# Mental Health Act Commission

## Annual Report and Accounts 2008/2009

# Mental Health Act Commission
# Annual Report and Accounts
# 1 April 2008 – 31 March 2009

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

This report relates to the period 1st April 2008 to 31st March 2009, and was compiled pursuant to the obligations of the Mental Health Act Commission to report to Parliament under section 232 and Schedule 15, Paragraph 6 (3) National Health Service Act 2006. On 1st April 2009, under the provisions of section 1 (2) of the Health and Social Care Act 2008, the Mental Health Act Commission ceased to exist. The Care Quality Commission is submitting this report to Parliament so as to satisfy its duty to prepare the outstanding accounts of the Mental Health Act Commission pursuant to paragraph 16, Schedule 4, the Health and Social Care Act 2008 (Commencement no.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009.

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# MENTAL HEALTH ACT COMMISSION

# ANNUAL REPORT AND OPERATING ACCOUNTS 2008-2009

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**MENTAL HEALTH ACT COMMISSION**
**ANNUAL REPORT 2008-2009**

## Foreword

2008-2009 was the final year of the Mental Health Act Commission, established in 1983 in order to "keep under review the Mental Health Act as it relates to detained patients". On 1 April 2009 the functions of the Mental Health Act Commission in England transferred to a new combined regulator for health and adult social care, the Care Quality Commission. Rapid succession of change and reform has characterised much of healthcare in England and Wales over the past quarter century and it is perhaps surprising that the Mental Health Act Commission has remained relatively untouched by wider fundamental reforms for over twenty-six years. There have of course been a number of significant changes during the life of the Commission to the way it works, its membership, organisational structure and leadership, yet the core functions in 2009 remain much as they were in 1983, and this report accounts for the way these have been carried out in this, our final, year.

We believe that the Mental Health Act Commission leaves an important legacy. Fundamental to our approach to our statutory functions has been the involvement of people who use mental health services and have been detained under the Mental Health Act. The way we have done this is described in a report *From Strength to Strength* which we published in April 2008, and we have expanded this activity this year. We believe that the only way to find out how the Mental Health Act is operating is to talk directly to the people who are subject to its powers, and our visiting programme is the cornerstone of our work. This year we have again talked to nearly six thousand people detained in hospital under the Mental Health Act to find out about their experiences, and to take action where we had concerns about what they told us. In addition, we have also been in contact with other detained patients and sometimes their families or other carers through correspondence and phone calls. Our role is to provide independent scrutiny of the extensive powers granted to hospitals over patients detained under the Act (and, since November 2008, also over people treated outside hospital in some circumstances). Being deprived of one's liberty, usually at a time of acute ill-health (which can result in loss of mental capacity), is a situation of extreme vulnerability. It is vitally important that people are treated in a way which promotes their dignity, and in accordance with all the protections provided by the law. In mental health care perhaps more particularly than in any other branch of health, this requires an understanding of the needs of each individual, taking into account gender, ethnicity, sexual orientation, culture, habits and experiences. The Commission has placed great emphasis in its work on its duties as a public authority under the Human Rights Act and under equalities legislation, and we trust that this legacy will continue to live on in our successor body the Care Quality Commission.

2008-09 was a year of significant change for the Commission. Throughout the year it was important to meet dual objectives of developing the business to ensure existing core statutory functions were carried out to a high standard, whilst managing the transition to the new organisation, the Care Quality Commission. We were delighted (and relieved) that the emphasis of the transition programme was to maximise business continuity and were pleased to work closely with the Care Quality Commission on this basis. However the phrase "business as usual" seemed peculiarly out of place for the Commission in the year that very significant changes to the Mental Health Act came into effect. In addition to training all staff, Second Opinion Appointed Doctors and Commissioners on these changes and reviewing and revising all communications material (such as guidance notes and patient information leaflets), the Commission's remit widened part-way through the year with the implementation of changes to legislation introduced by the Mental Health Act 2007. The introduction of Supervised Community Treatment on 3 November 2008 placed enormous pressure on the Second Opinion Appointed Doctor service in the second half of the year, as the numbers of patients placed on Community Treatment Orders and requiring second opinions was far greater than had been estimated by Government or the Commission (or indeed by those providing mental health services). Our inability to meet the demand in some areas of the country was a matter of huge regret and a subject of frequent discussion by the Commission Board. The volume of second opinions increased by 9.5% from 11973 in 2007-08 to 13115 in 2008-09. Nevertheless this increase in demand was managed within our overall allocated budget without the need to reduce other core programmes.

There was also an unexpected change during the year. In October 2008 the Chairman of the Commission, Lord Patel of Bradford, had to resign on taking up a post within Government. Kamlesh Patel had been a Mental Health Act Commissioner since 1995 and Chairman since 2002, and was a very influential force behind the more recent strategic vision and culture of the Commission. His resignation was a loss to the Commission, but his influence has continued as the Board sought to maintain the same strategic direction already set for this final year. As to our findings in relation to the operation of the Act, these will be reported in our thirteenth and final Biennial Report (covering the period 2007-09). Neither that report nor any of the activity described in this one would be possible without the dedication of our Staff, Commissioners, and Second Opinion Appointed Doctors. Our thanks to you all, on our behalf and on behalf of the other members of the Commission Board.

**Simon Armson**
**Chairman**

**Gemma Pearce**
**Acting Chief Executive**


# Chapter 1: Introduction to the Mental Health Act Commission

## Role and Objectives of the Mental Health Act Commission

1. The Commission's mission statement is:

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

*Statutory Remit*

2. 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[i] and orders, which determine the duties of the Commission, are included at the end of this chapter. These duties may be summarised as follows:

- To advise the Secretary of State on implementation and operation of the Mental Health Act 1983 and its Codes of Practice[1];
- To visit and interview patients in private and to review documentation regarding patients detained under the Act and patients subject to supervised community treatment;
- To investigate, at the discretion of the Commission, any complaint involving any patient whilst subject to detention or supervised community treatment;
- 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.

[1] From 3 November 2008 there are separate Mental Health Act Codes of Practice for England and Wales.

*Underlying Values*

3. 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*

4. The Commission's 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 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 carry out the Commission's visiting function (as described at Section 120 of the Mental Health Act 1983, as amended) to the highest standard possible. This 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) service 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 effective in carrying out the tasks it has been given to do.

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 its work.

g) *Promoting equality and diversity in the Commission's workforce and providing support and opportunities of development for all.*

h) *Use of resources:* To manage its resources efficiently and effectively, ensuring full controls assurance and governance arrangements.

*i)* *Implementing the Concordats:* To embed the principles and practices all the English and Welsh Concordat signatories have agreed to follow. The Commission 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) *Supporting Transition:* To 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 in England, the Care Quality Commission, and to work closely with the Welsh Assembly Government and Healthcare Inspectorate Wales (HIW) to transfer its functions in Wales to HIW.

## Commission Membership

*Commissioners*

5. At 31 March 2009 the Commission had 101 Commissioners in post and 5 Commissioner vacancies. Area and Local Commissioners work in small teams within a Commission Visiting Area (CVA). CVAs are organised into four regions, each overseen by a full time Regional Director. Details of these regional boundaries are shown at **Appendix 2**.

6. The roles of 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[2] 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 and their families or other carers.

[2] Where there is a high number of detained patients, the team may be larger; the maximum in any CVA is two Area Commissioners and five Local Commissioners.

7. During the reporting year, the Commission prepared for the transfer of Commissioners to the Care Quality Commission (CQC) at 1 April 2009. There were four key aims in progressing the proposals:

- The safe and smooth transfer of an important statutory safeguard for detained patients;
- Maintaining the quality and frequency of the visiting service provided and related functions (e.g. death reviews and Section 134 reviews/adjudications);
- Retaining the experience and expertise of the Commissioners undertaking this work;
- Recognising the potential contribution of Mental Health Act visiting activity to the wider regulatory responsibilities of CQC.

In December 2008 all (95) serving Commissioners in England received an offer letter setting out the terms and conditions of appointments by CQC. This includes a move to a single "Mental Health Act Commissioner" role. Ninety Commissioners chose to accept appointment and there will be ten vacancies for recruitment after April, including five pre-existing vacancies. Mental Health Act Commissioners will no longer be "public appointees", as the responsibility for appointments transfers to the Care Quality Commission.

8. Similarly, Commissioners working in Wales were asked to express interest in transferring to the Healthcare Inspectorate Wales (HIW). HIW appointed all Commissioners to the previous "Area" and "Local" roles in April and will work with Commissioners during the first six months to develop their approach and decide longer term working practices and work allocations. In Wales Commissioners will be called "Mental Health Act Reviewers" and will continue to be public appointees, subject to the requirements of the Office of the Commissioner for Public Appointments.

*Second Opinion Appointed Doctors (SOADs)*

9. 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 Electro-Convulsive Therapy (ECT) procedures recommended for them. The Commission has a panel of 99 active SOADs[3], based throughout England and Wales who normally visit detained patients being cared for within their respective areas.

[3] As at 31 March 2009

10. Recruitment to the SOAD Panel has continued throughout 2008/09 applying the criteria and process implemented in 2007/08. Owing to growing demand for the service, recruitment continued to be a priority and, with the support of the Royal College of Psychiatrists and Department of Health, the Commission has sought to engage NHS Trusts and Independent Providers in encouraging experienced Consultants to apply. For all providers, the quality and responsiveness of the service improves as more Consultants take on the role and are available to provide second opinions. Chief Executives, Hospital Directors and Medical Directors have a crucial role in encouraging and supporting experienced Consultant Psychiatrists to consider the SOAD role as an element of their work and professional development.

11. The figures in **Table 1** illustrate the diversity of the Commissioner and SOAD membership as at 31 March 2009.

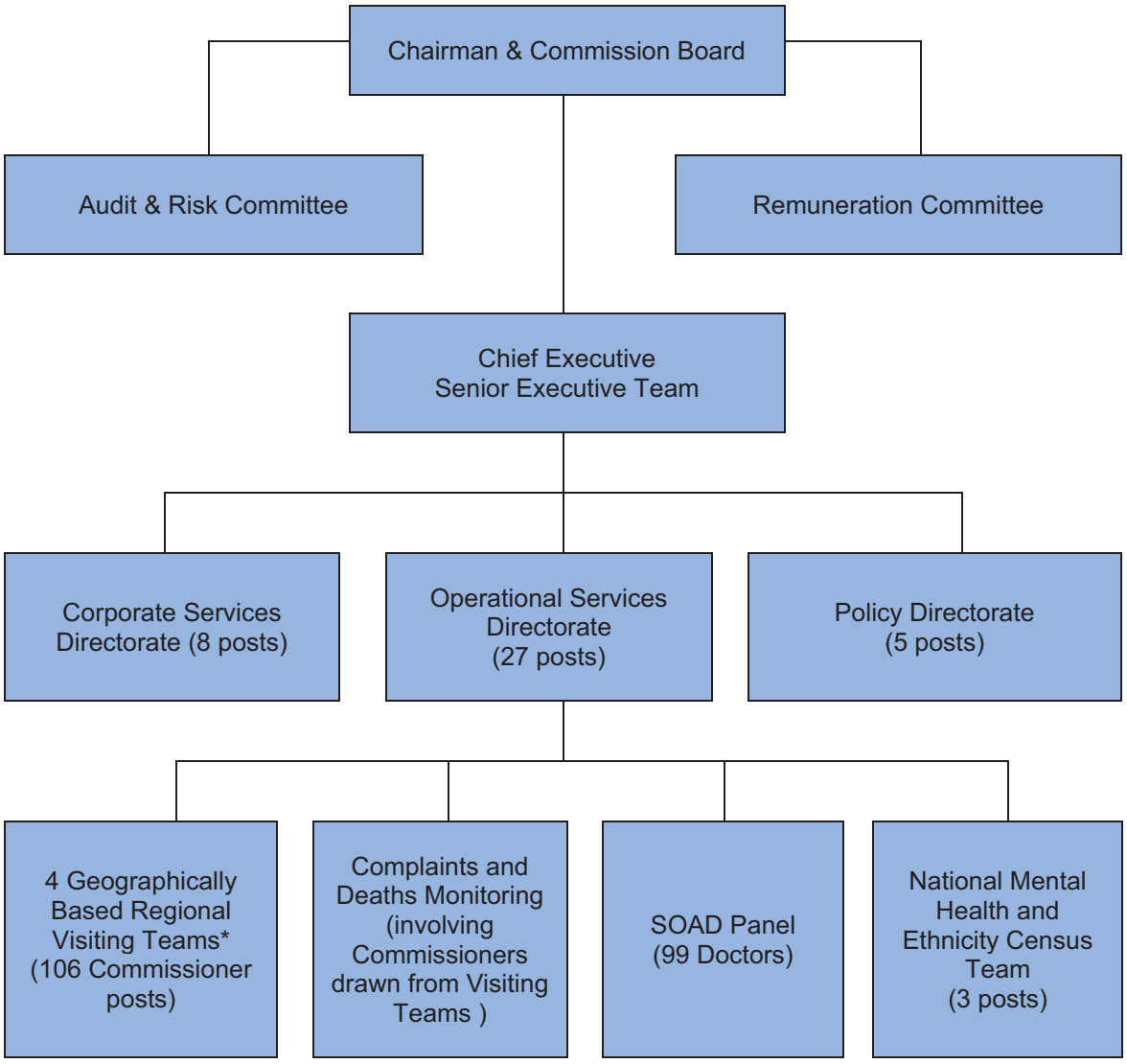
*Commission Board*

12. There are eight people on the Commission Board, which comprises a Chair, Chief Executive, Finance Director and five non-executive members. Details about Board and sub-committee membership and meetings are included in **Table 2**.

