MENTAL HEALTH ACT COMMISSION

Annual Report and Operating Accounts
1 April 2007 – 31 March 2008

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

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ANNUAL REPORT 2007-08

Foreword

This report covers the Commission's work during 2007-08 to monitor and report on the operation of the Mental Health Act as it relates to detained patients. Over the past quarter century, the focus of the Commission has remained unchanged: safeguarding the rights of patients detained under the Mental Health Act.

Our role is to provide independent scrutiny of the extensive powers granted to hospitals over patients detained under the Act. Being deprived of one's liberty, usually at a time of acute ill-health (which can result in loss of mental capacity), is a situation of extreme vulnerability. It is vitally important to ensure that we treat all such patients in a way which promotes their dignity, and in accordance with all the protections provided by the law. The Commission helps ensure that all hospitals in England and Wales meet their responsibilities under the Mental Health Act, and do so to the highest possible standard, for all detained patients in their care. In mental health care perhaps more particularly than in any other branch of health, this requires recognition of the needs of each individual, taking into account, gender, ethnicity, culture, habits and experiences. The Commission places great emphasis in its work on its duties as a public authority under the Human Rights Act and Equalities legislation.

We fulfilled our commitment to report on the overall operation of the Act again in our twelfth Biennial Report *Risk, Rights, Recovery,* which we published in January 2008.

In 2007-08, Mental Health Act Commissioners met with over 6,000 patients detained under the Mental Health Act, in private, to hear directly from them about their experiences in hospital. In addition, we appointed doctors to undertake nearly 12,000 independent reviews of the proposed treatment for individual patients (or statutory "second opinions"). We received over 500 items of correspondence from patients or their families, including complaints. We were notified of 351 deaths of detained patients, and reviewed the circumstances of 71 deaths to see whether any lessons could be learned from them for the care of other patients. All of this activity provides an extensive and detailed body of knowledge and information about the way that the Mental Health Act works. But collecting information is useless if it is only done for information's sake. More important is achieving real improvement for individual patients and effecting systemic change in mental health services more widely, as a result of our contact with individual patients. It is also important that we deter and prevent abuse. We believe that we have done this – but also that there is much more that can and needs to be achieved.

In our work in 2007-08, we have involved patients who are currently or have recently been detained under the Mental Health Act, to help make sure that we are focussing on what is important to them and to make sure that we are effective in achieving what we set out to do. We are publishing a report *From Strength to Strength* which provides details of our user involvement work, including some practical tips. The 29 members of our Service User Reference Panel have encouraged us, challenged

us, and been a major influence on our activity and the way we carried it out in 2007-08. The rights of people as individual human beings are at the heart of what the Commission does, and we hope this report demonstrates how we have worked to fulfil our commitment to all those detained under the Act. This commitment is demonstrated not only through our core statutory functions but also in projects such as the *Count Me In* National Mental Health and Ethnicity Census which forms a key element of the Department of Health's Delivering Race Equality mental health programme, and which we again carried out for the fourth year at the end of March (in partnership with the Healthcare Commission). As last year, we were successful in achieving a 100% coverage of all independent and NHS providers of in-patient services for people with mental illness or a learning disability.

In its twenty-four year history the Commission has often felt itself to be restricted by a narrow remit which relates only to detained patients. The last year has seen the introduction into Parliament of a Health and Social Care Bill which has as one of its objectives abolition of the Mental Health Act Commission. Like many, we are sad that this body, dedicated to monitoring psychiatric detention is coming to an end, and we are concerned about the future. Nevertheless, the Care Quality Commission's overarching remit across all health and social care in England can bridge existing gaps between the responsibilities of current bodies. Whilst existing bodies have made successful efforts to co-operate and share information, in particular through the structures provided by Concordats in both England and Wales, it remains the case that Mental Health Act Commissioners have a very narrow legal remit when they visit a hospital. The restrictions of the MHAC's legal remit prevent it from looking in any detail at the care pathways of those whom we see in hospital – that is, on how they got there in the first place, and at the future care and treatment that they receive after discharge from formal powers. The Care Quality Commission will not be so constrained. It will also have a range of enforcement measures and sanctions not available to the Mental Health Act Commission. We hope that both the Care Quality Commission and Health Inspectorate Wales will use these powers well, for the sake of the individual patients that they will be tasked to safeguard.

Professor Chris Heginbotham was Chief Executive of the Commission during the period of this report (to 31 March 2008). He led the Commission very ably for five years – a period in the Commission's history of great uncertainty – working hard to secure the current and future safeguarding role of an independent monitoring body for detained patients. The Board was pleased to be able to appoint Gemma Pearce, the Commission's Director of Strategy and Deputy Chief Executive, as Acting Chief Executive from 1 April 2008.

Prof. Lord Patel of Bradford

Chairman

Gemma Pearce

Acting Chief Executive

Chapter 1: Introduction to the Mental Health Act Commission

Role and Objectives of the Mental Health Act Commission

1. The core of the Commission's statutory role is reflected in its mission statement:

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

Statutory remit

2. The Mental Health Act Commission (the Commission) was established by the Secretary of State under powers provided by the Mental Health Act 1983. Full references to the statutory instruments[A] and orders, which determine the duties of the Commission, are included at the end of this chapter. These duties may be summarised as follows:

- To advise the Secretary of State on implementation and operation of the Mental Health Act 1983 and its Code of Practice;
- To visit, interview patients in private and to review documentation regarding patients detained under the Act;
- To investigate, at the discretion of the Commission, any complaint involving any patient whilst subject to detention;
- To review decisions to withhold mail of patients detained in high security hospitals;
- To manage and operate the Second Opinion Appointed Doctor (SOAD) Service;
- To publish to the Secretary of State and Parliament a Biennial Report of the work of the Commission.

Strategic Aims and Ambitions

3. The primary aims of the Commission are:

- To fulfil its statutory functions, as set out in the Mental Health Act 1983, to the highest standards possible; and
- To work with Government and other regulators and partners to help ensure the best possible protection for patients under Mental Health legislation.

Underlying Values

4. The Commission's programme of work is intended to make a difference to the lives of detained patients and is set out around the following core values:

- Focus on the needs of patients and service users by maximising user involvement and autonomy;
- Promotion and protection of equality and human rights: in particular, dignity and respect for patients and service users at all times;
- Proportionality and targeting of resources and expertise;
- Openness and Accountability;
- Collaborative working with other agencies.

