MENTAL HEALTH COMMISSION
COIMISIÚN MEABHAIR-SHLÁINTE

FINANCIAL STATEMENTS

For the year ended 31 December 2020

MENTAL HEALTH COMMISSION

Financial Statements
For the year ended 31 December 2020

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MENTAL HEALTH COMMISSION

General Information
For the year ended 31 December 2020

Senior Leadership Team
Mr John Farrelly – Chief Executive
Ms Rosemary Smyth – Director – Standards and Quality Assurance (Retired 03/09/2020)
Dr. Susan Finnerty – Inspector of Mental Health Services
Ms Orla Keane – General Counsel for MHC (DSS)
Ms Áine Flynn – Director - Decision Support Service
Mr Simon Murtagh – Chief Operations Officer
Mr Gary Kiernan – Director of Regulation (Appointed 01/12/2020)

Members of the Commission
Mr John Saunders (Chair)
Mr. Ned Kelly
Ms. Rowena Mulcahy
Dr. Michael Drumm
Ms. Nicola Byrne
Dr. Margo Wrigley
Mr. Patrick Lynch
Dr. Francis Xavier Flanagan (Resigned 16/07/20)
Ms. Colette Nolan
Mr. Aaron Galbraith (Resigned 09/04/20)
Mr. Tómas Murphy
Dr. Jack Nagle
Dr. John Hillery (Appointed 02/11/20)

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Bankers
Allied Irish Bank
52 Upper Baggot Street
Dublin 4

Auditors
The Comptroller and Auditor General
3A Mayor Street Upper
Dublin 1

Solicitor
Byrne Wallace LLP
88 Harcourt Street
Dublin 2

Accountants
Crowleys DFK
16/17 College Green
Dublin 2

Ard Reachtaire Cuntas agus Ciste
Comptroller and Auditor General

Report for presentation to the Houses of the Oireachtas

Mental Health Commission

Qualified opinion on the financial statements

I have audited the financial statements of the Mental Health Commission for the year ended 31 December 2020 as required under the provisions of section 47 of the Mental Health Act 2001. The financial statements have been prepared in accordance with Financial Reporting Standard (FRS) 102 — *The Financial Reporting Standard applicable in the UK and the Republic of Ireland* and comprise

- the statement of income and expenditure and retained revenue reserves
- the statement of financial position
- the statement of cash flows and
- the related notes, including a summary of significant accounting policies.

In my opinion, except for the non-compliance with the requirements of FRS 102 in relation to retirement benefit entitlements referred to below, the financial statements give a true and fair view of the assets, liabilities and financial position of the Mental Health Commission at 31 December 2020 and of its income and expenditure for 2020 in accordance with FRS 102.

Basis for qualified opinion on financial statements

In compliance with the directions of the Minister for Health, the Mental Health Commission accounts for the costs of retirement benefit entitlements only as they become payable. This does not comply with FRS 102 which requires that the financial statements recognise the full cost of retirement benefit entitlements earned in the period and the accrued liability at the reporting date. The effect of the non-compliance on the Mental Health Commission's financial statements for 2020 has not been quantified.

I conducted my audit of the financial statements in accordance with the International Standards on Auditing (ISAs) as promulgated by the International Organisation of Supreme Audit Institutions. My responsibilities under those standards are described in the appendix to this report. I am independent of the Mental Health Commission and have fulfilled my other ethical responsibilities in accordance with the standards.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Report on information other than the financial statements, and on other matters

The Mental Health Commission has presented certain other information together with the financial statements. This comprises the governance statement and Commission members' report and the statement on internal control. My responsibilities to report in relation to such information, and on certain other matters upon which I report by exception, are described in the appendix to this report.

I have nothing to report in that regard.

John Crean
For and on behalf of the
Comptroller and Auditor General

29 June 2021

Appendix to the report

Responsibilities of Commission members

As detailed in the governance statement and Commission members' report, the Commission members are responsible for

- the preparation of financial statements in the form prescribed under section 47 of the Mental Health Act 2001
- ensuring that the financial statements give a true and fair view in accordance with FRS 102
- ensuring the regularity of transactions
- assessing whether the use of the going concern basis of accounting is appropriate, and
- such internal control as they determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Responsibilities of the Comptroller and Auditor General

I am required under section 47 of the Mental Health Act 2001 to audit the financial statements of the Mental Health Commission and to report thereon to the Houses of the Oireachtas.

My objective in carrying out the audit is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement due to fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with the ISAs, I exercise professional judgment and maintain professional scepticism throughout the audit. In doing so,

- I identify and assess the risks of material misstatement of the financial statements whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- I obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the internal controls.
- I evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures.
- I conclude on the appropriateness of the use of the going concern basis of accounting and, based on the audit evidence obtained, on whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Mental Health Commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my report. However, future events or conditions may cause the Mental Health Commission to cease to continue as a going concern.
- I evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Information other than the financial statements

My opinion on the financial statements does not cover the other information presented with those statements, and I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, I am required under the ISAs to read the other information presented and, in doing so, consider whether the other information is materially inconsistent with the financial statements or with knowledge obtained during the audit, or if it otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact.

Reporting on other matters

My audit is conducted by reference to the special considerations which attach to State bodies in relation to their management and operation. I report if I identify material matters relating to the manner in which public business has been conducted.

I seek to obtain evidence about the regularity of financial transactions in the course of audit. I report if I identify any material instance where public money has not been applied for the purposes intended or where transactions did not conform to the authorities governing them.

I also report by exception if, in my opinion,

- I have not received all the information and explanations I required for my audit, or
- the accounting records were not sufficient to permit the financial statements to be readily and properly audited, or
- the financial statements are not in agreement with the accounting records.

