MENTAL HEALTH ACT COMMISSION

ANNUAL REPORT AND OPERATING ACCOUNTS

1 APRIL 2006 – 31 MARCH 2007

Presented to Parliament pursuant to Paragraph 6(3), Section 232, Schedule 15 of the National Health Service Act 2006

HC778 Ordered by the House of Commons to be printed on 16th July 2007

Mental Health Act Commission
Annual Report and Operating Accounts
1 April 2006 – 31 March 2007

Presented to Parliament pursuant to Paragraph 6(3), Section 232, Schedule 15 of the National Health Service Act 2006

Ordered by the House of Commons to be printed on 16th July 2007

HC778 London: The Stationery Office £18.00

MENTAL HEALTH ACT COMMISSION
ANNUAL REPORT AND OPERATING ACCOUNTS 2006-07

Contents

ANNUAL REPORT 2006-07

Chairman's Foreword

The year covered by this Annual Report has seen a number of crucial developments for the Commission.

First and perhaps the most obvious has been the introduction of the revised and shortened Mental Health Bill into parliament. The Commission played a valuable role in advising the Department of Health on the preparation of the Bill, and I was involved personally in the debate in the Lords. Many of the issues raised by the Bill were ones on which the Commission had long held strong views – such as the value of advocacy, or the importance of specialised services for children and adolescents. Whilst at the time of writing the future of the Bill is not settled, I can say with some feeling that the Commission's knowledge and expertise, and our regular engagement with service users, has given us a unique perspective and an opportunity to help shape the legislation to the benefit of patients.

A second success in 2006-07 has been the establishment of the Service User Reference Panel as a powerful voice within the Commission. The Commission has made a determined effort to talk to and involve service users as the real voice of experience. Section 120 requires the Commission "to meet with and interview detained patients." Doing so is critical to understanding what it really means to lose your liberty as a result of mental health problems; and we should never forget the distress that compulsion causes to patients.

The equality and human rights project 'Making it Real' came to fruition and has helped the Commission strengthen its human rights approach to all its work. Similarly the review of the Second Opinion Appointed Doctor service reported late in the financial year and is being implemented during 2007-08. Improving the protections for detained patients is essential; the SOAD review will ensure the service remains fit for purpose.

Perhaps the single most significant development is the proposal by the government to merge the functions of the Commission with the Healthcare Commission and the Commission for Social Care Inspection (CSCI). The government is determined to press ahead with this transition to the new regulator – and there is no doubt that there will be benefits. But there may be severe disadvantages for detained patients if the special focus brought by the Commission is lost. We will continue to press for the most stringent safeguards for detained patients.

Every year I say thank you to all those who make the Commission such an effective body. The Commission could not do its work without a committed staff team, Commissioners and SOADs that go beyond the call of duty to ensure adequate protections to patients, and the Board which has been supportive constantly during the year.

Prof. Lord Patel of Bradford
Chairman

Mental Health Act Commission

Annual Report 2006-07

Introduction

This year's report describes a number of evolutionary developments that demonstrate the Commission continuing to improve both the way it works and the impact it has on the lives of detained patients.

The Commission has been expecting that its functions would be combined with those of other organisations for some years now but has not allowed that to act as 'planning blight' or as a disincentive to action. Whilst the Commission has been mindful of the likely changes to its functions, it has continued to seek improvements in all spheres of operation. The new visiting arrangements introduced in 2004 have settled down well such that there is now a valuable audit trail with each provider of the problems encountered and their corrective action. The Service User Reference Panel offers important insights to assist the Commission in its work; and the 'Making it Real' project has informed the way Commissioners go about their work.

Two very important projects were undertaken in 2006-07: the Electronic Commission and the SOAD review.

The Electronic Commission is a system whereby Commissioners can access the Commission remotely, plan visits and obtain other relevant information. Although it took a while to get the resources to implement this project, now it is up and running it has already demonstrated its value.

The SOAD review was undertaken to ensure that this critical function in the protection of the rights of detained patients was being managed and resourced efficiently and effectively. In particular the Commission was keen to ensure that the examinations of patients were always undertaken fully and that reports were of a high standard. As the number of second opinions has risen by about a third in five years and now stands at a little under 12,000 p.a. it is vitally important the function is carried out well.

A lot has happened in the year. Not least, as Lord Patel of Bradford says in his Foreword, is the proposed establishment of the new regulator. Senior staff are actively involved in these discussions and will continue to be engaged in ensuring the Commission's functions are fully reflected in the legislation and organisational form of the new regulator, Ofcare.

Chapter 1: Directors' Report

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 may be 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.

Statutory Instruments

2. 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.

Mission Statement

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

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

Strategic Aims and Ambitions

4. The mission statement is supported by the following statements of strategic intent and underlying values, which provide the framework in which plans and priorities of the Commission are determined. 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 and other regulators and partners to help ensure the best possible protection for patients under the legislation brought in to amend the 1983 Mental Health Act.

Underlying Values

5. The Commission's programme of work is intended 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 and service users by maximising user involvement and autonomy;
- Promotion and protection of equality and human rights: in particular, dignity and respect for patients and service users at all times;
- Proportionality and targeting of resources and expertise;
- Openness and Accountability;
- Collaborative working with other agencies.

Objectives

6. The Commission's principal objectives are:

a) Promoting rights: To promote and protect the civil, legal and 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 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) *Promoting equality and diversity in our workforce and providing support and opportunities of development for all.*

h) *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.

i) *Implementing the Concordats:* Bodies responsible for the regulation, inspection and audit of health and social care in England, and separately in Wales, have published Concordats which set out the principles and practices all the signatories have agreed to follow in carrying out 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.

j) *Transition Planning.* The Commission will work closely with the Department of Health, the Healthcare Commission, and Commission for Social Care Inspection, to support the transition to a new single regulator for health and adult social care, Ofcare, in 2008-09. It will endeavour to provide support to staff and members of the Commission to equip them for change.

Disability

7. The Mental Health Act Commission developed a statutory Disability Equality Scheme in 2006-07, which is published on the Commission website www.mhac.org.uk. The 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 reasonable needs in relation to travel, assistance on visits, visits to the office or premises alterations.

Commission Membership

8. The Commission currently has 103 Commissioners working in small teams within a Commission Visiting Area (CVA). CVAs are organised 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**.

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

- Area Commissioners, usually one for each CVA, 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 one or two 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 in any CVA 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.

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

SOAD membership

11. The Commission has a panel of 126 active SOADs covering all second opinions in England and Wales. During the course of the year 12 SOADs have resigned and 5 new appointments have been made. A further 13 SOADs have been taken off the panel because they had completed few or no opinions within the reporting period and one SOAD was removed from the panel due to non-completion of outstanding reports.

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

Region	Gender & Ethnicity	Area Commissioners	Local Commissioners	SOADs
REGION 1	Male	7	3	27
	Female	3	15	4
	White (all categories including Welsh)	10	17	21
	Black (all categories)	0	0	0
	Asian (all categories)	0	1	8
	Mixed (all categories)	0	0	0
	All other ethnic categories	0	0	2
	Not stated	0	0	0
REGION 2	Male	4	7	23
	Female	4	7	8
	White (all categories)	7	12	11
	Black (all categories)	1	1	1
	Asian (all categories)	0	0	18
	Mixed (all categories)	0	1	0
	All other ethnic categories	0	0	1
	Not stated	0	0	0
REGION 3	Male	10	6	31
	Female	1	10	5
	White (all categories)	11	14	24
	Black (all categories)	0	0	1
	Asian (all categories)	0	1	8
	Mixed (all categories)	0	0	0
	All other ethnic categories	0	1	2
	Not stated	0	0	1
REGION 4	Male	6	4	19
	Female	2	14	9
	White (all categories)	6	13	15
	Black (all categories)	1	3	0
	Asian (all categories)	1	1	10
	Mixed (all categories)	0	1	1
	All other ethnic categories	0	0	1
	Not stated	0	0	1

	Area Commissioners	Local Commissioners	SOADs
TOTAL BY GENDER			
Male	**27**	**20**	**100**
Female	**10**	**46**	**26**
TOTAL BY ETHNICITY			
White (all categories)	**34**	**56**	**71**
Black (all categories)	**2**	**4**	**2**
Asian (all categories)	**1**	**3**	**44**
Mixed (all categories)	**0**	**2**	**1**
All other ethnic categories	**0**	**1**	**6**
Not stated	**0**	**0**	**2**
	37	**66**	**126**

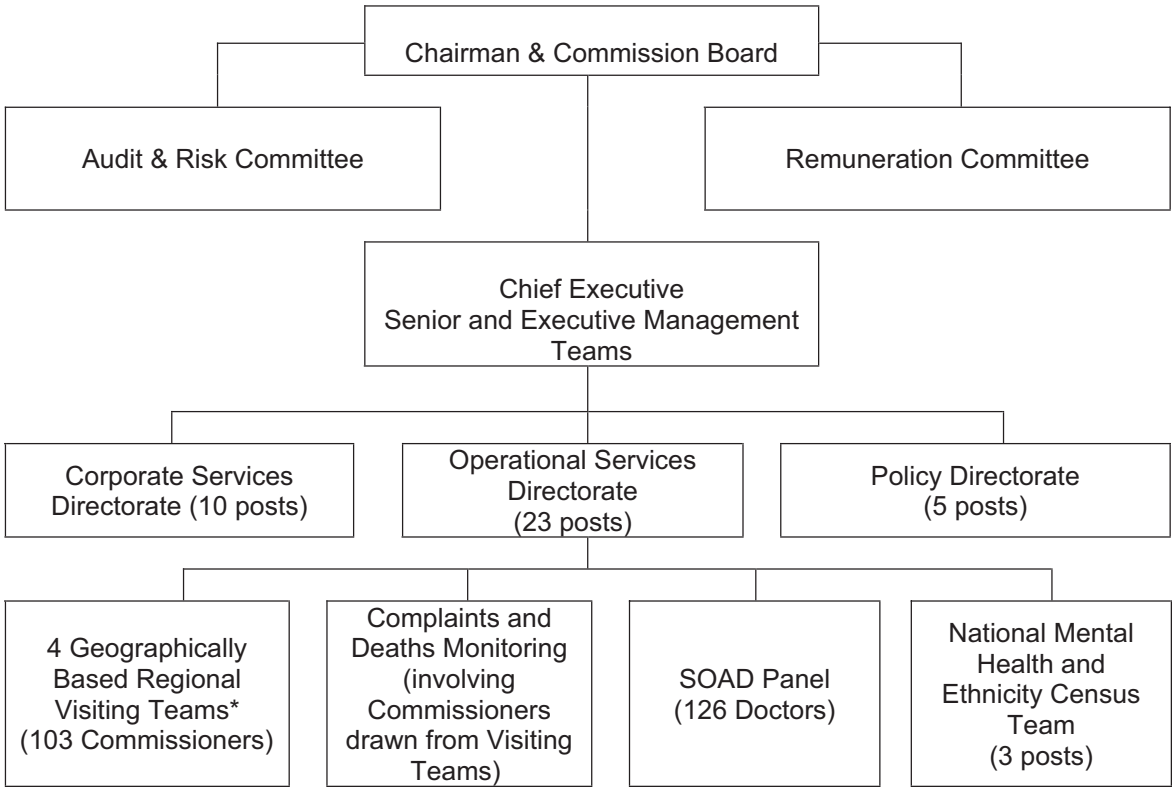
Table 2: Analysis of Commissioner Membership by Specialism

