



# Mental Welfare Commission for Scotland

2021/22 Annual Audit Report to the Board and the Auditor General for Scotland

July 2022



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# Key messages



This report concludes our audit of the Mental Welfare Commission for Scotland (“the Commission”) for 2021/22.

This section summarises the key findings and conclusions from our audit.

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## Financial statements audit

<b>Audit opinion</b>	Our independent auditor’s report is unqualified and there are no matters which we are required to report by exception.
<b>Key findings on audit risks and other matters</b>	<p>We have obtained adequate evidence in relation to the key audit risks identified in our audit plan.</p> <p>We are satisfied with the appropriateness of the accounting estimates and judgements used in the preparation of the financial statements.</p> <p>The accounting policies used to prepare the financial statements are in line with the NHS Accounts Manual and are considered appropriate.</p> <p>All material disclosures required by relevant legislation and applicable accounting standards have been made appropriately.</p> <p>The Commission had appropriate administrative processes in place to prepare the annual report and accounts and the required supporting working papers.</p>
<b>Audit adjustments</b>	<p>Adjustments made to the financial statements are noted at Appendix 2. The overall impact on the financial statements was decrease to the net expenditure in the SoCNE of £9,140.</p> <p>All unadjusted differences are collectively and individually immaterial.</p> <p>We also identified disclosure and presentational adjustments during our audit which have been reflected in the final set of financial statements.</p>
<b>Accounting systems and internal controls</b>	<p>We have applied a risk-based methodology to the audit. This approach requires us to document, evaluate and assess the Commission’s processes and internal controls relating to the financial reporting process.</p> <p>Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we have included these in this report. No material weaknesses or significant deficiencies were noted.</p>

## 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 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 throughout the period.

### Auditor judgement



### Financial Sustainability

The Commission has adequate arrangements in place for medium term financial planning. A three-year budget forecast has been prepared to 2025/26. The financial plan assumes a pay remit which remains constant for the next three years however, the Commission has not received confirmation that the assumed pay increases will be funded. The Commission is unable to utilise former surpluses to reach a breakeven position.

The Commission has forecast a breakeven position in 2022/23 based on the assumption of a 4% increase in resource budget allocation compared to 2021/22. The Scottish Government has however yet to confirm the Commission's resource budget allocation for 2022/23. The Commission remains in close contact with the Scottish Government over its resource budget allocation.

The replacement of the Information Management Portal (IMP) project has been delayed. The Commission recognises the risk to continued operations should the current arrangements, which are out of support, cease to operate before the project is completed.

## Definition

We have used the following grading structure to provide an overall assessment of the arrangements in place as they relate to the dimensions of the wider scope audit (i.e. financial sustainability).



# Introduction



We carried out our audit in accordance with Audit Scotland's Code of Audit Practice and maintained auditor independence



## Scope

1. 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 2021/22 annual report and accounts and related matters;
  - consideration of the wider dimensions of public audit work, as set out in Exhibit 1 and guidance from Audit Scotland on smaller bodies; and
  - any other work requested by Audit Scotland.

### Exhibit 1: Audit dimensions within the Code of Audit Practice (2016)



## Responsibilities

2. 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 in this report 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 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.
3. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.
4. We would like to thank all management and staff for their co-operation and assistance during our audit.

## Auditor independence

5. 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.
6. We confirm that we complied with the Financial Reporting Council's (FRC) Ethical Standard. In our professional judgement, we remained independent and our objectivity has not been compromised in any way.
7. We set out in Appendix 1 our assessment and confirmation of independence.

## Openness and transparency

10. This report will be published on Audit Scotland's website [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk).

## Adding value through the audit

8. All of our clients demand of us a positive contribution to meeting their ever-changing business needs. Our aim is to add value to 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 Commission promote improved standards of governance, better management and decision making and more effective use of resources.

## Feedback

9. 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 any member of your audit team.

# Financial statements audit

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.

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## Overall conclusion

11. The annual report and accounts were considered by the Audit, Performance and Risk Committee<sup>1</sup> on 25 July 2022

and approved by the Board on 22 August 2022. Our independent auditor's report is unqualified.

## Our audit opinion

Opinion	Basis for opinion	Conclusions
Financial statements	<p>We conduct our audit in accordance with applicable law and International Standards on Auditing.</p> <p>Our findings / conclusion to inform our opinion are set out in this section of our annual report.</p>	<p>We have issued unqualified audit opinions.</p>
Going concern basis of accounting	<p>In the public sector when assessing whether the going concern basis of accounting is appropriate, the anticipated provision of the services is more relevant to the assessment than the continued existence of a particular public body.</p> <p>We assess whether there are plans to discontinue or privatise Commission's functions.</p> <p>Our wider scope audit work considers the financial sustainability of Commission.</p>	<p>We reviewed the financial forecasts for 2022/23. 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.</p> <p>Our audit opinion is unqualified in this respect.</p>

<sup>1</sup> The Audit, Risk and Information Governance Committee was renamed the Audit, Performance and Risk Committee from June 2022.