Governance Statement and Commission Members' Report

Governance

The Commission was established under the Mental Health Act 2001 (the 2001 Act). The functions of the Commission are set out in section 33 of this Act. The Commission is accountable to the Minister for Health and is responsible for ensuring good governance and performs this task by setting strategic objectives and targets and taking strategic decisions on all key business issues. The regular day-to-day management, control and direction of the Mental Health Commission are the responsibility of the Chief Executive (CE) and the Senior Leadership Team (SLT). The CE and the SLT must follow the broad strategic direction set by the Commission, and must ensure that all Commission members have a clear understanding of the key activities and decisions related to the entity, and of any significant risks likely to arise.

The Commission acts through, and its functions are performed in the name of the Commission, by the CE. The CE mandates and controls generally the administration and business of the Commission and such other (if any) functions as may be determined by the Commission.

The Commission's statutory functions were expanded on 30 December 2015 with the enactment of the Assisted Decision-Making (Capacity) Act 2015 (the 2015 Act). The Commission is responsible for the establishment of the Decision Support Service and for the appointment of the Director of the Decision Support Service.

The 2015 Act provides for the establishment of the Decision Support Service (DSS) within the Mental Health Commission. The DSS will support decision-making by and for adults with capacity difficulties and will regulate individuals who are providing support to people with capacity difficulties. The 2015 Act reforms Ireland's capacity legislation, which has been in place since the 19th century. It will establish a modern statutory framework to support decision-making.

Commission Responsibilities

The work and responsibilities of the Commission are set out in Mental Health Commission's Corporate Governance manual, which also contains the matters specifically reserved for the Commission's decisions. Matters specifically reserved to members of the Commission are: -

- To define the vision and strategic direction of the organisation.
- To ensure the organisation fulfils its statutory duties.
- To define the internal control mechanisms for the organisation to safeguard public resources.
- To monitor the overall management of the organisation.
- Adoption of the Commission's Strategic Plan, Annual Business Plan and Annual Budget.
- Approval of significant acquisitions, disposals and retirements of assets of the organisation.
- Approval of any borrowings by the Commission, subject to the approval of the Minister for Expenditure and Public Reform (Section 41 of the 2001 Act).
- Approval of annual report and other reports requested by the Minister (Section 42 of the 2001 Act).
- Approval of the annual financial statements.
- Appointment of the Finance, Audit and Risk Committee.
- Review of the organisation's system of internal controls.
- Appointment, remuneration and assessment of and succession planning for the Chief Executive.
- Significant amendments to the pension benefits of the Chief Executive and Staff.

Section 47 of the 2001 Act requires the Commission to keep, in such form as may be approved by the Minister for Health, all proper and usual accounts of money received and expended by it.

Governance Statement and Commission Members' Report (continued)

In preparing these financial statements, the Commission of the Mental Health Commission is required to:

- select suitable accounting policies and apply them consistently,
- make judgements and estimates that are reasonable and prudent,
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that it will continue in operation,
- and state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements.

The Commission is responsible for keeping adequate accounting records which disclose, with reasonable accuracy at any time, its financial position and enables it to ensure that the financial statements comply with Section 47 of the Mental Health Act 2001. The maintenance and integrity of the corporate and financial information on the Mental Health Commission's website is the responsibility of the Commission.

The Commission is responsible for approving the annual plan and budget. The 2020 annual plan and budget were approved on 18 June 2020.

The Commission is also responsible for safeguarding its assets and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Commission considers that the financial statements of the Mental Health Commission give a true and fair view of the financial performance and the financial position of the Mental Health Commission at 31 December 2020, except for the non-compliance with the requirements of FRS 102 in relation to retirement benefit entitlements, as directed by the Minister for Health.

Commission Structure

The Commission consists of a Chairperson, and 11 ordinary members, all of whom are appointed by the Minister for Health. The members of the Commission were appointed for a period of five years and meet at least 8 times a year. The table below details the appointment period for current members:

Commission Member	Role	Date Appointed
John Saunders	Chairperson	Reappointed 05/04/2017
Ned Kelly	Member	Reappointed 29/09/2017
Rowena Mulcahy	Member	Appointed 26/09/2017
Dr. Michael Drumm	Member	Appointed 05/04/2017
Nicola Byrne	Member	Appointed 05/04/2017
Dr. Margo Wrigley	Member	Appointed 05/04/2017
Patrick Lynch	Member	Appointed 05/04/2017
Colette Nolan	Member	Reappointed 05/04/2017
Tómas Murphy	Member	Appointed 22/01/2019
Dr. Jack Nagle	Member	Appointed 17/12/2019
Dr. John Hillery	Member	Appointed 01/11/2020

The Commission undertook an external evaluation, by the IPA, of their own performance in March 2020 as guided by the Code of Practice for the Governance of State Bodies (2016). A number of findings and recommendations were made, and the Commission decided on a set of actions designed to improve the effectiveness of the Commission and its Committees.

Governance Statement and Commission Members' Report (continued)

The Commission has established two committees, as follows:

1. **Finance, Audit and Risk Committee**: comprises three Commission members and four independent members. The role of the Finance, Audit and Risk Committee (FARC) is to support the Commission in relation to its responsibilities for issues of risk, control and governance and associated assurance. The FARC is independent from the financial management of the organisation. In particular, the Committee ensures that the internal control systems including audit activities are monitored actively and independently. The FARC reports to the Commission after each meeting, and formally in writing annually.
   The members of the Finance, Audit and Risk Committee are: Patrick Lynch (Chairperson), Mairead Dolan, Ciara Lynch, Kevin Roantree (appointed June 2020), Richard O'Farrell (appointed June 2020), Tómas Murphy and Nicola Byrne. There were four meetings of the FARC in 2020. The Chairman of the Commission is an ex officio member of the Finance, Audit and Risk Committee.

2. **Legislation Committee**: comprises three Commission members and two independent members. The members of this committee are: Rowena Mulcahy (Chairperson), Ned Kelly, Michael Drumm, Mary Donnelly and Teresa Blake. There were five meetings of the Legislation Committee in 2020.

