

# Mental Welfare Commission for Scotland

2018/19 Annual Audit Report to the  
Board and the Auditor General for  
Scotland

June 2019





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# 1. Key messages

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## Annual accounts audit

All key financial targets were met in 2018/19. The Commission achieved a saving against its revenue resource limit of £53,000 and a saving against its capital resource limit of £12,000. The National Confidential Forum (NCF) has reported a saving of £94,000 against a revenue resource allocation of £882,000. An independent review of learning and disability and autism in the Mental Health Act is being hosted by the Commission. In 2018/19, the review spent £144,000 against an allocation of £189,000.

The annual report and accounts were approved by the Board on 25 June 2019. Our independent auditor's report includes an unqualified opinion on the annual accounts, regularity and on other prescribed matters.

Our thanks go to management and staff at the Commission for their assistance with our work.

## Wider scope audit

As outlined in our External Audit Plan, our annual audit work in respect of our wider scope audit responsibilities was restricted to:

- Audit work to allow conclusions to be made on the appropriateness of the disclosures in the Annual Governance Statement; and
- Consideration of the financial sustainability of the organisation and the services that it delivers over the medium and longer term.

Our conclusions and key observations are set out below:



### Governance statement

- We have reviewed the Annual Governance Statement and have found that it is consistent with the financial statements and has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers.
- The Commission has appropriate systems in place to record, process, summarise and report financial and other relevant data. We have not identified any significant weaknesses or governance issues in the Commission's accounting and internal control systems.



### Financial sustainability

- The Commission has appropriate arrangements in place to develop a financial framework for achieving long term financial sustainability. The Commission has developed three year budget 2018/19 to 2020/21. Preparations have been made for a three year budget for the period commencing 2019/20 however the Commission is awaiting clarification from the Scottish Government over future funding before this will be presented to the Board.
- We did however note that the financial planning process does not currently include consideration of NCF. As there is now certainty over the future of NCF, medium term financial forecasts should also be developed.

## Conclusion

This report concludes our audit for 2018/19. Our work has been performed in accordance with the Audit Scotland Code of Audit Practice, International Standards on Auditing (UK) and Ethical Standards.



## 2. Introduction

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**This report is presented to those charged with governance and the Auditor General for Scotland and concludes our audit of the Mental Welfare Commission for Scotland for 2018/19.**

**We carry out our audit in accordance with Audit Scotland’s Code of Audit Practice (May 2016). This report also fulfils the requirements of International Standards on Auditing (UK) 260: Communication with those charged with governance.**

**The Audit, Risk and Information Governance Committee has been designated as “those charged with governance”.**

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## Introduction

1. This report summarises the findings from our 2018/19 audit of the Mental Welfare Commission for Scotland (“the Commission”).
2. We outlined the scope of our audit in our External Audit Plan, which we presented to the Audit, Risk and Information Governance Committee at the outset of our audit. The core elements of our work include:
  - an audit of the 2018/19 annual report and accounts and related matters;
  - consideration of the Commission’s arrangements against the audit dimensions within the Code of Audit Practice (Exhibit 1); and
  - any other work requested by Audit Scotland.

### Exhibit 1: Audit dimensions within the Code of Audit Practice



3. The Commission is responsible for preparing an annual report and accounts which show a true and fair view and for implementing appropriate internal control systems. The weaknesses or risks identified are only those that have come to our attention during our normal audit work, and may not be all that exist. Communication in this report of matters arising from the audit of the annual report and accounts or of risks or weaknesses does not absolve management from its responsibility to address the issues raised and to maintain an adequate system of control.
4. The report contains an action plan with specific recommendations, responsible officers and dates for implementation. Senior management should assess these recommendations and consider their wider implications before deciding on appropriate actions. We give each recommendation a grading to help the Commission assess their significance and prioritise the actions required.
5. We discussed and agreed the content of this report with the Head of Corporate Services. We would like to thank all management and staff for their co-operation and assistance during our audit.

### Confirmation of independence

6. International Standards on Auditing in the UK (ISAs (UK)) require us to communicate on a timely basis all facts and matters that may have a bearing on our independence.
7. We confirm that we will comply with the Financial Reporting Council’s (FRC) Revised Ethical Standard (June 2016). In our professional judgement, the audit process is independent and our objectivity has not been compromised in any way.
8. We set out in Appendix 1 our assessment and confirmation of independence.



## Adding value through the audit

9. All of our clients demand of us a positive contribution to meeting their ever-changing business needs. Our aim is to add value to the Commission through our external audit work by being constructive and forward looking, by identifying areas of improvement and by recommending and encouraging good practice. In this way, we aim to help the Commission promote improved standards of governance, better management and decision making and more effective use of resources.

## Feedback

10. Any comments you may have on the service we provide, the quality of our work and our reports would be greatly appreciated at any time. Comments can be reported directly to the audit team or through our online survey: [www.surveymonkey.co.uk/r/S2SPZBX](http://www.surveymonkey.co.uk/r/S2SPZBX)
11. This report is addressed to the Commission's Board and the Auditor General for Scotland and it will be published on Audit Scotland's website [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk).