Opinion	Basis for opinion	Conclusions
<p>Regularity</p>	<p>We plan and perform our audit recognising that non-compliance with statute or regulations may materially impact on the annual report and accounts.</p>	<p>We did not identify any instances of irregular activity.</p> <p>In our opinion in all material respects the expenditure in the financial statements was incurred or applied in accordance with applicable enactments and guidance issued by the Scottish Ministers.</p>
<p>Matters prescribed by the Auditor General for Scotland:</p> <ul style="list-style-type: none"> <li>• Remuneration and Staff Report</li> <li>• Performance Report</li> <li>• Governance Statement</li> </ul>	<p>We read all the financial and non-financial information in the annual report and accounts to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit.</p> <p>We plan and perform audit procedures to gain assurance that the statutory other information has been prepared in accordance with directions from Scottish Ministers.</p>	<p>The annual report contains no material misstatements or inconsistencies with the financial statements.</p> <p>We have concluded that:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• the information given in the performance report has been prepared in accordance with directions from Scottish Ministers and is consistent with the financial statements.</li> <li>• the information given in 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.</li> </ul>

Opinion	Basis for opinion	Conclusions
Matters reported by exception	<p>We are required to report on whether:</p> <ul style="list-style-type: none"> <li>adequate accounting records have not been kept; or</li> <li>the financial statements and the audited part of the Remuneration and Staff Report are not in agreement with the accounting records; or</li> <li>we have not received all the information and explanations we require for our audit; or</li> <li>there has been a failure to achieve a prescribed financial objective.</li> </ul>	We have no matters to report.

## An overview of the scope of our audit

- The scope of our audit was detailed in our External Audit Plan, which was presented to Audit, Risk and Information Governance Committee in February 2022. 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.
- 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.

- In our audit, we test and examine information using sampling and other audit techniques, to the extent we consider necessary to provide a reasonable basis for us to draw conclusions. We obtain evidence through performing a review of the significant accounting systems, substantive procedures and detailed analytical procedures.

## Significant risk areas

- Significant risks are defined by professional standards as risks that, in the judgement of the auditor, require special audit consideration. In identifying risks, we consider the nature of the risk, the potential magnitude of misstatement, and its likelihood. Significant risks are those risks that have a higher risk of material misstatement.

16. The significant risk areas described in the table below 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 below.

## Significant risk areas

### 1. Management override

#### Significant risk description

In any organisation, there exists a risk that management have 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*.

#### How the scope of our audit responded to the significant risk

##### Key judgement

There is the potential for management to use their judgement to influence the financial statements as well as the potential to override the Commission's controls for specific transactions.

##### Audit procedures

- Review of Commission's accounting records and audit testing on transactions.
- Adoption of data analytics techniques in carrying out testing.
- Review of judgements and assumptions made in determining accounting estimates as set out in the financial statements to determine whether they are indicative of potential bias. This included a retrospective review of the prior year estimates against the current year estimates.

#### Key observations

We have not identified any indication of management override in the year. We did not identify any areas of bias in key judgements made by management and judgements were consistent with prior years.

## Significant risk areas

### 2. Revenue recognition

#### Significant risk description

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 income and expenditure transactions in such a way as to lead to a material misstatement in the reported financial position.

#### How the scope of our audit responded to the significant risk

##### Key judgements

Given the financial pressures facing the public sector as a whole, there is an inherent fraud risk associated with the recording of income around the year end. However, we do not deem this risk to be present for funding received from Scottish Government due to a lack of incentive and opportunity to manipulate transactions.

##### Audit procedures

- As the Commission does not undertake any income generating activity and funding from the Scottish Government is its only source of income, no further audit procedures deemed necessary.

#### Key observations

At the planning stage of our audit we concluded that the risk of fraud in revenue recognition was not present in the financial statements and we therefore rebutted this risk.

The Commission does not undertake any income generating activities with funding from the Scottish Government the only source of income.

At the planning stages of our audit we noted that the Commission was expecting to receive income from the Care Inspectorate for the provision of guidance on legal discharges. At the time this was expected to commence from March 2022. This timescale has since been revised to commence mid-2022.

As such, our initial assessment to rebut this risk has remained appropriate.

## Significant risk areas

### 3. Expenditure recognition

#### Significant risk description

As most public sector bodies are net expenditure bodies, the risk of fraud is more likely to occur in expenditure. There is a risk that expenditure may be misstated resulting in a material misstatement in the financial statements.

#### How the scope of our audit responded to the significant risk

##### Key judgements

Given the financial pressures facing the public sector as a whole, there is an inherent fraud risk associated with the recording of accruals around the year end.

##### Audit procedures

- Evaluate the significant non-pay expenditure streams and review the controls in place over accounting for expenditure. (Payroll is subject to separate tailored testing).
- Consideration of the Commission's key areas of expenditure and obtain evidence that expenditure is recorded in line with appropriate accounting policies and the policies have been applied consistently across the year.
- Review of accruals around the year end to consider if there is any indication of understatement of balances held through consideration of accounting estimates.

#### Key observations

We gained reasonable assurance over the completeness and occurrence of expenditure and are satisfied that expenditure is fairly stated in the financial statements.

## Significant risk areas

### 4. National Confidential Forum (NCF) - cessation

#### Significant risk description

The NCF was originally established in 2014/15 for a three to five year period. The Scottish Government confirmed that the Forum would cease in March 2021, though this deadline was extended due to the delay in the Redress Bill progressing through Parliament. Further delays in the cessation of the NCF are expected due to the date of the break out clause in the building lease not being until June 2022.