Schedule of Attendance, Fees and Expenses

A schedule of attendance at the Commission and Committee meetings for 2020 is set out below including the fees and expenses received by each member:

	Commission	Audit & Risk Committee	Legislation Committee	Fees 2020 €	Expenses 2020 €
Number of meetings	**14**	**4**	**5**		
John Saunders	14	-	-	11,970	827
Ned Kelly	13	-	5	-	2,130
Rowena Mulcahy	14	-	5	7,695	-
Dr. Michael Drumm	14	-	5	-	-
Nicola Byrne	12	4	-	-	-
Dr. Margo Wrigley	11	-	-	7,695	-
Patrick Lynch	12	4	-	-	-
Dr. Xavier Flanagan	8/10	-	-	3,848	-
Colette Nolan	6	-	-	7,695	-
Jack Nagle	13	-	-	7,695	-
Aaron Galbraith	0/5	-	-	-	-
Tómas Murphy	12	4	-	-	773
Ciara Lynch	-	4	-	-	-
Moling Ryan	-	1/1	-	-	-
Kevin Roantree		2/2			
Richard O'Farrell		2/2			
Mary Donnelly	-	-	4	-	-
Mairead Dolan	-	4	-	-	-
Teresa Blake	-	-	5	-	-
Dr. John Hillery	2/2	-	-	1,283	-
				47,881	**3,730**

Six of the Commission members did not receive a Commission fee under the One Person One Salary (OPOS) principle. Commission meeting and conference costs of €4,471 (2019: €4,928) were incurred during the year.

Governance Statement and Commission Members' Report (continued)

Key Personnel Changes

The Commission appointed Gary Kiernan to the role of Director of Regulation. Mr. Kiernan took up this position on 01 December 2020.
Ms. Rosemary Smith retired from her role as Director of Standards and Quality Assurance on 03 September 2020.
Two Commission members resigned during the year; Aaron Galbraith resigned on 09 April 2020, while Dr. Francis Xavier Flanagan resigned on 16 July 2020. Dr. John Hillery was appointed to the Commission on 2 November 2020.

Disclosures Required by Code of Practice for the Governance of State Bodies (2016)

The Commission is responsible for ensuring that the Mental Health Commission has complied with the requirements of the Code of Practice for the Governance of State Bodies ("the Code"), as published by the Department of Public Expenditure and Reform in August 2016. The following disclosures are required by the Code.

Employee Short-Term Benefits Breakdown are disclosed in note 5 to the financial statements.

Consultancy Costs

Consultancy costs include the cost of external advice to management and exclude outsourced 'business-as-usual' functions.

	2020	2019
	€	€
Legal advice	**101,356**	89,390
Procurement	**-**	6,150
Leadership Program	**-**	42,743
Strategic Plan, business plan and performance metrics	**-**	7,486
Collaborative work with HIQA	**-**	13,389
DSS Business Analysis Project Management	**658,194**	861,157
ICT Advisory	**28,930**	-
Board Effectiveness Review	**16,600**	-
Total consultancy costs	**805,080**	1,020,315

Legal Costs and Settlements

The table below provides a breakdown of amounts recognised as expenditure in the reporting period in relation to legal costs, settlements and conciliation and arbitration proceedings relating to contracts with third parties. This does not include expenditure incurred in relation to general legal advice received by the Mental Health Commission which is disclosed in Consultancy costs above.

	2020	2019
	€	€
Legal fees - legal proceedings	**467,248**	627,127
Legal fees – legal aid scheme	**2,670,321**	2,946,684
Settlements	**6,193**	24,395
Total	**3,143,762**	3,598,206

Governance Statement and Commission Members' Report (continued)

Travel and Subsistence Expenditure

Travel and subsistence expenditure are categorised as follows:

	2020	2019
	€	€
Domestic		
- Commission	**3,730**	10,218
- Employees	**75,227**	126,671
International		
- Commission	**-**	-
- Employees	**1,724**	9,056
Total	**80,681**	145,945

Hospitality Expenditure

The Statement of Income and Expenditure and Retained Revenue Reserves includes the following hospitality expenditure:

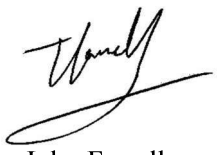
	2020	2019
	€	€
Commission / Staff hospitality	**2,585**	649
Total	**2,585**	649

No client hospitality related expenditure was incurred in 2020 (2019: nil).

Statement of Compliance

The Commission has adopted the Code of Practice for the Governance of State Bodies (revised 2016) and has put procedures in place to ensure compliance with the provisions of the Code. The Commission is in full compliance with the Code for 2020.

John Saunders
Chairperson
25th June 2021



John Farrelly
Chief Executive
25th June 2021

MENTAL HEALTH COMMISSION

Statement on Internal Control

Scope of Responsibility

As Chairperson, I acknowledge the Commission is responsible for the system of internal control. The Commission has delegated responsibility to the Chief Executive to deal with management and operational issues and to report to the Commission regularly.

Purpose of the System of Internal Control

The system can only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded and that material errors or irregularities are either prevented or would be detected in a timely manner.

Control Environment

The following steps have been taken to ensure an appropriate control environment:

- The Commission has a regular schedule of meetings (at least eight per annum) at which it is provided with regular updated reports of expenditure.

- A Finance, Audit and Risk Committee of the Commission has been established. The Committee's Terms of Reference are in accordance with the Code of Practice for the Governance of State Bodies (revised 2016) to include oversight on financial reporting, external and internal audits, risk management and internal controls.

- Management responsibilities are assigned, with corresponding accountability.

Risk and Control Framework

The Mental Health Commission has established processes to identify and evaluate financial and business risks by:

- Identifying the nature and extent of financial risks and business risks facing the Commission.

- Assessing the likelihood of identified risks occurring.

- Assessing the Mental Health Commission's ability to manage and mitigate the risks that do occur.