Objectives

5. The Commission's objectives are:

a) Promoting rights: To promote and protect the civil, legal and human rights of patients who are detained under the Mental Health Act.

b) Influencing policy and practice: To influence the direction of mental health legislation, regulation, policy and practice to help bring about the most effective services possible to people with severe and enduring mental health problems.

c) Visiting and talking to detained patients: To carry out the Commission's visiting function (as described at section 120 of the Mental Health Act 1983) to the highest standard possible. This requires the Commission to monitor the operation of the Mental Health Act, to visit and interview detained patients in private and to report findings to the Secretary of State.

d) Providing second opinions about consent to treatment: To manage the Second Opinion Appointed Doctor (SOAD) scheme effectively, and to bring about improvements in this area.

e) Modernising the way we work: To deliver and implement strategies to ensure that the Commission is effective in carrying out the tasks it has been given to do.

f) User involvement: To continue to increase the involvement of people with experience of detention in the work of the Commission in order to improve the effectiveness and relevance of its work.

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

h) *Use of resources:* To manage its resources efficiently and effectively, including fulfilling requirements of the Department of Health's Arms Length Body Review, and ensuring full controls assurance and governance arrangements.

i) *Implementing the Concordats:* The Commission will continue to embed the principles and practices all the English and Welsh Concordat signatories have agreed to follow. It will continue to develop better ways of sharing information and co-ordinating activity to improve the overall quality of mental health services in both countries.

j) *Transition Planning.* The Commission will work closely with the Department of Health, the Healthcare Commission, and Commission for Social Care Inspection, to support the transition to a new single regulator for health and adult social care in England, the Care Quality Commission, in 2009. The Commission is also working with the Welsh Assembly Government and Health Inspectorate Wales to transfer its functions in Wales to the Health Inspectorate Wales. The Commission will endeavour to provide support to staff and members of the Commission to prepare them for this change.

Commission Membership

Commissioners

6. The Commission has 107 Commissioner posts. Area and Local Commissioners work in small teams within a Commission Visiting Area (CVA). CVAs are organised into four regions, each overseen by a full time Regional Director. Details of these regional boundaries are shown at **Appendix 2**.

7. The roles of Commissioners are different:

- Area Commissioners, usually one for each CVA, take the lead in establishing and maintaining good working relationships with senior managers within key agencies and preparing an annual report for each mental health service provider.
- In addition, one or two Local Commissioners[1] within each area work independently, visiting services, interviewing detained patients, checking documents and lawfulness of detentions, and discussing issues of concern with patients/service users and their families or other carers.

8. During the reporting year, the Commission received a total of 21 Commissioner resignations. A recruitment programme was conducted by the Appointments Commission in the last quarter of 2007-08 and all vacancies were filled with appointments commencing on 1 April 2008. As the Commission commences this last year it is expected that there will be further resignations and arrangements have been agreed with the Appointments Commission to retain those candidates who passed the first sift of selection as a "pool" for further consideration as vacancies arise.

Second Opinion Appointed Doctors (SOADs)

9. Second Opinion Appointed Doctors (SOADs) are Consultant Psychiatrists of at least five years' standing who attend patients (under the care of other psychiatrists) who are unable or unwilling to consent to the medication or Electro-Convulsive Therapy (ECT) procedures recommended for them. The Commission has a panel of 96 active SOADs[2], based throughout England and Wales who normally visit detained patients being cared for within their respective areas.

10. During the course of the year new criteria were introduced for the appointment of SOADs and a first phase of recruitment has been completed for both existing and new SOADs. This is part of a wider restructuring of the service which is described in more detail in paragraph 15. Further recruitment will be undertaken during the first quarter of 2008-09 with the aim of providing a strengthened service that makes best use of resources and is able to meet the growth in second opinion referrals and the new requirements contained in the Mental Health Act 2007, and transfer smoothly into the Care Quality

1 Where there is a high number of detained patients, the team may be larger; the maximum in any CVA is two Area Commissioners and five Local Commissioners.
2 As at 31 March 2008

Commission.