There is a risk that the cessation of NCF is not accounted for and correctly disclosed in the 2021/22 annual report and accounts.

#### How the scope of our audit responded to the significant risk

##### Key judgements

Due to the significant scrutiny and public interest around the cessation of the NCF, there is a risk of this event not being disclosed appropriately within the annual report and accounts.

##### Audit procedures

- Review of the Commission's accounting treatment and disclosures in the annual report and accounts to ensure these are in accordance with accounting standards, the accounts manual and Government Financial Reporting Manual.

#### Key observations

The National Confidential Forum (NCF) was informed by Scottish Government in January 2020 that it would close by 31 March 2021. The closure was dependent on legislation to provide a means to end the work of the Forum and this was included in the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill 2020. The Bill received Royal Assent in May 2021 and the NCF repealed in June 2021.

All staff left the Forum, and the office was closed, by 31 March 2021. Further delays in the cessation of the NCF occurred due to the date of the break-out clause in the building lease not being until June 2022. We have revised the provision associated with the lease as part of the significant risk areas 5).

We are satisfied over the disclosures in the 2021/22 annual report and accounts as they relate to NCF.

## Significant risk areas

Overall based on audit work performed we have concluded that the cessation of NCF has been correctly accounted for and appropriately disclosed in the annual report and accounts.

### 5. National Confidential Forum (NCF) provision (key accounting estimate)

#### Significant risk description

A provision for the cessation of NCF was created in 2019/20 and reviewed in 2020/21. The provision in 2020/21 comprised amounts for rent and dilapidation obligations. In 2020/21, the Commission engaged experts to provide an assessment of the estimated dilapidation costs. There continues to be ongoing negotiations over the dilapidation obligations and in 2021/22 the lease agreement is still instated.

There is a significant degree of subjectivity in the measurement of the valuation of this provision. This subjectivity represents an increased risk of misstatement in the financial statements.

#### How the scope of our audit responded to the significant risk

##### Key judgements

Given the financial pressures facing the public sector as a whole, there is an inherent fraud risk associated with the recording of provisions around the year end.

##### Audit procedures

- Review of management's estimation for the provision and related disclosures.
- Consideration of compliance with the requirements of the FReM ad NHS Manual for Accounts.
- Consider the competence, capability and objectiveness of the management expert in line with ISA (UK) 500 Audit Evidence.

#### Key observations

The provision in 2021/22 comprises amounts for dilapidation obligations. There were ongoing negotiations over the dilapidation obligations in 2021/22. The Commission used a dilapidations report provided by the landlord's agents to inform the estimated dilapidations cost within the provision. We noted during our audit that the Commission updated its provision to reflect the estimation provided by the landlord's agent. We have noted this as an audit adjustment (Appendix 2).

## Significant risk areas

We are satisfied that the amount recognised as a provision reflects the amounts notified by the Commission's expert.

## Other risk factors

### Other impacts of COVID-19 on the financial statements

17. COVID-19 continues to present unprecedented challenges to the operation, financial management and governance of organisations, including

public sector bodies. In response to the pandemic we identified potential areas of increased risk of material misstatement to the financial statements and/or our audit opinion. Our conclusions are set out in the table below.

Area considered	Description	Conclusion
Access to audit evidence	Our audit this year has been carried out remotely. As a consequence, we identified a risk that access to and provision of sufficient, appropriate audit evidence in support of our audit opinion may be impacted by the inherent nature of carrying out our audit remotely.	We have employed a greater use of technology to examine evidence, but only where we have assessed both the sufficiency and appropriateness of the audit evidence produced.
Timescales / administrative processes	In Scotland, the administrative deadline for the submission of audited accounts of health boards and agencies is usually 30 June but this has been extended by two months to 31 August. The legislative deadline for laying accounts in the Scottish Parliament remains 31 December.	The Commission met the extended deadline.  We have worked closely with management throughout the audit to put us in the best position to adhere to this timetable.

## Estimates and judgements

18. We are satisfied with the appropriateness of the accounting estimates and judgements used in the preparation of the financial statements.
19. As part of the planning and fieldwork stages of the audit we identified all accounting estimates made by management and determined which of those are key to the overall financial statements. Consideration was given to provisions for clinical and medical negligence claims, depreciation rates, provisions for the cessation of NCF and accruals. Other than the provision
20. Our audit work consisted of reviewing these key areas for any indication of bias and assessing whether the judgements used by management are reasonable. We have summarised our assessment of this below, categorised between Prudent, Balanced and Optimistic.

### Estimates and judgements

#### Provision for the cessation of NCF

Balanced

As noted in our 'Significant Risks' section of this report, the Commission has engaged experts to provide an assessment of the estimated dilapidation costs. We noted during our audit that the Commission has updated its provision to reflect the estimation provided by the landlord's agent.

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.

## Materiality

21. Materiality is an expression of the relative significance of a matter in the context of the financial statements as a whole. A matter is material if its omission or misstatement would reasonably influence the decisions of an addressee of the auditor's report. The assessment of what is material is a matter of professional judgement and is affected by our assessment of the risk profile of the organisation and the needs of users. We review our
22. Whilst our audit procedures are designed to identify misstatements which are material to our audit opinion, we also report to the Commission and management any uncorrected misstatements of lower value errors to the extent that our audit identifies these.
23. Our initial assessment of materiality was £67,935. On receipt of the unaudited financial statements, we

reassessed materiality and concluded that our initial assessment remained appropriate. We consider that our

assessment has remained appropriate throughout our audit.