# 3. Annual report and accounts

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**The Commission's annual report and accounts are the principal means of accounting for the stewardship of its resources and its performance in the use of those resources.**

**In this section we summarise the findings from our audit of the 2018/19 annual report and accounts.**

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# Annual report and accounts

## An unqualified audit opinion on the annual report and accounts

The annual report and accounts for the year ended 31 March 2019 were approved by the Board on 25 June 2019. We have reported unqualified audit opinions within our independent auditor's report.

### Overall conclusion

#### An unqualified audit opinion on the annual report and accounts

12. The annual report and accounts for the year ended 31 March 2019 were considered by the Audit, Risk and Information Governance Committee on 17 June 2019 and approved by the Commission's Board on 25 June 2019. We report within our independent auditor's report:
  - An unqualified opinion on the financial statements;
  - An unqualified opinion on regularity; and
  - An unqualified opinion on other prescribed matters.
13. We are also satisfied that there were no matters which we are required to report by exception.

#### Administrative processes for the audit

14. We received the unaudited annual report and accounts and supporting papers of an acceptable standard. However full draft statutory accounts incorporating were not made available to us at the outset of our audit. We intend to meet with management following the completion of the audit process to identify improvements for 2019/20.
15. The annual report and accounts were submitted to the Scottish Government and Auditor General for Scotland by the 30 June 2019 deadline.
16. Our thanks go to staff at the Commission for their assistance with our work.

### Our assessment of risks of material misstatement

17. The assessed risks of material misstatement described in Exhibit 2 are those that had the greatest effect on our audit strategy, the allocation of resources in the audit and directing the efforts of the audit team. Our audit procedures relating to these matters were designed in the context of our audit of the annual report and accounts as a whole, and not to express an opinion on individual accounts or disclosures. Our opinion on the annual report and accounts is not modified with respect to any of the risks described in Exhibit 2.



## Exhibit 2 – Our assessment of risks of material misstatement and how the scope of our audit responded to those risks

### 1. Management override

In any organisation, there exists a risk that management has the ability to process transactions or make adjustments to the financial records outside the normal financial control processes. Such issues could lead to a material misstatement in the financial statements. This is treated as a presumed risk area in accordance with ISA (UK) 240 - *The auditor's responsibilities relating to fraud in an audit of financial statements*.

*Excerpt from the 2018/19 External Audit Plan*

18. We have not identified any indications of management override in the year. We have reviewed the Commission's accounting records and obtained evidence to ensure that transactions outside the normal course of business were valid and accounted for correctly. We have also reviewed management estimates and the journal entries processed in the period and around the year end. We did not identify any areas of bias in key judgements made by management and judgements were consistent with prior years.

### 2. Revenue recognition

Under ISA (UK) 240- *The auditor's responsibilities relating to fraud in an audit of financial statements* there is a presumed risk of fraud in relation to revenue recognition. The presumption is that the Commission could adopt accounting policies or recognise revenue transactions in such a way as to lead to a material misstatement in the reported financial position.

*Excerpt from the 2018/19 External Audit Plan*

19. At the planning stage of our audit cycle, we reported that we did not believe the risk of fraud in revenue recognition was material to the annual accounts and we therefore rebutted this risk. The Commission does not undertake any income generating activities; funding from the Scottish Government is their only source of income. This position has been reviewed throughout the audit and the conclusion has remained appropriate.

### 3. Risk of fraud in the recognition of expenditure

In 2016, the Public Audit Forum issued Practice Note 10 "The Audit of Public Sector Financial Statements" which applies to the audit of public sector financial statements for periods commencing after June 2016. This Practice Note recognises that most public sector bodies are net spending bodies and notes that there is an increased risk of material misstatement due to improper recognition of expenditure.

*Excerpt from the 2018/19 External Audit Plan*

20. While we did not suspect incidences of material fraud and error, we evaluated each type of expenditure transaction and documented our conclusions. We have gained reasonable assurance on the completeness and occurrence of expenditure and are satisfied that expenditure is fairly stated in the annual accounts. To inform our conclusion, we carried out testing to confirm that Commission's policy for recognising expenditure is appropriate and has been applied consistently throughout the year.



## Our application of materiality

21. The assessment of what is material is a matter of professional judgement and involves considering both the amount and the nature of the misstatement. This means that different materiality levels will be applied to different elements of the financial statements.
22. Our initial assessment of materiality for the annual accounts was £69,500. On receipt of the 2018/19 draft accounts, we reassessed materiality and reset it to £72,900. We consider that our updated assessment has remained appropriate throughout our audit.
23. Our assessment of materiality is set with reference to the revenue resource limit. We consider this to be the principal consideration for the users of the financial statements when assessing the financial performance.

### Performance materiality

24. Performance materiality is the amount set by the auditor for each financial statement area, to reduce to an appropriately low level the probability that collectively any uncorrected and undetected misstatements are less than materiality for the financial statements as a whole.
25. We set a performance (testing) materiality for each area of work which was based on a risk assessment for the area. We perform audit procedures on all transactions and balances that exceed our performance materiality. This means that we are performing a greater level of testing on the areas deemed to be of significant risk of material misstatement. Performance testing thresholds used are set out in the table below:

|                         | Area risk assessment |        |        |
|-------------------------|----------------------|--------|--------|
|                         | High                 | Medium | Low    |
| Performance materiality | 32,805               | 40,095 | 51,030 |

26. We agreed with the Audit, Risk and Information Governance Committee that we would report on all material corrected misstatements, uncorrected misstatements with a value in excess of 2% of the overall materiality figure, as well as other misstatements below that threshold which, in our view, warranted reporting on qualitative grounds. We also report to the Audit, Risk and Information Governance Committee on disclosure matters that we identified when assessing the overall presentation of the annual accounts.

