commissioner Expenses			157	460
Second Opinion Doctors Fees			2,061	1,650
Second Opinion Doctors Expenses			187	180
Transport and moveable plant			14	16
Premises and fixed plant			198	347
Project Expenditure**			312	155
External Contractors			0	0
Capital: Depreciation and amortisation	5	62		60
Capital charges interest		(14)		(16)
			48	44
*Auditors remuneration: Audit Fees			28	23
			5,713	5,343

*The audit fee represents the cost for the audit of the financial statements carried out by the Comptroller and Auditor General. There were no payments to the Comptroller and Auditor General for non-audit work.
**The 2004/05 figures have been restated to split Project Expenditure from Establishment Expenses

2.2 Staff numbers and related costs.

	2005-06 Total	Permanently Employed Staff	Other	Prior Year
	£000	£000	£000	£000
Salaries and Wages	1,028	0	1,028	1,046
Social Security Costs	85	0	85	86
Employer contributions to NHSPA	0	0	0	0
Other pension costs	164	0	164	118
	1,277	0	1,277	1,250

The average number of employees during the year was:

	2005-06 Total Number	Permanently Employed Staff Number	Other Number	Prior Year Number
Total	42	0	42	44

The Commission HQ staff are civil servants on secondment from the Department of Health.

Expenditure on staff benefits
The amount spent on staff benefits during the year totalled £0 (2004-05: £6,500.00)

Retirements due to ill-health
None

2.3 Better Payment Practice Code - measure of compliance.

	2005/06 Number	2005/06 £000
Total non NHS bills paid 2005/2006	1083	991
Total bills paid within target	982	881
Percentage of non NHS bills paid within target	90.7%	88.9%
Total NHS bills paid 2005/2006	44	1388
Total NHS bills paid within target	31	889
Percentage of NHS bills paid within target	70.5%	64.0%
2004/05	**Number**	**£000**
Total bills paid 2004/05	657	658
Total bills paid within target	535	532
Percentage of bills paid within target	81.4%	80.9%

The Better Payment Practice Code requires the Commission to aim to pay all invoices by the due date or within 30 days of receipt of goods or a valid invoice, whichever is later.

No payments were made under the Late Payment of Commercial Debts (Interest) Act 1998 (2004-05 £0)

3.1 Reconciliation of net operating cost to net resource outturn

	31st March 2006 £000	Prior Year £000
Net operating cost for the financial year	5129	4964
Net resource outturn	5,129	4,964
Revenue resource limit	5,186	5,049
(Over)/under spend against revenue resource limit	57	85

3.2 Reconciliation of gross capital expenditure to capital resource limit

	31st March 2006 £000	Prior Year £000
Gross capital expenditure	9	0
Net capital resource outturn	9	0
Capital resource limit	9	0
(Over)/underspend against limit	0	0

4 Operating income Operating income analysed by classification and activity, is as follows:	**Appropriated in aid** **£000**	**Not Appropriated in aid** **£000**	**31st March 2006 Total** **£000**	Prior Year £000
Programme income:				
Income received from National Assembly for Wales re. core activity	**231**		**231**	225
Income received from other Departments, etc	**353**		**353**	154
Other	**0**		**0**	0
Total	**584**	**0**	**584**	**379**

5. Tangible fixed assets

	Information Technology	**Total**
	£000	**£000**
Cost or Valuation at 1st April 2005	**301**	**301**
Additions - purchased	**9**	**9**
Reclassification	**0**	**0**
At 31 March 2006	**310**	**310**
Accumulated depreciation at 1st April 2005	**105**	**105**
Provided during the year	**62**	**62**
Accumulated depreciation at 31 March 2006	**167**	**167**
Net book value:		
Purchased at 31st March 2005	**196**	**196**
Total at 31 March 2005	**196**	**196**
Net book value:		
Purchased at 31st March 2006	**143**	**143**
Total at 31 March 2006	**143**	**143**

6. Debtors

Amounts falling due within one year.	**31st March 2006** **£000**	Prior Year £000
NHS Debtors	**61**	11
Provision for irrecoverable debts	**(6)**	0
Prepayments	**47**	183
Other debtors	**52**	23
	154	**217**
Total debtors	**154**	217

7 Analysis of changes in cash

	At 31 March 2005 £000	**Change During the year £000**	**At 31 March 2006 £000**
Cash at OPG	14	**(14)**	**0**
Cash at commercial banks and in hand	0	**0**	**0**
	14	**(14)**	**0**