## Materiality

### Overall materiality

£67,935



100%

Accounts materially misstated where total errors exceed this value

### Performance materiality

£50,950



75%

Work performed to capture individual errors at this level

### Trivial threshold

£3,397



5%

All errors greater than this level are reported

## Materiality

Our assessment is made with reference to the Commission's Revenue Resource Limit (RRL). Achieving a breakeven position against RRL is a key target for the Commission and one of the principal considerations for the users of the financial statements when assessing financial performance.

Our assessment of materiality equates to approximately 1.5% of the Commission's RRL as disclosed in the 2021/22 unaudited annual accounts.

We apply a lower level of materiality to the audit of the Remuneration and Staff Report. Our materiality is set at £5,000.

<b>Performance materiality</b>	<p>Performance materiality is the working level of materiality used throughout the audit. We use performance materiality to determine the nature, timing and extent of audit procedures carried out. We perform audit procedures on all transactions, or groups of transactions, and balances that exceed our performance materiality. This means that we perform a greater level of testing on the areas deemed to be at significant risk of material misstatement.</p> <p>Performance materiality is set at a value less than overall materiality for the financial statements as a whole to reduce to an appropriately low level the probability that the aggregate of the uncorrected and undetected misstatements exceed overall materiality.</p>
<b>Trivial misstatements</b>	<p>Trivial misstatements are matters that are clearly inconsequential, whether taken individually or in aggregate and whether judged by any quantitative or qualitative criteria.</p>

## Audit differences

24. Audit differences, both adjusted and unadjusted, we identified during the audit are detailed at Appendix 2.
25. We also identified disclosure and presentational adjustments during our audit which we have reflected in the final set of financial statements and are disclosed at Appendix 2.

## Internal controls

26. As part of our work we considered internal controls relevant to the preparation of the financial statements such that we were able to design appropriate audit procedures. Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we report these to the Commission. These matters are limited to those which we have concluded are of sufficient importance to merit being reported.

Area	Assessment	Comment
Control and process environment	<b>Satisfactory</b>	<p>We consider the control environment within the entity to be satisfactory.</p> <p>We have however identified recommendations which would further strengthen the Commission's internal control environment. These are detailed in Appendix 3.</p>
Quality of supporting schedules	<b>Satisfactory</b>	<p>The supporting schedules received during the course of the fieldwork were sufficient for our audit purposes.</p> <p>We have however identified recommendations which would further strengthen the Commission's accounts preparation process. These are detailed in Appendix 3.</p>
Responses to audit queries	<b>Satisfactory</b>	Management's responses to our audit queries were appropriate and received on a timely basis.

## Follow up of prior year recommendations

27. As part of our audit we have followed up on the outstanding audit recommendation from prior years and concluded that this remains work in progress. Full details of our findings are included in Appendix 4.

## Shared systems and functions

28. The Commission uses Scottish Government payroll services and accounting systems (SEAS). On an annual basis, Audit Scotland, the appointed auditor to the Scottish Government, shares with us their findings on work carried out on those systems.
29. The Scottish Government has progressed with the action plan developed in prior years to address identified improvements to the payroll function. However, improvements to payroll controls, including review of changes to payroll data, remain to be fully implemented. We have completed sufficient substantive testing to gain assurance that the Commission's payroll costs are free from material misstatements in the financial statements.

## Other communications

### Accounting policies, presentation and disclosures

30. Our work included a review of the adequacy of disclosures in the financial statements and consideration of the appropriateness of the accounting policies adopted by the Commission.

31. The accounting policies, which are disclosed in the annual report and accounts, are in line with the NHS Accounts Manual and are considered appropriate.
32. There are no significant financial statements 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.
33. Overall we found the disclosed accounting policies, and the overall disclosures and presentation to be appropriate.

### Fraud and suspected fraud

34. We have previously discussed the risk of fraud with management. We have not been made aware of any incidents in the period nor have any incidents come to our attention as a result of our audit testing.
35. Our work as auditor is not intended to identify any instances of fraud of a non-material nature and should not be relied upon for this purpose.

### Non-compliance with laws and regulations

36. As part of our standard audit testing, we have reviewed the laws and regulations impacting the Commission. There are no indications from this work of any significant incidences of non-compliance or material breaches of laws and regulations that would necessitate a provision or contingent liability.

### Written representations

37. We have presented the final letter of representation to the Commission to

sign at the same time as the financial statements are approved.

### Related parties

38. We are not aware of any related party transactions which have not been disclosed.

### Confirmations from third parties

39. All requested third party confirmations in respect of bank and legal confirmations have been received.

## 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.
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## Wider scope conclusions

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### **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 throughout the period.

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### **Auditor judgement**



### **Financial Sustainability**

The Commission has adequate arrangements in place for medium term financial planning. A three-year budget forecast has been prepared to 2025/26. The financial plan assumes a pay remit which remains constant for the next three years however, the Commission has not received confirmation that the assumed pay increases will be funded. The Commission is unable to utilise former surpluses to reach a breakeven position.

The Commission has forecast a breakeven position in 2022/23 based on the assumption of a 4% increase in resource budget allocation compared to 2021/22. The Scottish Government has however yet to confirm the Commission's resource budget allocation for 2022/23. The Commission remains in close contact with the Scottish Government over its resource budget allocation.