*Organisational Structure*

13. **Fig. 1** below summarises the structure and organisational arrangements of the Commission. During 2008-2009, a small team of staff were appointed on an interim basis in addition to those shown to support the transition to the Care Quality Commission, and were funded separately for that purpose.

Fig. 1: 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) Service*

14. The second opinion service is an important statutory 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.

15. During 2008-2009 the following work has been completed or progressed:

- The introduction of a revised referral process which includes information that supports the efficient allocation and completion of the second opinion, including the proposed treatment plan. This had been piloted in 2007-2008 and is now used for all referrals;
- The further development of "day sessions", grouping second opinions in those areas where there are high levels of referrals, and which was piloted in 2007-2008. Up to 30 day sessions a month are now scheduled and it is expected that this number will grow further;
- An increase in administrative support at Nottingham, facilitating a move to regional working;
- The consolidation of the Lead SOAD role in providing professional support to SOADs and monitoring performance;
- Recruitment to the Panel has continued and is ongoing. An increase in fees from 1 April 2009 was agreed with the Care Quality Commission and approved by the Treasury;
- Preparation for the implementation of new provisions of the Mental Health Act 2007 was completed, including training and revised guidance for SOADs, and guidance for providers;
- Induction training was provided to all appointed SOADs and there was a national training Conference for all SOADs in November 2008;
- There was increased sharing of information and intelligence between the second opinion and visiting functions of the Commission and this work is expected to progress within the Care Quality Commission.

*Supervised Community Treatment (SCT)*

16. New provisions relating to SCT commenced with the implementation of the changes to the Mental Health Act on 3 November 2008. After the initial month of supervised community treatment (or at the end of three months if the patient is still subject to the initial three month period when placed on SCT) a second opinion is required.

17. After five months the total number of SCT second opinion requests received was 1581. This would indicate an annual rate of around 3,800 SCT second opinion requests, substantially more than estimated prior to implementation. As a direct result of this substantial increase in demand, there have been significant delays in providing second opinions. Short term measures to address the volume of work were introduced including increasing the level of administrative support, purchase of processing software, and temporary project management support to develop systems.

18. Longer term solutions are being developed in consultation with the Department of Health, NHS managers and Royal College of Psychiatrists to increase the number of SOADs available, explore different ways of providing the service and address the specific challenges of providing second opinions at community locations.

*Transfer to the Care Quality Commission and Healthcare Inspectorate Wales*

19. The priority for 1 April 2009 was to provide a smooth transition to the Care Quality Commission and Healthcare Inspectorate Wales, avoiding any unnecessary disruption to the service provided. The SOAD Panel will continue to be organised nationally in England and in Wales. The systems for referral and allocation of work will remain at Nottingham for England and are being migrated for the Wales service.

*Judicial Reviews*

20. During 2008-2009 there were no new judicial review challenges involving decisions made by Second Opinion Appointed Doctors to certify treatments in the absence of a detained patient's consent.

*Visiting Programme*

21. The Commission aims to visit every unit with detained patients in England and Wales at least once every 12 months, and within those units to visit every ward with a detained patient at least once every 18 months. It has published a 2008 Annual Report for every NHS Trust and Independent Provider where there are detained patients.

22. In their visits, Commissioners monitor compliance with the Mental Health Act 1983 (as amended) and associated Codes of Practice. Commissioners interview detained patients in private, scrutinise records, and assess factors that affect the care, treatment and quality of life provided to detained patients including environmental, organisational, and equality and human rights issues. Timescales are agreed for any necessary action and headquarters staff monitor and follow this up as necessary. Where actions have been taken in response to issues raised in individual patient interviews Commissioners will also issue a letter to the patient concerned summarising the action taken. The Commission hopes that through its actions it can make a real difference to the lives of detained patients.

23. Mental Health Act Commission Annual Reports, written by Area Commissioners, are a summary of the visiting activity and significant issues raised by Commissioners to a provider during a given period. Copies of Annual Reports, and, wherever possible, provider responses, have been posted on the Commission's website, www.mhac.org.uk, (from 1 April 2009 these can be accessed via the Care Quality Commission website www.cqc.org.uk). Within larger providers, Area Commissioners formally present their Annual Reports to the NHS Trust Board or equivalent body at one of their formal meetings.

24. Our Area Commissioners have, during the reporting period, met with the Police, the Ambulance Service, Approved Mental Health Professionals, Crisis teams and Outreach teams to monitor admissions under the Mental Health Act. This has happened on 11 occasions and issues that arose were followed up.

*New Visiting Projects and Developments 2008-2009*

25. A number of Commissioners completed specialist visits to medium secure units in April and May 2008. This was an element of a wider peer review "healthcheck" of all medium secure units commissioned by the Department of Health. Commissioners visited about half of such units in England. In each case they conducted an announced visit to a single ward within a unit and sought to provide a ward level perspective for the project, highlighting the experience of patients and staff. In addition to contributing to the Department of Health project, several Commissioners commented that the experience had been very helpful in providing another perspective on a unit that they had previously visited and this learning was included in some of the Commission's Annual Reports on providers.

26. In February and March 2009 the Commission undertook ten pilot visits to test out the methodology of monitoring Community Treatment Orders. The aim of the exercise was to meet with patients and understand their experience of being in the community on a Community Treatment Order. In order to facilitate participation patients were invited to come for a face to face interview with a Commissioner, or engage in a telephone interview or participate in a focus group. The numbers of patients who chose to participate were small. Further consideration will need to be given on how to engage with this client group. Commissioners also obtained the views of staff, advocacy and carers groups during the pilot. The findings of the pilot will be shared with the Care Quality Commission.

*Joint Review with the Healthcare Commission and Commission for Social Care Inspection on the Commissioning of Services for People with Learning Disability and Complex Needs*

27. The Commission contributed to this joint review which took place in nine local areas during September to November 2008. A national report was published in March 2009 and is available on the Care Quality Commission website. (www.cqc.org.uk)

*Electronic Commission*

28. The Electronic Commission allows Commissioners to access a number of pre-visit and other relevant data reports remotely, and to create visit reference numbers and was introduced during 2008-2009. During this reporting period we have introduced a secure messaging facility for Commissioners to protect the sharing of patient identifiable information between Commissioners and the Commission. Regional support staff have also been allocated nhs.net accounts to allow providers to communicate securely with the Commission on patient sensitive issues.

*Complaints*

29. 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. This activity is demand led and is initiated through contact with detained patients, carers, relatives or advocates either directly through correspondence with the Commission headquarters or meetings with Commissioners on visits. From 1 April 2009 the Health and Social Care Act will limit the complaints remit of the Care Quality Commission to investigating the exercise of powers and duties under the Mental Health Act (no longer any matters that occurred) but also includes community patients and people subject to guardianship.

30. Following the introduction of the NHS Complaints procedure and its equivalents in independent healthcare, it has been the Commission's policy to allow complaints to be referred for local resolution and then independent review by the Healthcare Commission prior to it making a decision whether or not to use its own investigatory powers. This has meant that the Commission has not undertaken its own investigation except only on rare occasions. From April 2009, Stage 2 resolution by the Healthcare Commission will cease, with the introduction of reformed Local Authority Social Services and National Health Service complaints process arrangements that focuses on resolution at a local level.

31. Over the course of the year the Commission received one formal request to investigate.[4] The Commission decision was that a further Commission investigation would be unlikely to uncover any new evidence that would lead to a different conclusion.

32. The Commission provides advice and support to patients who have concerns about their care and treatment under the Mental Health Act 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*

33. 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.

34. There is an agreed protocol in place to facilitate effective links between complaints and other contacts with the Commission and visiting activity. The protocol sets out a framework for responding to calls and correspondence received at headquarters from patients, carers and staff expressing concerns about the services provided. Issues identified as of particular concern under the protocol are reported to Regional Directors who oversee any necessary follow-up action; this may be in collaboration with other agencies 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. During the reporting period there were five occasions where a Commissioner was asked to undertake a complaints activity visit as a result of a contact with the Commission.

*Notification of Deaths of Detained Patients*

35. As part of its general remit, the Commission receives notification from service providers of the deaths of detained patients. Every cause of unnatural death, or natural death where practice issues are identified, is the subject of a review. A trained Commissioner will either undertake a themed visit looking at the particular circumstances and issues arising from a death or attend the inquest[5].

[4] Where the complaint has progressed through the first two stages of the NHS Complaints procedure or equivalent and the complainant remains dissatisfied.
[5] The Commission will usually seek to visit if the inquest is not due to take place within six months of the death.

36. The aims of the notification and review are:

- To establish whether good practice, as defined in the Mental Health Act 1983 (as amended) and its Codes of Practice, has been followed;
- To ensure that lessons are learned and positive changes are implemented at all levels that will make similar deaths less likely in future.

37. During 2007-2008 the Commission conducted a review of its response to Death Notifications and the Board agreed a number of recommendations to improve the process, to inform visiting priorities and ensure that the lessons learned are shared more widely. These were implemented during 2008-09 and the revised Policy and Procedures were published on the Commission website.

*Equality and Human Rights*

38. The Commission is committed to embedding a human rights-based approach throughout the organisation. Its Equality and Human Rights Strategy was approved by the Board in November 2006, and is reviewed annually.

39. In line with statutory requirements, the Commission produces Race, Gender and Disability Equality Schemes, which are reviewed annually. The Disability Equality Scheme underwent substantial revision in 2008 to reflect recommendations and actions from the Second Opinion Appointed Doctor (SOAD) service review. There has been progress across all equality action schemes, but of particular note are the improvements in the gender balance amongst Commissioners and SOADs since the first year of reporting against the Commission's Gender Equality Objectives. All equality schemes were published on the Commission website, along with action plans showing progress against equality objectives.

40. All new Mental Health Act Commission policies and activities were assessed for their impacts on equality and human rights issues, to ensure the Commission did not discriminate against any groups and to help ensure work promotes equality and human rights. This was done using a rapid impact checklist and an equality and human rights impact assessment toolkit. In 2008, Board and Senior Executive Team reports and minutes for the previous year were reviewed for compliance with impact assessments. This verified that equality and human rights impact assessments were being carried out as and where appropriate, with recommendations for improving the publication of information on impact assessments being made.