11. The figures in **Table 1** illustrate the diversity of the Commissioner and SOAD membership as at 31 March 2008.

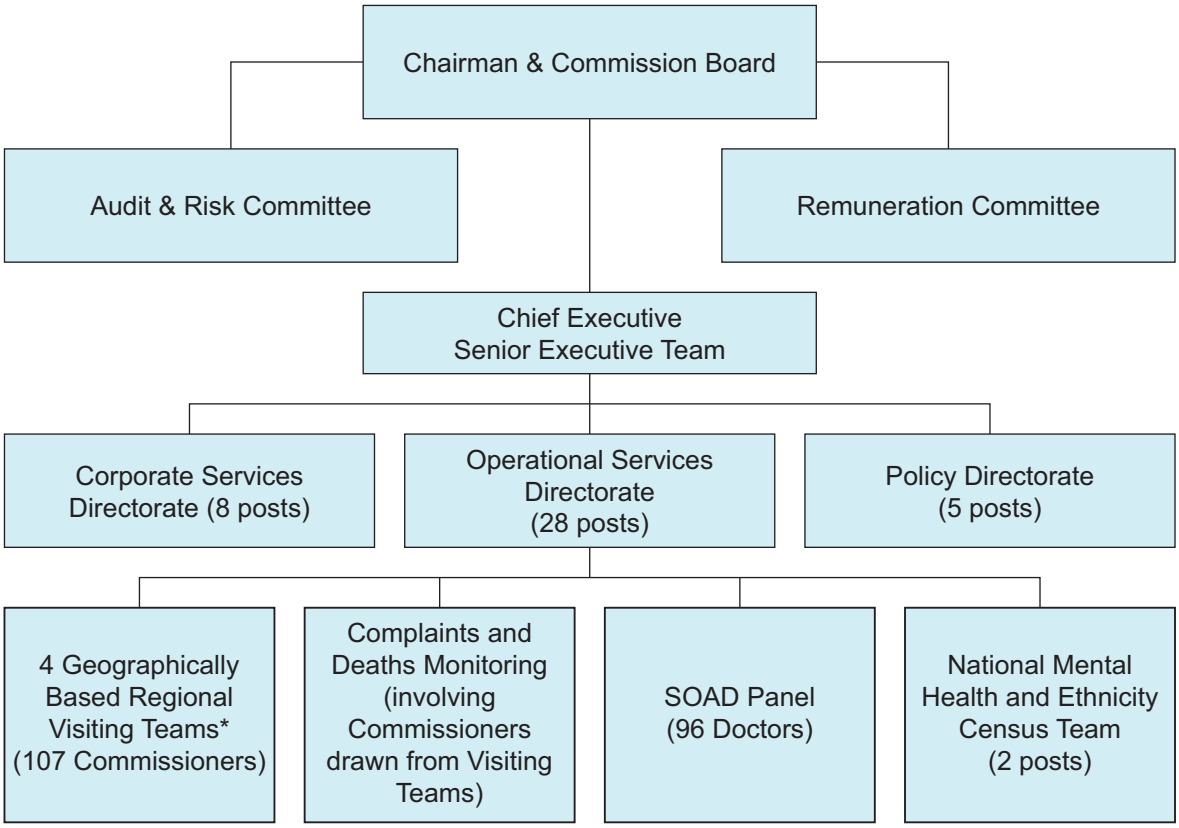
Commission Board

12. There are ten people on the Commission Board, comprising a Chair, Vice-Chair, Chief Executive, Finance Director and six non-executive members. There is one non-executive vacancy on the Board. Details about Board and sub-committee membership and meetings are included in **Table 2**.

Organisational Structure

13. **Fig. 1** below summarises the structure and organisational arrangements of the Commission.

Fig. 1: Organisational Structure of the Commission



* Each regional team is overseen by a full time Regional Director who is a member of the Senior Executive Team

Core Work of the Commission

Second Opinion Appointed Doctor (SOAD) Service Review

14. The second opinion service is an important safeguard for a detained patient in the event that treatment is proposed which they refuse or where they lack capacity to make an informed decision.

15. During 2006-07 the Commission completed a review of the SOAD Service and 2007-08 has seen the implementation of the recommendations arising from that review. This has included a substantial restructuring of the service and new processes designed to improve the quality of service provided to detained patients and NHS Trusts / Independent Sector hospitals, improved professional support, flexible working and specialist training for all SOAD Panel members. The restructuring has included:

- Development of the method of referral and submission of the proposed treatment and rationale behind the plan;
- Introduction of "day sessions", grouping second opinions in those areas where there are high levels of referrals (piloted in 2007-08 and to be implemented across the country in 2008-09);
- A regional structure for administration and support;
- The appointment of Lead SOADs who will provide professional support to SOADs and monitor their performance;
- The revision of the criteria for SOAD appointments with a greater focus on safeguards for patients and continuous professional development;
- The recruitment of a new SOAD Panel, using the new criteria;
- The provision of two days induction training for all appointed SOADs, and a commitment to provide regular refresher training;
- Increased sharing of information and intelligence between the second opinion and visiting functions of the Commission.

Visiting Programme

16. The Commission aims to visit every unit with detained patients at least once every 12 months, and within those units to visit every ward with a detained patient at least once every 18 months. It publishes an Annual Report for every NHS Trust and Independent Provider where there are detained patients.

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

18. Mental Health Act Commission annual reports, written by Area Commissioners, are a summary of the visiting activity and significant issues raised by Commissioners to a provider during a given period. Copies of annual reports, and, wherever possible, provider responses, are posted on the Commission's website, www.mhac.org.uk. Within larger providers, Area Commissioners formally present their annual reports to the NHS Trust Board or equivalent body at one of their formal meetings.

New Visiting Developments 2007-08

19. The Patient Feedback pilot reported in the last Annual Report as a new project has now been developed to provide a "feedback postcard" for use on all visits. Since launching the initiative in January 2008 the Commission has so far received over 200 responses from patients. A similar approach is being considered for use by the SOAD service.

20. Additional safeguards have been put in place to ensure any information transferred electronically after a visit can not be used to identify individual patients.

Electronic Commission

21. The electronic commission allows Commissioners to access a number of pre-visit and other relevant data reports remotely, and to create visit reference numbers. Access to the electronic commission in 2007-08 was provided to all Commissioners supported by regional training sessions. A post implementation review has been completed. Further developments including a discussion forum and a secure messaging facility are also under development. During the next year the Commission intends to use the electronic commission as a major communication and reference tool for Commissioners.

Complaints

22. The Commission has a discretionary power under Section 120 (1) (b) of the Mental Health Act 1983 to investigate complaints made by detained patients about matters that occurred whilst they were detained and any other complaints about the use of the Act in respect of a detained patient. This activity is demand led and is initiated through contact with detained patients, carers, relatives or advocates either directly through correspondence with the Secretariat or meetings with Commissioners on visits.

23. Since the introduction of the NHS Complaints procedure and its equivalents in private healthcare it is the Commission's policy to allow complaints to be referred for local resolution and then independent review by the Healthcare Commission prior to making a decision whether or not to use its own investigatory powers. This has meant that the Commission does not undertake its own investigation except on rare occasions.

24. Over the course of the year the Commission received three formal requests to investigate[3] and in each case the Commission decision has been that a further Commission investigation would be unlikely to uncover any new evidence that would lead to a different conclusion.

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

Complaints and Visiting

26. The Commission has used its Section 120 visiting powers on a number of occasions during the year when potentially serious issues have been identified through complaints.

27. There is now an agreed protocol in place to facilitate effective links between complaints and visiting activity. The protocol sets out a framework for responding to calls and correspondence received at headquarters, from patients, carers and staff, expressing concerns about the services provided. During the reporting period there were two occasions where a Commissioner was asked to undertake a complaints activity visit. The first was an allegation of an assault on a patient, and the second raised concerns about the level of specialist care a patient was receiving which, it was alleged, was not at the level being funded.

Notification of Deaths of Detained Patients

28. As part of its general remit, the Commission receives notification from service providers of the deaths of detained patients. Every cause of unnatural death, or natural death where practice issues are identified, is the subject of a review. A trained Commissioner will either undertake a themed visit looking at the particular circumstances and issues arising from a death or attend the inquest.[4]

29. The aims of the notification and review are:

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

30. During 2007-08 the Commission conducted a review of its response to Death Notifications and the Board have agreed a number of recommendations to

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

4 The Commission will usually seek to visit if the inquest is not due to take place within six months of the death.

improve the process, to inform visiting priorities and ensure that the lessons learned are shared more widely. These will be implemented during 2008-09.