The replacement of the Information Management Portal (IMP) project has been delayed. The Commission recognises the risk to continued operations should the current arrangements, which are out of support, cease to operate before the project is completed.

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## Our approach to the wider scope audit

40. Our approach to the wider scope audit (as set out in our 2021/22 External Audit Plan) builds on our understanding of the Commission which we developed from previous years, along with discussions with management and review of minutes and key strategy documents.
41. During our audit we also considered the Commission's arrangements as they relate to the best value theme of fairness and equality.
42. Overall we concluded that the Commission has appropriate arrangements in place as noted below.

### Fairness and equality

In Autumn 2020, the Commission set the following three equality outcomes for the period 2020-21 to 2024-25:

- Promoting equality in our service provision;
- Promotion equality in employment; and
- Highlighting issues of equality in use of mental health and incapacity legislation.

The Commission is required to report on progress made against these equality outcomes at least every two years. The latest Mainstreaming Equality Report was published in March 2021 and is available on the Commission's website.

Management recognised the importance of mainstreaming and integrating equality in day to day processes and decision making. The Equality Outcomes Corporate Document, published in March 2021, details a number of initiatives that the Commission has implemented or plans to implement.

The Commission's Executive Leadership Team (ELT) (previously Operational Management Group (OMG)) has responsibility for ensuring that equality and diversity is integral within the organisation. An Equalities Working Group was set up to review all of the equality strands. The group's role is to identify the Commission's areas of good practice in relation to equality and diversity as well as areas for future development. In addition, the group develops, monitors and reports to the ELT on progress made against the action plan for meeting the Equality Outcomes.

We are satisfied that appropriate arrangements appear to be in place to oversee and report on delivery of the Commission's three equality outcomes.



## Governance statement

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

43. 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.
44. From our audit work we have concluded that 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 Commission's accounting and internal control systems.
45. The Accountable Officer has confirmed that in their opinion, the control arrangements are appropriate and effective and no significant issues have been identified.

### Governance arrangements during COVID-19

46. The Commission adapted its governance arrangements in response to the pandemic. Board and other committee meetings have continued to be held virtually without significant disruption. The first scheduled 'in person' Board meeting is for August 2022.
47. The accounting and internal control system has continued to operate effectively during remote working, with no significant changes in controls.

48. The Board and other committees have continued to receive and consider all standing items including finance report reports, performance information and updates on ongoing activity.
49. We are satisfied that the Commission received sufficient and timely information throughout the period to support effective scrutiny, challenge and decision making.

### System of internal control

50. We have evaluated the Commission's key financial systems and internal controls to determine whether they are adequate to safeguard public assets. Our approach has included documenting the key internal financial controls and performing walkthroughs to confirm that they are operating as intended.
51. We did not identify any significant weaknesses in the Commission's accounting and internal control systems during our audit.

### Internal audit

52. An effective internal audit service is an important element of an entity's overall governance arrangements. The Commission's internal audit service is provided by TIAA. During our audit we considered the work of internal audit wherever possible to avoid duplication of effort and to make the most efficient use of the Commission's total audit resource.

### Prevention and detection of fraud and irregularity

53. We found the Commission's arrangements for the prevention and detection of fraud and other irregularities to be adequate. The Commission has continued to operate an effective control environment

throughout the pandemic to ensure that those controls and procedures which prevent fraud have been appropriately managed.



## 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

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

### Financial sustainability

The Commission prepares a three-year financial plan which is updated on an annual basis. The financial plan for 2022/23 to 2024/25 assumes a pay remit equivalent to 2021/22 and that an annual increase in funding to cover those pay increases will continue to 2024/25. Based on these assumptions, the Commission forecast financial breakeven/slight underspend positions in 2022/23 to 2024/25. However, the Commission's financial plans note that should there be a pay increase but no increase in funding, a deficit position is forecast. Recent discussion with the Commission's sponsor department gave an indication of additional funding to cover the increases to the pay remit and other anticipated cost increases in 2022/23. The Commission are confident that they will achieve a breakeven position in 2022/23.

The Commission has recently held discussions with the Scottish Government in relation to general increases in funding requirements from 2022/23, primarily for additional projects including the integration of the Commission's investigation function with Death in Detention activity.

The Information Management Portal (IMP) project commenced in 2021/22. The Commission has identified a capital funding requirement of £1.947million and an increase to the revenue budget of £0.63million over the 7-year project life. This funding is required by the Commission in order to proceed with this project and the Scottish Government have confirmed that they will provide the required level of funding to the Commission.

The achievement of future financial targets will depend on continuing tight control of expenditure. There is a risk that delivery of the Commission's financial plans are at the detriment of services and/or ongoing financial health.

*Noted in the 2021/22 External Audit Plan*

55. Our detailed findings on the Commission's financial framework for achieving long term financial sustainability are set out below.

## Indicative 2022/23 budget

56. The Commission has forecast a breakeven position in 2022/23 based on the assumption of a 4% increase in resource budget allocation compared to 2021/22. The increase in funding requirement for 2022/23 is based on the following assumptions:

- An increase in the core budget to reflect pay and national insurance increases.
- Second Opinion fees and associated travel costs are capped at a total of £418k - this has been agreed with Scottish Government until 2023.
- Depreciation charges from the capital spend on the accommodation project are separately funded by SG and it is assumed that this will not change in 2022/23.