## Audit differences

27. We are pleased to report that there were no material adjustments or unadjusted differences to the unaudited annual accounts. We identified some disclosure and presentational adjustments during our audit, which have been reflected in the final set of accounts.

## Board representations

28. We have requested that a signed representation letter be presented to us at the date of signing the financial statements. This letter is to be signed by the Accountable Officer on behalf of the Board.

## An overview of the scope of our audit

29. The scope of our audit was detailed in our External Audit Plan, which was presented to the Audit, Risk and Information Governance Committee in February 2019. The plan explained that we follow a risk-based approach to audit planning that reflects our overall assessment of the relevant risks that apply to the Commission. This ensures that our audit focuses on the areas of highest risk. Planning is a continuous process and our audit plan is subject to review during the course of the audit to take account of developments that arise.
30. At the planning stage we identified the significant risks that had the greatest effect on our audit. Audit procedures were then designed to mitigate these risks.
31. Our standard audit approach is based on performing a review of the key financial systems in place, substantive tests and detailed analytical procedures. Tailored audit procedures, including those designed to address significant risks, were completed by the audit fieldwork team and the results were reviewed by the audit manager and audit partner. In performing our work we have applied the concept of materiality, which is explained earlier in this report.

## Other matters identified during our audit

32. During the course of our audit we noted the following:

### Other information in the annual report and accounts

33. "Other information" in the annual report and accounts comprises any information other than the financial statements and our independent auditor's report. We do not express any form of assurance conclusion on the "other information" except as specifically stated below.



## The performance report

34. The performance report provides information on the entity, its main objectives and strategies and the principal risks that it faces. It comprises an overview of the organisation and a detailed summary of how the entity measures performance.
35. We have concluded that the performance report has been prepared in accordance with directions from Scottish Ministers and is consistent with the financial statements.

## The accountability report

36. The accountability report is required in order to meet key parliamentary accountability requirements and comprises three sections: a corporate governance report (including the governance statement), remuneration and staff report, and a parliamentary accountability report.
37. We have concluded that the governance statement has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions from Scottish Ministers and is consistent with the financial statements. We have provided further detail on our work and findings within the Wider Scope section of our report (section 4).
38. We have concluded that the audited part of the remuneration and staff report has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions from Scottish Ministers.

## Internal audit

39. The Commission's internal audit function is provided by TIAA. We have taken cognisance of the work of internal audit in forming our opinion on the appropriateness of the disclosures in the annual governance statement.

## Regularity

40. We have planned and performed our audit recognising that non-compliance with statute or regulations may materially impact on the annual report and accounts. We did not identify any instances of irregular activity.

## Payroll

41. During our audit we noted that calculation errors were made in 2018/19 by Payroll Shared Services. Management have expressed concerns as they do not have time to allow for appropriate preventative

measures before payroll is processed by Payroll Shared Services. Therefore, errors are being identified retrospectively using detective controls.

42. We noted that there is currently no formalised service level agreement (SLA) in place between the Commission and Payroll Shared Services. We would encourage the Commission to establish this SLA which could incorporate controls to prevent similar errors happening in the future.

*Action plan point 1*

## Follow up of prior year recommendations

43. As part of our audit we have followed up the agreed audit recommendations from prior years which were yet to be implemented. The table below indicates that three recommendations are yet to be fully implemented. Further detail on these recommendations is included in the action plan at Appendix 2.

| Number of recommendations raised in 2017/18 | Complete | Outstanding |
|---|----------|-------------|
| 5   | 2        | 3           |

## Looking forward – IFRS 16 Leases

44. IFRS 16 Leases will be effective from 1 April 2020. IFRS 16 Leases will lead to a substantial change in accounting practice for lessees where the current distinction between operating and finance leases will be removed. Instead, it requires that a lessee recognises assets and liabilities for all leases with a term of more than 12 months unless the underlying asset is of low value. A lessee will recognise a right-of-use asset representing its right to use the underlying leased property, and a lease liability representing the lessee's obligation to pay for that right.
45. There are new requirements for measurement of the lease liability where it will initially be measured at the present value of the lease payments payable over the lease term but may rise to reflect any reassessment or lease modifications, or revised in-substance fixed lease payments.
46. This will be a key area of focus for our 2019/20 audit.