Issues of Serious Concern

31. Issues of Serious Concern are brought to the Commission's attention by visiting Commissioners, stakeholder colleagues, regulatory bodies, patients, carers or staff and are recorded and monitored centrally. Identified serious issues are reported to Regional Directors. Issues of serious concern are wide ranging and in the reporting period have related to patient safety, privacy and dignity, and allegations of serious abuse. Action is always taken to follow these up with the provider; this may be in collaboration with other agencies such as the Healthcare Commission or the Local Authority Safeguarding Team, or by direct contact with relevant provider staff by Commissioners or Regional Directors as appropriate.

Judicial Reviews

32. During 2007-08 there were no new judicial review challenges involving decisions made by SOADs to certify treatments in the absence of a detained patient's consent.

33. The Commission has received four letters before claim from solicitors acting on behalf of three patients[B], details of which are included at the end of this chapter.

Equality and Human Rights

34. The Commission is committed to embedding a human rights-based approach throughout the organisation, and has adopted an Equality and Human Rights Strategy, which was approved by the Board in November 2006, and is reviewed annually. In 2007, the Commission finalised an Equality and Human Rights Impact Assessment tool, which is used to assess the potential impact for equality and human rights issues on all major policy or activity developments.

35. In line with statutory requirements, the Commission produces Race, Gender and Disability Equality Schemes, which are reviewed annually. The Gender Equality Scheme was first published in April 2007, and was subsequently revised following public consultation. The Disability Equality Scheme was developed in 2006-07, and was revised in 2007-08.

36. Commissioners have been provided with a cross-reference guide to the Mental Health Act and the Human Rights Act that can be used on visits. This was produced at the request of Commissioners following the *Making It Real* human rights training which took place in 2005-06 and 2006-07.

37. All equality schemes and action plans are published on the Commission website www.mhac.org.uk.

Service User Involvement

38. The Commission continued to develop its Service User Involvement strategy throughout 2007-08, working closely with the 29 members of its Service User Reference Panel. Service user involvement is now a regular feature of Commission activity, with service users involved in all major projects and developments. A significant development is the Acting Together project of joint service user and Commissioner visits. These visits were piloted in 2006-07, and rolled out in 2007-08 to aid Commissioner awareness of how mental health services are viewed by those who use them. Service users have also been involved in producing a good practice guide to visiting from a service user perspective, and have made contributions to Commissioner recruitment and training, and to the Twelfth Biennial Report.

39. During the year the Commission produced its second annual report on its Service User Involvement Strategy. This, and other information, including a regular SURP newsletter, *1983 And All That,* is available on the 'Your Involvement' pages of the website (www.mhac.org.uk). The Commission will continue to build on the successes to date and develop this activity further in 2008-09.

Programme Activity

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

41. The wider programme of activity led by the Commission's Programme Development Group during 2007-08 included:

- Acting Together visits;
- Section 17 thematic visits;
- Development of a 'question of the moment'[5] to obtain a snapshot of patient experience in specific areas;
- Development of guidance for Commissioners when visiting patients with communication needs;
- Pilot activity to assess the options for visiting people receiving Supervised Community Treatment, using contact with people on long term Section 17 leave or Section 25 as a proxy.

Production of DVD

42. A DVD was commissioned to demonstrate the work of the Commission specifically around the visiting function and how service users are involved. The DVD provides information about the Acting Together project, with

5 During 2007/8 Section 132, Access to telephones and advocacy were covered. The results from all three initiatives were reported in the Twelfth Biennial Report.

interviews with patients, staff, SURP members and Commissioners. It was made with the support of Tees, Esk and Wear Valleys NHS Trust and will be available early in 2008-09. The DVD is being issued to all Mental Health Trusts, Independent Sector Hospitals and Commissioners for use with service users, staff and other interested individuals and groups, and covers:

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

Communications

43. The Commission's Communications Strategy was reviewed and renewed in 2007 and is available from the Commission website www.mhac.org.uk.

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

45. The Commission has continued to develop and improve its external communications this year, supported by the service user involvement and equality and human rights strategies. The Commission produces information for patients in a number of formats including DVD and CD, with subtitles and BSL signing to help make the information accessible to greater numbers of service users, including those with disabilities, and to their families and carers, and those working in mental health services.

46. Other external communications activities this year have included:

Twelfth Biennial Report, 2005-2007 – Risk, Rights, Recovery:
This was published and laid before Parliament in January 2008. A summary document of key findings is also available.

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

Guidance Notes on the Mental Health Act 1983 and its code of practice
These are published on the website and are aimed primarily at staff in mental health services. No new guidance notes were published in the last year, however the Commission is in the process of revising all guidance note to take account of recent changes in mental health legislation.

Patient Feedback
Questionnaires to patients are now a permanent feature of the Commission's work.

Service User Reference Panel Newsletter: 1983 and all that
This is a quarterly publication of submissions by staff, Service User Reference Panel members and others, distributed to the Service User Reference Panel and Commission members as well as being published on the website.

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

Commissioner and SOAD training events

47. **Fig. 2** below shows the training events arranged and attended by Commissioners and SOADs during 2007-08.

Fig. 2: Training events held in 2007-08

Date(s)	Purpose	Attendees
7 and 8 November 2007	MHAC National training event for Commissioners	121 (including Commissioners staff and guests)
18 and 19 March 2008	MHAC National training event for SOADs	79 (including SOADs staff and guests)
19 February 2008	Regional training Events for Commissioners	27 (including Region 1 Commissioners, and MHAC staff)
26 February 2008		26 (including Region 2 Commissioners and MHAC staff)
6 March 2008		16 (including Region 3 Commissioners (England) and MHAC staff)
20 February 2008		15 (including Region 3 Commissioners (Wales) and MHAC staff)
5 March 2008		21 (including Region 4 Commissioners and MHAC staff)

Commissioner Conference

48. The two day national Conference held in November 2007 was focused primarily on initial training for the Mental Health Act 2007. Building on the Commission's commitment to service user involvement across all areas of activity, members of the Service User Reference Panel attended the conference and also led a plenary session about the Acting Together project. A subsequent regional training event on the Act was held in each of the four regions in February and March and a further two day event is planned for September 2008.