Specialism	Region 1 (Northern)	Region 2 (Central & Eastern)	Region 3 (Wales & South West)	Region 4 (London & South East)	TOTAL
Legal	5	1	3	3	12
Medical/Psychiatry	1	0	2	0	3
Nurse	1	6	9	5	21
Lay	5	3	3	2	13
Other	6	2	1	4	13
Social Work	10	10	9	12	41
TOTAL	**28**	**22**	**27**	**26**	**103**

Organisational Structure

12. **Table 3** below summarises the structure and organisational arrangements of the Commission. Commissioners and SOADs are based throughout England and Wales and normally visit 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 who is a member of the Senior Executive Team

Core Work of the Commission

Second Opinion Appointed Doctor (SOAD) Review

13. 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.

14. During the year the Commission undertook a fundamental internal review of the management and administration of the Second Opinion Appointed Doctor service in order to determine improvements to efficiency, effectiveness and quality. Consultation on the SOAD service took place with a range of interested groups and individuals including patients, hospital staff and SOADs. The Commission Board accepted the nineteen recommendations of the Review Team in January 2007. Planning of pilots to test changes to the way in which second opinions are requested and organised began towards the end of the year, and a full programme of implementation of other changes has begun, and will continue into 2007-08.

Visiting Programme

15. Mental Health Act Commission visits continue to be ward based and require minimal support from provider staff. The Commission visits each hospital/facility at least once every 12 months, and each ward with detained patients within those facilities at least once every 18 months. However these averages mask a wider range of visiting frequency, which is determined according to the level of risk. 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 usual minimum frequency.

16. At each visit Commissioners meet with detained patients in private or in groups, check the documentation relating to detention and look at the care and treatment provided to detained patients. Where issues are raised, these are pursued on the day with ward staff or managers. Commissioners leave a summary sheet with ward staff at the end of each visit recording any necessary action with agreed timescales which headquarters staff monitor or follow up, as necessary, by phone call or correspondence. Key issues arising from the visit may also be recorded on a patient poster for ward notice boards. Individual patient letters are written where actions have been taken in response to issues raised in individual interviews. When headquarters staff have received feedback from providers, they check with Commissioners whether the response is satisfactory or further action is required.

17. Mental Health Act Commission annual reports, written by Area Commissioners, are a summary of visiting activity undertaken by the Commission within a provider during a reporting cycle and identify significant

issues raised by Commissioners during visits. Where issues are outstanding or provider responses have been unsatisfactory, this will be covered in the report. Copies of annual reports, and, wherever possible, provider responses, are posted on the Commission's website, www.mhac.org.uk. Within larger providers, Area Commissioners formally present their annual reports to the Board or equivalent body.

New Developments 2006-07

18. In December 2006 the Senior Executive Team revised the Safer Working Practice Guidelines for Commissioners and SOADs and agreed a new reporting process if they are ever subjected to verbal or physical assault in the course of their work. This is the trigger for both a response to the individual follow up action with the provider and quarterly reporting to the Board.

19. In November 2006 the Board approved a Grievance Procedure for Commissioners, setting out a process for both informal resolution and formal mediation and/or investigation as appropriate. The procedure acknowledges the differences between "appointees" and "employees" and may also be applied to SOADs, but would need to be adapted to take account of differing lines of accountability. The document specifically states that in relation to Equal Opportunities matters, including bullying, harassment, discrimination or victimisation, the Fairness and Respect at Work Guidance will be applied. This provides appointees with the same rights as employees for this category of grievance.

Commissioner training events

20. **Table 4** below shows the training events arranged and attended by Commissioners during 2006-07. Some Commissioners also underwent training prior to their involvement in specific projects; the Race Equality Impact Assessment consultations on behalf of the Department of Health in April 2006; the 'Parents in Hospital' consultations visits as part of a wider project with the Care Services Improvement Partnership (CSIP) and Barnardo's and the 'Making it Real' Equality & Human Rights case study funded by the Department for Constitutional Affairs and the Department of Health. This latter project informed the training delivered to all remaining Commissioners in March 2007 on equality and human rights.

Table 4: Conference and Training events held in 2006-07

Date(s)	Purpose	Attendees
10/5/06	**Joint Healthcare Commission and MHAC Concordat Events**	35 (including Region 4 Commissioners, MHAC staff and HC)
21/6/06		51 (including Region 1 Commissions, MHAC staff and HC)
29/6/06		33 (including Region 2 Commissioners, MHAC staff and HC)
19/7/07		38 (including Region 3 Commissioners, MHAC staff and HC)
7 and 8/11/06	**MHAC National Commissioner Training Conference**	133 (including Commissioners, staff and guests)
7/3/07	**Equality and Human Rights Training**	26 (including 14 Region 4 and 9 Region 2 Commissioners, 2 RDs and a Director)
14/3/07		17 (15 Region 3 Commissioners, RD and Director)
20/3/07		23 (22 Region 1 Commissioners and RD)

Commissioner Conference

21. S.I. 1995/2630 dictates that a full meeting of the Commission shall be held in any year. The Commissioner conference in 2006-07 was a combination of regional team meetings and training workshops for Commissioners and Board members. Building on the Commission's commitment to service user involvement across all areas of activity, there was, for the first time, a workshop run by members of the Service User Reference Panel (SURP) on the patient's perspective of a Commission visit. Sessions were also provided on the Mental Capacity Act, protection of vulnerable adult procedures and patients with learning disabilities.

Commissioner Recruitment

22. During the reporting year the Commission received nine Commissioner resignations. The Commission has agreed with the Appointments Commission a process for limited and open competition recruitment to the vacancies which will take place during 2007-08. The limited competition will

provide an opportunity for existing Local Commissioners to apply for any of the Area Commissioner vacancies followed by an open competition to fill all remaining vacancies. Interview panels will include members from both organisations and successful candidates will undergo induction training and a number of supported visits before undertaking their full responsibilities.

Staff Away Day – Making a Difference

23. In summer 2006 an external consultant interviewed a cross section of headquarters staff to assess organisational development needs. Feedback was provided to all staff and generated some debate as to our organisational characteristics and areas for further work.

24. Building on this feedback, progress on actions at the November 2005 Away Day, and taking account of national developments for the transition to a new organisation, all staff participated in group work during Autumn 2006 on the theme of "Making a Difference". The cross directorate, diagonal slice groups each considered one of four topics - Communication; Making Decisions; Preparing for the Future; and Improving the Way We Work. Each group (seven in total) presented their thoughts and ideas as the starting point for the Staff Away Day on 6 December 2006. With the assistance of an external facilitator, the "Making a Difference" theme was developed further and staff were asked to consider their own strengths and contributions to teamwork using the Belbin framework. An Action Plan was developed, shared with all staff for comments / amendments, and progress will be formally reviewed in May 2007.

Communications

25. The purpose of the Commission's Communications Strategy is to ensure that the organisation uses communication effectively and clearly to achieve its aims. The current Communications Policy is being fundamentally reviewed to ensure communications remain appropriate for current operational practices. This work will be undertaken during Spring 2007.

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

- A monthly staff meeting with the Chief Executive to ensure all staff at the Commission's headquarters are kept informed of matters of interest and importance, and have an opportunity to discuss issues of interest to all;
- The Management Staffside Liaison Group, a formal forum within which members of 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 bullet point summary of monthly Senior Executive meetings issued to staff usually with 3-5 working days;
- An Operational Management Group that brings together team leaders from all Directorates. Agendas include briefings, information and

operational matters that require discussion and agreement across the Directorates;

- A monthly bulletin from the Chief Executive for all Commissioners, SOADs and staff 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.

27. Developing and strengthening the Commission's external communications has been a priority this year, and has been informed by the service user involvement and equality and human rights strategies. The Commission has reviewed its communication materials in consultation with service users, and is now producing information for patients in a number of formats. It has produced an easy read leaflet about its role, available in English and Welsh, and has revised its general information leaflet. General information about the Commission's role is also being produced in DVD and CD formats, with subtitles and BSL signing to help make the information accessible to greater numbers of service users, including those with disabilities, and to their families and carers, and those working in mental health services.

28. Other external communications activities this year have included:

Website
The Mental Health Act Commission website has been revised and now offers improved access and communication.

Open Day
On 17 January 2007, MHAC invited a number of mental health provider managers and clinicians to an open day at the Commission offices, providing a range of speakers from staff to explain the Commission's function.

Guidance Notes on the Mental Health Act 1983 and its code of practice
These are published on the website and are aimed primarily at staff in mental health services. The Commission published a new guidance note this year on issues relating to Nearest Relatives. Revisions were made to guidance notes throughout the year as required to reflect case law and other changes. In addition to 'as and when' revisions, the Commission reviews the content of all guidance notes annually.

Making it Real: a human rights case study
A short flyer summarising the key findings of the project was disseminated and a presentation given at two national conferences organised by the Department for Constitutional Affairs in October 2006. The report is available on the Commission's website. Copies of a DVD made about the project are also available.

Patient Feedback Pilot
In February and March 2007, the Commission piloted a scheme to give detained patients the opportunity to provide feedback on their contact with a Commissioner through a simple questionnaire postcard. The results will be evaluated and if deemed successful the initiative will be rolled out more widely in 2007-08.

SURP Newsletter: 1983 and all that
This is a quarterly publication of submissions by staff, SURP members and others, distributed to the SURP members and within the Commission (to Commissioners and SOADs) as well as being published on the website.