*Service User Involvement*

41. The Commission continued to develop and implement its Service User Involvement strategy throughout 2008-2009, working closely with the 26 members of its Service User Reference Panel (SURP). Service user involvement is now a regular feature of Commission activity, with service users involved in all major projects and developments. The project on

women and detention has a service user as a part of the project team, and includes visits to talk to women service users. The work on mapping how the MHAC will visit people subject to supervised community treatment included a workshop with a selection of SURP members. Service users have also been involved in producing a DVD, *Not Just Visiting,* to explain the visiting process to service users. This includes input from the service users as well as from SURP members. Service users have played a significant role in Commissioner and SOAD training over the past year, with a full day of the two-day Commissioner induction training dedicated to service user involvement and service user input into many of the sessions at the Commissioner and SOAD Conferences.

42. The Acting Together project of joint service user and Commissioner visits has continued to be a significant development. These visits were piloted in 2006-07, and rolled out in 2008-2009 to aid Commissioner awareness of how mental health services are viewed by those who use them. Users of the services visited have also found Acting Together beneficial, with some reporting that they find it easier to discuss matters knowing that, like them, one of the visitors has experience of detention.

43. In April 2008, the Commission held a public launch of *From Strength to Strength,* the report of the first two years of its service user involvement strategy. The purpose of this publication is both to report on the Commission's activity and to share learning on involving service users. During the year the Commission produced its third annual report on its service user involvement.

*Communications*

44. The Commission's Communications Strategy was reviewed in June 2008. The purpose of the Communications Strategy is to ensure that the organisation uses communication effectively and clearly to achieve its aims, both within the organisation, through regular staff meetings and bulletins, and when dealing with people and organisations outside the Commission.

45. The Commission has continued to develop and improve its external communications this year, supported by the service user involvement and equality and human rights strategies. The Commission produces information for patients in a number of formats including DVD and CD, 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.

46. Other external communications activities this year have included:

a) *Improving Awareness:* To raise awareness of the Commission's functions staff and Commissioners have attended and given presentations at a number of national and local conferences and events, primarily on the topics of mental health, human rights and regulation of healthcare.

b) *Guidance Notes on the Mental Health Act 1983:* The Commission revised all guidance notes to take account of changes in mental health legislation from November 2008. Versions of each guidance note were produced for use in England and in Wales, to take account of the different Codes of Practice.

Two new guidance notes were produced in the period, both in relation to the new powers of supervised community treatment (SCT). These covered questions on the provision of second opinions for SCT patients who are refusing medication and the treatment under emergency powers of SCT patients whilst a second opinion is being arranged.

c) *Patient Feedback:* Questionnaires to patients were issued throughout the year providing patients with the opportunity to comment on our service.

d) *Service User Reference Panel Newsletter:* During the year the Commission published a quarterly newsletter '*1983 and all that',* containing submissions by staff, Service User Reference Panel members and others. This was published on the MHAC website and distributed to the Service User Reference Panel and Commission members.

d) *Production of DVD, "Not Just Visiting":* A DVD was produced to demonstrate the work of the Commission's visiting function and how service users are involved. The DVD contains information about the Acting Together project, service user interpretation on the effect of visits and recommendations from visits and visits reports. It was made with the support of Tees, Esk and Wear Valleys NHS Trust and was widely distributed. The DVD has been issued to all Mental Health Trusts, Independent Sector Hospitals and Commissioners for use with service users, staff and other interested individuals and groups. The DVD also provides information about:

- Visiting services;
- The presentation of the Trust Annual Report to Board Members;
- User interpretation of the effect of visits and recommendations from visits;
- Trusts' interpretations and actions resulting from visits and visit reports.

*Commission training events*

47. **Fig. 2** below shows the training events arranged for and attended by Commissioners and SOADs during 2008-2009.

**Fig. 2: Training events held in 2008-2009**

| Date(s) | Purpose | Attendees |
|---|---|---|
| 15 & 16 April 2008 | Induction training for newly appointed Commissioners | 31 (including Commissioners staff and guests) |
| 16 & 17 September 2008 | MHAC National training event for Commissioners | 144 (including Commissioners staff and guests) |
| 12 &13 November 2008 | MHAC National training event for SOADs | 117 (including SOADs staff and guests) |
| 25 & 26 March 2009 | MHAC and CQC Joint event for Commissioners transferring to the Care Quality Commission | 155 (including Commissioners staff and guests) |
| 22 May 2008 | Regional Training Events for Commissioners | 32 (including Commissioners staff and guests) |
| 17 June 2008 | | 28 (including Commissioners staff and guests) |
| 24 June 2008 | | 19 (including Commissioners staff and guests) |
| May & June 2008 | | Commissioners in one Region took the opportunity to meet in CVA Teams |

*Commissioner Conference*

48. Two national events were held for Commissioners during the reporting year. The primary focus of the two day event in September 2008 was the legislative changes which came into effect on 3 November 2008 and the new Codes of Practice with time within the programme for regional team meetings and the opportunity to attend a special interest workshop on topics such as Personality Disorders, Cross Cultural Communications and the Healthcare Commission's Acute Care Inpatient Review. Members of the Service User Reference Panel (SURP) attended the event and assisted with the facilitation of the sessions on legislative change. SURP colleagues also led the first day of induction training for newly appointed Commissioners in April continuing the Commission's commitment to service user involvement across all areas of activity. The second event, held in March 2009 was

facilitated jointly by the Mental Health Act Commission and the Care Quality Commission and focussed on the continuation of the visiting function and changes to the reporting procedures from 1 April 2009.

*SOAD Conference*

49. The National Event for SOADs in November 2008 provided the opportunity for team meetings, workshops on the role and function of the Second Opinion Appointed Doctor and the interface between the Mental Health Act and the Mental Capacity Act. Members of the Service User Reference Panel were again involved in the delivery of sessions.

*Staff Conference*

50. In October 2008 a one day staff conference was held. The focus of the day was the transition to the Care Quality Commission and included sessions led by HR colleagues from the Department of Health and the Transition Team. A number of staff also attended a number of other events organised by the Care Quality Commission over the second half of the year about the new organisation.

*Sustainable Development*

51. During 2008-2009 the Commission continued to work on its action plan for sustainable development. Achievements to date include: continuing to use a waste collection agency that has a 78% recycle rate of waste materials, including glass and plastic bottles; the use of timer switches to ensure that all non essential electrical items are not left switched on when the office is not in use; the replacement of any broken or damaged electrical equipment with increased energy efficient models. A number of other initiatives include the replacement of existing fluorescent light bulbs with energy efficient lighting and working with stationery providers to source sustainable alternatives where possible.

*The Concordats*

52. As a full signatory to the English and Welsh Concordats[6], the Commission has continued to work on the 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. The Commission provides information about its activity in NHS Trusts in England and Wales through the Concordat scheduling sites, which can be accessed through the two Concordat websites.

[6] 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.

*National Mental Health and Learning Disability Ethnicity Census*

53. The Count Me In Census is an important underpinning element of the wider Delivering Race Equality Programme of the Department of Health and the National Institute for Mental Health in England (NIMHE) and was first conducted in March 2005. It continues to form an important element of Delivering Race Equality in Mental Health agenda and supports the Department of Health's 'Standards for Better Health' and Welsh Assembly Government's 'Raising the Standard: The Race Equality Action Plan for Adult Mental Health Services in Wales'.

54. The 2009 Census took place on 31 March 2009 and included all inpatients plus some outpatients subject to the Mental Health Act 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 2000.

*Board activity*

55. The Mental Health Act Commission Board is the focal point for corporate and information 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 ten times in 2008-2009. In line with the Commission's Standing Orders, formal 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.

56. The membership of the Board and number of attendances at meetings in 2008-2009 are detailed in **Table 2**.

57. 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 Executive members of the Board, the Acting Chief Executive and the Director of Finance, are salaried staff.

58. The Board has two sub-committees:

*The Audit and Risk Committee*

The Audit and Risk 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.

59. This Committee consists of four non-executive members and seven meetings took place in 2008-2009. The non-executive membership of the Committee and number of attendances at meetings in 2008-2009 are detailed in **Table 2**.

60. 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.

*Remuneration Committee*

61. Remuneration Committee meetings are to advise the Commission 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. The Acting Chief Executive is in attendance except where issues of her own performance are being considered. The Finance Director attends by invitation. Meetings are held on an "as required" basis.

62. In 2008-2009 two meetings were held. The membership of the Committee and attendances at meetings in 2008-2009 are detailed in **Table 2**.

*Declaration of Interests*

63. 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*

64. 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. Costs relating to this activity are detailed in the Annual Accounts.

65. 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 she is required to take to make herself aware of any relevant audit information and to establish that the Commission's auditors are aware of that information.

*Information Governance*

66. The Commission's information governance work programme is overseen by its Caldicott Guardian, Patrick Callaghan (who is a Non Executive Director). During the year, the Commission has continued with its programme of improvements relating to the data handling in line with the Cabinet Office Mandatory Minimum Requirements addressing the following areas:

- Confidentiality and Data Protection Assurance

- Corporate Information Assurance
- Information Governance Management
- Information Security Assurance

67. Within the four work areas above, the Commission assessed its level of compliance against 31 specific Information Governance requirements, within the Connecting for Health Information Governance Toolkit, and achieved a compliance score of 94% against these requirements. The Commission has also continued with its programme of improvements relating to data handling following receipt of the Cabinet Office's Mandatory Minimum Requirements and has addressed the ten improvements area recommended by its internal auditors.

*Personal Data Related Incidents*

68. In 2008-2009 there were no protected personal data related incidents formally reported to the Information Commissioner's Office. An annual review of internal information handling procedures was undertaken, with revised guidance issued to staff, Commissioners and SOADs, to ensure an understanding and agreement across the Commission to handle information correctly. Where information was received from other organisations, deemed to have been sent insecurely, these potential data breaches were flagged to the sender. Systems are in place at the Commission for the recording of any future personal data related incidents.

69. No personal data related incidents have been recorded relating to previous financial years.

*Freedom of Information (FOI)*

70. The Freedom of Information Act (2000) came into force fully on 1 January 2005.

71. 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.

72. The Commission received 16 requests for information during the period 1 April 2008 to 31 March 2009.

*Statement on Internal Control*

73. The Statement on Internal Control can be found within the Commission's Annual Accounts for 2008-2009.

*Emergency Preparedness*

74 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 and tested during 2008-2009 to ensure it is fully compliant with the Commission's current business practices.

*Absences*

75 During 2008-2009, a total of 350 days were lost due to sickness of which 111 was due to long term illness resulting in an average of eight working days lost per person. **Fig. 3** refers.

**Fig.3 Percentage break down of 2008-2009 absence causes**

| Proportion lost due to | |
|---|---|
| All Others | 13.43% |
| Cold / Viral / Ingestion | 46.00% |
| Mental Health | 34.00% |
| Muscular / Skeletal | 6.57% |
| Total | 100.00% |

[i] Statutory Instruments (page 7)
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. S.I. 1995/2630 dictates that a full meeting of the Commission shall be held in any year.

# Chapter 2: Management Commentary

## Performance

*Visiting Programme Activity*

1. During 2008-2009, the Commission has undertaken 1636 visits to providers (1692 visits were undertaken in 2007-2008). Much of the visiting activity is undertaken by Local Commissioners, although some visiting activity is also carried out by Area Commissioners and Regional Directors where the need arises. In addition to the regular visiting activity shown above Commissioners also carried out 37 visits in April and May 2008 to Medium Secure Units.

2. Of the 1636 regular activity visits recorded, 51 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 was 8.0 hours with an average of 2.03 hours additional travelling time.

3. Visiting programme statistics for 2008-2009 are included in **Tables 3 and 4**.

*Complaints*

4. The number of complaints relating to care and treatment during detention received through direct contact with the Commission or by a Commissioner following an interview with a detained patient has increased slightly on the previous year (915 in 2008-2009 compared to 842 in 2007-2008). The service provided by the complaints team is a demand led service and the number of complaints received is not an absolute indication of workload. 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 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 2008-2009 the average time taken to respond was 6 working days.