Staff Conference

49. In March 2008 a one day staff conference was held. The focus of the day was planning for the year ahead, seeking positive outcomes from the transition to the new organisation and developing plans to support each other and maintain the services we provide during a period of substantial change.

Sustainable Development

50. During 2007-08 the Commission reviewed its work around sustainable development and produced an action plan summarising achievements to date; which include switching to a waste collection agency that has a 78% success rate for recycling paper, glass, plastic bottles, the use of timer switches to ensure that all non essential electrical items are not left switched on when the office is not in use and the replacement of any broken or damaged electrical equipment with increased energy efficient models. A number of other initiatives are also underway, including the replacement of existing fluorescent light bulbs with energy efficient lighting on a rolling programme from February 2008 and working with stationery providers to source alternatives to current stocks.

The Concordats

51. As a full signatory to the English and Welsh Concordats[6], the Commission has continued to take forward implementation of ten objectives aimed at improving co-ordination between inspection and review bodies, improving services for patients and their carers, and reducing unnecessary burdens of inspection on staff providing healthcare. A third annual review of activity by the Commission to implement the Concordat in England was undertaken during 2008. This will be published on the Concordat website www.concordat.org.uk. Information about activity in Wales is available at www.walesconcordat.org.uk. The Commission provides information about its activity in NHS Trusts in England and Wales through the Concordat scheduling sites, which may also be accessed through the two concordat websites.

Joint Working with the Healthcare Commission and Commission for Social Care Inspection

52. During 2007-08 the Commission for Social Care Inspection, Healthcare Commission and Mental Health Act Commission developed a planned programme of work being carried out jointly. The work is overseen by a Joint Partnership Board involving senior staff of the three organisations.

53. Development began on a project to develop a framework for the joint assessment of the commissioning of services for people with learning difficulties. This work continues into 2008-09.

National Mental Health and Ethnicity Census

54. The *Count Me In* Census is an important underpinning element of the wider Delivering Race Equality (DRE) Programme of the Department of Health and the National Institute for Mental Health in England (NIMHE), and first conducted in March 2005. It continues to form an important element of Delivering Race Equality in Mental Health agenda and supports the Department of Health's 'Standards for Better Health'.

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

55. The 2008 Census took place on 31 March 2008. It included all in-patients in NHS and independent mental health services as well as patients in learning disability services run by the NHS or registered as independent providers under Section 2 of the Care Standards Act 2000.

Responses to Consultations

56. During the year the Commission contributed to a number of consultations, which were published on the Commission website, www.mhac.org.uk.

Mental Health Legislation and Future Monitoring Arrangements

57. The Mental Health Act 2007 amends the Mental Health Act 1983 and the Mental Capacity Act 2005. The Commission responded to consultations on the Mental Health Act 2007 Codes of Practice for England and Wales; regulations; and the proposed Deprivation of Liberty safeguards to be added to the Mental Capacity Act. Commissioners and staff received training on practical aspects of the revisions made to the 1983 Act by the 2007 Act, and Commission guidance notes are being revised to take account of such revisions.

58. The Commission continues to be involved in discussion and planning with the Department of Health, Healthcare Commission and the Commission for Social Care Inspection, as part of the government's programme to bring together functions of these three bodies into a new regulator for health and adult social care, the Care Quality Commission, under the provisions of the Health and Social Care Bill 2007. In Wales, the Commission's functions will transfer to Health Inspectorate Wales on 1 April 2009.

Corporate Governance

The Mental Health Act Commission Board

59. The Mental Health Act Commission Board is the focal point for corporate and information governance, approving policies, strategic direction, business planning including risk assessment and related expenditure profiling inclusive of the Annual Accounts. The Board meets formally at least every two months and met nine times in 2007-08. In line with the Commission's Standing Orders, Board meetings are publicised and members of the public are entitled to attend the entire meeting with the exception of items deemed to be of a confidential nature.

60. The membership of the Board and number of attendances at meetings in 2007-08 are detailed in **Table 2**.

61. The Chair, Vice Chair and Non-Executive Members of the Board are paid an honorarium for their work on the Commission Board at rates approved by the Secretary of State. The Executive members of the Board, the Chief Executive and the Director of Finance, are salaried staff. The Chief Executive in 2007-08, Christopher Heginbotham, was employed by the University of Central Lancashire and seconded to the Mental Health Act Commission.

The Board has two sub-committees:

The Audit and Risk Committee

62. The Audit and Risk Committee's functions are to foster awareness of risk management throughout the Commission at all levels, ensuring that an Assurance Framework is developed, monitored, and compliant with all statutory and mandatory requirements and also to act as the Board Health and Safety Committee. The Committee is also tasked with ensuring that effective financial controls are in place together with robust reporting mechanisms, ensuring that best value is achieved across the Commission's activity areas. Review and revision of Standing Orders and Standing Financial Instructions is undertaken by this Committee.

63. This Committee consists of five non-executive members and five meetings took place in 2007-08. The non-executive membership of the Committee and number of attendances at meetings in 2007-08 are detailed in **Table 2**.

64. In line with the Commission's Standing Orders, the Chief Executive and Director of Finance are invited to attend, together with representatives from the Commission's internal and external auditors.

Remuneration Committee

65. Remuneration Committee meetings are to advise the Commission on performance, remuneration and terms of service of the Executive Directors, the discretionary aspects of the Commission's pay structure, personal performance, costs and increases in fees payable to Commissioners and SOADs.

66. In 2007-08 eight meetings were held. The membership of the Committee and attendances at meetings in 2007-08 are detailed in **Table 2**.

67. The Chief Executive is in attendance except where issues of his own performance are being considered. The Finance Director attends by invitation. Meetings are held on an "as required" basis.

Declaration of Interests

68. A complete and up to date register of interests for all members of the Commission is maintained. This register is open for public inspection at any time during working hours.

External Audit

69. The Commission's external audit function is provided on behalf of the Comptroller and Auditor General by the National Audit Office (NAO) and paid for by the Commission. A cost-efficient service supported by a programme of work is agreed annually. Costs relating to this activity are detailed in the Annual Accounts.