57. The Commission's funding allocation covers core activities and additional projects. The additional projects which the Commission has requested funding for in 2022/23 are:

- Replacement of the Information Management Portal – £0.961million capital funding.
- The Reviews of Deaths in Detention and Mental Health Homicide - £0.798million.

58. The Scottish Government has however yet to confirm the Commission's resource budget allocation for 2022/23.

59. The Commission remains in close contact with the Scottish Government over its resource budget allocation.

## Future financial plans

60. The Commission has prepared a three year budget forecast for the period 2023/24 to 2025/26. This is in line with the Commission's strategic business planning cycle.

61. The financial plan assumes a pay remit which remains constant for the next three years. Approximately 86% of the Commission's expenditure is related to employees. The Commission has not received confirmation that the assumed pay increases will be funded. The budget assumes a flat allocation from 2022/23 onwards, resulting in deficits being forecast. The Commission cannot utilise former surpluses to reach a breakeven position.

## Review of the Mental Health Act (Scott Review)

62. The Commission contributed to the Scottish Mental Health Law Review (Scott Review) in 2021/22. A key strand of the review was to review the role and powers of the Commission as the safeguarding body set up and enhanced under successive mental health legislation.

63. In March 2022, the Scottish Government commenced a consultation on their response to their proposals from the review. The consultation closed in May 2022 and the Scottish Government has committed to presenting a final report to Scottish Ministers on their proposals by the end of September 2022.

64. The consultation document outlined enhanced and expanded powers for the Commission. Once the outcome of

the review is confirmed, the Commission should ensure that any additional funding allocations to support these increased powers are integrated into their medium term financial plans.

their statutory duties, specifically in relation to case monitoring. The Commission should ensure this is adequately reflected in the business continuity plan.

## Information Management Portal (IMP) Project

65. The Commission received funding of £167,000 within their 2021/22 revenue funding allocation to cover the salary costs related to the replacement of the Information Management Portal (IMP).
66. The project is overseen by the Project Board which is chaired by the Chief Executive and met monthly during 2021/22. A progress report on the project was also presented to each meeting of the Audit, Risk and Information Governance Committee.
67. In June 2022, it was reported to the Audit, Risk and Information Governance Committee that the project had incurred substantial delays. The delays were primarily due to lack of a Business Analyst in post and the absence of the Project Manager.
68. In addition, in May 2022 the Pre-Procurement Assurance Gate was undertaken for the project, in line with Scottish Government guidance. This exercise raised a number of critical recommendations which require to be addressed before the project can progress.
69. The existing database and casework system is out of support in 2023. This presents a significant risk to the Commission that if the project is not completed in time that the Commission are unable to carry out

### Action Plan Point 4

## The Commission's financial performance in 2021/22

70. The main financial objective for the Commission is to ensure the financial outturn for the year is within the revenue resource limit. The Commission's core revenue resource allocation from the Scottish Government for 2021/22 was £4.529million. The Commission received £nil capital allocation in 2021/22.
71. The Commission's performance against this target has been set out in the table below. The Commission achieved a saving against its core revenue resource limit of £95,000 and a saving against its non-core revenue resource limit of £nil. The saving against its core revenue resource limit has been primarily driven by changes in staff structure and vacancies within the year.

### Performance against resource limits

Financial target	Limit	Actual	Variance
	£000	£000	£000
<b>Core revenue resource limit</b>			
Mental Welfare Commission	4,056	3,974	82
National Confidential Forum Contingency Funding	50	38	12
The Reviews of Deaths in Detention and Mental Health Homicide	256	257	(1)
Replacement of the Information Management Portal	167	165	2
<b>Non-core revenue resource</b>	<b>58</b>	<b>58</b>	<b>0</b>

# Appendices

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

The Code of Audit Practice (2016) sets out the responsibilities of both the Commission and the auditor and are detailed below.

### Commission responsibilities

The Commission has primary responsibility for ensuring the proper financial stewardship of public funds, complying with relevant legislation and establishing effective arrangements for governance, propriety and regularity that enable them to successfully deliver their objectives.

Area	Commission responsibilities
<b>Corporate governance</b>	<p>The Commission, through its Chief Executive (as Accountable Officer) is responsible for establishing arrangements to ensure the proper conduct of its affairs including the legality of activities and transactions, and for monitoring the adequacy and effectiveness of these arrangements. Those charged with governance should be involved in monitoring these arrangements.</p>
<b>Financial statements.</b>	<p>The Commission has responsibility for:</p> <ul style="list-style-type: none"> <li>• preparing financial statements which give a true and fair view of its financial position and their expenditure and income, in accordance with the applicable financial reporting framework and relevant legislation;</li> <li>• maintaining accounting records and working papers that have been prepared to an acceptable professional standard and that support its financial statements and related reports disclosures;</li> <li>• ensuring the regularity of transactions, by putting in place systems of internal control to ensure that they are in accordance with the appropriate authority;</li> <li>• maintaining proper accounting records; and</li> <li>• preparing and publishing, along with the financial statements, an annual governance statement, management commentary (or equivalent) and a remuneration report that is consistent with the disclosures made in the financial statements. Management commentary should be fair, balanced and understandable and also address the longer term financial sustainability of Commission.</li> </ul> <p>Management is responsible for communicating relevant information to users about the entity and its financial performance, including providing</p>