6. Complaints statistics for 2008-2009 are included in **Tables 5 and 6**.

*Deaths of Detained Patients*

7. In the period, the Commission received notification of 356 deaths (280 natural and 76 unnatural causes) and attended 18 inquests and visited hospitals on 13 occasions as a result of death notifications.

8. Death notification statistics for 2008-2009 are included in **Tables 5 and 7**.

*Second Opinion Service*

9. The number of Second Opinions received by the Commission has increased again by 9.5% from the previous year. This is a demand-led statutory function. The figures in **Table 5** show that requests for Electro-Convulsive Therapy (ECT) have slightly reduced compared with the last reporting period, whilst medication second opinions have increased considerably (12.5%).

10. Second Opinion statistics for 2008-2009 are included in **Tables 5 and 8**.

11. **Fig. 4 below** shows the increase year on year which has to be absorbed in terms of activity and funding. From 3 November 2008 the Commission has been required to provide a second opinion to patients on supervised community treatment (SCT). In the five months since this change in legislation the Commission has received 1581 requests.

**Fig. 4: Second Opinion requests received for non SCT patients 2004-2005 to 2008-2009, showing percentage changes**

| Year | Number of non SCT Second Opinions[7] | % change +/- |
|---|---|---|
| 2004-2005 | 9,767 | - |
| 2005-2006 | 11,137 | +14 |
| 2006-2007 | 11,662 | +5 |
| 2007-2008 | 11,973 | +2.66 |
| 2008-2009 | 11,534** | -3.66 |

**NB this figure excludes the SCT referrals in order that the table can be used for comparison with previous years figures. However the overall total of second opinion requests is 13115 (including SCTs). This represents an increase of 9.5% overall for the year and based on the figures received so far a real increase in demand of 33%. (i.e. November to March = 1581 over 5 months which equates to 3794 over 12 months)

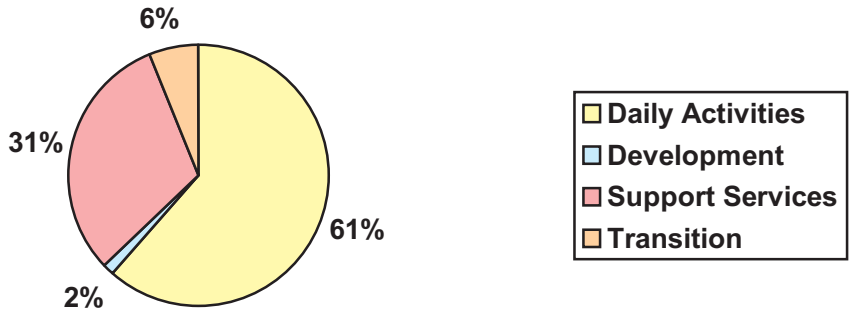
[7] The figures are taken from the current integrated database and do not include second opinion requests received at the Commission which are then subsequently cancelled.

## Financial Position

*Resources*

12. The Commission's revenue resource limit for 2008-2009 was £5,990,000 and £250,000 was allocated for Welsh expenditure making a total of £6,240,000. The pie chart below (**Fig. 5**) illustrates how this funding was used:

**Fig. 5 Funding expenditure percentage breakdown**




13. The total funding includes additional funding of £396,000 in support of its activity costs relating to the transfer of functions in England to the Care Quality Commission

*Financial Risks*

14. The key financial risks to the Commission related to:

- A continuing increase in the number of requests made of the demand-led second opinion service and the impact of the supervised community treatment which commenced on 3 November 2008.
- The expenditure relating to transition to the Care Quality Commission.

*Annual Accounts 2008-2009*

15. The accounts for the year ended 31 March 2009 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.

16. Operating against a revenue resource limit of £5,990,000 (2007-2008: £5,748,000), the Commission's expenditure for 2008-2009 was £5,779,000 (2007-2008: £5,561,000). The Commission sought to undertake the maximum activity possible to ensure that it made the best use of its resources during the year, ensuring that sufficient contingency was retained to cater for significant variances within the SOAD budget, which influenced the expenditure position heavily.

17. The balance sheet (page 49) indicates that the Mental Health Act Commission has net current liabilities. This is not an indication of potential going concern difficulties as the funding of NHS bodies by the Secretary of State will cover appropriate liabilities. The NHS (Residual Liabilities) Act 1996 also requires the Secretary of State to exercise his statutory powers to deal with the liabilities of a Special Health Authority, if it ceases to exist.

18. The balance sheet shows an increase in cash held at year end and also an increase in creditors compared to the previous year. This was mainly due to the exceptional increase in SOAD activities which occurred as a result of the changes brought in by the Mental Health Act 2007 which amended the 1983 Act. The creditors figure is mainly represented by liabilities incurred in March and invoices received after the close down date. The cash held was drawn down in anticipation of expenditure and is linked to the creditor and accruals.

19. The full set of Accounts for the year 2008-2009 is attached to this report, incorporating:

- Statement of the Accounting Officer's Responsibilities
- Statement on Internal Control 2008-2009
- 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*

20. 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, which ever is later. **Fig. 6** below summarises measure of compliance.

**Fig. 6 Compliance levels (Better Payment Practice Code)**

| | 2008-09 | | 2007-08 | |
|---|---|---|---|---|
| **Non NHS** | **Number** | **£000** | **Number** | **£000** |
| Total non NHS bills paid 2008-09 | 1,186 | 1,082 | 823 | 884 |
| Total bills paid within target | 1,126 | 1,029 | 775 | 862 |
| Percentage of non NHS bills paid within target | 94.9% | 95.1% | 94.2% | 97.5% |
| **NHS** | | | | |
| Total NHS bills paid 2008-09 | 47 | 1,263 | 20 | 1,155 |
| Total NHS bills paid within target | 44 | 1,242 | 19 | 1,070 |
| Percentage of NHS bills paid within target | 93.6% | 98.3% | 95.0% | 92.6% |

No Interest was paid under the Late Payment of Commercial Debts (Interest) Act 1998 (2007-08 £0).

*Going Concern*

21. In March 2005 the Chancellor of the Exchequer announced that the Mental Health Act Commission's functions would be combined with the Healthcare Commission and Commission for Social Care Inspection and a new social care and health body would be created. Subsequently, under the Health and Social Care Act 2008, Mental Health Act Commission was dissolved on 31 March 2009 and with effect from 1 April 2009, its functions were transferred to the Care Quality Commission.

Ongoing lease costs of offices until the lease end date will be transferred to the Department of Health.

All other assets and liabilities were transferred to the Care Quality Commission on 1 April 2009 and as the transfer of activities were between the Department of Health's Arms Length Bodies, they are not considered to be "discontinued". It has accordingly been considered appropriate to adopt a "going concern" basis for the preparation of the Mental Health Act Commission financial statements.


# Chapter 3: Remuneration Report

*Human Resources*

1. The Commission has three main groups of personnel:

   - Commissioners who are public appointees of the Secretary of State for Health and are professional or lay people with significant experience of mental health services and empathy with the situation of detained patients. Commissioners receive a daily fee for their activity; 24 days are payable on a regular monthly basis with the remaining payable upon completion of training events or other activity.
   - Second Opinion Appointed Doctors (SOADs) who are Consultant Psychiatrists and are paid a 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 a fee for each opinion provided.
   - Staff at the Commission headquarters who 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.

2. When appropriate, additional support is 'bought in' from external experts to provide the additional skills required for specific projects. This was particularly necessary this year to support the transition to the Care Quality Commission.

*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 or £500 for a day session where approximately four patients are seen at one site or adjacent sites. £250 may be paid for a half day session in some circumstances. Lead SOADs are paid a daily fee of £500. NMD panel members receive £160 per decision made. The levels of fees are considered by the Remuneration Committee on an ongoing basis.

4. 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*

5. Detailed in **Fig. 7** 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.

## Fig. 7: Salaries and allowances [8]

| Name and Title | 2008 – 09 | | | 2007 - 08 | | |
|---|---|---|---|---|---|---|
| | Salary (bands of £5,000) | Other Remuneration (bands of £5,000) | Benefits in kind (rounded to the nearest £00) | Salary (bands of £5,000) | Other Remuneration (bands of £5,000) | Benefits in kind (rounded to the nearest £00) |
| | £000 | £000 | £000 | £000 | £000 | £000 |
| Mrs Gemma Pearce (Acting Chief Executive) | 90 - 95 | 0 | 0 | 60 - 65 | 0 | 0 |
| Mr Martin Donohoe (Director of Corporate Services and Finance) | 70 - 75 | 0 | 0 | 55 - 60 | 0 | 0 |
| Mrs Susan McMillan (Deputy Chief Executive / Director of Operation) | 65 - 70 | 0 | 0 | 50 - 55 | 0 | 0 |
| Mr Philip Wales (Regional Director) | 50 - 55 | 0 | 0 | 45 - 50 | 0 | 0 |
| Mr Stephen Klein (Regional Director) | 50 - 55 | 0 | 0 | 50 - 55 | 0 | 0 |
| Mrs Surrinder Kaur (Regional Director) | 55 - 60 | 0 | 0 | 0 - 5 | 0 | 0 |
| Mrs Rona Pickles (Regional Director) | 55 - 60 | 0 | 0 | 0 | | |
| Prof. Lord Kamlesh Patel of Bradford OBE (Chairman to 6 October 2008) | 0 | 10 -15 | 0 | 0 | 25 - 30 | 0 |
| Mr Simon Armson (Chairman from 30 October 2008 /Non Executive Board member/Area Commissioner) | 0 | 25 - 30 | 0 | 0 | 20 - 25 | 0 |
| Ms Deborah Jenkins (Vice Chairman to 31 July 2008) | 0 | 10 - 15 | 0 | 0 | 25 - 30 | 0 |
| Mr Patrick Callaghan (Non Executive Board member) | 0 | 15 - 20 | 0 | 0 | 10 - 15 | 0 |
| Mrs Ann Curno (Non Executive Board member) | 0 | 5 - 10 | 0 | 0 | 5 - 10 | 0 |
| Mr Barry Delaney (Non Executive Board member / Area Commissioner) | 0 | 25 - 30 | 0 | 0 | 25 - 30 | 0 |
| Mr John Knox (Non Executive Board member ) | 0 | 10 - 15 | 0 | 0 | 10 - 15 | 0 |
| Mrs Kay Sheldon (Non Executive Board member/ Local Commissioner) | 0 | 15 - 20 | 0 | 0 | 20 - 25 | 0 |
| Mrs Judith Forrest (Non Executive Board member from 30 October 2008) | 0 | 0 - 5 | 0 | 0 | 0 | 0 |



[8] This section of the Remuneration Report was subject to audit.

*Pension Costs*

6. 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.

7. Past and present employees are covered by the provision of the Civil Service Pension Scheme as shown in **Fig. 8**.

8. 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 2008-2009, employer's contributions of £174,000 were payable to the PCSPS (2007-2008 £141,000) 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.