Welsh Language Scheme
A full review of the Commission's Welsh Language Scheme was undertaken in consultation with the Welsh Language Board. The new Scheme was approved by the Welsh Language Board and the Commission Board, and was published in May 2006. The Commission continues to report annually to the Welsh Language Board on the operation of the Scheme and the Commission's activities in Wales. This report is published in English and Welsh on the Commission website www.mhac.org.uk.

Programme Activity

29. The Commission's programme activity is co-ordinated through the Programme Development Group (PDG) whose membership includes representatives from across the organisation; three Commissioner members, a Second Opinion Appointed Doctor, two members from the Service User Reference Panel and five staff members. During the year the PDG met three times.

30. The wider programme of activity led by the Commission's Programme Development Group during 2006-07 has included:
- The 'Question of the Moment.' This is a new initiative where Commissioners record patients' views on a specific topic, discussed at all visits for a time limited period. The patient's experience of Section 132 was the first topic and was explored in two phases. Phase I from 1 August 2006 gathered quantitative information from at least 50% of all patients seen by Commissioners on visits. Phase II, from 1 November, collected more in depth qualitative information from one patient per visit. The information from both phases will be reported in the Twelfth Biennial Report.
- The second topic exploring patients' access to telephones began on 1 March and plans are in place for a third topic about access to Advocacy Services. These will also be reported in the next Biennial Report.
- 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 revised Mental Health Bill.
- Parents in Hospital - sixty visits to inpatient units to consult with detained patients and staff as part of a collaborative project with Barnardo's, the

Family Welfare Association and Care Services Improvement Partnership (CSIP) exploring the provision of, and policies about, family visiting in the full range of in-patient mental health care settings.

- "Acting Together": a project to test different approaches to involving members of the Service User Reference Panel more directly in the Commission's visiting activity.
- Three short MHAC placements for 3rd year nursing students as part of their professional development training.

Children and Minors

31. The Commission established in April 2002 a notification procedure which required providers to notify every occasion when a minor was admitted under the Mental Health Act to an adult ward. In November 2006, the Commission reviewed the process and decided to end the notification in its current format. The Commission continues to work with partner organisations and has been actively involved in discussions about revised legislation and requests for statutory notifications of the admissions of all patients which would provide more comprehensive information in this and a number of other areas regarding detained patients.

Outcome Measures Pilot

32. The Commission undertook a short pilot of a methodology to evaluate more fully provider responses to issues raised on visits. Following a successful pilot this process will be used to evaluate all responses to issues raised on visits from 1 April 2007 and will inform annual reports to providers and quarterly accountability meetings with the Department of Health.

Issues of Serious Concern

33. 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 Regional Directors at their monthly management 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 through telephone contact or correspondence with the provider; in collaboration with other regulators such as the Healthcare Commission or the Local Authority Safeguarding Team or by direct contact with relevant provider staff by Commissioners or Regional Directors as appropriate.

National Mental Health and Ethnicity Census

34. The *Count Me In* Census is an important underpinning element of the wider Delivering Race Equality (DRE) Programme of the Department of Health and the National Institute for Mental Health in England (NIMHE), and first

conducted in March 2005. The Healthcare Commission had overall responsibility for the 2006 Census, supported by the MHAC and NIMHE.

35. The 2006 Census included not only all in-patients in NHS and independent mental health services (as in 2005) but also included 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.

36. The report on the 2006 Census findings was published in March 2007 and is available via the Healthcare Commission website at www.healthcarecommission.org.uk (follow links for National Findings/ Themed Reports/ Mental Health).

37. Provider level data for 2006 results, which are not for publication because they include small numbers of patients in sub-categories and carry a risk of compromising patient confidentiality, were made available to individual providers through their secure account on the Census website in advance of publication of the main report.

38. In 2005 the Commission undertook a national survey providing a qualitative element to the National Mental Health and Ethnicity Census. The report of the 2005 Service User Survey was published in November 2006. A copy of the report is available via the Commission's website www.mhac.org.uk (follow the link to publications).

39. The Healthcare Commission continues to maintain overall responsibility for the 2007 Mental Health and Learning Disability Census, supported by MHAC and NIHME. It will continue to form an important element of Delivering Race Equality in Mental Health agenda and supports the DH 'Standards for Better Health'.

40. The 2007 Census took place on 30 March 2007. It included all in-patients in NHS and independent mental health services as well as patients in learning disability services run by the NHS or registered as independent providers under Section 2 of the Care Standards Act.

The Concordats

41. As a full signatory to the English and Welsh Concordats[1], the Commission has continued to take forward implementation of ten objectives aimed at improving co-ordination between inspection and review bodies, improving services for patients and their carers, and reducing unnecessary burdens of inspection on staff providing healthcare. A second annual review of activity by the Commission to implement the Concordat in England was undertaken during the summer 2006 and is published on the Concordat website www.concordat.org.uk. Information about activity in Wales is available at www.walesconcordat.org.uk. The Commission provides information about its

[1] The Concordat between bodies inspecting, regulating and auditing healthcare was published in England by the Healthcare Commission in August 2004. A similar Concordat for Wales was published the following year.

activity in NHS Trusts in England and Wales through the Concordat scheduling sites, which may also be accessed through the two concordat websites.

42. Of the twenty or so Concordat signatory bodies, the Commission works most closely with the Healthcare Commission and Health Inspectorate Wales. During 2006 the Commission held meetings in each of its four regions to bring together Commissioners and operations staff from the Healthcare Commission to develop understanding of respective roles in the assessment and monitoring of mental health services and to encourage effective partnership working between the two organisations.

Equality and Human Rights and Service User Involvement

43. The Commission is committed to embedding a human rights-based approach throughout the organisation, and has adopted an Equality and Human Rights Strategy, which was approved by the Board in November 2006. The Commission undertook a case-study project, Making it Real, funded by the Department for Constitutional Affairs and Department of Health, demonstrating 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 was completed in January 2007, with the publication of a report of the project. The project included the development of equality and human rights training tailored to the Commission's needs. Commission staff and some Commissioners and SOADs received this training in 2006 as part of the Making it Real project, and it was then rolled out to remaining Commissioners in March 2007.

44. In November, the Commission published its Disability Equality Scheme, describing how it will promote disability equality and seek to eliminate discrimination. The Gender Equality Scheme, setting out the Commission's gender equality objectives, and showing how it will meet its duty to promote equality between the sexes, is due for publication in April 2007. Further information about these and the Race Equality Scheme is contained in the 'Equality and Human Rights' pages of the website www.mhac.org.uk.

45. The Commission continued to develop its Service User Involvement strategy throughout 2006-07, working closely with the 27 members of its Service User Reference Panel. Service user involvement is increasingly becoming the norm throughout Commission activity, with service users involved in all major projects and developments. This has included a number of innovative activities and projects, such as the first service user-led training workshop at a Commission conference, and the Acting Together project, to pilot methods of direct service user involvement in visiting activity. The Commission will continue to build on the successes to date and develop this activity further in 2007-08. During the year the Commission published its first annual report on implementation of the Service User Involvement Strategy and this and other information is available on the 'Your Involvement' pages of the website.

Responses to Consultations

46. During the year the Commission contributed to a number of consultations, including the Department of Health's consultations on *The Future Regulation of Health and Adult Social Care in England* and on *Reviewing the Care Programme Approach,* and the Department for Constitutional Affairs' consultations on the Code of Practice for the Mental Capacity Act, and on voting rights for convicted persons. All Commission responses to formal consultations were published on the MHAC website.

Mental Health Legislation and Future Monitoring Arrangements

47. The Commission has taken an active interest in the progress of the Mental Health Bill through its initial Parliamentary stages in this financial year, and raised concerns with, and been a source of advice to, the mental health legislation team within the Department of Health.

48. In addition it has been involved in regular discussion with the Department of Health, the Healthcare Commission and the Commission for Social Care Inspection, as part of the government's programme to bring together functions of these three bodies in the establishment of a new regulator for health and adult social care in 2008 or 2009. In March 2007 members of the Commission and of its Service User Reference Panel were pleased to be invited to take part in a stakeholder event organised by the Department of Health and Welsh Assembly Government about the future monitoring of the Mental Health Act.

Complaints

49. 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.

50. The Commission's activity in relation to this statutory power 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.

51. In general, the Commission's remit dictates that complaints are investigated at a local level first. Since the introduction of the NHS Complaints procedure and its equivalents in private healthcare it is the Commission's policy to allow complaints to be referred for local resolution and then independent review by the Healthcare Commission prior to making a decision whether or not to use its own investigatory powers.

52. This has meant that the Commission does not undertake its own investigation except on rare occasions. Over the course of the year the

Commission received seven requests to investigate[2] and in each case the Commission decision has been that the complaints have been properly considered, investigated and responded to and that a further Commission investigation would be unlikely to uncover any new evidence that would lead to a different conclusion. In each case the complainant has been informed of the decision to exercise discretion not to investigate.

53. The Commission undertook one investigation (which concluded during 2006-07) into a complaint about detention under Section 4 of the Mental Health Act 1983. The complaint was not upheld as in general terms the Commission found no evidence to support the allegations. A complaint of maladministration in relation to this investigation was subsequently referred to the Parliamentary and Health Services Ombudsman who found no evidence to support the allegation.

54. The Commission provides advice and support to patients who have concerns about their care and treatment under the Mental Health Act (MHA) 1983 and when requested, supports patients through the complaints process, submitting their complaint to hospital managers and monitoring the progress of this. When monitoring complaints, the Commission seeks to ensure that these are dealt with in a timely manner and that the response addresses the complaints fully.

Complaints and Visiting

55. The Commission has used its Section 120 visiting powers on a number of occasions during the year when potentially serious issues have been identified through complaints. The Complaints Section has arranged visits to consider specific issues from one complaint and has used themed visits where concerns about the management of complaints in a provider were identified following a number of complaints. Themed visits include a scrutiny of complaints records and meetings with patients, both those that have complained and those that have not, as well as staff who have been the subject of a complaint. During the year the Commission has developed a new methodology and questionnaire for thematic visiting that looks at the operation of the complaints process by NHS Trusts or independent service providers. This was issued to all Commissioners. Area Commissioners have begun to use this as part of their normal monitoring activity over the course of the year, not just when specific concerns have been identified.

56. The Complaints section has provided information to Visiting Commissioners to inform their normal visiting activity for instance where a patient has requested to see a Commissioner.