8 Creditors:
Amounts falling due within one year

	31st March 2006 £000	Prior Year £000
Capital creditors	**0**	**0**
Tax and social security	**74**	**241**
Other creditors	**65**	**63**
Accruals	**406**	**597**
Deferred Income	**59**	**0**
	604	**901**

9 Movements in working capital other than cash

	31st March 2006 £000	Prior Year £000
Increase/(decrease) in debtors	**(63)**	158
(Increase)/decrease in creditors	**297**	(264)
	234	**(106)**

10 Movements on Reserves
General Fund

The movement on the General Fund in the year comprised:

	31st March 2006 £000	Prior Year £000
Balance at 31 March 2004	(474)	(322)
Net operating costs for the year	(5,129)	(4,964)
Net Parliamentary funding	5,310	4,828
Non-cash items:		
Capital charge interest	(14)	(16)
Balance at 31 March 2005	(307)	(474)

11 Reconciliation of operating costs to operating cash flows

	31st March 2006	Prior Year
	£000	£000
Net operating cost before interest for the year	5,129	4,964
Adjust for non-cash transactions	(48)	(44)
Adjust for movements in working capital other than cash	234	(106)
Net cash outflow from operating activities	5,315	4,814

12 Contingent liabilities

Liabilities for 2005/06 are £57,000. The Commission has a number of claims outstanding from SOADs relating to the financial year 2004-05 or earlier. Extensive attempts have been made to encourage the SOADs to submit claims, however as these remain outstanding they have been treated within the 2005-06 Accounts as Contingent Liabilities. (2004-05 liabilities were £200,000)

13 Capital commitments

At 31 March 2006 the value of contracted capital commitments was £0 (2004-05 : £0).

14 Commitments under operating leases

Expenses of the Commission include the following in respect of hire and operating lease rentals:

	31st March 2006	Prior Year
		£000
Operating leases	120	114
	120	114

Commitments under non-cancellable operating leases:

Land and Buildings			£000
Operating leases which expire	within 1 year	0	0
	between 1 and 5 years	0	103
	after 5 years	105	0
		105	103
Other leases			
Operating leases which expire	within 1 year	7	0
	between 1 and 5 years	8	11
	after 5 years	0	0
		15	11

15 Intra-government balances

	Debtors: Amounts falling due within one year £000	Debtors: Amounts falling due after more than one year £000	Creditors: Amounts falling due within one year £000	Creditors: Amounts falling due after more than one year £000
Balances with other central government bodies			74	
Balances with local authorities				
Balances with NHS Trusts	61		3	
Balances with public corporations and trading funds				
Balances with bodies external to government	93		527	
At 31 March 2006	154	0	604	0
Balances with other central government bodies			241	
Balances with local authorities				
Balances with NHS Trusts	72			
Balances with public corporations and trading funds				
Balances with bodies external to government	145		660	
At 31 March 2005	217	0	901	0

16. Losses and special payments

There were 8 cases of losses and special payments totalling £3918.00 paid during 2005 – 2006, as detailed below. (Prior year: 6 cases totalling £19,360.00)
5 Damage to Equipment £3517.
1 Fruitless payment £390.
2 Bad Debts £11.

17. Related parties

The Mental Health Act Commission is a body corporate established by order of the Secretary of State for Health.

The Department of Health is regarded as a controlling related party. During the year the Mental Health Act Commission has had a significant number of material transactions with the Department, and with other entities for which the Department is regarded as the parent. These entities are listed below.

Shared Business Services
Derwent Shared Services
Prescription Pricing Agency
NHS Appointments Commission
National Institute for Mental Health in England

During the year none of the Commission Members or members of key management staff or parties related to them has undertaken any material transactions with the Mental Health Act Commission. There were no company directorships held by Directors where such companies were likely to do business with the NHS.

18. Post balance sheet events

There were no post balance sheet events.

19. Financial instruments

FRS 13, Derivatives and Other Financial Instruments, requires disclosure of the role that financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. Because of the way Special Health Authorities are financed, the Commission is not exposed to the degree of financial risk faced by business entities. Also financial instruments play a much more limited role in creating or changing risk than would be typical of the listed companies to which FRS 13 mainly applies. The Commission has limited powers to borrow or invest surplus funds and financial assets and liabilities are generated by day-to-day operational activities rather than being held to change the risks facing the Commission in undertaking its activities.

As allowed by FRS 13, debtors and creditors that are due to mature or become payable within 12 months from the balance sheet date have been omitted from all disclosures other than from the currency profile.

Liquidity risk

The Commission's net operating costs are financed from resources voted annually by Parliament. The Commission largely finances its capital expenditure from funds made available from Government under an agreed capital resource limit. The Commission is not, therefore, exposed to significant liquidity risks.