## Fig. 8: Pension Benefits [9]

| Name and Title | Real increase in pension at age 60 (bands £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 2008 (bands of £5,000) | Lump sum at age 60 related to accrued pension at 31 March 2008 (bands of £5,000) | Cash Equivalent Transfer Value 31 March 2007 | Cash Equivalent Transfer Value at 31 March 2008 | Real increase in Cash Equivalent Transfer Value | Employer's Contribution to stakeholder pension |
|---|---|---|---|---|---|---|---|---|
| | £000 | £000 | £000 | £000 | £000 | £000 | £000 | £0 |
| | | | | | | | | |
| Mrs Gemma Pearce (Acting Chief Executive) | 0 – 2.5 | 5 – 7.5 | 10 – 15 | 40 – 45 | 135 – 136 | 180 – 181 | 31 – 32 | 1365 |
| Mr. Martin Donohoe (Director of Corporate Services) | 0 – 2.5 | 5 – 7.5 | 20 – 25 | 60 – 65 | 298 – 299 | 364 – 365 | 38 – 39 | 912 |
| Mrs Susan McMillan (Deputy Chief Executive / Director of Operation) | 2.5 – 5 | 0 | 20 – 25 | 0 | 289 – 290 | 359 – 360 | 41 – 42 | 2143 |
| Mr Philip Wales (Regional Director) | 0 – 2.5 | 0 | 15 – 20 | 0 | 225 – 226 | 253 – 254 | 6 – 7 | 1662 |
| Mr Stephen Klein (Regional Director) | 0 – 2.5 | 0 | 20 – 25 | 0 | 421 – 422 | 466 – 467 | 9 – 10 | 1853 |
| Mrs Surrinder Kaur (Regional Director) | Pension details unavailable, paid direct by employer | | | | | | | |
| Mrs Rona Pickles (Regional Director) | Pension details unavailable, paid direct by employer | | | | | | | |
| Prof. Lord Kamlesh Patel of Bradford OBE (Chairman to 6 October 2008) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Mr Simon Armson (Chairman from 30 October 2008 /Non Executive Board member/Area Commissioner) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Ms Deborah Jenkins (Vice Chairman to 31 July 2008) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Mr Patrick Callaghan (Non Executive Board member) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Mrs Ann Curno (Non Executive Board member) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Mr Barry Delaney (Non Executive Board member / Area Commissioner) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Mr John Knox (Non Executive Board member ) | Pension details unavailable, paid as a consultant | | | | | | | |
| Mrs Kay Sheldon (Non Executive Board member/ Local Commissioner) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Mrs Judith Forrest (Non Executive Board member from 30 October 2008) | 0 | 0 | 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 | | | | | | | | |

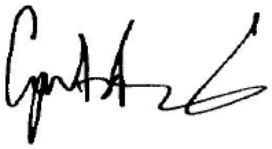
[9] This section of the Remuneration Report was subject to audit.

*Cash Equivalent Transfer Values*

13. 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*

14. 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 24 June 2009**


# Annual Account of the Mental Health Act Commission Special Health Authority 2008-2009

## *Statement of Accounting Officers responsibilities*

Under the National Health Service Act 2006, the Secretary of State (with the consent of the Treasury) has directed the Mental Health Act Commission to prepare for each financial year a statement of accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Mental Health Act Commission and of its income and expenditure, recognised gains and losses and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual and in particular to:

- observe the Accounts Direction issued by the Secretary of State, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;

- make judgements and estimates on a reasonable basis;

- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the accounts; and

- prepare the accounts on a going concern basis.

The Secretary of State has designated the Chief Executive of the Care Quality Commission as Accounting Officer of the Mental Health Act Commission. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the Mental Health Act Commission's assets, are set out in Managing Public Money published by the Treasury.

## *MHAC – Statement on Internal Control*

As the Chief Executive of the Care Quality Commission (CQC) I have been designated Accounting Officer for the purposes of signing the Mental Health Act Commission (MHAC) Annual Report and Accounts for the year to 31 March 2009. The Acting Chief Executive of the Mental Health Act Commission was the Accounting Officer for the Mental Health Act Commission during the year ending 31 March 2009.

### 1. Scope of Responsibility

The MHAC Chief Executive as Accounting Officer of the Mental Health Act Commission, supported by the Commission Board, had responsibility for maintaining a sound system of internal control that supported the achievement of the Commission's policies, aims and objectives, whilst safeguarding the public funds and the organisation's assets for which the Accounting Officer was personally responsible, in accordance with the responsibilities assigned in Managing Public Money.

The Accounting Officer's review of the effectiveness of systems of internal control was informed by work of the Senior Executive Team which had responsibility for the development and maintenance of the internal control framework.

### 2. The Purpose of the System of Internal Control

The system of internal control was designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it could therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control was based on an ongoing process designed to identify and prioritise the risks to the achievement of the organisation's policies, aims and objectives, to 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 was in place in the Mental Health Act Commission Special Health Authority for the year ended 31 March 2009 and in CQC from 1 April 2009 to maintain internal control through to the date of approval of the final report and accounts and accords with Treasury Guidance.

## 3. Capacity to Handle Risk

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

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

- The Commission undertook a self-assessment exercise against the core Controls Assurance standards (Corporate and Information Governance, Financial Management and Risk Management)
- An action plan was developed and implemented to meet any gaps
- As part of its risk identification and management process, the Commission had in place arrangements to monitor compliance with other key standards, including relevant Controls Assurance standards covering areas of potentially significant organisational risk
- The Commission 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

## 4. The Risk and Control Framework

At the commencement of each year, the Senior Executive Team took the lead on producing the annual Business Plan and the Corporate Plan. All managers employed by the Commission were involved in this process to ensure that all business flows are captured. Objectives were identified and an associated benefits/risk analysis was completed. The Business Plan and Corporate Plan were used to populate a Balanced Scorecard which was agreed with the Department of Health's Business Support Unit. This formed the basis of quarterly monitoring meetings between the Commission and the Department at which delivery against SMART targets was assessed.

The Commission's Assurance Framework encompassed all key workstreams identified within the Business and Corporate Plans. The Assurance Framework also provided 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 was also developed to ensure that all action was captured. The Assurance Framework was reviewed each month by directors who then reported on progress into the Audit and Risk Committee which reviewed the framework and the reports at its regular meetings, usually quarterly, and into the Board.

The Assurance Framework was then used in conjunction with the business continuity plans; one for normal business continuity, and a second concerned specifically with the transition to the new regulator for health and adult social care,

the Care Quality Commission, bringing together the Mental Health Act Commission, Healthcare Commission and the Commission for Social Care Inspection.

The risks and issues associated with transition to the Care Quality Commission were clearly identified and managed. This included ensuring the effective handover of key processes (baton handling) and a clear identification of liabilities and assets in a Resource Allocation Document.

The Commission's Information Governance work programme encompassed four detailed initiatives as detailed in the Information Governance Toolkit, these being: -

- Confidentiality and Data Protection Assurance
- Corporate Information Assurance
- Information Governance Management
- Information Security Assurance

For 2008/09 the Commission increased its compliance with the requirements of the Information Toolkit to 94%. All scores were supported by evidence which was independently assessed by the Commission's Caldicott Guardian and Internal Audit before submission to the Board.

The Commission continued with its programme of improvements relating to data handling following receipt of the Cabinet Office Mandatory Minimum Requirements, the results of which were subject to Internal Audit Review. The Commission had in place an Information Risk Policy comprising of the Information Security Handbook, Remote Working Policy, Whistleblowing Policy and Data Protection Code of Practice for Staff. The Commission had completed its Counter Fraud agenda with assistance from East Midlands NHS Internal Audit Services. The Director of Finance and Corporate Services was appointed by the Commission Board as the Commission's Senior Information Risk Officer reporting into the Board accordingly.

**5. Review of Effectiveness**

The Accounting Officer of the Mental Health Act Commission was responsible for reviewing the effectiveness of the system of internal control. The review of the effectiveness of the system of internal control was informed by the work of the internal auditors and the executive managers within the Commission who had responsibility for the development and maintenance of the internal control framework, and comments made by external auditors in their management letter and other reports. The Accounting Officer was advised on the implications of the result of the review of the effectiveness of the system of internal control by the Board and the Audit and Risk Committee and a plan to address weaknesses and ensure continuous improvement of the system was in place.

The review of the effectiveness of the system of internal control was informed in a number of ways. The Head of Internal Audit provided 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 had responsibility for the continuing development and maintenance of the system of internal control. The Assurance Framework itself

provided evidence that the effectiveness of controls had been reviewed in relation to the risks of the organisation not achieving its principal objectives.

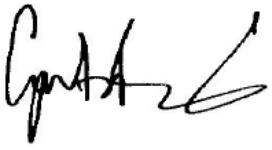
The review was also informed by comments made by the external auditors including informal contact from time to time; advice from the Audit and Risk Committee and the Commission Board; and feedback from mental health providers and service users about the performance of the Commission and Commissioners in undertaking their roles.

The review concluded that the Assurance Framework met the requirements of the 2008-09 Statement on Internal Control, incorporated robust systems to ensure that all organisational risks were identified and reviewed, and provided reasonable assurance that the principle risks were managed effectively. The Assurance Framework recorded associated controls and assurances and incorporated an action plan identifying action to be taken to remedy identified gaps.

All recommendations made by Internal Audit following completion of the Financial Systems audit 2008-09 were completed. As a result of this programme of work, significant assurance was given by Internal Audit that there was a generally sound system of internal control, designed to meet the organisation's objectives, and that controls were generally being applied consistently.

I have gained assurance from the MHAC Acting Chief Executive, who was responsible for the activities relating to the period up to 31 March 2009. I have also taken into account the annual report of MHAC's Internal Auditors, the external audit report on the provision of financial services by Shared Business Services Authority, an interim Statement on Internal Control signed by the Accounting Officer for MHAC and covering the year to 31 March 2009 and any other information I became aware of in the period from 1 April 2009 to the date of signing these accounts. Additionally I have instigated an independent review of these accounts to support my role as Accounting Officer from 1 April 2009.

There were no significant control issues to report or data handling issues during this final period.

Signed 

Accounting Officer Date 24 June 2009

## MENTAL HEALTH ACT COMMISSION

## 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 31st March 2009 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 Care Quality Commission's Chief Executive as Accounting Officer is responsible under the Health and Social Care Act 2008 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 Treasury and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of 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 Treasury. I report to you whether, in my opinion, the information, which comprises the Role and Objectives of the Mental Health Act Commission, Commission Membership and the Management Commentary, included in the Annual 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 Mental Health Act Commission's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises the Foreword, the Introduction to the Mental Health Act Commission, the unaudited part of the Remuneration Report and the Appendices. 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 opinions

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included

in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Mental Health Act Commission 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.

**Opinions**

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 Treasury, of the state of Mental Health Act Commission's affairs as at 31 March 2009 and of its net resource outturn for the year then ended;

- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the National Health Service Act 2006 and directions made thereunder by the Secretary of State with the approval of Treasury; and

- information, which comprises the Role and Objectives of the Mental Health Act Commission, Commission Membership and the Management Commentary, included within the Annual Report, is consistent with the financial statements.

**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.

**Report**

I have no observations to make on these financial statements.

Amyas C E Morse
Comptroller and Auditor General

National Audit Office
151 Buckingham Palace Road
Victoria
London SWIW 9SS

7 July 2009

The maintenance and integrity of the Care Quality Commission's website is the responsibility of the Accounting Officer; the work carried out by the auditors does not involve consideration of these matters and accordingly the auditors accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.

## Operating Cost Statement for the year ended 31 March 2009

| | Notes | 31 March 2009 £000 | Prior Year £000 |
|---|---|---|---|
| Programme costs | 2.1 | **6,273** | 5,948 |
| Operating income | 4 | **(494)** | (387) |
| **Net operating cost before interest** | | **5,779** | 5,561 |
| **Interest** | | **0** | 0 |
| **Net operating cost** | | **5,779** | 5,561 |
| **Net resource outturn** | 3.1 | **5,779** | 5,561 |

***All income and expenditure is derived from continuing operations***

**Statement of Recognised Gains and Losses for the year ended 31 March 2009**

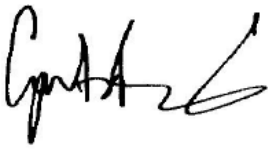
| | | |
|---|---|---|
| Net gain on revaluation of tangible fixed assets | **0** | 1 |
| **Recognised gains and losses for the financial year** | **0** | 1 |

*The notes at pages 51 to 62 form part of these accounts.*

## Balance Sheet as at 31 March 2009

| | Notes | 31 March 2009 £000 | Prior Year £000 |
|---|---|---|---|
| **Fixed assets:** | 5 | | |
| Intangible assets | | **115** | 151 |
| Tangible assets | | **107** | 175 |
| | | **222** | 326 |
| **Current assets** | | | |
| Debtors | 6 | **130** | 153 |
| Cash at bank and in hand | 7 | **1,242** | 664 |
| | | **1,372** | 817 |
| **Creditors: amounts falling due within one year** | 8 | **(1,420)** | (1,033) |
| **Net current assets/(liabilities)** | | **(48)** | (216) |
| **Total assets less current liabilities** | | **174** | 110 |
| **Taxpayers' equity** | | | |
| General Fund | 10 | **174** | 110 |
| | | **174** | 110 |

*The financial statements on pages 48 to 62 were approved by the Board on 24 June 2009 and signed on its behalf by:*

Signed:  Date: 24 June 2009

Accounting Officer

## Cash Flow Statement for the year ended 31 March 2009

| | Notes | 31 March 2009 £000 | Prior Year £000 |
|---|---|---|---|
| **Net cash (outflow) from operating activities** | 11 | **(5,293)** | (4,968) |
| **Capital expenditure and financial investment:** | | | |
| (Payments) to acquire tangible fixed assets | | **0** | (64) |
| **Net cash inflow/(outflow) from investing activities** | | **0** | (64) |
| **Net cash (outflow) before financing** | | **(5,293)** | (5,032) |
| **Financing** | | | |
| Net Parliamentary funding: | 10 | | |
| Revenue | | **5,871** | 5,522 |
| Capital | | **0** | 75 |
| | | **5,871** | 5,597 |
| **Increase/(decrease) in cash in the period** | 7 | **578** | 565 |

*The notes at pages 51 to 62 form part of these 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 fixed assets 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 the accruals convention. The main source of funding for the Commission is Parliamentary grant from the Department of Health from Request for Resource 1 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.