57. To facilitate effective links between complaints and visiting activity a protocol has been developed in consultation with staff at headquarters and feedback from Commissioners. The protocol sets out a framework for responding to calls and correspondence received at headquarters, from patients, carers

[2] Where the complaint has progressed through the first two stages of the NHS Complaints procedure or equivalent and the complainant remains dissatisfied.

and staff, expressing concerns about the services provided. It is currently being piloted for a three month period so that final amendments can be made for future practice.

Notification of Deaths of Detained Patients

58. As part of its general remit, the Commission is notified of the deaths of detained patients. These are then recorded onto a database and every unnatural cause death or natural death where practice issues are identified is the subject of a review and any recommendations are passed on to the provider and other interested parties.

59. When reviewing deaths, the Commission requests some preliminary information from the provider and the Coroner which is then passed to a Commissioner who has been trained to conduct a death review visit. The Commissioner will either undertake a themed visit looking at the particular circumstances and issues arising from a death or attend the inquest. The Commission will usually seek to visit if the inquest is not due to take place within six months of the death.

60. The Commission will seek, through its review of the circumstances surrounding the death, to establish whether there are concerns about the use of the Mental Health Act, the care and treatment of detained patients and whether good practice has been followed. The main purpose of notification and review is to ensure that lessons are learned and positive changes are implemented at all levels that will make similar deaths less likely in future.

61. During the year the Commission explored opportunities to work with other organisations to improve the dissemination of lessons learned and improve patient safety. The Commission is a member of the Forum for Preventing Deaths in Custody, a multi-organisation initiative set up for this purpose; and has provided statistical information to outside bodies such as the National Confidential Inquiries Sudden Unexplained Deaths Study.

62. The Commission held a seminar in March 2007 to obtain a wide range of views on how the Commission could review the deaths of detained patients in a way which ensures working effectively with others to have a positive impact on patient safety. This seminar was attended by staff and Commissioners, a Coroner and representatives of other organisations with responsibilities for investigating deaths where liberty has been restricted, including the Independent Police Complaints Commission and Prisons and Probation Ombudsman. Work is now underway to finalise the options for developing this service to ensure clarity of purpose and maximum impact on services for detained patients.

Judicial Reviews

63. There have been no new judicial review challenges involving decisions made by SOADs to certify treatments in the absence of a detained patient's consent during this year.

64. Three letters before claim were received from solicitors in the latter part of the year seeking action to be taken by both the hospital and Commission in order to prevent judicial review applications being lodged. These concerned, respectively: the use of blood tests with the administration of the drug Clozapine; and two (separate) challenges to SOAD decisions to certify medication.

65. A decision reached by the High Court reported in previous years was referred to the Court of Appeal:

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

66. The original challenge of this case (which had progressed to the Court of Appeal) was the administration of anti-psychotic medication to a patient without their consent. The central issue in the appeal was whether a court can only uphold a decision forcibly to treat a mentally disordered patient detained in a hospital where it is satisfied both as to the precise form of mental disorder from which the patient is suffering and that the treatment is medically necessary for that form of disorder.

67. The Court of Appeal dismissed the case finding that there was ample evidence to justify the Judge's conclusion that it had been convincingly established that the treatment was medically necessary for the patient's mental disorder; that the judge had considered the nature of the mental disorder when reaching this conclusion and that they had acted appropriately in not requiring an oral cross-examination of the witness statements.

Corporate Governance

The Mental Health Act Commission Board and its Committees

68. The membership of the Board and number of attendances at meetings in 2006-07 are detailed below:

Non-executives
Chair, Prof. Lord Patel of Bradford OBE (9 meetings attended)
Vice–Chair, Deborah Jenkins MBE (9 meetings attended)
Simon Armson (7 meetings attended)
Ann Curno (8 meetings attended)
Barry Delaney (7 meetings attended)
John Knox [from 01.06.06] (7 meetings attended)
Kay Sheldon (9 meetings attended)

Executives
Prof. Christopher Heginbotham, Chief Executive (9 meetings attended)
Martin Donohoe (9 meetings attended)

69. The Board may also co-opt two persons who are members of the Commission. The Board is 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 at least every two months and met nine times in 2006-07. 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.

70. The Chief Executive, Christopher Heginbotham, was employed by the Department of Health until 31 December 2006. From 1 January 2007 he was employed by the University of Central Lancashire and is currently seconded to the Mental Health Act Commission. 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 Non-Executive 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

71. 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 four non-executive members and six meetings took place in 2006-07. The non-executive membership of the Committee and number of attendances at meetings in 2006-07 are detailed below:

John Knox, Chairman [from 13.09.06] (4 meetings attended)
Barry Delaney, Vice Chairman (5 meetings attended)
Simon Armson, Non-Executive Member (6 meetings attended)
Ann Curno, Non-Executive Member (5 meetings attended)

72. 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

73. 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 2006-07 eight meetings were held.

74. The membership of the Committee and attendances at meetings in 2006-07 are detailed below:

Prof. Lord Patel of Bradford OBE, Chair (7 meetings attended)
Deborah Jenkins MBE, Vice Chair (8 meetings attended)
Simon Armson, Non-Executive Member (7 meetings attended)
Ann Curno, Non-Executive Member (7 meetings attended)
Barry Delaney, Non-Executive Member (7 meetings attended)
John Knox, Non-Executive Member [from 01.06.06] (7 meetings attended)
Kay Sheldon, Non-Executive Member (7 meetings attended)

75. 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

76. 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

77. 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.

78. 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

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

- Confidentiality and Data Protection;
- Corporate Information Assurance;
- Information Governance Assurance;
- Information Quality Assurance.

80. The Commission assessed its level of compliance against the 31 requirements and achieved a compliance score of 73%.

Freedom of Information (FOI)

81. The Freedom of Information Act (2000) came into force fully on 1 January 2005. The Publication Scheme is available to download from the Commission's website.

82. 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.

83. The Commission received 18 requests during the period 1 April 2006 to 31 March 2007.

Statement on Internal Control

84. The Statement on Internal Control can be found within the Commission's Annual Accounts for 2006-07.

Emergency Preparedness

85. 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 has been 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 2006-07

Table 5: Commission Activity Report 2006-07

Visiting Activity	Activity Reported		
	Apr 05 – Mar 06	April 06 – March 07	% Change
Total number of visits to providers	**1647**	**1679**	**+2%**
Meetings with detained patients (including individual private meetings and patients seen in groups)	5816	6077	+4.3%
Total number of patient documents checked	5543	6148	+9.8%
Total patient related activity	**11359**	**12225**	**+7%**
Average patient related activity per visit	**6.90**	**7.28**	**+5.2%**

Patient related activity

1. During 2006-07 (the second full reporting year under new visiting arrangements introduced in October 2004), the Commission has undertaken 1679 visits to providers (a 2% increase on 2005-06) and increased the patient related activity on a visit by 7%. Much of the visiting activity is undertaken by the 66 Local Commissioners, although some visiting activity is also carried out by Area Commissioners and Regional Directors where the need arises.

2. Of the 1679 visits recorded, 67 are shown to be half day visits. Although the Commission's visiting arrangements are flexible and allow Commissioners to plan their activity around other commitments, the majority of visits undertaken are whole day visits. The average time recorded by Local Commissioners for each visit activity is 7.6 hours with an average of 2.19 hours additional travelling time.

Recorded Patient Ethnicity	Table 5a: Summary of patients seen by Commissioners in private						
	Region 1 (North)	Region 2 East & Central)	Region 3 (Wales, W.Mids/S. W)	Region 4 (London & S.E)	Total	**% of total patients seen**	**% inpatients in 2005 census**
White							
British	1085	977	955	824	3841	**67.75**	**79.2**
Irish	13	9	10	35	67	**1.15**	**2.2**
Any Other White Background	79	40	41	117	277	**4.74**	**3.1**
Welsh (white)	2	5	29	3	39	**0.67**	**0.0**
Mixed							
White & Black Caribbean	7	9	15	16	47	**0.80**	**0.8**
White & Black African	2	3	3	3	9	**0.15**	**0.20**
White & Asian	2	2	3	7	14	**0.24**	**0.30**
Any Other Mixed Background	4	8	2	15	29	**0.50**	**0.50**
Asian							
Indian	14	13	18	33	78	**1.34**	**1.30**
Pakistani	21	12	13	10	56	**0.96**	**1.00**
Bangladeshi	7	4	5	11	27	**0.46**	**0.50**
Any Other Asian Background	8	2	3	27	40	**0.68**	**0.80**
Black or Black British							
Caribbean	47	45	60	188	340	**5.82**	**4.10**
African	17	18	16	105	156	**2.67**	**1.90**
Any Other Black Background	23	4	6	44	77	**1.32**	**1.70**
Other Ethnic Groups							
Chinese	3	5	4	11	23	**0.39**	**0.20**
Any Other Ethnic Groups	10	14	4	26	54	**0.92**	**1.10**
Not Stated							
Not stated	198	98	204	168	668	**11.43**	**1.20**
Total	**1542**	**1268**	**1389**	**1643**	**5843**		

3. The table above shows the ethnicity (where recorded) of patients seen in private by Commissioners during 2006-07. Where Commissioners meet with patients in groups individual patient ethnicity is not recorded.

Complaints

4. The number of complaints received through direct contact with the Commission or by a Commissioner following an interview with a detained patient has decreased slightly on the previous year. The service provided by the complaints team is a demand led service. The level of involvement needed can vary widely for each individual case. Some cases can require significant and prolonged action over a number of weeks or months while others are closed following the Commission's initial response often because the issues raised in the correspondence are outside the Commission's remit.

5. The Commission's complaints administrative team has a performance indicator of 21 days from the date of receipt to respond to all complaints received in the office or raised on a visit and general correspondence received. During 2006-07 the average time taken to respond was 5.83 days.

Deaths of Detained Patients

6. In the period, the Commission received notification of 361 deaths (279 natural and 82 unnatural causes) and attended 56 inquests and visited hospitals on 14 occasions as a result of death notifications.

Second Opinion Service

7. The number of Second Opinions received by the Commission has increased again by 4.7% from the previous year. This is a demand-led statutory function. The figures in **Table 6** show that requests for Electro-Convulsive Therapy (ECT) have slightly reduced compared with 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.