## Qualitative aspects of accounting practices and financial reporting

47. During the course of our audit, we consider the qualitative aspects of the financial reporting process, including items that have a significant impact on the relevance, reliability, comparability,

understandability and materiality of the information provided by the annual accounts. The following observations have been made:

| Qualitative aspect considered   | Audit conclusion  |
|---|---|
| The appropriateness of the accounting policies used.  | The accounting policies, which are disclosed in the annual accounts, are in line with the NHS Accounts Manual and are considered appropriate.   |
| The timing of the transactions and the period in which they are recorded.   | We did not identify any concerns over the timing of transactions or the period in which they were recognised.   |
| The appropriateness of the accounting estimates and judgements used.  | We are satisfied with the appropriateness of the accounting estimates and judgements used in the preparation of the annual accounts. Significant estimates have been made in relation to the valuation of liabilities related to the Commission's membership of the Clinical Negligence and Other Risks Indemnity Scheme (CNORIS). These estimates have been informed by advice from qualified, independent experts. We evaluated the competence, objectivity and capability of management experts in line with the requirements of ISA (UK) 500 and concluded that use of the experts was appropriate. |
| The appropriateness of the going concern assumption   | We have reviewed the financial forecasts for 2019/20. Our understanding of the legislative framework and activities undertaken provides us with sufficient assurance that the Commission will continue to operate for at least 12 months from the signing date.   |
| The potential effect on the annual accounts of any uncertainties, including significant risks and related disclosures that are required.                              | We have not identified any uncertainties, including any significant risk or required disclosures, which are not already included in the annual accounts.  |
| The extent to which the annual accounts have been affected by unusual transactions during the period and the extent that these transactions are separately disclosed. | From the testing performed, we identified no significant unusual transactions in the period.  |
| Apparent misstatements in the annual report or material inconsistencies with the financial statements.  | The annual report contains no material misstatements or inconsistencies with the financial statements.  |
| Any significant annual accounts disclosures to bring to your attention.   | There are no significant annual accounts disclosures that we consider should be brought to your attention. All the disclosures required by relevant legislation and applicable accounting standards have been made appropriately.   |



| Qualitative aspect considered   | Audit conclusion  |
|---|---|
| Disagreement over any accounting treatment or annual accounts disclosure. | While disclosure and presentational adjustments were made during the audit there was no material disagreement during the course of the audit over any accounting treatment or disclosure. |
| Difficulties encountered in the audit.                                    | There were no significant difficulties encountered during the audit.  |



# 4. Wider scope

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Following consideration of the size, nature and risks of the Commission, the application of the full wider scope audit is judged by us not to be appropriate. Our annual audit work on the wider scope has therefore been restricted to:

- Audit work to allow conclusions to be made on the appropriateness of the disclosures in the governance statement; and
  - Consideration of the financial sustainability of the organisation and the services that it delivers over the medium and longer term.
-



## Wider scope conclusions



### Governance statement

We have reviewed the Annual Governance Statement and have found that it is consistent with the financial statements and has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers.



### Financial sustainability

The Commission has appropriate arrangements in place to develop a financial framework for achieving long term financial sustainability. The Commission has developed a three year budget 2018/19 to 2020/21. Preparations have been made for a three year budget for the period commencing 2019/20 however the Commission is awaiting clarification from the Scottish Government over future funding before this will be presented to the Board.

We did however note that the financial planning process does not currently include consideration of NCF. As there is now certainty over the future of NCF, medium term financial forecasts should also be developed.

## Our approach to the wider scope audit

48. Our approach to the wider scope audit (as set out in our 2018/19 External Audit Plan) builds upon our understanding of the Commission which we developed from previous years, along with discussions with management and review of committee minutes and key strategy documents.

49. During our audit we also considered the following risk areas as they relate to the Commission:

- EU withdrawal
- Changing landscape of public financial management
- Dependency on key suppliers
- Openness and transparency

Overall we concluded that the Commission has appropriate arrangements in place in respect of these areas as noted below:

### Impact of EU withdrawal

The Commission has assessed the impact of EU withdrawal on the organisation and concluded that, given the nature and scope of activities, that the impact will be minimal. The impact of EU withdrawal was considered by the Audit, Risk and Information Governance Committee as well as the Board through its regular review of the risk register.

### Changing landscape of financial management

In October 2018, the Scottish Government published its Health and Social Care Medium Term Financial Framework. The Framework is supported by financial modelling and highlights the necessity for not only additional investment but continued reform of the Health and Social Care system. It is anticipated that the development of the Framework will provide NHS Boards with more information and funding assurances in order to develop longer term financial and reform plans.

The framework sets out a new planning and performance cycle which requires NHS Boards to deliver financial break-even over a three year period. Where this requirement is met, Boards have the flexibility to report under or overspends of up to 1% of the Boards' core revenue resource funding. The first planning period covers the years 2019/20, 2020/21 and 2021/22 and applies to each fixed three year period



thereafter.

While the Commission applies certain provisions of the NHS (Scotland) Act 1978 with regard to its annual accounts, it does have a different sponsor department within the Scottish Government (the Mental Health Directorate rather than the Scottish Government Health and Social Care Services Directorate). As such it is not clear whether the provisions set out in the framework above apply to the Commission. We would encourage the Commission to discuss this with its sponsor department.

*Action plan point 2*

### Dependency on key suppliers

Following the collapse of Carillion, it became apparent that public sector bodies face significant risks where key suppliers are experiencing difficult trading conditions.