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.

A charge, reflecting the cost of capital utilised by the Commission, is included in operating costs. The charges calculated at the real rate set by HM Treasury (currently 3.5%) on the average carrying amount of all assets less liabilities, except for:

a) tangible and intangible fixed assets where the cost of capital charge is based on opening values, adjusted pro rata for in-year:
   - additions at cost;
   - disposals as valued in the opening balance sheet (plus any subsequent capital expenditure prior to disposal);
   - impairments at the amount of the reduction of the opening balance sheet value (plus any subsequent capital expenditure);
   - depreciation of tangible and amortisation of intangible fixed assets;

b) cash balances with the Office of the Paymaster General, 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; or
   - 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.

**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 recoverable.

**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 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. The Commission elects to adopt a depreciated historical cost basis as a proxy for current valuation of the lift at the Commission offices. The lift has short economic life and low in value.

**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. 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 the commencement of the financial year following the date of purchase.

IV. The lift at the Commission offices was replaced in 2006/07 the costs of which were met by capital funding. The lift is depreciated over the term of the current lease.

## 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 generality of 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 in the operating cost statement on an accruals basis, 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 is recognised. Values for the current and previous years are given at Note 12.

## 2.1 Authority programme expenditure

| | Notes | £000 | 31 March 2009 £000 | £000 | Prior Year £000 |
|---|---|---|---|---|---|
| Non-executive members' remuneration | | | **93** | | 107 |
| Other salaries and wages | 2.2 | | **1,560** | | 1,249 |
| Establishment Expenses | | | **498** | | 567 |
| Commissioner Fees | | | **866** | | 907 |
| Commissioner Expenses | | | **129** | | 155 |
| Second Opinion Doctors Fees | | | **2,311** | | 2,193 |
| Second Opinion Doctors Expenses | | | **219** | | 226 |
| Transport and moveable plant | | | **13** | | 9 |
| Premises and fixed plant | | | **283** | | 299 |
| *Project Expenditure | | | **186** | | 101 |
| External Contractors | | | **0** | | 0 |
| Non-cash items: Depreciation and amortisation | 5 | **104** | | 113 | |
| Capital charges interest | | **(28)** | | (10) | |
| | | | **76** | | 103 |
| **Auditors remuneration: Audit Fees | | | **39** | | 32 |
| | | | **6,273** | | 5,948 |

*Staff costs of £69k 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 2008-09 total £39k

## 2.2 Staff numbers and related costs.

| | 2008-09 Total | Other | Prior Year |
|---|---|---|---|
| | **£000** | **£000** | £000 |
| *Salaries and Wages | **1,303** | **1,303** | 1,034 |
| Social Security Costs | **83** | **83** | 74 |
| Employer contributions to NHSPA | **0** | **0** | 0 |
| Other pension costs | **174** | **174** | 141 |
| | **1,560** | **1,560** | 1,249 |

## 2.2 Staff numbers and related costs (continued)

The average number of employees during the year was:

| | 2008-09 Total Number | Permanently Employed Staff Number | Other Number | Prior Year Number |
|---|---|---|---|---|
| Total | **44** | **0** | **44** | 40 |

The Commission HQ staff are civil servants on secondment from the Department of Health, so are no classed as permanent staff.

*There are £268k staff costs included in 'other staff' which relate to agency staff (2007-08: £138k).

## Expenditure on staff benefits

The amount spent on staff benefits during the year totalled £0 (2007-08: £0)

## Retirements due to ill-health

None

## 3.1 Reconciliation of net operating cost to net resource outturn

| | 31 March 2009 £000 | Prior Year £000 |
|---|---|---|
| Net operating cost for the financial year | **5,779** | 5,561 |
| **Net resource outturn** | **5,779** | 5,561 |
| **Revenue resource limit** | **5,990** | 5,748 |
| **Under spend against revenue resource limit** | **211** | 187 |

## 3.2 Reconciliation of gross capital expenditure to capital resource limit

| | 31 March 2009 £000 | Prior Year £000 |
|---|---|---|
| Gross capital expenditure | **0** | 64 |
| **Net capital resource outturn** | **0** | 64 |
| Capital resource limit | **0** | 158 |
| **Underspend against limit** | **0** | 94 |

## 4 Operating income

| Operating income analysed by classification and activity, is as follows: | Appropriated in aid £000 | Not Appropriated in aid £000 | 31 March 2009 Total £000 | Prior Year £000 |
|---|---|---|---|---|
| Programme income: | | | | |
| Income received from National Assembly for Wales re. core activity | **250** | | **250** | 243 |
| Income received from other Departments, etc | **242** | | **242** | 142 |
| Other | **2** | | **2** | 2 |
| **Total** | **494** | **0** | **494** | 387 |

## 5.1 Intangible fixed assets

| | Software licences £000 | Total £000 |
|---|---|---|
| Cost or Valuation at 1st April 2008 | **281** | **281** |
| Adjustments | | |
| Additions - purchased | **0** | **0** |
| Disposals | **0** | **0** |
| **Gross cost at 31 March 2009** | **281** | **281** |
| | | |
| Accumulated amortisation at 1 April 2008 | **130** | **130** |
| Adjustments | **0** | **0** |
| Provided during the year | **36** | **36** |
| Disposals | **0** | **0** |
| **Accumulated amortisation at 31 March 2009** | **166** | **166** |
| | | |
| Net book value: | | |
| Purchased at 31 March 2008 | **151** | **151** |
| Total at 31 March 2008 | **151** | **151** |
| **Net book value at 31 March 2009:** | **115** | **115** |

## 5.2 Tangible fixed assets

| | Information Technology | Furniture & fittings | Total |
|---|---|---|---|
| | £000 | £000 | £000 |
| Cost or Valuation at 1st April 2008 | **333** | **51** | **384** |
| Additions - purchased | **0** | **0** | **0** |
| Indexation | **0** | **0** | **0** |
| Adjustment | **0** | **0** | **0** |
| Disposal | **0** | **0** | **0** |
| **At 31 March 2009** | **333** | **51** | **384** |
| Accumulated depreciation at 1st April 2008 | **193** | **16** | **209** |
| Reclassification accumulated depreciation at 1 April 2008 | **0** | **0** | **0** |
| Provided during the year | **57** | **11** | **68** |
| Disposal | **0** | **0** | **0** |
| **Accumulated depreciation at 31 March 2009** | **250** | **27** | **277** |
| | | | |
| Net book value at 31 March 2008 | **140** | **35** | **175** |
| | | | |
| **Net book value at 31 March 2009** | **83** | **24** | **107** |

## 6. Debtors

| **Amounts falling due within one year.** | 31 March 2009 £000 | Prior Year £000 |
|---|---|---|
| NHS Debtors | **87** | 15 |
| Prepayments | **30** | 132 |
| Other debtors | **13** | 6 |
| | **130** | 153 |
| | | |
| **Total debtors** | **130** | 153 |

## 7 Analysis of changes in cash

| | At 31 March 2008 £000 | **Change During the year £000** | **At 31 March 2009 £000** |
|---|---|---|---|
| Cash at OPG | 664 | **578** | **1,242** |
| Cash at commercial banks and in hand | 0 | **0** | **0** |
| | 664 | **578** | **1,242** |

## 8 Creditors:

**Amounts falling due within one year**

| | **31 March 2009 £000** | Prior Year £000 |
|---|---|---|
| Tax and social security | **105** | 18 |
| Other creditors | **234** | 64 |
| Accruals | **1,074** | 912 |
| Deferred Income | **7** | 39 |
| | **1,420** | 1,033 |

## 9 Movements in working capital other than cash

| | **31 March 2009 £000** | Prior Year £000 |
|---|---|---|
| Increase/(decrease) in debtors | **(23)** | (123) |
| (Increase)/decrease in creditors | **(387)** | (349) |
| | **(410)** | (472) |

## 10 Movements on Reserves

**General Fund**

The movement on the General Fund in the year comprised:

| | **2008 - 09** | Prior Year |
|---|---|---|
| | **£000** | £000 |
| Balance at 01 April | **110** | 83 |
| Net operating costs for the year | **(5,779)** | (5,561) |
| Net Parliamentary funding: | | |
| Revenue | **5,871** | 5,522 |
| Capital | **0** | 75 |
| Non-cash items: | | |
| Capital charge interest | **(28)** | (10) |
| Indexation allowances | **0** | 1 |
| **Balance at 31 March** | **174** | 110 |

## 11 Reconciliation of operating costs to operating cash flows

| | 31 March 2009 | Prior Year |
|---|---|---|
| | **£000** | £000 |
| Net operating cost before interest for the year | **5,779** | 5,561 |
| Adjust for non-cash transactions | **(76)** | (121) |
| Adjust for movements in working capital other than cash | **(410)** | (472) |
| **Net cash outflow from operating activities** | **5,293** | 4,968 |

## 12 Contingent liabilities

Liabilities for 2008/09 are £69,064. The Commission has a number of claims outstanding from Second Opinion Appointed Doctors (SOADs) relating to the financial years 2005/06, 2006/07 and 2007/08. Extensive attempts have been made to encourage the SOADs to submit claims, however as these remain outstanding they have been treated within the 2008/09 Accounts as Contingent Liabilities. (2007/08 liabilities were £77,600)

## 13 Capital commitments

At 31 March 2009 the value of contracted capital commitments was £0 (2007-08 : £0).

## 14 Commitments under operating leases

Commitments under operating leases to pay rentals during the year following the year of these accounts are given in the table below, analysed according to the period in which the lease expires.

| | 31 March 2009 | Prior Year |
|---|---|---|
| | **£000** | £000 |
| Current year non cancellable operating leases | **167** | 152 |
| | **167** | 152 |

Future commitments under non-cancellable operating leases:

| | | | |
|---|---|---|---|
| **Land and Buildings** | | **£000** | £000 |
| Operating leases which expire | within 1 year | **0** | 0 |
| | between 1 and 5 years | **152** | 147 |
| | after 5 years | **0** | |
| | | **152** | 147 |
| **Other leases** | | | |
| Operating leases which expire | within 1 year | **2** | 3 |
| | between 1 and 5 years | **0** | 0 |
| | after 5 years | **0** | 0 |
| | | **2** | 3 |

## 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 | 87 | - | 199 | - |
| Balances with local authorities | | | | |
| Balances with NHS Trusts | | - | 3 | - |
| Balances with public corporations and trading funds | - | - | - | - |
| Balances with bodies external to government | 43 | - | 1,218 | - |
| **At 31 March 2009** | 130 | - | 1,420 | - |
| Balances with other central government bodies | 14 | - | 31 | - |
| Balances with local authorities | - | | | |
| Balances with NHS Trusts | - | - | - | - |
| Balances with public corporations and trading funds | - | - | - | - |
| Balances with bodies external to government | 139 | - | 1,002 | - |
| **At 31 March 2008** | 153 | - | 1,033 | - |

## 16. Losses and special payments

There were 2 cases of losses and special payments totalling £528 paid during 2008-09, as detailed below. (Prior year: 3 cases totalling £11,749)

**2 Fruitless payments £528**

## 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 Shared Business Services
Leicestershire Partnership NHS Trust
Derwent Shared Services
Healthcare Commission
Care Quality Commission
Appointments Commission

## 18. Post balance sheet events

Mental Health Act commission was dissolved on 31st March 2009 and, with effect from 1st April 2009, its functions in England together with most of those of the Healthcare Commission and Commission for Social Care Inspection, have transferred to a new social care and health regulator, the Care Quality Commission.