70. So far as the Accounting Officer is aware, there is no relevant audit information of which the entity's auditors are unaware; and the Accounting Officer has taken all available steps that she is required to take to make herself aware of any relevant audit information and to establish that the Commission's auditors are aware of that information.

Information Governance

71. The Commission's Information Governance work programme is overseen by its Caldicott Guardian, Patrick Callaghan. During the year, the Commission completed a programme of work addressing the following areas:

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

72. Within the four work areas above, the Commission assessed its level of compliance against 31 specific Information Governance requirements, within the Connecting for Health Information Governance Toolkit, and achieved a compliance score of 90% against these requirements.

73. The Commission also undertook a programme to encrypt all of its portable devices, in line with data security requirements across the Department of Health.

Personal Data Related Incidents

74. In 2007-08 there were no protected personal data related incidents formally reported to the Information Commissioner's Office. A review of internal information handling procedures was undertaken, with revised guidance issued to staff, Commissioners and SOADs, to ensure an understanding and agreement across the Commission to handle information correctly. Where information was received from other organisations, deemed to have been sent insecurely, these potential data breaches were flagged to the sender. Systems are in place at the Commission for the recording of any future personal data related incidents.

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

Freedom of Information (FOI)

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

77. The Commission has appointed a non-executive Board member as Freedom of Information Champion, Ann Curno, who is responsible for ensuring compliance with the Publication Scheme and Freedom of Information Act, and is the formal liaison point with the Information Commissioner.

78. The Commission received 15 requests for information during the period 1 April 2007 to 31 March 2008.

Statement on Internal Control

79. The Statement on Internal Control can be found within the Commission's Annual Accounts for 2007-08.

Emergency Preparedness

80. The Commission has in place a comprehensive Business Continuity Plan developed with assistance from the Institute of Business Continuity and Property Advisers to the Civil Estate (PACE). This document has been fundamentally reviewed and tested during 2007-08 to ensure it is fully compliant with the Commission's current business practices and will be reviewed annually.

A Statutory Instruments

The regulations which make provision concerning the membership and procedure of the Commission (S.I. 1983/894) were laid before Parliament on 1 July 1983 and came into force on 1 September 1983. These were subsequently amended by S.I. 1990/1331 and S.I. 1995/2630, the latter being made on 9 October 1995 and coming into operation on 1 November 1995. S.I. 1996/707 (coming into force on 1 April 1996) amended Regulation 9 of the Mental Health Act Commission Regulations 1983 to accord with the Health Authorities (Membership and Procedure) Regulations 1996 (see Schedule 5(1)). S.I. 1996/707 also requires the Commission to adopt Standing Orders (SOs) for the regulation of its proceedings and business. In accordance with the "Directions on Financial Management in England" issued under HC(96)12 in 1996, the Commission must also adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals. S.I. 1995/2630 dictates that a full meeting of the Commission shall be held in any year.

B Letters before claim, received in 2007-08:

Case 1 – Key issues raised:
a) Extended periods of seclusion.
b) Contact with family and relatives.
Following discussion with the Regional Director a visit was arranged to see the patient and review their care and treatment following which a report containing a number of recommendations was sent to the provider and shared with the patient's solicitors.

Case 2 – Key issues raised:
a) The patient's treatment plan particularly the administration of a depot preparation and the effect this is having on the patient.
b) Lack of evidence over a prolonged period that the treatment is having a therapeutic effect.
c) A request that the patient's treatment plan should be changed and the administration of depot medication stopped.
This case was referred to Treasury Solicitors who advised that a further Second Opinion visit should be undertaken to further review the patient's treatment plan. No further contact was received from solicitors following this action.

Case 3 – Key issues raised:
a) The administration of a depot preparation.
b) A request that the Commission to undertake a further second opinion visit and review of the patient's treatment and to withdraw the Form 39 currently in use.
The Commission sought advice from an independent SOAD who reviewed the information available and agreed that a further second opinion should be arranged and the current Form 39 withdrawn. A new second opinion doctor was appointed and a visit was undertaken. This case is ongoing.

Case 4 – Key issues raised:
a) The administration of a depot medication to a patient who has not received medication treatment previously.

Treasury Solicitors advised that the Responsible Medical Officer (RMO) did not wish to pursue medication treatment at this time and the case was closed.

Chapter 2: Management Commentary

Performance

Visiting programme activity

1. During 2007-08 (the third full reporting year under new visiting arrangements introduced in October 2004), the Commission has undertaken 1692 visits to providers (1679 visits were undertaken in 2006-07). Much of the visiting activity is undertaken by Local Commissioners, although some visiting activity is also carried out by Area Commissioners and Regional Directors where the need arises. In addition to the regular visiting activity shown above Commissioners also carried out 31 visits in February and March looking at Section 17 leave arrangements for patients. 115 sets of documents were checked and 165 patients were interviewed during these Section 17 visits.

2. Of the 1692 regular activity visits recorded, 53 are shown to be half day visits. Although the Commission's visiting arrangements are flexible and allow Commissioners to plan their activity around other commitments, the majority of visits undertaken are whole day visits. The average time recorded by Local Commissioners for each visit activity was 7.6 hours with an average of 2.15 hours additional travelling time.

3. Visiting programme statistics for 2007-08 are included in **Tables 3 and 4**.

Complaints

4. The number of complaints relating to care and treatment during detention received through direct contact with the Commission or by a Commissioner following an interview with a detained patient has decreased slightly on the previous year (842 in 2007-08 compared to 964 in 2006-07). The service provided by the complaints team is a demand led service and the number of complaints received is not an absolute indication of workload. The level of involvement needed can vary widely for each individual case. Some cases can require significant and prolonged action over a number of weeks or months while others are closed following the Commission's initial response often because the issues raised in the correspondence are outside the Commission's remit.

5. The Commission's administrative team has a performance indicator of 21 days from the date of receipt to respond to all complaints received in the office or raised on a visit and general correspondence received. During 2007-08 the average time taken to respond was 4 working days.

6. Complaints statistics for 2007-08 are included in **Tables 5 and 6**.

Deaths of Detained Patients

7. In the period, the Commission received notification of 351 deaths (268 natural and 83 unnatural causes) and attended 56 inquests and visited hospitals on 18 occasions as a result of death notifications.