Table 6: Complaints, Deaths and Second Opinion Activity

Complaints Activity	**2005-06**	**2006-07**	**Change**
New complaints referred to the Commission	443	346	**- 22%**
Complaints raised on behalf of patients during a visit	53	40	**- 24.5%**
General correspondence and written enquiries	585	578	**- 2%**
Total Activity	**1081**	**964**	**- 11%**
Deaths Activity	**2005-06**	**2006-07**	**Change**
Deaths reported by natural causes	290	279	**-3.7%**
Deaths reported by unnatural causes	81	82	**+ 1.2%**
Total Deaths Reported	**371**	**361**	**- 2.7%**
Second Opinion Activity	**2005-06**	**2006-07**	**Change**
Medication only opinions	9111	9730	**+ 6.8%**
Electro Convulsive Therapy (ECT) Opinions	1917	1857	**- 3.1%**
Combined medication & ECT Opinions	109	75	**- 31.1%**
Average calls required to allocate Second Opinion requests	1.2	1.2	**-**
Percentage of medication Opinions arranged within 5 days	87%	89%[3]	**+ 2%**
Percentage of ECT Opinions arranged within 2 days	76%	80%	**+ 4%**
Total Second Opinions	**11137**	**11662**	**+ 4.7%**

Please note the above figures for total Second Opinions do not include those requests that are subsequently marked as cancelled. Figures reported in previous annual reports did include those requests. The figures above relating to Second Opinions were correct at the time of compiling this report. The figure may be subject to some change once all outstanding second opinion reports are received as some second opinions may subsequently be marked as cancelled.

[3] The percentages for attendance for ECT and Medication relates only to those second opinions where the SOADs visit report has been received.

Table 6a: Complaints received by Ethnicity

Ethnic Background	Complaints	Complaints from Visits	General Corresp.	Total number and percentage	BME %[4]
White					
British	249	29	181	459[47.6%]	**79.20**
Irish	1	1	1	3 [0.31%]	**2.20**
Any Other White Background	12	3	22	37 [3.84%]	**3.10**
Welsh (white)	1	0	4	5 [0.52%]	**0.0**
Mixed					
White and Black Caribbean	5	0	1	6 [0.62%]	**0.80**
White and Black African	1	0	1	2 [0.21%]	**0.20**
White and Asian	1	0	0	1 [0.10%]	**0.30**
Any Other Mixed Background	1	1	1	3 [0.31%]	**0.50**
Asian					
Indian	9	0	3	12 [1.24%]	**1.30**
Pakistani	10	1	6	17 [1.76%]	**1.00**
Bangladeshi	0	0	1	1 [0.10%]	**0.50**
Any Other Asian Background	2	0	0	2 [0.21%]	**0.80**
Black or Black British					
Caribbean	17	2	33	52[5.39%]	**4.10**
African	13	1	8	22 [2.28%]	**1.90**
Any Other Black Background	6	0	3	9 [0.93%]	**1.70**
Other Ethnic Group					
Chinese	0	1	2	3 [0.31%]	**0.20**
Any Other Ethnic Group	4	0	2	6 [0.62%]	**1.10**
Not Stated					
Not Stated	14	1	309	324 [33.61%]	**1.20**
Totals	**346**	**40**	**578**	**964**	

[4] 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: Death notifications by Ethnicity

Ethnic Background	Unnatural	Natural	Total and percentage	BME %[5]
White				
British (white)	60	241	301 [83.38%]	**79.20**
Irish (white)	1	7	8 [2.22%]	**2.20**
Any Other White Background	8	6	14 [3.88%]	**3.10**
Mixed				
White and Black Caribbean	1	0	1 [0.28%]	**0.80**
Any Other Mixed Background	1	0	1 [0.28%]	**0.50**
Asian				
Indian	2	2	4 [1.11%]	**1.30**
Any Other Asian Background	0	1	1 [0.28%]	**0.80**
Black or Black British				
Caribbean	4	17	21 [5.82%]	**4.10**
African	4	2	6 [1.66%]	**1.90**
Any Other Black Background	1	0	1 [0.28%]	**1.70**
Other Ethnic Groups				
Any Other Ethnic Group	0	1	1 [0.28%]	**1.10**
Not Stated				
Not Stated	0	2	2 [0.55%]	**1.20**
Totals	**82**	**279**	**361**	

[5] 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 6c: Second Opinions by Ethnicity

Ethnic Background	Medicine	ECT	Both	Total and percentage	BME[6] %
White					
British (white)	6575	1540	64	8179 [70.13%]	**78.59**
Irish (white)	115	26	0	141 [1.21%]	**1.81**
Any Other White Background	483	72	1	556 [4.77%]	**3.77**
Mixed					
White and Black Caribbean	108	2	0	110 [0.94]	**0.89**
White and Black African	29	2	1	32 [0.27%]	**0.31**
White and Asian	55	3	0	58 [0.50%]	**0.34**
Any Other Mixed Background	77	10	0	87 [0.75%]	**0.54**
Asian					
Indian	194	40	0	234 [2.04%]	**1.30**
Pakistani	135	14	1	150 [1.29%]	**1.08**
Bangladeshi	58	7	0	65 [0.56%]	**0.49**
Any Other Asian Background	86	7	1	94 [0.81%]	**0.81**
Black or Black British					
Caribbean	756	29	2	787 [6.75%]	**3.94**
African	392	28	0	420 [3.60%]	**2.03**
Any Other Black Background	139	9	1	149 [1.28%]	**1.67**
Other Ethnic Groups					
Chinese	35	2	0	37 [0.32%]	**0.24**
Any Other Ethnic Group	138	17	1	156 [1.34%]	**1.10**
Not Stated					
Not Stated	355	49	3	407 [3.49%]	**1.05**
Totals	**9730**	**1857**	**75**	**11662**	

[6] 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 7: Second Opinion requests received 2004-05 to 2006-07, showing percentage changes

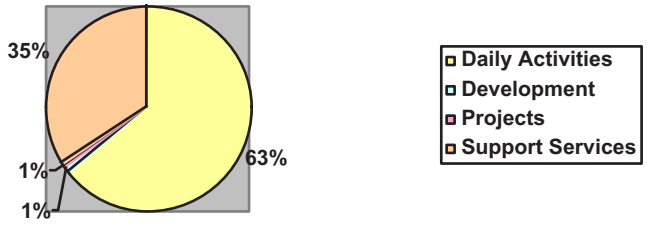
Year	Number of Second Opinions	% change +/-
2004-05	**9,767**	
2005-06	**11,137**	**+14**
2006-07	**11,662**	**+5**

The above figures are taken from the current integrated database and do not include second opinion requests received at the Commission which are then subsequently marked as cancelled.

Financial Position

Resources

8. The Commission's revenue resource limit for 2006-07 was £5,391m. The pie chart below illustrates how this funding was utilised:



The Commission also received £331,000 capital.

Financial Risks

9. The Commission has witnessed an increase in the number of Second Opinion requests, which may be related to:-
   - the European Court of Human Rights' judgment in HL v. United Kingdom[7] (the *Bournewood* case); and/or
   - 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
   - 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. The costs have been factored into the requested allocations for 2007-08, although a further considerable rise could have an impact on the Commission's ability to complete fully its visiting programme without additional financial support.

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

Annual Accounts 2006-07

11. The accounts for the year ended 31 March 2007 have been prepared in accordance with the direction given by the Secretary of State in accordance with Section 232 of the NHS Act 2006 and in a format as instructed by the Department of Health with the approval of Treasury.

12. Operating against a revenue resource limit of £5,391,000 (2005-06: £5,186,000), the Commission's expenditure for 2006-07 equates to £5,275,000 (2005-06: £5,129,000). The Commission sought to undertake the maximum activity possible to ensure that it made the best use of its resources during the year.

13. The Commission has a number of claims outstanding from SOADs relating to the financial year 2005-06 or the previous two years, totalling £129,000. Extensive attempts have been made to encourage the SOADs to submit claims, however as these remain outstanding they have been treated within the 2006-07 Accounts as Contingent Liabilities.

14. The balance sheet (page 62) indicates that the Mental Health Act Commission has no net liabilities.

15. The full set of Accounts for the year 2006-07 is attached to this report, incorporating:

- Statement of the Chief Executive's Responsibilities
- Statement of Directors' Responsibilities
- Statement on Internal Control 2006-07
- The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament
- Operating Cost Statement
- Balance Sheet
- Cash Flow Statement
- Notes to the Accounts
- Accounts Direction

Better Payment Practice Code

16. The Commission's performance can be found at note 2.3 of the Accounts representing the period 1 April 2006 – 31 March 2007.

Future Work

Funding for 2007-08

17. The Commission has been advised of its revenue resource limit for 2007-08, equating to £5,475,000, within which the level of the Commission's activity continues to increase. Capital of £158,000 has been allocated to fund the roll out of the Commission's ICT Phase II Development.

Taking Forward the Commission's Objectives

18. Activity is planned across the business areas to take forward all of the objectives described in Chapter 1 above. The key elements of this activity are described below:

a) Visiting and talking to detained patients

- Implement a system of patient feedback.
- 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.
- Implementation of qualitative outcome reporting, using the new system of categorising action identified for providers, which was piloted in 2006-07.

b) Promoting equality and human rights

- Publish a report on Women and Detention.
- 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.

c) 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.

d) Providing second opinions about consent to treatment

- Implement the recommendations from the 2006 review of the quality and effectiveness of arrangements for SOADs. This will include:
- New recruitment processes to improve skills and gender balance of SOADs.
- New training and guidance for SOADs to increase awareness of current and emerging case law, including implications of the Mental Capacity Act 2005.

e) Modernising the way we work

- Roll out the 'Electronic Commission.'
- Modernise the booking and organisation of Second Opinions.

f) 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.
- Involving users in evaluation of Commissioner and SOAD activity, including the 'Acting Together' project and patient feedback on Commission visits.

g) Promoting equality and diversity in our workforce and providing support and opportunities of development for all

- Lead and manage the delivery of the fourth national mental health and ethnicity census, on behalf of the Healthcare Commission and the Department of Health.
- Take forward implementation of the Disability and Gender Equality Schemes developed in 2006-07.
- Review the Race Equality Scheme, its action plan and progress in their implementation.
- 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.

h) Use of Resources

- To manage resources efficiently and effectively.
- Fulfilling requirements of the Department of Health's Arms Length Body Review.
- Ensuring full controls assurance and governance arrangements.

i) Implementing the Concordats

- Report on progress in annual reviews of both English and Welsh Concordats and take forward action identified last year to continue to embed these practices in our work.