The Commission's financial statements are laid before the Houses of Parliament by the Department of Health. FRS21 requires the Commission to disclose the date on which the accounts are authorised for issue.

**The accounts were authorised by the Chief Executive of the Care Quality Commission, as Accounting Officer to be issued on 7 July 2009.**

There are no significant post balance sheet events.

## 19. Financial instruments

FRS 29, Financial Instruments Disclosures, 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 29 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.

*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.

## *Accounts Direction*

The Mental Health Act Commission (Special Health Authority)

**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).

### 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: 08 May 2008

## 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.

## 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 – ACTIVITY DETAIL

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

| | Area Commissioners | Local Commissioners | SOADs |
|---|---|---|---|
| **TOTAL BY GENDER** | | | |
| Male | 23 | 23 | 71 |
| Female | 14 | 41 | 28 |
| **Total** | **37** | **64** | **99** |
| | | | |
| **TOTAL BY ETHNICITY** | | | |
| British | 33 | 47 | 44 |
| Irish | 0 | 3 | 7 |
| White & Asian (Mixed) | 0 | 1 | 1 |
| Any Other White Background | 0 | 4 | 6 |
| Pakistani (Asian or British Asian) | 0 | 2 | 6 |
| Indian (Asian or British Asian) | 1 | 2 | 16 |
| Any Other Asian Mixed Background | 0 | 1 | 11 |
| African (Black or Black British) | 0 | 2 | 1 |
| Caribbean (Black or Black British) | 1 | 1 | 0 |
| All other ethnic groups | 1 | 1 | 6 |
| None stated | 1 | 0 | 1 |
| **Total** | **37** | **64** | **99** |

## Table 2: Board and Committee Membership and Attendance 2008-09

| ***Board*** | |
|---|---|
| *Non-executive Board members* | *Attendance/ Meetings* |
| Prof. Lord Patel of Bradford OBE, Chair (to 6 October 2008) | 4/4 |
| Simon Armson, Chair (from 30 October 2008) | 5/5 |
| | |
| Deborah Jenkins MBE, Vice–Chair (Vice-Chair to 31 July 2008; NB: there was no Vice Chair after this date) | 2/3 |
| | |
| Simon Armson (prior to role as Chair; i.e. to 29 October 2008) | 4/5 |
| Patrick Callaghan | 3/10 |
| Ann Curno | 8/10 |
| Barry Delaney | 6/10 |
| John Knox | 10/10 |
| Kay Sheldon | 9/10 |
| Judith Forrest (from 30 October 2008) | 5/5 |
| *Executive Board members* | *Attendance/ Meetings* |
| Gemma Pearce, Acting Chief Executive | 10/10 |
| Martin Donohoe, Director of Finance | 9/10 |

| ***Audit and Risk Committee*** | |
|---|---|
| *Committee members* | *Attendance/ Meetings* |
| John Knox, Chair (from 14 May 2008) | 7/8 |
| Simon Armson, Chair (to 13 May 2009) | 1/1 |
| | |
| Simon Armson, Non-Executive Member (from 14 May 2008 to September 09 2009) | 1/3 |
| Ann Curno, Non-Executive Member | 8/9 |
| Barry Delaney, Non-Executive Member | 4/9 |
| Kay Sheldon, Non-Executive Member | 8/9 |

| ***Remuneration Committee*** | |
|---|---|
| *Committee members* | *Attendance/ Meetings* |
| Prof. Lord Patel of Bradford OBE, Chair (to 6 October 2008) | 2/2 |
| Simon Armson, Chair (from 30 October 2008) | 1/1 |
| | |
| Deborah Jenkins MBE, Vice Chair (to 31 July 2008) | 1/2 |
| | |
| Simon Armson, Non-Executive Member (to 29 October 2009) | 2/2 |
| Patrick Callaghan, Non-Executive Member | 1/3 |
| Ann Curno, Non-Executive Member | 2/3 |
| Barry Delaney, Non-Executive Member | 1/3 |
| John Knox, Non-Executive Member (from 15 May 2009) | 2/2 |
| Kay Sheldon, Non-Executive Member | 3/3 |
| Judith Forrest, Non-Executive Member (from 30 October 2008) | 1/1 |

## Table 3: Commission Activity Report 2008-09

| Visiting Activity | Activity Reported | | |
|---|---|---|---|
| | **April 08 – March 09** | **April 07 – March 08** | **% Change** |
| **Total number of regular activity visits to providers** | **1636** | **1692** | **-3.3** |
| Regular visiting activity - meetings with detained patients (including individual private meetings and patients seen in groups) | 5680 | 6109 | -7.0 |
| Regular visiting activity - total number of patient documents checked | 5904 | 6220 | -5.1 |
| **Total patient related activity** | **11584** | **12329**** | **-6.0** |
| **Average patient related activity per visit** | **8.0** | **8.3** | **-3.6** |

** note: Figures previously recorded, in the 2007-2008 report, included Section 17 themed activity. Corresponding activity did not take place in 2008-2009 therefore the 2007-2008 figures shown in the above table have been adjusted to allow for a true comparison to be made.

## Table 4: Summary of patients seen by Commissioners in private meetings

| Region / Recorded Patient Ethnicity[10] | 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 2007 census** |
|---|---|---|---|---|---|---|---|
| **White** | | | | | | | |
| British | 1046 | 995 | 805 | 781 | 3627 | 66.5 | 77.6 |
| Irish | 16 | 22 | 8 | 37 | 83 | 1.5 | 1.7 |
| Welsh | 0 | 3 | 49 | 0 | 52 | 1.0 | 0.0 |
| Any Other White Background | 134 | 38 | 36 | 104 | 312 | 5.7 | 4.6 |
| **Mixed** | | | | | | | |
| White & Black Caribbean | 10 | 15 | 13 | 20 | 58 | 1.1 | 0.9 |
| White & Black African | 2 | 0 | 2 | 11 | 15 | 0.3 | 0.3 |
| White & Asian | 3 | 3 | 0 | 8 | 14 | 0.3 | 0.3 |
| Any Other Mixed Background | 4 | 13 | 8 | 22 | 47 | 0.9 | 0.6 |
| **Asian** | | | | | | | |
| Indian | 16 | 14 | 13 | 40 | 83 | 1.5 | 1.3 |
| Pakistani | 22 | 11 | 15 | 17 | 65 | 1.2 | 1.0 |
| Bangladeshi | 3 | 7 | 2 | 18 | 30 | 0.5 | 0.4 |
| Any Other Asian Background | 12 | 14 | 8 | 27 | 61 | 1.1 | 0.8 |
| **Black or Black British** | | | | | | | |
| Caribbean | 27 | 52 | 36 | 187 | 302 | 5.5 | 4.3 |
| African | 13 | 18 | 9 | 139 | 179 | 3.3 | 2.1 |
| Any Other Black Background | 12 | 7 | 8 | 46 | 73 | 1.3 | 1.7 |
| **Other Ethnic Groups** | | | | | | | |
| Chinese | 4 | 2 | 0 | 9 | 15 | 0.3 | 0.3 |
| Any Other Ethnic Groups | 4 | 6 | 3 | 15 | 28 | 0.5 | 1.1 |
| **Not Stated** | | | | | | | |
| Not stated | 112 | 46 | 173 | 83 | 414 | **7.6** | **0.9** |
| **Total** | **1440** | **1266** | **1188** | **1564** | **5458** | **-** | **-** |

[10] Where Commissioners meet with patients in groups individual patient ethnicity is not recorded.

**Table 5: Complaints, Deaths and Second Opinion Activity**

| **Complaints Activity** | **2008-09** | **2007-08** | **%Change** |
|---|---|---|---|
| New complaints referred to the Commission | 436 | 286 | **+52.4** |
| Complaints raised on behalf of patients during a visit | 44 | 29 | **+51.7** |
| General correspondence and written enquiries | 475 | 527 | **-9.9** |
| **Total Activity** | **955** | **842** | **+13.4** |
| **Deaths Activity** | **2008-09** | **2007-08** | **%Change** |
| Deaths reported by natural causes | 280 Φ | 268 | **+4.5** |
| Deaths reported by unnatural causes | 76 | 83 | **-8.4** |
| **Total Deaths Reported** | **356** | **351** | **+1.4** |
| **Second Opinion Activity** | **2008-09** | **2007-08** | **%Change** |
| Medication only opinions | 11426 | 10155 | **+12.5** |
| Electro Convulsive Therapy (ECT) Opinions | 1541 | 1729 | **-10.9** |
| Combined medication & ECT Opinions | 148 | 89 | **+66.3** |
| **Total Second Opinions** | **13115** | **11973** | **+9.5** |

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.

Φ NB: figure for Natural Causes of Death includes those subject to a review of circumstances

## Table 6: Complaints received by Ethnicity

| Type of Complaint<br><br>Ethnic Background | Complaints[11] | Complaints from Visits [12] | General Correspondence | Total number | Total Percentage | Census % [12] |
|---|---|---|---|---|---|---|
| **White** | | | | | | |
| British | 286 | 28 | 194 | 508 | 53.2 | **77.6** |
| Irish | 7 | 0 | 0 | 7 | 0.7 | **1.7** |
| Welsh (white) | 1 | 4 | 1 | 6 | 0.6 | **0.0** |
| Any Other White Background | 29 | 4 | 22 | 55 | 5.8 | **4.6** |
| **Mixed** | | | | | | |
| White and Black Caribbean | 5 | 0 | 4 | 9 | 0.9 | **0.9** |
| White and Black African | 5 | 0 | 2 | 7 | 0.7 | **0.3** |
| White and Asian | 0 | 0 | 2 | 2 | 0.2 | **0.3** |
| Any Other Mixed Background | 1 | 0 | 4 | 5 | 0.5 | **0.6** |
| **Asian** | | | | | | |
| Indian | 8 | 1 | 5 | 14 | 1.5 | **1.3** |
| Pakistani | 5 | 0 | 14 | 19 | 2.0 | **1.0** |
| Bangladeshi | 4 | 0 | 1 | 5 | 0.5 | **0.4** |
| Any Other Asian Background | 4 | 1 | 3 | 8 | 0.8 | **0.8** |
| **Black or Black British** | | | | | | |
| Caribbean | 27 | 5 | 19 | 51 | 5.3 | **4.3** |
| African | 11 | 0 | 6 | 17 | 1.8 | **2.1** |
| Any Other Black Background | 11 | 0 | 2 | 13 | 1.4 | **1.7** |
| **Other Ethnic Group** | | | | | | |
| Chinese | 0 | 0 | 3 | 3 | 0.3 | **0.3** |
| Any Other Ethnic Group | 4 | 0 | 6 | 10 | 1.0 | **1.1** |
| **Not Stated** | | | | | | |
| Not Stated | 28 | 1 | 188 | 217 | 22.7 | **0.9** |
| | | | | | | |
| **Totals** | **436** | **44** | **476** | **956** | **-** | **-** |

[11] These columns show figures for complaints made that fall within the remit of MHAC.