Statement on Internal Control (continued)

Impact of COVID-19 pandemic to the Control Environment

The onset of the COVID-19 pandemic in early 2020, and the resulting public health advise and safety measures, rapidly and fundamentally changed the working practices of the MHC with remote and virtual working becoming the norm for most MHC staff.

MHC has monitored the developments closely, looking to mitigate the risks that may affect the MHC's business operations, staff and stakeholders. Actions taken by the Commission includes: -

- Initiation of MHC's Business as Usual (BAU) model and transition the Commission's business operations to a remote working environment where most business processes can continue as normal.
- Continual assessment of significant risks pertaining to the COVID-19 pandemic and the agility of the MHC to respond effectively.
- Ensuring robust segregation of duties remains and adequate cover is in place should specific approving authorities be unavailable.
- Ensuring all existing data protection and records management policies and procedures continue to apply in the remote working environment and are monitored and reported on as normal.
- Ensuring that staff members access MHC's network using MHC's approved ICT equipment and that all staff members working remotely have been equipped with the necessary ICT equipment.
- Assessing on an ongoing basis the potential for weaknesses in internal controls resulting from COVID-19 and taking measures to monitor and update internal controls where necessary.
- Continual monitoring of the external environment and adhering to Public Health advice initially on the suspension of approved centre inspections and the subsequent resumption of inspections.
- Convening of Mental Health Tribunals by teleconference in place of face to face.

Ongoing Monitoring and Review

The system of internal control is based on a framework of regular management information, administrative procedures including segregation of duties, and a system of delegation and accountability. In particular it includes:

- Appropriate budgeting system with an annual budget, which is reviewed regularly by senior management.

- Regular review by senior management of periodic and annual financial reports, which indicate financial performance against forecasts.

- Regular senior management team meetings.

- Completion of an Internal Control Questionnaire (ICQ) by senior management to assess the effectiveness of the control environment in their respective areas of responsibility.

- Assessment of the C&AG guidance issued on "The impact of Covid-19 on your control environment (September 2020)."

- The Commission has an internal audit function which reports to the Finance, Audit and Risk Committee of the Commission. The internal audit function operates in accordance with the

Code of Practice for the Governance of State Bodies. The Commission's monitoring and review of effectiveness of the systems of internal control is informed by the work of the outsourced internal auditor and the Finance, Audit and Risk Committee.

Mechanisms for ensuring the adequacy of the security of the Information and Communication Technology (ICT) systems that include the establishment of appropriate policies and control procedures have been established.

The Mental Health Commission has a properly constituted internal audit function which reports to the Finance, Audit and Risk Committee. The internal audit function operates in accordance with the Code of Practice for the Governance of State Bodies. The Commission's monitoring and review of effectiveness of the systems of internal control is informed by the work of the outsourced internal auditor and the Finance, Audit and Risk Committee. The following internal audits were completed in 2020, as part of a 3-year internal audit plan:-

- Review of the Effectiveness of Internal Financial Controls (2019)
- Review of Risk Management Processes
- Review of Resource Planning and Deployment Processes

Two further internal audits were carried out during the year but not completed by 31 December 2020:

- Review of Procurement Processes
- Review of the Effectiveness of Internal Financial Controls (2020)

Procurement

I confirm that Mental Health Commission has procedures in place to ensure compliance with current procurement rules and guidelines. Matters arising regarding controls over procurement are highlighted below.

Review of Effectiveness

The Finance, Audit and Risk Committee have reviewed the Statement on Internal Control and the Commission to ensure it accurately reflects the control system in operation during the reporting period.

I confirm that the Commission conducted an annual review of the effectiveness of the internal controls for 2020 and this was signed off by the Commission in March 2021.

The Commission is of the opinion that reasonable assurance can be placed on the effectiveness of the system of internal controls instituted and implemented for the financial year ended 31 December 2020.

MENTAL HEALTH COMMISSION

Internal Control Issues

Internal Control Issues	Mitigating actions
1. Review of Risk Management Processes During 2020, a review of risk management processes was conducted by the Internal Auditor. Three findings of importance were identified during the audit, as follows: 1. Business continuity 2. Enhancements to risk management framework and reporting 3. Risk management training	In response to addressing the findings identified, the Commission took the following actions: 1. Whilst the Commission successfully migrated all staff to remote working during Covid-19, an updated Business Continuity Plan will be developed and tested annually. 2. The Commission tendered for and awarded a contract to a third party to conduct a review of the risk management framework in the Commission including an update to the risk register. 3. Risk management training has been provided to the senior management, Commission members and all other staff involved in risk management.
2. Review of Resource Planning and Deployment During 2020, a review of resource planning and deployment processes was conducted by the Internal Auditor. Two findings of importance were identified during the audit, as follows: 1. Succession planning and contingency arrangements 2. Training plan	In response to addressing the findings identified, the Commission took the following actions: 1. An analysis of all critical posts in the Commission has taken place for the roles identified to (i) ensure job descriptions are accurate and reflective of all duties carried out by the current post holder, (ii) devise a matrix setting out a contingency plan to address absences from work in those roles. 2. The HR department continues to monitor training needs of staff per the PMDS process or by direct requests from staff and approved by the line manager. A formal organisation wide training plan that will coincide with the academic year is under development for 2021.