Transition Planning

19. The key elements of the transition planning activity are described below;

- Work closely with the Department of Health, CSCI and Healthcare Commission to ensure continued monitoring of the Mental Health Act 1983 and protection for detained patients in the transition period before

establishment of the new regulator for health and adult social care (Ofcare) in 2009 i.e. no winding down of activity in the transition period.

- Work with the Department of Health, CSCI and Healthcare Commission to ensure that the new regulator, Ofcare, is able to perform its functions in relation to monitoring of the Mental Health Act 1983 as effectively as possible, and that the changes bring improved and enhanced protections for patients.

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 professional or lay people with significant experience of mental health services and empathy with the position of detained patients. Commissioners receive a daily fee for their activity; 26 days are payable on a regular monthly basis with the remaining payable upon completion of training events.
   - Second Opinion Appointed Doctors (SOADs) 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 Commission headquarters are all civil servants on secondment from 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. Involvement in project work is paid at a standard rate of £250 for both Area and Local Commissioners. 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 a Commission Visiting Area 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	2006-07**			2005-06		
	Salary (bands of £5,000) £000	Other Remuneration (bands of £5,000) £000	Benefits in kind (rounded to the nearest £00) £00	Salary (bands of £5,000) £000	Other Remuneration (bands of £5,000) £000	Benefits in kind (rounded to the nearest £00) £00
Mr. Christopher Heginbotham (Chief Executive)	95 to 100	0	0	80 to 85	0	0
*Ms. Rachel Munton (Interim Deputy Chief Executive to 21/04/06)	5 to 10	0	0	45 to 50	0	0
Ms. Clair Chilvers (Director of Research and Development)	10 to 15	0	0	0	0	0
Mr. Martin Donohoe (Director of Corporate Services)	50 to 55	0	0	45 to 50	0	0
Mrs. Gemma Pearce (Deputy Chief Executive/ Director of Strategy)	55 to 60	0	0	45 to 50	0	0
Mr. Philip Wales (Regional Director)	Consent to disclose salary withheld			Consent to disclose salary withheld		
Mrs. Suki Desai (Regional Director)	45 to 50	0	0	Consent to disclose salary withheld		
Mrs. Susan McMillan (Director of Operations [from 01/06/06]/ Regional Director)	50 to 55	0	0	45 to 50	0	0
Mr. Stephen Klein (Regional Director)	45 to 50	0	0	45 to 50	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	25 to 30	0
Mrs. Ann Curno (Non Executive Board member)	0	5 to 10	0	0	5 to 10	0
Mr. Barry Delaney (Non Executive Board member/Area Commissioner)	0	20 to 25	0	0	25 to 30	0
Mrs. Kay Sheldon (Non Executive Board member/Local Commissioner)	0	15 to 20	0	0	15 to 20	0
Ms. June Tweedie (Non Executive 1/04/05 - 30/09/05)	0	0	0	0	5 to 10	0
Mr. Simon Armson (Non Executive Board member/Area Commissioner)	0	15 to 20	0	0	20 to 25	0
Mr. John Knox (Non Executive Board member from 01/06/06)	0	5 to 10	0	0	0	0

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

Signed 

Accounting Officer

Date 25th June 2007

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 2006-07, employer's contributions of £160,000 were payable to the PCSPS (2005-06 £164,000) 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 2006-07 the Commission paid the standard DH civil service contribution of £13,799 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 2007 (bands of £5,000)	Lump sum at age 60 related to accrued pension at 31 March 2007 (bands of £5,000)	Cash Equivalent Transfer Value at 31 March 2006	Cash Equivalent Transfer Value at 31 March 2007	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				
Mr. Martin Donohoe (Director of Corporate Services)	0 to 2.5	2.5 to 5	15 to 20	50 to 55	235 to 235	263 to 264	24 to 25	765
Mrs. Gemma Pearce (Deputy Chief Executive/ Director of Strategy)	0 to 2.5	5 to 7.5	5 to 10	25 to 30	87 to 88	116 to 117	25 to 30	921
Ms. Rachel Munton (Interim Deputy Chief Executive to 21/04/06)	0 to 2.5	0 to 2.5	20 to 25	65 to 70	350 to 355	330 to 335	0 to 1	56
Ms. Clair Chilvers (Director of Research and Development)				Pension details unavailable, paid by direct employer				
Mr. Philip Wales (Regional Director)				Consent to disclose pension details withheld				
Mrs. Suki Desai (Regional Director)	0 to 2.5	0	0 to 5	0	15 to 16	27 to 28	9 to 10	1709
Mrs. Susan McMillan (Director of Operations [from 01/06/06]/ Regional Director)	0 to 2.5	0	15 to 20	0	225 to 226	259 to 260	26 to 27	1785
Mr. Stephen Klein (Regional Director)	0 to 2.5	0	20 to 25	0	345 to 346	382 to 383	21 to 22	1714
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 Board member)	0		0		0	0	0	0
Mr. Barry Delaney (Non Executive Board member/ Area Commissioner)	0		0		0	0	0	0
Mrs. Kay Sheldon (Non Executive Board member/ Local Commissioner)	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 Board member/ Area Commissioner)	0		0		0	0	0	0
Mr. John Knox (Non Executive Board member)	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

CEO Pension

The Chief Executive is not a member of the Principal Civil Service Pension Scheme. During 2006-07 The Commission paid the standard DH civil service employers contribution of £13799 into a personal portable pension scheme.

Signed 

Accounting Officer

Date 25th June 2007

** The marked sections of the report (tables 8 and 9, and paragraphs 10 and 13 above) were subject to National Audit Office scrutiny as part of the final audit in May 2007.

Cash Equivalent Transfer Values

14. 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 payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The CETV figures and the other pension details include the value of any pension benefits in another scheme or arrangement which the individual has transferred to the Civil Service pension scheme. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

Real Increase in CETV

15. 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 employee (including the value of any benefits transferred from another scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Signed 

Accounting Officer **Date** 25th June 2007

Annual Account Of The Mental Health Act Commission Special Health Authority 2006-07

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

The Secretary of State has directed that the Chief Executive should be the Accounting Officer to the Commission. 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 2006 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. There is no relevant audit information of which the auditors are unaware; and I have taken steps to make myself aware of any relevant information and to establish that the auditors are aware of that information.

Signed

Accounting Officer Date 25th June 2007

STATEMENT OF DIRECTORS' RESPONSIBILITIES IN RESPECT OF THE ACCOUNTS

The directors are required under the National Health Service Act 2006 to prepare accounts for each financial year. The Secretary of State, with the approval of the Treasury, directs that these accounts give a true and fair view of the state of affairs of the Commission and of the income and expenditure of the Commission for that period. In preparing those accounts, the directors are required to:

- apply on a consistent basis accounting policies laid down by the Secretary of State with the approval of the Treasury

- make judgements and estimates which are reasonable and prudent

- state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the accounts.

The directors are responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Commission and to enable them to ensure that the accounts comply with requirements outlined in the above mentioned direction of the Secretary of State. They are also responsible for safeguarding the assets of the Commission and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The directors confirm to the best of their knowledge and belief they have complied with the above requirements in preparing the accounts.

By order of the Board.

Signed 

Chief Executive Date 25th June 2007

Finance Director Date 25th June 2007.

STATEMENT ON INTERNAL CONTROL 2006-07

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 2006-07 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 2007 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 processes 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. The Business Plan and Corporate Plan are used to populate a Balanced Scorecard which is agreed with the Department of Health's Business Support Unit. This forms the basis of quarterly monitoring meetings between the Commission and the Department at which delivery against SMART targets is assessed.

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 into the Audit and Risk Committee which reviews the framework and the reports at its regular meetings, usually quarterly; and into 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 and adult social 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; and executive managers within the organisation have responsibility for the continuing development and maintenance of the system of internal control. The Assurance Framework itself provides me with evidence that the effectiveness of controls have been reviewed in relation to the risks of the organisation not achieving its principal objectives.

My review is also informed by comments made by the external auditors including informal contact from time to time; advice from the Audit and Risk Committee and the Commission Board; feedback from mental health providers and service users about the performance of the Commission and Commissioners in undertaking their roles and reports from the Healthcare Commission during 2006-07 on any matters they raised.

My review concludes that the Assurance Framework meets the requirements of the 2006-07 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.

The Commission has during 2006-07 restructured its Finance team and now operates with a sufficient level of expertise within and contracted to the organisation. The Audit and Risk committee has been strengthened by the appointment of a qualified accountant to the Board as a non-executive director and as Chair of the committee. Work has been completed on addressing the matters raised by the National Audit Office within its Management Letter and Good Governance Report 2005-06, and also recommendations made by Internal Audit following completion of the Financial Systems Audit 2005-06. As a result of this work, significant assurance has been given by Internal Audit following review of the Commission's financial systems and controls.

Signed

Accounting Officer

Date 25th June 2007

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 2007 under the National Health Service Act 2006. These comprise the Operating Cost Statement, the Balance Sheet, the Cash Flow 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. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Chief Executive/ Accounting Officer and auditor

The Board and Chief Executive as Accounting Officer are responsible for preparing the Annual Report, the Remuneration Report and the financial statements in accordance with the National Health Service Act 2006 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/ Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the remuneration report to be audited 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 2006 and directions made thereunder by the Secretary of State with the approval of the Treasury. I report to you whether, in my opinion, certain information given in the Annual Report, which comprises of a Directors' Report, Management Commentary and Remuneration Report, is consistent with the financial statements. 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. In addition, I report to you 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 HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the Mental Health Act Commission's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers 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. 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 the 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 Board and Accounting Officer 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.

Audit Opinion

In my opinion:

- the financial statements give a true and fair view, in accordance with the National Health Service Act 2006 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 set out at 31 March 2007 and of its net operating cost;

- 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 2006 and directions made thereunder by the Secretary of State with the approval of the Treasury; and

- information given within the Annual Report, which comprises a Chairman's Foreword, Introduction, Directors' Report, Management Commentary and Remuneration Report, is consistent with the financial statements.

Audit Opinion on Regularity

In my opinion, 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

6 July 2007

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

Operating Cost Statement for the year ended 31 March 2007

	Notes	31st March 2007 £000	Prior Year £000
Programme costs	2.1	**5,782**	5,713
Operating income	4	**(507)**	(584)
Net operating cost before interest		**5,275**	5,129
Interest		**0**	0
Net operating cost		**5,275**	5,129
Net resource outturn	3.1	**5,275**	5,129

All income and expenditure is derived from continuing operations

Statement of Recognised Gains and Losses for the year ended 31st March 2007

There were no recognised gains or losses in the year

The notes at pages 64 to 74 form part of these accounts.