The Commission is dependent upon support from a key supplier in respect of its Information Management Portal (IMP) with the supplier Servelec. This has been considered as part of the Business Continuity Planning work which has been undertaken by the Commission. Discussions with management indicate that in-house expertise would be able to keep the servers running at 'business as usual' for the short to medium term if there were to be any issues with this key supplier.

### Openness and transparency

We consider the Commission to exhibit good practice with respect to their openness and transparency arrangements through the following:

- Publication of Board minutes on its website;
- Key publications including the strategic plan, annual accounts and the annual report are available on its website;
- Registers of interests are available on the website for all Board members; and
- Range of methods used to communicate with stakeholders.



## Governance statement

**Our audit work includes consideration of the appropriateness of the disclosures in the governance statement.**

50. We have concluded that the governance statement has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions from Scottish Ministers and is consistent with the financial statements.
51. The Chair of the Commission retired in March 2019. The newly appointed Chair is responsible for signing aspects of the 2018/19 annual report and accounts. As the new Chair was previously the Chair of the Audit, Risk and Information Governance Committee, he had prior knowledge and background of the

organisation. In addition, there was a handover meeting between the previous and new Chairs.

52. The Head of the Forum, Dr Rachel Happer, left the NCF in February 2019. The Head of the Forum is required to provide the Commission's accountable officer with assurances which inform the governance statement. As the Head of the Forum was in place for the majority of the 2018/19 year, she completed the NCF assurances which inform the governance statement.



## Financial sustainability

**Financial sustainability looks forward to the medium and longer term to consider whether the Commission is planning effectively to continue to deliver its**

**services or the way in which they should be delivered.**

## Significant audit risk

53. Our audit plan identified a significant risk in relation to financial sustainability under our wider scope responsibilities

### Financial sustainability

The Commission has begun drafting a three year financial plan. The Commission forecasts a breakeven position in 2019/20 due to a number of vacancies. However, the Commission forecasts an unbalanced establishment budget for periods after 2019/20. Public sector budgets are however coming under strain due to the end of the pay cap and the increasing uncertainty and complexity of the Scottish Government budgeting process. It is forecast that changes to the process will be implemented from 2019/20. In addition to this the rising costs of second opinion doctors' fees continue to present a financial challenge to the Commission. The Scottish Government agreed to any payments above 11% of the Commission's budget to 31st March 2020 which has helped the budgeting process significantly.

*Excerpt from the 2018/19 External Audit Plan*

54. The Commission has developed three year budget 2018/19 to 2020/21. Preparations have been made for a three year budget for the period commencing 2019/20 however the Commission is awaiting clarification from the Scottish Government over future funding before this is presented to the Board. As outlined below we have reviewed the Commission's arrangements for managing its financial position in this context.

### Indicative 2019/20 budgets

55. The Scottish Government has recently confirmed the Commission's resource budget for 2019/20. The resource budget for 2019/20 will be set at £4million for the Commission's core activities, £202,645 for the Learning Disabilities and Autism review activities and £192,000 in respect of the costs of the work on the new system for the investigation of deaths. No capital allocation has been awarded at this time. Prior to confirmation from the Scottish Government, the Commission had forecast that its core budget would remain at 2018/19 levels (£3.655million) plus funding for a specific post, which left a forecast £87,000 shortfall compared to the establishment budget.
56. The Scottish Government has also indicated that NCF's resource budget for 2019/20 will be £950,000.
57. The Commission is currently working through the implications of the Scottish Government's Pay Policy. While the Commission will realise savings from the reduction in occupied office space, these are likely to be largely used to fund the requirements of the pay remit. There is also currently some uncertainty surrounding the level of employer's pension contribution from 1 April 2019. A letter received in December 2018 indicated an increase of 6% to 20.9% (implemented on 1 April 2019) which would cost the Commission approximately an additional £130,000 which they

would be unable to afford without additional funding. An initial approach has been made to the Scottish Government for a funding uplift.

58. In prior years, the Scottish Government has agreed that any expenditure on second opinions over 11% of the Commission's core budget will be separately funded by them. This should assist the Commission with their longer term budget planning; however, there is still significant pressure to achieve balanced budgets. This agreement does not extend beyond March 2020.

### Long term financial planning

59. As part of the Commission's financial planning process, a three year establishment budget was prepared in 2018 covering the three years commencing 2018/19. Preparations have been made to update this for the three year period commencing 2019/20 however the Commission is awaiting clarification from the Scottish Government over future funding before this is presented to the Board.
60. The existing three year establishment budget is based on the following assumptions:
- All established posts are filled for a complete financial year;



- An annual increase of 3% is applied to all staff and the Scottish Government policy of no compulsory redundancies is maintained;
- Second Opinion fees and associated travel costs continue to be capped at 11% of budget. The current commitment from Scottish Government however does not extend beyond March 2020;
- The Commission's annual core budget remains at the 2018/19 level;
- The accommodation project results in a 45% reduction in accommodation charges from 1 July 2019; and
- Annual IT costs increase by £10,000 per annum – this is only an estimate as this stage as the Commission await the outcome of the IT and Digital Review. These costs may increase to up to £20,000, however, the current three year forecasts have been modelled using the £10,000.

61. The Commission establishment budget shows funding shortfalls for 2019/20 and 2020/21 based on current assumptions. This is mainly due to pension costs as outlined at paragraph 56.