3. Review of Procurement Processes During 2020, a review of procurement processes was conducted by the Internal Auditor. Two findings of importance were identified during the audit, as follows: 1. Service level Agreements 2. Procedures and reporting relating to sole suppliers	In response to addressing the findings identified, the Commission took the following actions: 1. The MHC will ensure that executed contracts/service level agreements are in place for all suppliers as per the finding. 2. The Procurement Policy will be updated to include separate approval levels for contracting with sole suppliers. The Procurement and Contracts manager will notify the Chief Operations Officer of all instances of non-compliance with the policy who will in turn notify the Senior Leadership Team and the FARC.
4. Internal Financial Controls During 2020, a review of internal financial controls was conducted by the Internal Auditor. Two findings of importance were identified during the audit, as follows: 1. Fixed Assets 2. Approval of Payroll	In response to addressing the findings identified, the Commission took the following actions: 1. An audit of fixed assets was completed in December 2020 that identified and tagged all existing assets and then agreed to the asset register. All other assets on the register were written off in line with the assets policy. 2. The payroll policy has been updated to include the Chief Operations Officer as the backup approver of all payroll amendments in the absence of the Finance Manager.
5. Data Breaches There were three data breaches reported to the Data Protection Commissioner during 2020. The breaches were a result of changes to the mental health tribunal process because of Covid-19.	The Mental Health Tribunals team took measures to limit the number of data incidents during 2020 due to the changes in the holding of tribunals because of Covid-19: 1. Pre-approved all relevant changes to our Guidance documents with our Data Protection Officer (DPO) 2. Pre-approved all relevant changes to our procedures with our DPO 3. Ensure direct referrals to our DPO on all matters 4. Spreadsheet of team related incidents 5. Spreadsheet of approved centre, panel member or RCPS incidents

6. Update on 2019 Statement on Internal Control The 2019 Statement on Internal Control highlighted some areas that required further work by the MHC to ensure it addressed any weaknesses in its internal control. These are as follows: 1. Review of Compliance with the Code of Practice 2. IT Governance 3. Procurement Issues	The MHC took the following steps to address these issues: 1. The MHC addressed all five findings noted in the Review of Compliance with the Code of Practice. 2. The MHC considered the five findings noted in the IT Governance review and an ICT Strategy is currently being developed. 3. Four legacy procurement issues identified in 2019 have been resolved.

Signed

John Saunders
Chairperson
25th June 2021

MENTAL HEALTH COMMISSION

Statement of Income and Expenditure and Retained Revenue Reserves
For the year ended 31 December 2020

	Notes	2020 €	2019 €
Income			
Grant income	2	**17,093,940**	17,125,959
Superannuation contributions	3	**59,841**	61,315
		17,153,781	17,187,274
Expenditure			
Commission Costs	4	**56,081**	68,929
Staff Costs	5	**5,139,903**	4,590,606
Mental Health Tribunals	7	**7,525,141**	8,566,782
Upkeep and Overheads	8	**778,514**	784,998
General Expenses	9	**2,481,663**	2,796,901
Depreciation	11	**89,551**	89,818
		16,070,853	16,898,034
Surplus for the year before appropriations		**1,082,928**	289,240
Transfer (to) / from capital account	15	**(837,198)**	37,836
Surplus for the year after appropriations		**245,730**	327,076
Balance brought forward 1 January		**400,483**	73,407
Balance carried forward at 31 December		**646,213**	400,483

The Statement of Income and Expenditure and Retained Revenue Reserves includes all gains and losses recognised in the year.

The Statement of Cash Flows and notes 1-20 form part of these financial statements.

On behalf of the Commission

John Saunders
Chairperson
25th June 2021

John Farrelly
Chief Executive
25th June 2021

MENTAL HEALTH COMMISSION

Statement of Financial Position
As at 31 December 2020

	Notes	2020	2019
		€	€
Fixed Assets			
Property, Plant and Equipment	11	**205,792**	178,176
Assets under development	12	**809,582**	-
		1,015,374	178,176
Current assets			
Cash and cash equivalents		**1,469,971**	1,060,175
Receivables and prepayments	13	**482,431**	345,613
		1,952,402	1,405,788
Current Liabilities			
Amounts Falling Due Within 1 Year			
Payables and accruals	14	**(1,306,189)**	(1,005,305)
Net Current Assets		**646,213**	400,483
Total Assets less current liabilities		**1,661,587**	578,659
Net Assets		**1,661,587**	578,659
Reserves			
Statement of Income and Expenditure		**646,213**	400,483
Capital Account	15	**1,015,374**	178,176
		1,661,587	578,659

The Statement of Cash Flows and notes 1-20 form part of these financial statements.

On behalf of the Commission

John Saunders
Chairperson
25th June 2021

John Farrelly
Chief Executive
25th June 2021

MENTAL HEALTH COMMISSION

Statement of Cash Flows
For the year ended 31 December 2020

	Note	2020	2019
		€	€
Net Cash Flow from Operating Activities			
Excess income over expenditure		**1,082,928**	289,240
Depreciation charge	11	**89,551**	89,818
(Increase) / Decrease in receivables		**(136,818)**	16,177
Increase / (Decrease) in payables		**300,884**	(138,725)
Loss / (Gain) on disposal of fixed assets		**-**	-
Net Cash Inflow / (Outflow) from Operating Activities		**1,336,545**	256,510
Net Cash flows from investing activities			
Amounted allocated to fund asset additions	15	**(926,749)**	(51,982)
Disposal of assets		**-**	-
Net Cash Flow from Investing Activities		**(926,749)**	(51,982)
Increase / (Decrease) in Cash and Cash Equivalents		**409,796**	204,528
Cash at bank 1 January		**1,060,175**	855,647
Cash at bank 31 December		**1,469,971**	1,060,175

On behalf of the Commission

John Saunders
Chairperson
25th June 2021

John Farrelly
Chief Executive
25th June 2021

Notes to the financial statements
For the year ended 31 December 2020

1. Accounting Policies

a) General

The Mental Health Commission was established by the Minister for Health on 5 April 2002 under Section 32 of the Mental Health Act, 2001 with a head office at Waterloo Exchange, Waterloo Road, Dublin 4.

The principal functions of the Commission, as specified in the Act, are to promote, encourage and foster the establishment and maintenance of high standards and good practices in the delivery of mental health services and to take all reasonable steps to protect the interests of persons detained in approved centres.

The Commission undertakes the following activities:

- Appointing persons to mental health tribunals to review the detention of involuntary service users and appointing a legal representative for each service user.
- Establishing and maintaining a Register of Approved Centres.
- Inspecting approved centres and other mental health services.
- Making rules regulating the use of specific treatments and interventions as specified in the Mental Health Act 2001; and
- Developing codes of practice to guide people working in mental health services.