Balance Sheet as at 31 March 2007

	Notes	31 March 2007 £000	Prior Year £000
Fixed assets:			
Intangible assets		**191**	
Tangible assets	5	**201**	143
		392	143
Current assets			
Debtors	6	**276**	154
Cash at bank and in hand	7	**99**	0
		375	154
Creditors: amounts falling due within one year	8	**(684)**	(604)
Net current assets/(liabilities)		**(309)**	(450)
Total assets less current liabilities		**83**	(307)
Taxpayers' equity			
General Fund	10	**83**	(307)
		83	(307)

The balance sheet indicates that the Mental Health Act Commission has no net liabilities.

The financial statements on pages 61 to 74 were approved by the Board on 21/06/2007 and signed on its behalf by:

Signed: 

Date: 25th June 2007

Accounting Officer

Cash Flow Statement for the year ended 31 March 2007

	Notes	31st March 2007 £000	Prior Year £000
Net cash (outflow) from operating activities	11	**(5,263)**	(5,315)
Capital expenditure and financial investment:			
(Payments) to acquire tangible fixed assets		**(309)**	(9)
Net cash inflow/(outflow) from investing activities		**0**	0
Net cash (outflow) before financing		**(5,572)**	(5,324)
Financing			
Net Parliamentary funding	10	**5,671**	5,310
Increase/(decrease) in cash in the period	7	**99**	(14)

The notes at pages 64 to 74 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 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 2006-07 was 3.5% (2005-06: 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.

Intangible Fixed Assets

Intangible fixed assets held for operational use are valued at historical cost, except Research and Development which is re valued using an appropriate index figure. Surplus intangible assets are valued at the net recoverable amount.

The carrying value of intangible assets is reviewed for impairment at the end of the first full year following acquisition and in other periods if events or changes in circumstances indicate the carrying value may not be recovered.

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 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.

1.9 Contingent Liabilities.

The Commission carries forward each year a number of outstanding claims from Second Opinion Appointed Doctors (SOADs). Any such claims which have been outstanding for the three previous financial years are treated as contingent liabilities. Any claims beyond this period are remote so no liability will arise. Values for the current and previous years are given at Note 12.

2.1 Authority programme expenditure

	Notes	£000	31st March 2007 £000	Prior Year £000
Non-executive members' remuneration			**91**	110
Other salaries and wages	2.2		**1,260**	1,277
Establishment Expenses			**378**	393
Commissioner Fees			**843**	928
Commissioner Expenses			**224**	157
Second Opinion Doctors Fees			**2,178**	2,061
Second Opinion Doctors Expenses			**202**	187
Transport and moveable plant			**15**	14
Premises and fixed plant			**237**	198
*Project Expenditure			**254**	312
External Contractors			**0**	0
Capital: Depreciation and amortisation	5	**59**		62
Capital charges interest		**(6)**		(14)
			53	48
**Auditors remuneration: Audit Fees			**47**	28
			5,782	5,713

*Staff costs of £73k are included within project expenditure.

**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 audit fees relating to 2006-07 total £32.5k and the remaining relate to additional costs charged in respect of the 2004-05 and 2005-06 audits.

2.2 Staff numbers and related costs

	2006-07 Total	Other	Prior Year
	£000	**£000**	£000
*Salaries and Wages	**1024**	**1,024**	1,028
Social Security Costs	**77**	**77**	85
Employer contributions to NHSPA	**0**	**0**	0
Other pension costs	**159**	**159**	164
	1,260	**1,260**	1,277

The average number of employees during the year was:

	2006-07 Total Number	Permanently Employed Staff Number	Other Number	Prior Year Number
Total	**39**	**0**	**39**	42

The Commission HQ staff are civil servants on secondment from the Department of Health, so are not classed as permanent staff.

*There are £55k of staff costs included in 'other staff' which relate to agency staff.

Expenditure on staff benefits
The amount spent on staff benefits during the year totalled £0 (2005-06: £0)

Retirements due to ill-health
None

2.3 Better Payment Practice Code - measure of compliance

	Number	£000
Total non NHS bills paid 2006/2007	**861**	**1226**
Total bills paid within target	**795**	**1134**
Percentage of non NHS bills paid within target	**92.3%**	**92.5%**
Total NHS bills paid 2006/2007	**34**	**1359**
Total NHS bills paid within target	**31**	**1359**
Percentage of NHS bills paid within target	**91.2%**	**100.0%**

2005/2006	**Number**	**£000**
Total bills paid 2005/06	**1127**	**2379**
Total bills paid within target	**1013**	**1770**
Percentage of bills paid within target	**89.9%**	**74.4%**

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 interest was paid under the Late Payment of Commercial Debts (Interest) Act 1998 (2005-06 £0)

3.1 Reconciliation of net operating cost to net resource outturn

	31st March 2007	Prior Year
	£000	£000
Net operating cost for the financial year	**5275**	5129
Net resource outturn	**5,275**	5,129
Revenue resource limit	**5,391**	5,186
(Over)/under spend against revenue resource limit	**116**	57

3.2 Reconciliation of gross capital expenditure to capital resource limit

	31st March 2007	Prior Year
	£000	£000
Gross capital expenditure	**309**	9
Net capital resource outturn	**309**	9
Capital resource limit	**331**	9
(Over)/underspend against limit	**22**	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 2007 Total £000**	Prior Year £000
Programme income:				
Income received from National Assembly for Wales re. core activity	**237**		**237**	231
Income received from other Departments, etc	**266**		**266**	353
Other	**4**		**4**	0
Total	**507**	**0**	**507**	584

5.1 Intangible fixed assets	**Software licences £000**	**Total £000**
Cost or Valuation at 1st April 2006	**0**	**0**
Additions - purchased	**176**	**176**
Reclassification	**99**	**99**
Disposals	**0**	**0**
Gross cost at 31 March 2007	**275**	**275**
Accumulated amortisation at 1 April 2006	**0**	**0**
Reclassification accumulated depreciation at 1 April 2006	**70**	**70**
Provided during the year	**14**	**14**
Disposals	**0**	**0**
Accumulated amortisation at 31 March 2007	**84**	**84**
Net book value:		
Purchased at 31 March 2006	**0**	**0**
Total at 31 March 2006	**0**	**0**
Net book value:		
Purchased at 31 March 2007	**191**	**191**
Total at 31 March 2007	**191**	**191**

5.2 Tangible fixed assets	**Information Technology**	**Furniture & fittings**	**Total**
	£000		**£000**
Cost or Valuation at 1st April 2006	**310**	**0**	**310**
Additions - purchased	**83**	**50**	**133**
Reclassification	**(99)**	**0**	**(99)**
Disposal	**(1)**	**0**	**(1)**
At 31 March 2007	**293**	**50**	**343**
Accumulated depreciation at 1st April 2006	**167**	**0**	**167**
Reclassification accumulated depreciation at 1 April 2006	**(70)**	**0**	**(70)**
Provided during the year	**40**	**5**	**45**
Disposal	**0**	**0**	**0**
Accumulated depreciation at 31 March 2007	**137**	**5**	**142**
Net book value:			
Purchased at 31st March 2006	**143**	**0**	**143**
Total at 31 March 2006	**143**	**0**	**143**
Net book value:			
Purchased at 31st March 2007	**156**	**45**	**201**
Total at 31 March 2007	**156**	**45**	**201**

6. Debtors **Amounts falling due within one year.**	**31st March 2007 £000**	Prior Year £000
NHS Debtors	**51**	61
Provision for irrecoverable debts	**0**	(6)
Prepayments	**197**	47
Accrued income	**0**	0
Other debtors	**28**	52
	276	154
Total debtors	**276**	154

7 Analysis of changes in cash

	At 31 March 2006 £000	**Change During the year £000**	**At 31 March 2007 £000**
Cash at OPG	0	**99**	**99**
Cash at commercial banks and in hand	0	**0**	**0**
	0	**99**	**99**

8 Creditors:
Amounts falling due within one year

	31st March 2007 £000	Prior Year £000
Tax and social security	**0**	74
Other creditors	**9**	65
Accruals	**605**	406
Deferred Income	**70**	59
	684	604

9 Movements in working capital other than cash

	31st March 2007 £000	Prior Year £000
Increase/(decrease) in debtors	**122**	(63)
(Increase)/decrease in creditors	**(80)**	297
	42	234

10 Movements on Reserves
General Fund

The movement on the General Fund in the year comprised:

	31st March 2007 £000	Prior Year £000
Balance at 31 March 2006	**(307)**	(474)
Net operating costs for the year	**(5,275)**	(5,129)
Net Parliamentary funding	**5,671**	5,310
Non-cash items:		
Capital charge interest	**(6)**	(14)
Balance at 31 March 2007	**83**	(307)

11 Reconciliation of operating costs to operating cash flows

	31st March 2007	Prior Year
	£000	£000
Net operating cost before interest for the year	5,275	5,129
Adjust for non-cash transactions	(54)	(48)
Adjust for movements in working capital other than cash	42	234
Net cash outflow from operating activities	5,263	5,315

12 Contingent liabilities

Liabilities for 2006-07 are £129,000. The Commission has a number of claims outstanding from Second Opinion Appointed Doctors (SOADs) relating to the financial year 2005-06 or the previous two years. Extensive attempts have been made to encourage the SOADs to submit claims, however as these remain outstanding they have been treated within the 2006/07 Accounts as Contingent Liabilities. (2005-06 liabilities were £57,000)

13 Capital commitments

At 31 March 2007 the value of contracted capital commitments was £0 (2005-06 : £0).

14 Commitments under operating leases

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

	31st March 2007	Prior Year
		£000
Operating leases	135	120
	135	120

Commitments under non-cancellable operating leases:

		£000	£000
Land and Buildings			
Operating leases which expire -	within 1 year	0	0
	between 1 and 5 years	126	0
	after 5 years	0	105
		126	105
Other leases			
Operating leases which expire -	within 1 year	5	7
	between 1 and 5 years	4	8
	after 5 years	0	0
		9	15

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	-	-	-	-
Balances with local authorities				
Balances with NHS Trusts	51	-	40	-
Balances with public corporations and trading funds	-	-	-	-
Balances with bodies external to government	225	-	644	-
At 31 March 2007	276	-	684	-
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	-	604	-

16. Losses and special payments

There were 7 cases of losses and special payments totalling £26,408 paid during 2006-07, as detailed below. (Prior year: 8 cases totalling £3,918.00)

2 Fruitless payments	**£ 189**
2 Bad debts and claims abandoned	**£2,297**
1 Damage to equipment	**£4,021**
1 Loss of cash	**£6,344**
1 Ex gratia payment	**£13,557**

17. Related parties

The Mental Health Act Commission is a corporate body 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 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.