### Review of the Mental Health Act

62. In March 2019 the Scottish Government announced a review of the Mental Health Act. The Commission intend to contribute to this review and develop a new strategic plan once the implications of the review for the strategic direction for the Commission are clearer.

### Future planning for the NCF

63. The NCF was originally established in 2014/15 for a three to five year period. The Commission presented an options appraisal paper to the Scottish Government in March 2017 outlining the possibilities for the future of the NCF, and Scottish Government officials met with the Board in February 2018 to discuss the future of the NCF. The going concern of the NCF was previously identified as an audit risk; however, the Commission has since received confirmation from the Scottish Government that the NCF will be continuing for at least the next two years. As there is now certainty over the future of NCF, medium term financial forecasts should also be developed.

*Action plan point 3*

### The Commission's performance in 2018/19

64. Both the Commission and the NCF met all of their financial targets in 2018/19. The Commission achieved a saving against its revenue resource limit of £53,000 and a saving against its capital resource limit of £12,000. The National Confidential Forum (NCF) has reported a saving of £94,000 against a revenue resource allocation of £882,000. An independent review of learning and disability and autism under the Mental Health Act is being hosted by the Commission. In 2018/19, the review spent £144,000 against an allocation of £189,000. (Exhibit 3).

### Exhibit 3: Performance against resource limits

| Financial target                          | Limit<br>£000 | Actual<br>£000 | Variance<br>£000 | Target<br>achieved? |
|---|---------------|----------------|------------------|---------------------|
| <b>Revenue resource limit</b>             |               |                |                  |                     |
| Mental Welfare Commission                 | 3,790         | 3,737          | 53               | Yes                 |
| National Confidential Forum               | 882           | 788            | 94               | Yes                 |
| Learning and Disability and Autism review | 189           | 144            | 45               | Yes                 |
| <b>Capital resource limit</b>             |               |                |                  |                     |
| Mental Welfare Commission                 | 300           | 288            | 12               | Yes                 |

65. The Commission underspent by £53,000 against its allocation of £3.790million. This was mainly due to staff vacancies throughout the period.

66. The final funding allocations for 2018/19 included £189,000 for the Review of the Mental Health (Care and Treatment) (Scotland) Act 2003 for people with



Learning Disability and Autism. Year-end expenditure for this review was £144,000, resulting in a £45,000 under spend against budget.

67. NCF underspent by £94,000, against a revenue resource allocation of £882,000. This was mainly due to staff and Board vacancies throughout the period.
68. A capital allocation of a maximum of £300,000 was allocated to the Commission to fund its Accommodation Project (the office space was split into two working offices; with Childrens Hearing Scotland now occupying the second working office). The Commission capitalised costs of £288,000.
69. The Commission monitors its performance against five key performance indicators (KPIs) agreed with the Scottish Government. These targets are outlined in the annual business plan and progress against the plan is reported to the board on a quarterly basis.
70. The Commission has met four of its five key performance indicators in 2018/19. For the remaining key performance indicator, the Commission was only 2% below the target due to work was finalised outside of the reporting period.



# 5. Appendices

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## Appendix 1: Respective responsibilities of the Commission and the Auditor

### Responsibility for the preparation of the annual report and accounts

It is the responsibility of the Commission and the Chief Executive, as Accountable Officer, to prepare financial statements in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder.

#### In preparing the annual report and accounts, the Commission and the Chief Executive, as Accountable Officer are required to:

- apply on a consistent basis the accounting policies and standards approved for the NHS Scotland by Scottish Ministers;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Financial Reporting Manual have not been followed where the effect of the departure is material;
- prepare the accounts on a going concern basis unless it is inappropriate to presume that the Board will continue to operate; and
- ensure the regularity of expenditure and income.

#### Board members are also responsible for:

- keeping proper accounting records which are up to date; and
- taking reasonable steps for the prevention and detection of fraud and other irregularities.

### Auditor responsibilities

#### We audit the annual report and accounts and give an opinion on whether:

- they give a true and fair view in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers of the state of the board's affairs as at 31 March 2019 and of its net expenditure for the year then ended;
- they have been properly prepared in accordance with IFRSs as adopted by the European Union, as interpreted and adapted by the 2018/19 FReM ;
- they have been prepared in accordance with the requirements of the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers;
- in all material respects the expenditure and income in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers;
- the auditable part of the Remuneration and Staff Report has been properly prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers; and
- the information given in the Performance Report is consistent with the financial statements and has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers; and
- the information given in the Governance Statement is consistent with the financial statements and has been prepared in accordance with the National Health Service (Scotland) Act 1978 and directions made thereunder by the Scottish Ministers.

#### We are also required to report, if in our opinion:

- adequate accounting records have not been kept; or
- the annual accounts and the part of the Remuneration and Staff Report to be audited are not in agreement with accounting records; or
- we have not received all the information and explanations we require for our audit; or
- there has been a failure to achieve a prescribed financial objective.



## Wider scope of audit

The special accountabilities that attach to the conduct of public business, and the use of public money, mean that public sector audits must be planned and undertaken from a wider perspective than in the private sector. This means providing assurance, not only on the financial statements, but providing audit judgements and conclusions on the appropriateness, effectiveness and impact of corporate governance and performance management arrangements and financial sustainability.