Area	Commission responsibilities
	<p>adequate disclosures in accordance with the applicable financial reporting framework. The relevant information should be communicated clearly and concisely.</p> <p>The Commission is responsible for developing and implementing effective systems of internal control as well as financial, operational and compliance controls. These systems should support the achievement of its objectives and safeguard and secure value for money from the public funds at its disposal. They are also responsible for establishing effective and appropriate internal audit and risk-management functions.</p>
<p><b>Standards of conduct for prevention and detection of fraud and error</b></p>	<p>The Commission is responsible for establishing arrangements to prevent and detect fraud, error and irregularities, bribery and corruption and also to ensure that its affairs are managed in accordance with proper standards of conduct.</p>
<p><b>Financial position</b></p>	<p>The Commission is responsible for putting in place proper arrangements to ensure the financial position is soundly based having regard to:</p> <ul style="list-style-type: none"> <li>• Such financial monitoring and reporting arrangements as may be specified;</li> <li>• Compliance with statutory financial requirements and achievement of financial targets;</li> <li>• Balances and reserves, including strategies about levels and their future use;</li> <li>• Plans to deal with uncertainty in the medium and long term; and</li> <li>• The impact of planned future policies and foreseeable developments on the financial position.</li> </ul>
<p><b>Best value</b></p>	<p>Accountable officers have a specific responsibility to ensure that arrangements have been made to secure best value.</p>

## Auditor responsibilities

Auditor responsibilities are derived from statute, the Code of Audit Practice, International Standards on Auditing (UK), professional requirements and best practice. These are to:

- undertake statutory duties, and comply with professional engagement and ethical standards;
- provide an opinion on the financial statements and the regularity of transactions;
- review and report on, as appropriate, other information such as annual governance statements, management commentaries and remuneration reports;
- notify the Auditor General when circumstances indicate that a statutory report may be required; and
- demonstrate compliance with the wider scope of public audit.

### 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

In accordance with our profession's ethical guidance and further to our External Audit Annual Plan issued confirming audit arrangements there are no further matters to bring to your attention in relation to our integrity, objectivity and independence.

We confirm that Azets Audit Services and the engagement team complied with the FRC's Ethical Standard. We confirm that all threats to our independence have been properly addressed through appropriate safeguards and that we are independent and able to express an objective opinion on the financial statements.

In October 2020, the Auditor General extended our audit appointment for one year through to the audit of the 2021/22 financial year to provide continuity and stability in the current

challenging environment. The FRC's Ethical Standard states that careful consideration must be given once an audit engagement partner has held the role for a continuous period of ten years. Our period of total uninterrupted appointment as at the end of 31 March 2021 was 10 years. As such to mitigate the threat to auditor independence as result of long association, and in accordance with guidance from Audit Scotland, we rotated the engagement lead. Karen Jones was the Commission's Engagement Lead. As Karen Jones has held a management position in the audit engagement team for a period of 10 years, we applied internal quality control review procedures to further mitigate the threat to auditor independence.

### Audit and non-audit services

The total fees charged to the Commission for the provision of services in 2021/22 (with prior year comparators) is as follows:

	Current year	Prior year
	£	£
Audit of Mental Welfare Commission for Scotland (Auditor remuneration)	15,460	15,480
<b>Total audit</b>	<b>15,460</b>	<b>15,480</b>
Non-audit services	-	-
<b>Total fees</b>	<b>15,460</b>	<b>15,480</b>

FRC's Ethical Standard stipulates that where an auditor undertakes non audit work, appropriate safeguards must be applied to reduce or eliminate any threats to independence. No non-audit services were provided to Mental Welfare Commission for Scotland.

### Audit quality

The Auditor General and the Accounts Commission require assurance on the quality of public audit in Scotland through comprehensive audit quality arrangements that apply to all audit work and providers. The audit quality arrangements recognise the importance of audit quality to the Auditor General and the Accounts Commission and provide regular reporting on audit quality and performance.

Audit Scotland maintains and delivers an [Audit Quality Framework](#).

The most recent audit quality report which covers our work at SHR since appointment can be found at <https://www.audit-scotland.gov.uk/publications/quality-of-public-audit-in-scotland-annual-report-202122>

## Appendix 2: Adjusted and unadjusted errors identified during the audit

### Adjusted misstatements

No	Detail	Assets	Liabilities	Reserves	SoCNE
Details of unadjusted audit differences		Dr / (Cr)	Dr / (Cr)	Dr / (Cr)	Dr / (Cr)
		£	£	£	£
1.	Reclassification between Software Licenses and IT Technology Assets to agree Trial Balance to Accounts Disclosures  Gross Value: £4,000  Net Value: nil as reallocation within assets				
2.	Provision for the cessation of NCF		9,140		(9,140)
Net impact on (income) / expenditure (£'000)					(9,140)

## Unadjusted misstatements

Our summary of unadjusted audit differences is presented below. We have discussed this with management and confirmed that all unadjusted differences are collectively and individually immaterial.