NHS Business Services Authority
NHS Shared Business Services
Leicestershire Partnership NHS Trust
Derwent Shared Services
NHS Appointments Commission
Care Services Improvement Partnership – West Midlands
The Treasury Solicitor

The Chairman and Chief Executive were both employed in the year by the University of Central Lancashire, as the Head of Centre for Ethnicity and Health and Co-Director of the Institute for Philosophy, Diversity and Mental Health respectively. The Commission incurred £3,256 of expenditure with the University of Central Lancashire in the year.

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 accounts are authorised by the Chief Executive Officer as Accounting Officer to be issued on 25 June 2007.

THE NATIONAL HEALTH SERVICE IN ENGLAND ACCOUNTS DIRECTION GIVEN BY THE SECRETARY OF STATE FOR HEALTH IN ACCORDANCE WITH SECTION 232 (Schedule 15 paragraph 3) OF THE NATIONAL HEALTH SERVICE ACT 2006 AND WITH THE APPROVAL OF THE TREASURY

The Mental Health Act Commission is a special health authority established under Section 28 of the National Health Service Act 2006.

1. The Secretary of State directs that an account shall be prepared for the year ended 31 March 2007 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 (FReM), 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 FReM.

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

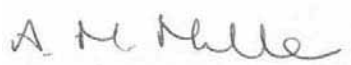
a. give a true and fair view of the state of affairs as at the end of the financial year and the net operating costs, recognised gains and losses and cash flows during the year; and
b. provide disclosure of any material expenditure or income that has not been applied for the purposes intended by Parliament 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 accounting officer 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  Date: 1st June 2007

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 FReM.

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

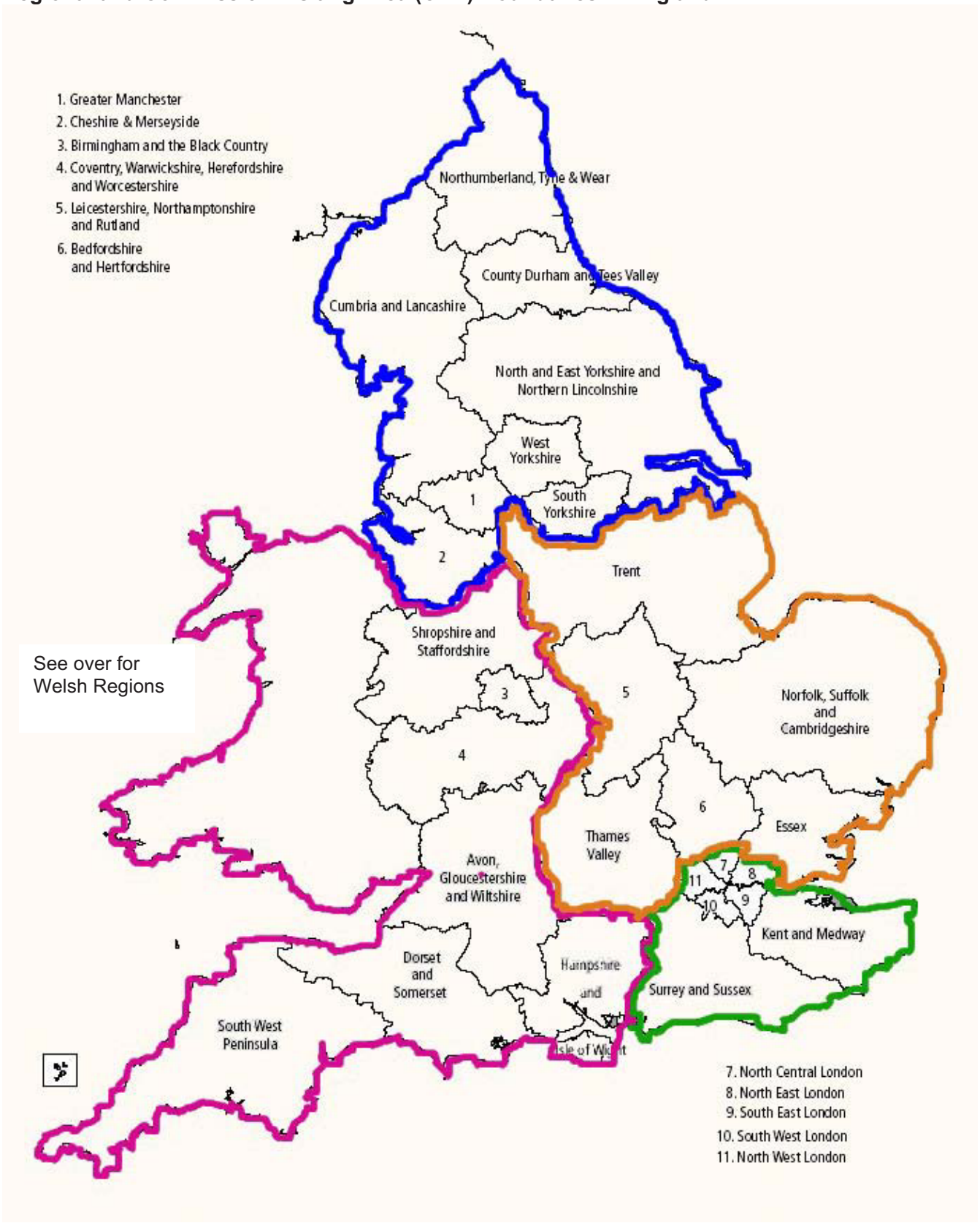
1. The Annual Report shall include a statement that the accounts have been prepared to comply with a Direction given by the Secretary of State in accordance with Section 232 (Schedule 15, paragraph 3) of the NHS Act 2006.

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.

APPENDIX 1

REGIONAL MAPS

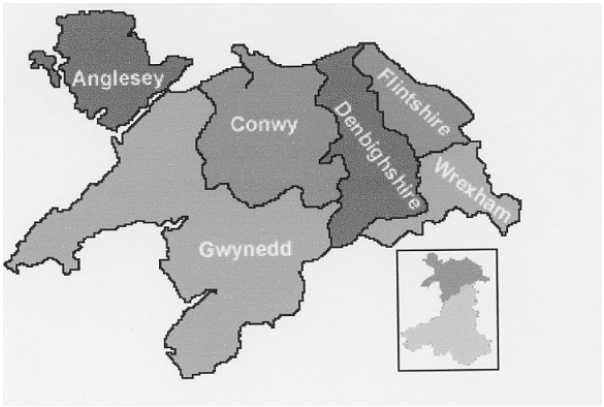
Regional and Commission Visiting Area (CVA) Boundaries in England



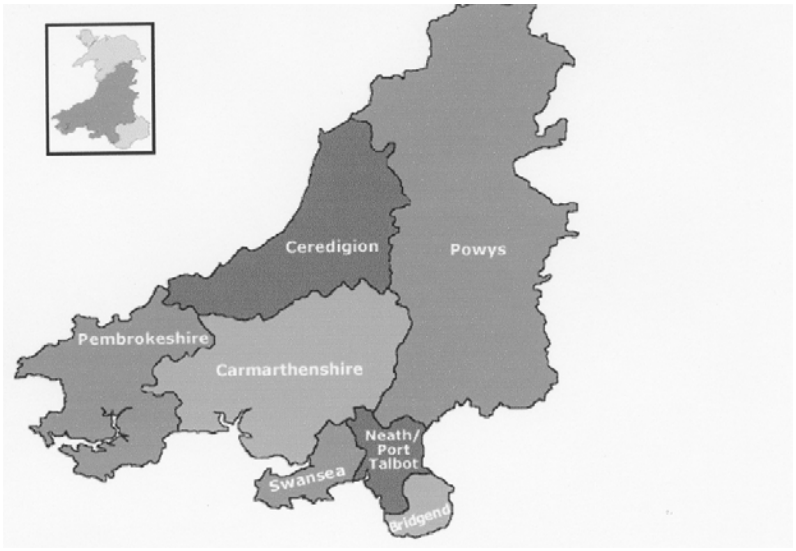
Blue – Region 1: Sue McMillan – sue.mcmillan@mhac.org.uk
Orange – Region 2: Suki Desai – suki.desai@mhac.org.uk
Pink – Region 3: Phil Wales – phil.wales@mhac.org.uk
Green – Region 4: Stephen Klein – stephen.klein@mhac.org.uk

Welsh Regions

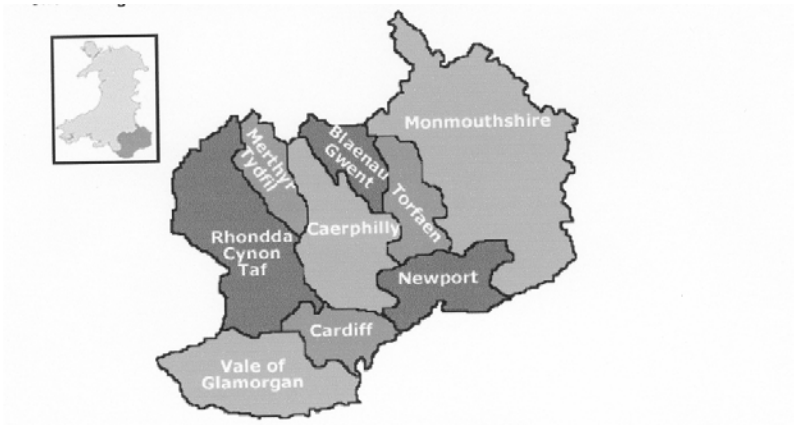
North Wales



Mid and West Wales



South and East Wales



Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office
ID5569149 07/07 372820 19585

Printed on Paper containing 75% fibre content minimum.

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

Online
www.tsoshop.co.uk

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
Email bookorders@tso.co.uk
Textphone 0870 240 3701

TSO Shops
123 Kingsway, London WC2B 6PQ
020 7242 6393 Fax 020 7242 6394
16 Arthur Street, Belfast BT1 4GD
028 9023 8451 Fax 028 9023 5401
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
Email bookshop@parliament.uk
Internet bookshop.parliament.uk

TSO@Blackwell and other Accredited Agents

ISBN 978-0-10-294623-9

9 780102 946239