8. Death notification statistics for 2007-08 are included in **Tables 5 and 7**.

Second Opinion Service

9. The number of Second Opinions received by the Commission has increased again by 2.66% from the previous year. This is a demand-led statutory function. The figures in **Table 5** show that requests for Electro-Convulsive Therapy (ECT) have slightly reduced compared with the last reporting period, whilst medication second opinions have risen slightly.

10. Second Opinion statistics for 2007-08 are included in **Tables 5 and 8**.

11. **Fig. 3** below shows the increase year on year which has to be absorbed in terms of activity and funding.

Fig. 3: Second Opinion requests received 2004-05 to 2007-08, showing percentage changes

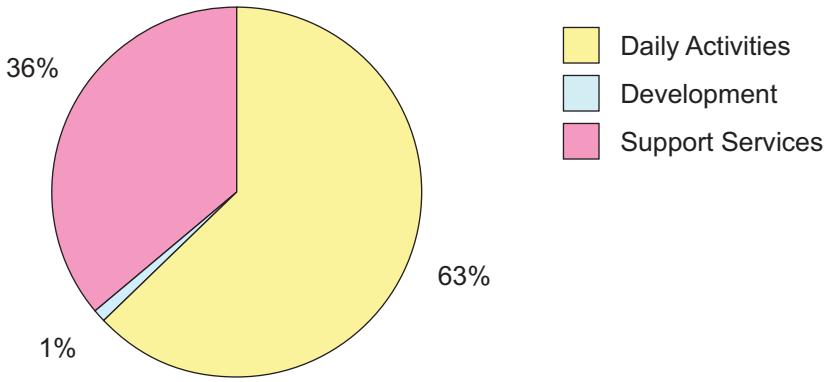
Year	Number of Second Opinions[7]	% change +/-
2004-05	9,767	-
2005-06	11,137	+14
2006-07	11,662	+5
2007-08	11,973	+2.66

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

Financial Position

Resources

12. The Commission's revenue resource limit for 2007-08 was £5,748,000. The pie chart below illustrates how this funding was used:



13. Capital funding of £158,000 was allocated to support the roll out of the Commission's ICT Phase II Development, of which £64,000 was used. The balance was returned to the Department of Health and related to training costs, which were instead met from revenue budgets, and planned developments linked to the SOAD Review which it was decided not to undertake in this financial year.

Financial Risks

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

- A continuing increase in the number of requests made of the demand-led Second Opinion service, impacting on the overall expenditure position;
- Unknown costs of transition to the Care Quality Commission.

15. The costs have been factored into the requested allocations for 2008-09, although a further considerable rise in these activity areas could have an impact on the Commission's ability to complete its visiting programme without additional financial support.

Annual Accounts 2007-08

16. The accounts for the year ended 31 March 2008 have been prepared in accordance with the direction given by the Secretary of State in accordance with Section 232 of the NHS Act 2006 and in a format as instructed by the Department of Health with the approval of Treasury.

17. Operating against a revenue resource limit of £5,748,000 (2006-07: £5,391,000), the Commission's expenditure for 2007-08 equates to £5,561,000 (2006-07: £5,275,000). The Commission sought to undertake the maximum activity possible to ensure that it made the best use of its resources during the year, ensuring that sufficient contingency was retained to cater for significant

variances within the SOAD budget, which influenced the expenditure position heavily.

18. The balance sheet (page 47) indicates that the Mental Health Act Commission has net current liabilities. This is not an indication of potential going concern difficulties as the funding of NHS bodies by the Secretary of State will cover appropriate liabilities. The NHS (Residual Liabilities) Act 1996 also requires the Secretary of State to exercise his statutory powers to deal with the liabilities of a Special Health Authority, if it ceases to exist.

19. The balance sheet shows an increase in cash held at year end and also an increase in creditors compared to the previous year. The creditors figure is mainly represented by liabilities incurred in March and invoices received after the close down date. The cash held was drawn down in anticipation of expenditure and is linked to the creditor accruals.

20. The full set of Accounts for the year 2007-08 is attached to this report, incorporating:

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

Better Payment Practice Code

21. The Commission's performance can be found at note 2.3 of the Accounts representing the period 1 April 2007 – 31 March 2008.

Future Work

Funding for 2008-09

22. The Commission has been advised of its revenue resource limit for 2008-09, equating to £5,594,000, within which the level of the Commission's activity continues to increase. No capital funding has been allocated for 2008-09.

Taking Forward the Commission's Objectives

23. In 2008-09, the Commission will continue to work towards its objectives as set out in Chapter 1 above. Additional service improvement objectives are to:

- Deliver the benefits of the SOAD Service Review;
- Implement recommendations from the review of death notifications;
- Build upon the Second Phase of the Commission's IT investment, extending remote working;
- Successfully complete the National Mental Health and Ethnicity Census ('Count me in') 2008.

Transition Planning

24. On 1 April 2009, the Care Quality Commission will replace the Mental Health Act Commission, Healthcare Commission and Commission for Social Care Inspection. In Wales, the Commission's functions will transfer to Health Inspectorate Wales (HIW). The Commission is determined to ensure that all statutory functions are performed fully during the transition period, and to play a full role in the creation of the new regulator. In particular the Commission is keen to ensure that the new legislation and both the Care Quality Commission and HIW continue to place an emphasis on the protection of the rights of detained patients, and on visiting mental health services.

25. The Commission's Strategic and Business Plan is available from the website www.mhac.org.uk, and sets out in detail how the Commission will effectively manage its objectives in relation to both statutory functions and future transition to the Care Quality Commission throughout 2008-09.

Chapter 3: Remuneration Report

Human Resources

1. The Commission has three main groups of personnel:

   - Commissioners are public appointees of the Secretary of State for Health. Commissioners are professional or lay people with significant experience of mental health services and empathy with the situation of detained patients. Commissioners receive a daily fee for their activity; 24 days are payable on a regular monthly basis with the remaining payable upon completion of training events or other activity.
   - Second Opinion Appointed Doctors (SOADs) are paid a fee for each second opinion undertaken. The Commission also appoints psychiatrists and lay persons to form panels when a proposal is made to undertake Neurosurgical procedures for Mental Disorder (NMD) on a patient in England and Wales. These panellists are also paid a fee for each opinion provided.
   - Staff at the Commission headquarters are all civil servants on secondment from and subject to the Department of Health's Terms and Conditions. Salary payments are made in line with DH pay policies.