The Assisted Decision Making (Capacity) Act 2015 was enacted on the 30 December 2015. When commenced in full, the legislation will confer additional statutory functions on the Mental Health Commission.

The Commission is also empowered to undertake such activities, as it deems appropriate to foster and promote these standard and practices.

b) Statement of Compliance

The financial statements of the Mental Health Commission for the year ended 31 December 2020 have been prepared in accordance with FRS 102 (the financial reporting standard applicable in the UK and Ireland issued by the Financial Reporting Council, as promulgated by Chartered Accountants Ireland) with the exception of Section 28 Employee Benefits - (See Accounting Policy H).

c) Basis of Preparation

The financial statements are prepared under the historical cost convention, except as indicated below. The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the Mental Health Commission's financial statements.

The financial statements are prepared in Euro which is the functional currency of the Commission.

d) Period of Account

The financial statements relate to the year ended 31 December 2020.

Accounting Policies (continued)

e) Income

State Grant
Income shown in the financial statements under State Grants represents the amount received, including capital grants, in the period.

Other Income
Superannuation contributions from staff represents the actual receipts in the period.

f) Tangible Assets and Depreciation

Tangible assets are stated at their historical cost less accumulated depreciation. Depreciation is charged to the Statement of Income and Expenditure on a straight line basis, at the rates set out below, so as to write off the assets, adjusted for residual value, per their expected useful lives as follows:

IT Equipment	Straight-line over 3 years
Office Equipment	Straight-line over 5 years
Furniture and Fittings	Straight-line over 10 years
Leasehold Improvements	Straight-line over 8 years

The residual value and useful lives of fixed assets are considered annually for indicators that these may have changed. Where such indicators are present, a review will be carried out of the residual value, depreciation methods and useful lives, and these will be amended if necessary. Changes in depreciation rates arising from this review are accounted for prospectively over the remaining useful lives of the assets.

g) Capital Account

The capital account balance represents the unamortised value of funds used for the purchase of fixed assets.

Accounting Policies (continued)

h) Employee Benefits

Short-term Benefits
Short-term benefits such as holiday pay are recognised as an expense in the year, and benefits that are accrued at year-end are included in the Payables figure in the Statement of Financial Position.

Retirement Benefits
The Commission had submitted a superannuation scheme for approval by the Department of Health regarding pension arrangements as per Section 40 of the Mental Health Act 2001. In 2017 the scheme was approved.

The Public Service (Single Scheme and Other Provisions) Act 2012 became law on 28th July 2012 and introduced the new Single Public Service Pension Scheme ("Single Scheme") which commenced with effect from 1st January 2013. All new staff members to the Mental Health Commission, who are new entrants to the Public Sector, on or after 1st January 2013 are members of the Single Scheme.

In accordance with the direction of the Minister for Health, pensions are accounted for on a 'pay as-you go' basis. The provisions of FRS 102 'Section 28: Employee Benefits' are not applied and the liability for future pension benefits accrued in the year has not been recognised in the financial statements.

i) Receivables

Receivables are recognised at fair value, less a provision for doubtful debts. The provision for doubtful debts is a specific provision and is established when there is objective evidence that the Mental Health Commission will not be able to collect all amounts owed to it. All movements in the provision for doubtful debts are recognised in the Statement of Income and Expenditure and Retained Revenue Reserves.

j) Payables

Trade creditors are measured at invoice price, unless payment is deferred beyond normal business terms or is financed at a rate of interest that is not market rate. In this case the arrangement constitutes a financing transaction, and the financial liability is measured at the present value of future payments discounted at a market rate of interest for a similar debt instrument.

k) Contingencies

Contingent liabilities, arising as a result of past events, are not recognised when (i) it is not probable that there will be an outflow of resources or that the amount cannot be reliably measured at the reporting date or (ii) when the existence will be confirmed by the occurrence or non-occurrence of uncertain future events not wholly within the Commission's control. Contingent liabilities are disclosed in the financial statements unless the probability of an outflow or resources is remote.

Contingent assets are not recognised. Contingent assets are disclosed in the financial statements when an inflow of economic benefits is probable.

Accounting Policies (continued)

l) Critical Accounting Judgements and Estimates

The preparation of the financial statements requires management to make judgements, estimates and assumptions that affect the amounts reported for assets and liabilities as at the statement of financial position date and the amounts reported for revenues and expenses during the year. However, the nature of estimation means that actual outcomes could differ from those estimates. There were no judgements required that had a significant effect on amounts recognised in the financial statements for 2020.

m) Operating Lease

Rental expenditure under operating leases is recognised in the Statement of Income and Expenditure and Retained Revenue Reserves over the life of the lease. Expenditure is recognised on a straight-line basis over the lease period, except where there are rental increases linked to the expected rate of inflation, in which case these increases are recognised when incurred. Any lease incentives received are recognised over the life of the lease.

2. State Grant

	2020	2019
	€	€
Department of Health (Vote 38 Subhead E1)	**13,800,000**	14,400,000
Department of Health – (ICT Capital Grant)	**33,940**	25,959
Department of Justice (Vote 24 Subhead D10)	**1,800,000**	2,700,000
Department of Children, Equality, Disability, Integration and Youth (Vote 40, Subhead D9)	**1,460,000**	-
	17,093,940	17,125,959

3. Superannuation Contributions

By agreement with the funding Departments, the Commission retains superannuation contributions payable by staff who are members of the model superannuation scheme. This is recognised as income in the financial statements. The amounts payable in the year are recognised as income in that year. The €59,841 brought to account in 2020 is in respect of deductions made in the accounting year. The €61,315 brought to account in 2019 is in respect of deductions made in 2019.

Employee contributions under the Single Scheme are remitted to the Department of Public Expenditure and Reform.

The Public Service Pay and Pensions Act introduced an "additional superannuation contribution" payable by all staff. These salary deductions are not retained but are remitted to the Department of Health as required.