No	Detail	Assets	Liabilities	Reserves	SoCNE
		Dr / (Cr)	Dr / (Cr)	Dr / (Cr)	Dr / (Cr)
		£	£	£	£
1.	Reversal of Historic Accruals	19,771			(19,771)
2.	Non-recoverable Trade Receivables balance	(5,020)			5,020
3.	Reallocation of Payables balances  Gross Value: £82,932  Net Value: nil as reallocation within liabilities				
4.	Reversal of NCF Holiday Pay Accruals	1,009			(1,009)
Net impact on (income) / expenditure (£'000)					(15,760)

## Disclosure amendments

No	Detail
1	Alignment of accounts to agree to the trial balance
2	Remuneration Report- presentation of annualised pay for individuals not in post for the full year
3	Staff Report- additional disclosures to address new FReM requirements
4	Related parties- additional disclosure to identify Scottish Government as related party

## Appendix 3: Action Plan

Our action plan details the weaknesses and opportunities for improvement that we have identified during our audit. The recommendations are categorised into three risk ratings:

**Significant deficiency**

**Other deficiency**

**Other observation**

### 1. Allocation of Payables Balances

**Other deficiency**

<b>Observation</b>	The Commission utilises the Scottish Government accounting system 'SEAS'. The Commission and the Scottish Government work closely to ensure a prompt month end process. However, due to processing constraints in the system, the Commission's invoice processing is three days from receipt of an invoice.
<b>Implication</b>	Due to the current processes, in the 2021/22 annual report and accounts, purchase invoices received at the end of March were misclassified as accruals. The annual report and accounts were adjusted to reflect these as trade payable balances.
<b>Recommendation</b>	Management should ensure sufficient processes are in place to support the correct classification of trade payables and accruals.
<b>Management response</b>	The year end processing constraints due to external processing of our invoices by Scottish Government are not new for the Commission, however we accept the recommendation and will seek to implement appropriate measures to ensure the correct classification in March 2023.

## 2. Accounts Preparation

### Other observation

<b>Observation</b>	<p>The Commission prepares accounts based on the final closing trial balance and supporting working papers. The reconciliation of the accounts to the trial balance identified a significant manual adjustment between accounts and trial balance for the utilisation of the NCF provision.</p> <p>Disclosure changes were also included in the final accounts to align with the closing trial balance. The most significant of these was in relation to the year-end bank balance subsequent impact on the other primary financial statements including the Cash Flow Statement.</p>
<b>Implication</b>	Adjustments outside the ledger operate outside the ledger controls and are higher risk for fraud or error.
<b>Recommendation</b>	The Commission should ensure that the NCF provision utilisation is appropriately included in the ledger following the completion of the audit. All manual adjustments to the trial balance should be clearly identified on the account's reconciliation. We encourage management to ensure that adjustments have been appropriately recorded through the Commission's accounts to trial balance reconciliation.
<b>Management response</b>	As in previous year's any adjustment which we think will require agreement by our auditors is generally not put through the ledger until we have that agreement. Every effort is made to ensure that the ledger agrees to the prepared accounts prior to audit with as few exceptions as possible.

## 3. Trade Receivables Balance

### Other deficiency

<b>Observation</b>	<p>The Commission has a £5,019 balance in accounts receivables which relates to income from another public sector body in 2019/20. Accounts Receivable processes are undertaken with support from the Scottish Government. Recovery action has not been taken to resolve the balance.</p>
<b>Implication</b>	Trade receivables may be overstated.
<b>Recommendation</b>	The Commission should work with the Scottish Government to investigate and resolve the balance.
<b>Management response</b>	We believe that the issue is only one of allocation by Scottish Government and we will contact them to request that appropriate action is taken.

#### 4. Business Continuity Plan

#### Other observation

<b>Observation</b>	The existing database and casework system is out of support in 2023. The Commission recognises a risk to continued operations should the existing database and casework system cease to function before the project is completed.
<b>Implication</b>	The Commission are unable to carry out their statutory duties, specifically in relation to case monitoring.
<b>Recommendation</b>	The Commission should ensure the business continuity plan adequately reflects the action plan to ensure continued operations under this scenario.
<b>Management response</b>	Work is ongoing to ensure that the existing database is supported until it is replaced. Our risk register has been updated to reflect this implication

## Appendix 4: Follow up of prior year recommendations

We have followed up on progress in implementing the outstanding actions raised in the prior years. These actions remain in progress.

### Policies and procedures – action raised in 2020/21

**Recommendation** The Commission should ensure out of date polices are reviewed and updated in a timely manner.

Rating	Other observation	Implementation date	Ongoing
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**Ongoing**

The percentage age of policies updated is part of the new performance reporting framework and stood at 58.3% for Q4 of 21/22. The Board Code of Conduct has been updated, Conflict of Interest Policy was approved by the Board in June 2022 and Staff code of conduct has been consulted on with staff. There were some comments from the consultation which HR are working on addressing and once completed this exercise, the policy will be published on the staff intranet.

## VAT – action raised in 2020/21

**Recommendation** Processes and procedures in place with Scottish Government in relation to VAT returns should be reviewed and strengthened to ensure VAT returns are submitted on time.

**Rating** **Other deficiency** **Implementation date** Ongoing- VAT timetable set by Scottish Government

**Ongoing** The Commission continue to have limited control over the processes in place over timely submission of VAT returns. They comply with the VAT timetables as provided by the Scottish Government but there continues to be no process in place with the Scottish Government to ensure VAT returns are submitted on time.



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