The Code of Audit Practice frames a significant part of our wider scope responsibilities in terms of four audit dimensions: financial sustainability; financial management; governance and transparency; and value for money.

We have concluded that the full application is not appropriate due to the size of the organisation. As part of our annual audit we consider and report against:

- appropriateness of the disclosures in the governance statement; and
- financial sustainability of the body and the services that it delivers over the medium to longer term.

## Independence

International Standard on Auditing (UK) 260 "Communication with those charged with governance" requires us to communicate on a timely basis all facts and matters that may have a bearing on our independence.

### Confirmation of independence

We confirm that we have complied with the FRC's Revised Ethical Standard (June 2016). In our professional judgement, the audit process is independent and our objectivity has not been compromised in any way. In particular there are and have been no relationships between Scott-Moncrieff and the Commission, its Board members and senior management that may reasonably be thought to bear on our objectivity and independence.



## Appendix 2: Action plan

Our action plan details the weaknesses and opportunities for improvement that we have identified during our audit.

### Action plan grading structure

To assist the Commission in assessing the significance of the issues raised and prioritising the action required to address them, the recommendations have been rated.

The rating structure is summarised as follows:

| Grade          | Explanation   |
|----------------|---|
| <b>Grade 5</b> | Very high risk exposure - Major concerns requiring immediate attention.           |
| <b>Grade 4</b> | High risk exposure - Material observations requiring management attention.        |
| <b>Grade 3</b> | Moderate risk exposure - Significant observations requiring management attention. |
| <b>Grade 2</b> | Limited risk exposure - Minor observations requiring management attention         |
| <b>Grade 1</b> | Efficiency / housekeeping point.  |



## Current year action plan

| Action plan point  | Issue & recommendation   | Management comments   |
|--|--|---|
| <p>1. Payroll SLA</p> <p>Rating</p> <p><b>Grade 3</b></p> <p>Paragraph Ref</p> <p>42</p>                     | <p>Calculation errors were made in 2018/19 by Payroll Shared Services. Management have expressed concerns as they do not get to review the payroll before it is processed. Therefore, errors are being identified retrospectively using detective controls.</p> <p>We noted that there is currently no formalised service level agreement (SLA) in place between the Commission and Payroll Shared Services. We would encourage the Commission to establish this SLA which could incorporate controls to prevent similar errors happening in the future.</p>   | <p>We will instigate discussions with SG about an SLA. We have tried to get an SLA previously without success</p> <p><b>Responsible officer:</b> Finance Manager</p> <p><b>Implementation date:</b> December 2019</p> |
| <p>2. Medium Term Financial Framework</p> <p>Rating</p> <p><b>Grade 3</b></p> <p>Paragraph Ref</p> <p>49</p> | <p>In October 2018, the Scottish Government published its Health and Social Care Medium Term Financial Framework. The framework sets out a new planning and performance cycle which requires NHS Boards to deliver financial break-even over a three year period. Where this requirement is met, Boards have the flexibility to report under or overspends of up to 1% of the Boards' core revenue resource funding.</p> <p>While the Commission applies certain provisions of the NHS (Scotland) Act 1978 with regard to its annual accounts, it does have a different sponsor department within the Scottish Government (the Mental Health Directorate rather than the Scottish Government Health and Social Care Services Directorate). As such it is not clear whether the provisions set out in the framework above apply to the Commission. We would encourage the Commission to discuss this with its sponsor department.</p> | <p>We will discuss with sponsor department</p> <p><b>Responsible officer:</b> Head of Corporate Services</p> <p><b>Implementation date:</b> June 2019</p>   |



| Action plan point   | Issue & recommendation  | Management comments  |
|---|---|--|
| <p data-bbox="178 262 430 346">3. Financial planning for NCF</p> <p data-bbox="178 367 430 409">Rating</p> <p data-bbox="178 472 430 514"><b>Grade 3</b></p> <p data-bbox="178 567 430 619">Paragraph Ref</p> <p data-bbox="178 630 430 682">63</p> | <p data-bbox="495 241 917 493">The Commission has received confirmation from the Scottish Government that the NCF will be continuing for at least the next two years (2019/20 onwards). As there is now certainty over the future of NCF, medium term financial forecasts should also be developed.</p> | <p data-bbox="974 241 1388 325">There will be a mid- year review of the 2019/20 NCF budget which will also include 2020/21 forecast</p> <p data-bbox="974 357 1356 409"><b>Responsible officer:</b> NCF Manager and Finance Manager</p> <p data-bbox="974 430 1339 472"><b>Implementation date:</b> October 2019</p> |



## Follow up of prior year recommendations

Of the five recommendations raised within our 2017/18 annual audit report, we note that two have been fully implemented, two have been partially implemented and one remains outstanding. Details are given below.