Interest-rate risk

100% of the Commission's financial assets and 100% of its financial liabilities carry nil or fixed rates of interest. The Commission is not, therefore, exposed to significant interest-rate risk.

THE NATIONAL HEALTH SERVICE IN ENGLAND ACCOUNTS DIRECTION GIVEN BY THE SECRETARY OF STATE FOR HEALTH IN ACCORDANCE WITH SECTION 98(2) OF THE NATIONAL HEALTH SERVICE ACT 1977 AND WITH THE APPROVAL OF THE TREASURY

The Mental Health Act Commission is a special health authority originally established under SI 1983 No 894.

1. The Secretary of State directs that an account shall be prepared for the year ended 31 March 2006 and subsequent financial years in respect of the Mental Health Act Commission. The basis of preparation and the form and content shall be as set out in the following paragraphs and Schedules.

BASIS OF PREPARATION

2. The account of the Mental Health Act Commission shall comply with accounting guidance approved by the FRAB and contained in the Government Financial Reporting Manual, as detailed in the Special Health Authority Manual for Accounts and the NHS Capital Accounting Manual.

FORM AND CONTENT

3. The account of the Mental Health Act Commission shall follow the format prescribed in the Government Financial Reporting Manual.

4. The account of the Mental Health Act Commission shall be prepared so as to:

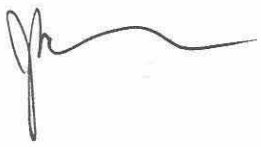
a. give a true and fair view of the state of affairs as at the end of the financial year and the net operating costs, recognised gains and losses and cash flows during the year; and
b. provide disclosure of any material expenditure or income that has not been applied for the purposes intended by Parliament or material transactions that have not conformed to the authorities that govern them.

5. The Annual Report (incorporating the remuneration report), statement on internal control and balance sheet shall be signed by the chief executive of the authority and dated.

MISCELLANEOUS

6. The notes to the accounts shall, inter alia, include details of the accounting policies adopted.

Signed by the authority of the Secretary of State for Health-

Signed  Dated 22nd July 2006

SCHEDULE 1

APPLICATION OF THE ACCOUNTING AND DISCLOSURE REQUIREMENTS OF THE COMPANIES ACT AND ACCOUNTING STANDARDS

Companies Act

1. The disclosure exemptions permitted by the Companies Act shall not apply to the NHS unless specifically approved by the Treasury.

2. The Companies Act requires certain information to be disclosed in the Director's Report. To the extent that it is appropriate, the information relating to NHS bodies shall be contained in the Annual Report.

3. The operating cost statement, balance sheet and cashflow statement shall have regard to the format prescribed in the Government Financial Reporting Manual.

4. NHS bodies are not required to provide the historical cost information described in paragraph (33) of Schedule 4 to the Companies Act 1985.

Accounting Standards

5. NHS bodies are not required to include a note showing historical cost profits and losses as described in FRS 3.

SCHEDULE 2

ADDITIONAL REQUIREMENTS

1. The Annual Report shall include a statement that the accounts have been prepared to comply with a Direction given by the Secretary of State in accordance with Section 98(2) of the NHS Act 1977.

2. The Annual Report shall also contain a description of the statutory background and main functions of the Mental Health Act Commission together with a fair review of its operational and financial activities, remuneration report and a summary of performance against targets.

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office
ID 186297 07/06 341410 19585

Published by TSO (The Stationery Office) and available from:

Online
www.tso.co.uk/bookshop

Mail, Telephone, Fax & E-mail
TSO
PO Box 29, Norwich NR3 1GN
Telephone orders/General enquiries 0870 600 5522
Fax orders 0870 600 5533
Order through the Parliamentary Hotline *Lo-call* 0845 7 023474
E-mail book.orders@tso.co.uk
Textphone 0870 240 3701

TSO Shops
123 Kingsway, London WC2B 6PQ
020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
0121 236 9696 Fax 0121 236 9699
9-21 Princess Street, Manchester M60 8AS
0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
028 9023 8451 Fax 028 9023 5401
18-19 High Street, Cardiff CF10 1PT
029 2039 5548 Fax 029 2038 4347
71 Lothian Road, Edinburgh EH3 9AZ
0870 606 5566 Fax 0870 606 5588

The Parliamentary Bookshop
12 Bridge Street, Parliament Square,
London SW1A 2JX
Telephone orders/General enquiries 020 7219 3890
Fax orders 020 7219 3866

TSO Accredited Agents
(see Yellow Pages)

and through good booksellers

ISBN 0-10-294304-4

9 780102 943047