4. Commission Costs

	2020	**2019**
	€	**€**
Chairperson's stipend	**11,970**	11,969
Commission member fees	**35,910**	41,814
Commission meetings and conference costs	**4,471**	4,928
Travel and Subsistence	**3,730**	10,218
	56,081	68,929

5. Staff Costs

	2020	2019
	€	€
Salaries and wages	**4,411,468**	3,917,909
Agency Personnel	**593,662**	452,158
Travel and Subsistence – Domestic	**75,227**	126,671
Travel and Subsistence – Foreign	**1,724**	9,056
Staff training and CPD	**57,822**	84,812
	5,139,903	4,590,606
Average number of employees	**74**	70

WTE's at 31 December	**78**	67

Additional superannuation contributions were deducted in line with statutory requirements. €92,554 of additional superannuation contributions have been deducted in 2020 and paid over to the Department of Health (2019: €117,340). There were no termination payments or overtime payments made in the year. Key management personnel remuneration is disclosed in note 17 to the financial statements.

Employee benefits breakdown

Employees' short-term benefits in excess of €60,000 are categorised into the following bands:

Range of total employee benefits			**Number of Employees**	
From		**To**	**2020**	**2019**
€60,000	-	€69,999	11	11
€70,000	-	€79,999	4	1
€80,000	-	€89,999	2	1
€90,000	-	€99,999	-	-
€100,000	-	€109,999	1	2
€110,000	-	€119,999	1	-
€120,000	-	€129,999	1	1
€130,000	-	€139,999	-	1
€140,000	-	€149,999	1	-
€150,000	-	€159,999	-	-
€160,000	-	€169,999	-	-
€170,000	-	€179,999	-	-
€180,000	-	€189,999	-	-
€190,000	-	€199,999	-	-
€200,000	-	€209,999	-	-
€210,000	-	€219,999	-	-
€220,000	-	€229,999	-	-
€230,000	-	€239,999	-	-
€240,000	-	€249,999	-	1
€250,000	-	€259,999	1	-
Total			**22**	**18**

Note: For the purposes of this disclosure, short-term employee benefits in relation to services rendered during the reporting period include salary, overtime allowances and other payments on behalf of the employee but exclude employer's PRSI.

6. Chief Executive's Remuneration	2020	2019
	€	€
Chief Executive's annual basic salary:		
Chief Executive	**147,266**	137,540
All-in cost of the Chief Executives' total remuneration (incl superannuation)	**147,266**	137,540

The Chief Executive's pension entitlements do not extend beyond the standard entitlement in the model public sector defined benefit superannuation scheme.

7. Mental Health Tribunals	2020	2019
	€	€
Fees to Panel Members		
Chairpersons' Fees	**1,317,654**	1,349,635
Lay Members' Fees	**656,371**	684,808
Consultant Psychiatrists' Fees - Commission	**869,536**	929,676
Consultant Psychiatrists' Fees – Independent	**1,469,749**	1,499,052
Legal Representatives' Fees	**2,664,228**	2,946,684
Legal Representatives' Fees - Circuit court appeals *	**319,774**	327,084
Other Costs		
Travel and subsistence	**168,682**	578,261
Other costs	**53,527**	67,431
Costs Associated with Recruitment of New Panels	**-**	171,149
Training associated with the Mental Health Act	**5,620**	13,002
	7,525,141	8,566,782

*These include fees paid to the patients' legal representative only.

8. Upkeep and Overheads	2020	2019
	€	€
Repairs and maintenance	**12,486**	17,482
Rent, rates and service charges	**764,204**	764,256
Insurance	**1,824**	3,260
	778,514	784,998

Notes to the financial statements
For the year ended 31 December 2020

9. General Expenses	2020	2019
	€	€
Telephone	**127,326**	78,566
Light and heat	**17,037**	26,379
Printing, postage, stationery and storage	**48,396**	104,664
Taxi and courier	**9,030**	2,736
Recruitment costs	**127,507**	155,729
Accountancy and internal audit	**165,085**	165,900
Audit fees	**17,600**	18,000
Bank charges	**1,247**	1,407
IT technical support	**387,103**	314,015
IT development costs	**287,024**	245,580
Advertising to include recruitment	**-**	12,482
Library publications and reference material	**18,092**	23,181
Subscriptions	**16,862**	15,459
Cleaning	**6,392**	17,706
Pension and human resources	**5,756**	5,572
Strategic plan, business plan and performance metrics	**-**	7,486
Collaborative work with HIQA	**-**	13,389
Leadership Programme	**-**	42,743
Procurement Evaluation	**-**	6,150
DSS Business Analysis Project Management	**658,194**	861,157
Legal fees general	**101,356**	89,390
High Court – Solicitor	**144,712**	275,412
High Court - Counsel	**2,762**	24,631
Publications expenses	**6,160**	4,772
Conference, room hire and seminar expenses	**2,922**	24,449
Hospitality expenses	**2,585**	649
Health & Safety	**-**	6,855
Licenses	**98,672**	74,297
GDPR Services	**923**	18,512
Communications and media	**96,414**	58,880
Insurance	**51,923**	40,578
General office expenses	**30,748**	25,031
Quality Framework Review	**-**	35,145
ICT Advisory	**28,930**	-
Board Effectiveness Review	**16,600**	-
Covid-19	**4,305**	-
	2,481,663	2,796,901