[12] The final column of this report shows the percentage of in-patients of each ethnic group as recorded in the 'Count Me In Census 2007'

## Table 7: Death notifications by Ethnicity

| Cause / Ethnic Background | Unnatural | Natural | Natural - subject to review of circumstances | Outside of remit of MHAC | Total | Percentage of total | Census % |
|---|---|---|---|---|---|---|---|
| **White** | | | | | | | |
| British | 59 | 208 | 10 | 9 | 286 | 80.3 | **77.6** |
| Irish | 2 | 0 | 0 | 0 | 2 | 0.6 | **1.7** |
| Welsh | 0 | 0 | 1 | 0 | 1 | 0.3 | **0.0** |
| Any Other White Background | 5 | 20 | 1 | 1 | 27 | 7.6 | **4.6** |
| **Mixed** | | | | | | | |
| White and Black Caribbean | 0 | 1 | 0 | 0 | 1 | 0.3 | **0.9** |
| White and Black African | 0 | 0 | 0 | 0 | 0 | 0.0 | **0.3** |
| White and Asian | 1 | 0 | 0 | 0 | 2 | 0.2 | **0.3** |
| Any Other Mixed Background | 1 | 0 | 0 | 0 | 1 | 0.3 | **0.6** |
| **Asian** | | | | | | | |
| Indian | 1 | 3 | 0 | 0 | 4 | 1.1 | **1.3** |
| Pakistani | 0 | 3 | 0 | 0 | 3 | 0.8 | **1.0** |
| Bangladeshi | 0 | 0 | 0 | 0 | 2 | 0.6 | **0.4** |
| Any Other Asian Background | 1 | 0 | 1 | 0 | 2 | 0.6 | **0.8** |
| **Black or Black British** | | | | | | | |
| Caribbean | 4 | 10 | 0 | 0 | 13 | 0.8 | **4.3** |
| African | 0 | 1 | 0 | 0 | 1 | 0.3 | **2.1** |
| Any Other Black Background | 0 | 0 | 0 | 0 | 0 | 0.0 | **1.7** |
| **Other Ethnic Group** | | | | | | | |
| Chinese | 0 | 1 | 0 | 0 | 1 | 0.3 | **0.3** |
| Any Other Ethnic Group | 1 | 3 | 0 | 0 | 4 | 1.1 | **1.1** |
| **Not Stated** | | | | | | | |
| Not Stated | 1 | 7 | 0 | 0 | 8 | 2.2 | **0.9** |
| | | | | | | | |
| **Totals** | **76** | **257** | **13** | **10** | **356** | **-** | **-** |

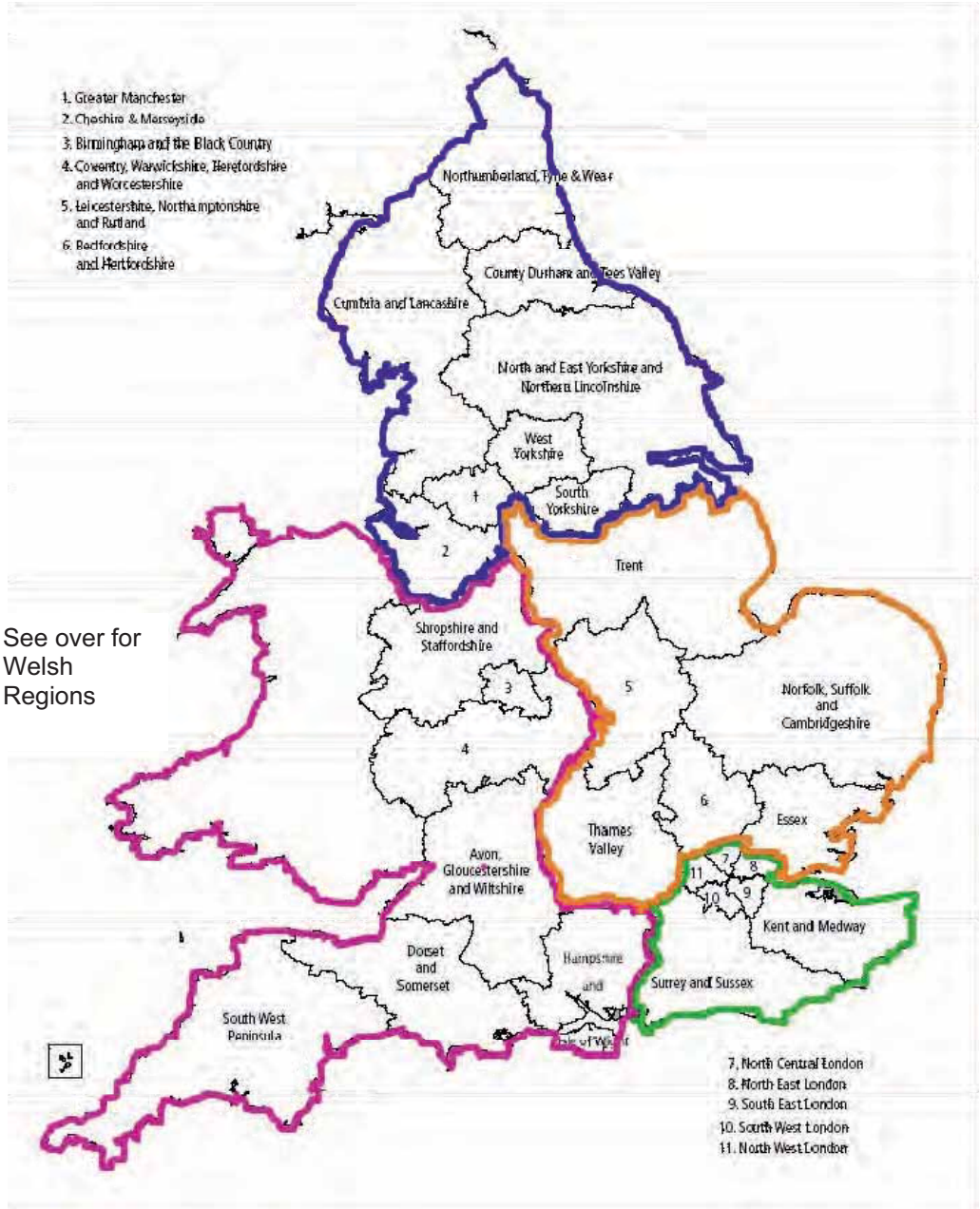
## Table 8: Second Opinions by Ethnicity

| Treatment / Ethnic Background | Medicine | ECT | Both | Total | Percentage | Census[13] % |
|---|---|---|---|---|---|---|
| **White** | | | | | | |
| British | 7636 | 1269 | 109 | 9014 | 68.7 | **77.6** |
| Irish | 124 | 17 | 3 | 144 | 1.1 | **1.7** |
| Welsh | 62 | 13 | 0 | 75 | 0.6 | **0.0** |
| Any Other White Background | 585 | 54 | 10 | 649 | 4.9 | **4.6** |
| **Mixed** | | | | | | |
| White and Black Caribbean | 138 | 5 | 1 | 144 | 1.1 | **0.9** |
| White and Black African | 36 | 1 | 0 | 37 | 0.3 | **0.3** |
| White and Asian | 44 | 0 | 0 | 44 | 0.3 | **0.3** |
| Any Other Mixed Background | 102 | 5 | 2 | 109 | 0.8 | **0.6** |
| **Asian** | | | | | | |
| Indian | 191 | 24 | 1 | 216 | 1.6 | **1.3** |
| Pakistani | 180 | 15 | 5 | 200 | 1.5 | **1.0** |
| Bangladeshi | 81 | 9 | 3 | 93 | 0.7 | **0.4** |
| Any Other Asian Background | 161 | 9 | 2 | 172 | 1.3 | **0.8** |
| **Black or Black British** | | | | | | |
| Caribbean | 789 | 20 | 4 | 813 | 6.2 | **4.3** |
| African | 425 | 20 | 2 | 447 | 3.4 | **2.1** |
| Any Other Black Background | 192 | 4 | 0 | 196 | 1.5 | **1.7** |
| **Other Ethnic Groups** | | | | | | |
| Chinese | 48 | 6 | 0 | 54 | 0.4 | **0.3** |
| Any Other Ethnic Group | 125 | 13 | 0 | 138 | 1.1 | **1.1** |
| **Not Stated** | | | | | | |
| Not Stated | 507 | 57 | 6 | 570 | 4.3 | **0.9** |
| | | | | | | |
| **Totals** | **11426** | **1541** | **148** | **13115** | **-** | **-** |

[13] The final column of this report shows the percentage of in-patients of each ethnic group as recorded in the 'Count Me In Census 2007'

# APPENDIX 2 – REGIONAL MAPS

***Regional and Commission Visiting Area (CVA) Boundaries in England***

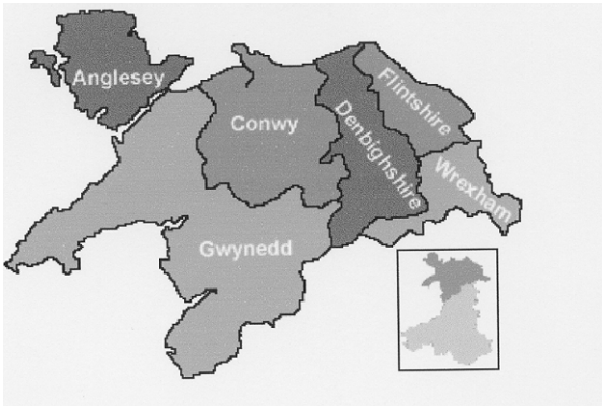



See over for Welsh Regions

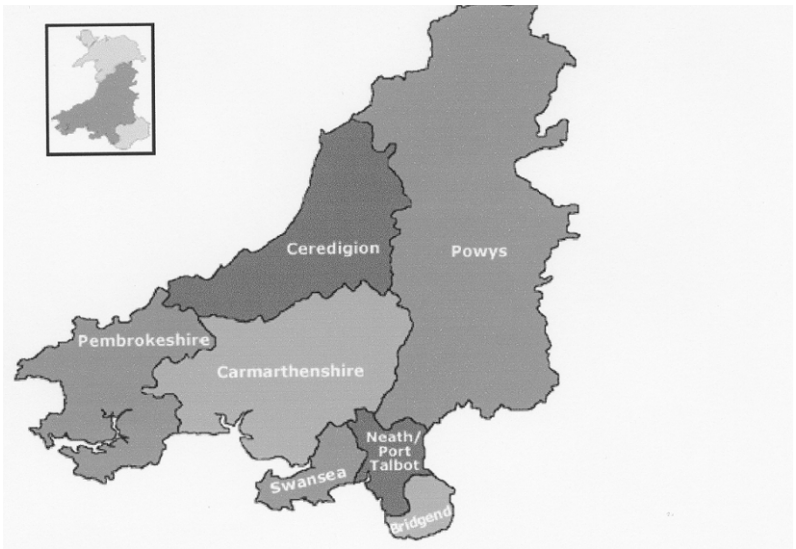
**Blue** – Region 1: Rona Pickles
**Orange** – Region 2: Surrinder Kaur
**Pink** – Region 3: Phil Wales
**Green** – Region 4: Stephen Klein

## *Welsh Regions*

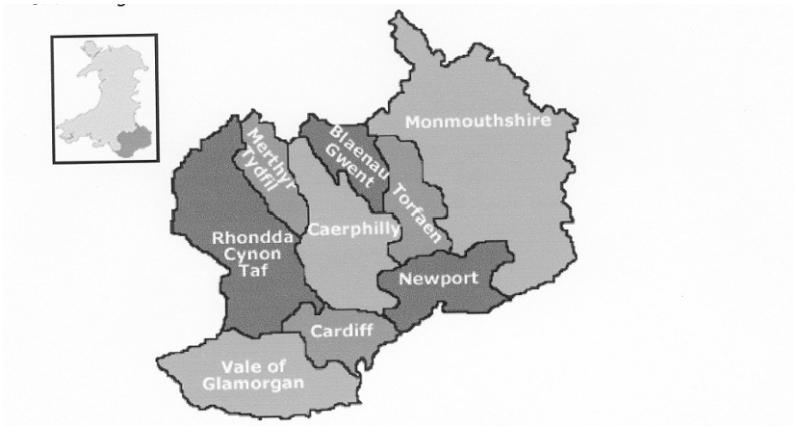
North Wales




Mid and West Wales




South and East Wales

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