### 1. Asset register

| Initial rating            | Issue & recommendation   | Management comments   |
|---------------------------|--|---|
| <b>Grade 3</b>            | <p>In 2016/17, we noted that the Commission's property, plant and equipment (non-current assets) had all been fully depreciated leaving a nil balance on the balance sheet. This is also the position as at 31 March 2018.</p> <p>As these assets are still in use it would appear unreasonable for them to be fully depreciated and would suggest that the estimated useful life applied is inaccurate.</p> <p>We would encourage the Commission to review its asset register and write off any assets no longer in use and re-assess the useful life of those assets still in use but fully depreciated.</p> | <p>Agreed</p> <p><b>Responsible officer:</b> Finance Manager<br/><b>Implementation date:</b> 30 September 2018</p>  |
| Current status            | Audit update   | Management response   |
| <b>Action outstanding</b> | <p>We note that this is still the position as at 31 March 2019 for all assets which had been fully depreciated at the start of the year.</p> <p>Recommendation remaining open in line with the prior year comments.</p>  | <p>This is partially completed. We have reviewed all of the assets. We need now to action through SEAS ledger</p> <p>A report of this will be presented to the Audit, Risk and Information Governance committee in November 2019</p> <p><b>Responsible officer:</b> Finance Manager</p> <p><b>Implementation date:</b> October 2019</p> |



## 2. Register of interests

| Initial rating  | Issue & recommendation   | Management comments   |
|-----------------|--|---|
| <b>Grade 3</b>  | The Board member and senior management register of interests is one way that the Commission can identify its related parties. On review of the register of interests we noted that the registers do not specifically ask for consideration of close family members' interests. There is a risk, should the registers not be updated, that the Commission does not identify and report all related party transactions in its annual accounts. | Agreed<br><br><b>Responsible officer:</b> Head of Corporate Services<br><b>Implementation date:</b> 30 September 2018 |
| Current status  | Audit update   | Management response   |
| <b>Complete</b> | A 'register of interests' paper went to the June 2018 Board meeting in which this recommendation was considered. The declarations of interest template was updated to include a 'related party transactions' column for Board and executive members to complete  | N/A   |

## 3. Thistle House draft lease

| Initial rating  | Issue & recommendation   | Management comments   |
|-----------------|--|---|
| <b>Grade 3</b>  | The Thistle House lease ran until 31 March 2018, and the Commission are currently in discussions with the Scottish Legal Aid Board (SLAB) regarding drafting a new lease from 1 April 2018 to 31 March 2021.<br><br>At the time of the audit, the lease had not been finalised.<br><br>Management should ensure that this situation is monitored and that a new agreement is put in place as soon as possible. | Agreed<br><br><b>Responsible officer:</b> Head of Corporate Services<br><b>Implementation date:</b> June 2018 |
| Current status  | Audit update   | Management response   |
| <b>Complete</b> | We obtained a signed and agreed lease agreement for the period from 1 April 2019 for Thistle House. Therefore, we are satisfied that this recommendation is closed.  | N/A   |



## 4. Review of accounting policies

| Initial rating            | Issue & recommendation  | Management comments  |
|---------------------------|---|--|
| <b>Grade 2</b>            | During the audit, we identified a number of accounting policies included in the annual accounts which are not applicable to the Commission. Therefore, we recommend that the Commission complete a full review of the accounting policies to ensure that all policies included in the accounts are relevant and useful to the users of the accounts.                        | Agreed<br><br><b>Responsible officer:</b> Finance Manager<br><b>Implementation date:</b> 30 September 2018   |
| Current status            | Audit update  | Management response  |
| <b>Partially Complete</b> | Discussions with management indicate that the accounting policies were reviewed, however, no changes were made to the disclosures in the accounts. Therefore, there is still a risk that there are accounting policies included within the annual accounts which do not apply to the Commission.<br><br>Recommendation remaining open in line with the prior year comments. | The accounting policies will be reviewed again and we suggest the policies are reviewed every year in February<br><br><b>Responsible officer:</b> Finance Manager<br><b>Implementation date:</b> February 2020 |



## 5. Medium to long term financial planning

| Initial rating | Issue & recommendation  | Management comments  |
|----------------|---|--|
| <b>Grade 3</b> | <p>The Commission does not currently have a formal medium to long term financial plan forecast in place, which is not in line with standard practice. This is partly due to uncertainties surrounding further increases to the pay remit in future years, increasing the difficulty in financial forecasting.</p> <p>We would recommend that the Commission undertakes financial scenario planning for the medium to long term. This would help the Commission to demonstrate that it is identifying risks to the financial sustainability of the organisation. This will also allow the Commission to put in place steps to mitigate financial sustainability risks in a timely basis.</p> | <p>The Commission does have three year financial planning in place. It proved difficult to forward plan staffing costs when the outcome of the pay policy was unknown. This was approved by Board in May which will allow further scenario planning to be undertaken.</p> <p><b>Responsible officer:</b> HOCS / Finance Manager<br/><b>Implementation date:</b> October 2018</p> |

| Current status            | Audit update   | Management response   |
|---------------------------|--|---|
| <b>Partially Complete</b> | <p>The Commission has developed a three year budget for the period 2018/19 to 2020/21 which covers the core Commission activities.</p> <p>Preparations have been made to update this for the three year period commencing 2019/20 however the Commission is awaiting clarification from the Scottish Government over future funding before this is presented to the Board.</p> | <p>We think that this is complete, the cycle for this year is dependent on final clarification of 19/20 budget.</p> |