10. Decision Support Service

	2020 €	2019 €
Income		
Department of Justice	1,800,000	2,700,000
Department of Children, Equality, Disability, Integration and Youth	1,460,000	-
	3,260,000	**2,700,000**
Expenditure		
Pay		
Salaries and Wages	1,355,588	1,164,319
	1,355,588	**1,164,319**
Non-Pay		
Telephone	38,764	21,917
Light and Heat	5,036	7,468
Printing, postage, stationery and storage	552	6,150
Taxi and courier	-	409
Recruitment costs	47,333	43,331
Accountancy and audit	33,224	31,888
Bank charges	35	45
IT technical support	60,838	95,211
IT development costs	10,675	3,875
Cleaning	1,888	5,207
Rent, rates and service charges	220,954	220,969
Subscriptions and licenses	30,703	22,571
Travel and subsistence	5,488	7,231
Catering	-	689
Library publications and reference material	6,616	5,817
Legal fees general	21,060	8,848
DSS Business Analysis Project Management	658,194	861,156
Conference and Seminar expenses	-	15,437
Staff training	19,264	33,573
Insurance	15,671	13,315
General office expenses	4,752	4,293
Depreciation	13,348	3,488
Communication & Media	21,232	24,014
Health & Safety	-	892
GDPR Services	-	11,070
Strategic Plan	-	2,202
Procurement Evaluation	-	6,150
Leadership Programme	-	38,618
	1,215,627	**1,495,834**
Total DSS related expenditure	2,571,215	2,660,153
Transfer (to) / from capital account	(845,537)	3,488
(Deficit)/Surplus for the year	**(156,752)**	**43,335**

11. Property, Plant and Equipment

	Furniture and Fittings	Office Equipment	IT Equipment	Leasehold Improvements	Total
	€	€	€	€	€
Cost					
At 1 January 2020	324,534	65,148	592,560	207,456	1,189,698
Additions	48,672	6,536	61,959	-	117,167
Disposals	-	-	(282,938)	-	(282,938)
At 31 December 2020	373,206	71,684	371,581	207,456	1,023,927
Depreciation					
At 1 January 2020	291,429	61,041	535,152	123,900	1,011,522
Charge for the period	15,044	2,302	49,154	23,051	89,551
Disposals	-	-	(282,938)	-	(282,938)
At 31 December 2020	306,473	63,343	301,368	146,951	818,135
Net Book Value					
At 31 December 2020	**66,733**	**8,341**	**70,213**	**60,505**	**205,792**
At 31 December 2019	33,105	4,107	57,408	83,556	178,176

12. Assets Under Development

	2020 €	2020 €
Cost		**Total**
As at 1 January 2020	-	-
Additions	809,582	809,582
Disposals	(-)	(-)
At 31 December 2020	809,582	**809,582**

The asset under development relates to the implementation of an ICT system to support the establishment of the Decision Support Service by the MHC. The funding and the associated expenditure for the system has been drawn down from the income provided under note 10 above.
Development costs of the asset are capitalised as they are incurred. Depreciation of the asset will not commence until the asset is in use.

13. Receivables and Prepayments

	2020	2019
	€	€
Prepayments	**480,188**	345,613
Receivables	**2,243**	-
	482,431	345,613

The fair value of debtors and prepayments approximate to their carrying amounts. All debtors are due within one year. Debtors are shown net of impairment in respect of doubtful debts.

14. Payables and Accruals

	2020	2019
	€	€
Creditors	**83,733**	222,747
PAYE/PRSI	**223,217**	234,330
Accruals	**815,801**	392,405
Withholding tax	**182,269**	134,864
Other creditors	**181**	19,607
VAT	**988**	1,352
	1,306,189	1,005,305

Tax and social insurance are subject to the terms of the relevant legislation. Interest accrues on late payment. No interest was due at the financial year end. The terms of accruals are based on the underlying contracts. Other amounts included within creditors not covered by specific note disclosures are unsecured, interest free and repayable on demand.

15. Capital Account

	2020	2019
	€	€
As at 1st January	**178,176**	216,012
Funds allocated to acquire fixed assets	**117,167**	51,982
Funds allocated to development of assets	**809,582**	
Amount amortised in line with asset depreciation	**(89,551)**	(89,818)
Amount released on disposal of assets	**-**	-
Amount released from / (to) statement of income and expenditure	**837,198**	(37,836)
As at 31st December	**1,015,374**	178,176

In accordance with accounting policy, Government grants are recognised based on actual receipts. The element of these grants which are for the purchase of tangible assets and to development of assets are recognised over the useful life of the assets. There are no unfulfilled conditions or contingencies attaching to these grants.

16. Operating Lease

The Mental Health Commission has commitments in respect of a lease on office accommodation at Waterloo Exchange, Waterloo Road. This lease is held by the Office of Public Works for a period of 25 years which commenced in 1997 and will expire in May 2022. The annual rent payable is €636,300 and annual service charges payable are €109,197.

Lease Commitments
Commitments in respect of this lease including service charges are as follows:

	As at 31 December 2020	As at 31 December 2019
	€	€
Under 1 year	**751,289**	751,342
Between 2 – 5 years	**263,466**	1,016,885
Over 5 years	**-**	-
	1,014,755	1,768,227

During 2020, the OPW charged a full year of the service charges at €114,989 (2019: €115,042)

17. Related Party Disclosures

Key management personnel in the Mental Health Commission consist of the Chief Executive, senior management and members of the Commission. Total compensation paid to key management personnel, including commission members' fees and expenses and total CE remuneration, amounted to €948,589 (2019: €914,971).

The Commission has adopted procedures in accordance with the guidelines issued by the Department of Public Expenditure and Reform in relation to the disclosure of interests by Commission Members and these procedures have been adhered to in the year. There were no transactions in the year in relation to the Commission's activities in which a Commission Member had any beneficial interest.

18. Capital Commitments

During 2020, the Commission entered a contract with a third party to provide a computerised ICT system to support the establishment of the Decision Support Service within the Commission. The total fixed price of the contract is €3,630,960 inclusive of VAT. At the 31 December 2020 €809,582 has been paid. The remaining expenditure will be expended in 2021 and 2022.

19. Contingent Liabilities

The Commission is involved in a number of legal cases at the financial year end. The Commission is unable to reliably estimate the potential financial impact of these cases.

20. Approval of financial statements

The financial statements were approved by the Commission at its meeting on 25 June 2021.