2. When appropriate, additional support is 'bought in' from external experts to provide the additional skills required for specific projects.

Commissioner and SOAD Fees

3. Area Commissioners receive £300 for each day's activity and Local Commissioners receive £225. Involvement in project work is paid at a standard rate of £250 for both Area and Local Commissioners. SOADs receive £160 per second opinion undertaken or £500 for a day session where approximately four patients are seen at one site or adjacent sites. £250 may be paid for a half day session in some circumstances. Lead SOADs are paid a daily fee of £500. NMD panel members receive £160 per decision made. The levels of fees are considered by the Remuneration Committee on an ongoing basis.

4. Regional Directors monitor Commissioner activity to ensure paid commitments are fulfilled. Procedures are also in place to ensure Commissioners advise their Regional Director if they are unable to fulfil their commitments for a prolonged period due to illness or other reasons so that, if necessary, monthly payments can be suspended.

Senior Management

5. Detailed in **Fig. 4** is the remuneration of senior management of the Commission and members of the Board. Chief Executive and Director salaries are reviewed by the Remuneration Committee which may also approve special bonus payments or salary enhancements.

Fig. 4: Salaries and allowances[8]

Name and Title	2007 – 08			2006 – 07		
	Salary (bands of £5,000)	Other Remuneration (bands of £5,000)	Benefits in kind (rounded to the nearest £00)	Salary (bands of £5,000)	Other Remuneration (bands of £5,000)	Benefits in kind (rounded to the nearest £00)
	£000	£000	£000	£000	£000	£000
Mr. Christopher Heginbotham (Chief Executive) [to 31.03.08]	65 to 70	0	0	95 to 100	0	0
Mrs. Gemma Pearce (Deputy Chief Executive/Director of Strategy)	60 to 65	0	0	55 to 60	0	0
Mr. Martin Donohoe (Director of Corporate Services)	55 to 60	0	0	50 to 55	0	0
Ms. Rachel Munton (Interim Deputy Chief Executive) [to 21.04.06]	0	0	0	5 to 10	0	0
Ms. Clair Chilvers (Director of Research and Development) [to 31.12.06]	0	0	0	10 to 15	0	0
Mrs. Susan McMillan (Director of Operations [from 01.06.06]/ Regional Director)	50 to 55	0	0	50 to 55	0	0
Mr. Philip Wales (Regional Director)	45 to 50	0	0	Consent to disclose salary withheld		
Mrs. Suki Desai (Regional Director) [to 31.08.07]	20 to 25	0	0	45 to 50	0	0
Mr. Stephen Klein (Regional Director)	50 to 55	0	0	45 to 50	0	0
Mrs. Surrinder Kaur (Regional Director) [from 01.03.08]	0 to 5	0	0	0	0	0
Mr. John Knox (Finance Director) [from 01.03.08]	0 to 5	0	0	0	0	0
Prof. Kamlesh Patel (Chairman)	0	25 to 30	0	0	25 to 30	0
Ms. Deborah Jenkins (Vice Chairman)	0	25 to 30	0	0	25 to 30	0
Mr. Simon Armson (Non Executive Board member/ Area Commissioner)	0	20 to 25	0	0	15 to 20	0
Mr. Patrick Callaghan (Non Executive Board member from 01.07.07/ Area Commissioner)	0	10 to 15	0	0	0	0
Mrs. Ann Curno (Non Executive Board Member)	0	5 to 10	0	0	5 to 10	0
Mr. Barry Delaney (Non Executive Board member/Area Commissioner)	0	25 to 30	0	0	20 to 25	0
Mr. John Knox (Non Executive Board member) [to 29.02.08]	0	10 to 15	0	0	5 to 10	0
Mrs. Kay Sheldon (Non Executive Board member/Local Commissioner)	0	20 to 25	0	0	15 to 20	0

Signed Gemma Pearce

Accounting Officer

Date 19 June 2008

8 This section of the Annual Report was subject to National Audit Office scrutiny as part of the final audit in May 2008.

Pension Costs

6. The Commission participates in the Principal Civil Service Pension Scheme (PCSPS), the Civil Service Compensation Scheme (CSCS) and other statutory schemes made under the Superannuation Act 1972.

7. Past and present employees are covered by the provision of the Civil Service Pension Scheme which are described in **Fig. 5**.

8. The defined benefit elements of the schemes are unfunded and are non-contributory except in respect of dependents benefits. The Commission recognises the expected cost of these elements on a systematic and rotational basis over a period during which it benefits from its employees' services by payment to the Principal Civil Service Pension Schemes (PCSPS) of amounts calculated on an accruing basis. Liability for the payment of future benefits is a charge on the PCSPS. In respect of the defined contribution elements of the schemes, the Commission recognises the contributions payable for the year.

9. The PCSPS is an un-funded multi-employer defined benefit scheme but the Mental Health Act Commission is unable to identify its share of the underlying assets and liabilities. A full actuarial valuation was carried out as at 31 March 2003. Details can be found in the resource accounts of the Cabinet Office: Civil Superannuation (www.civilservice-pensions.gov.uk)

10. For 2007-08, employer's contributions of £141,000 were payable to the PCSPS (2006-07 £160,000) at one of four rates in the range 12 to 18.5 per cent of pensionable pay, based on salary bands. The scheme's Actuary reviews employer contributions every four years following a full valuation. The contribution rates reflect benefits as they are accrued, and reflect past experience of the scheme.

11. Employees joining after 1 October 2002 could opt to open a partnership pension account; a stakeholder pension with an employer contribution. No employer contributions were paid to one or more of a panel of four appointed stakeholder pension providers. Employer contributions are age related and range from 3 to 12.5 per cent of pensionable pay. No employer contributions (0.8 per cent of pensionable pay) were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement.

12. Contributions due to partnership pension providers at the balance sheet date were nil. Contributions prepaid at that date were nil.

Fig. 5: Pension Benefits[9]

Name and Title	Real increase in pension at age 60 (bands £2,500)	Lump sum at age 60 related to real increase in pension (bands of £2,500)	Total accrued pension at age 60 at 31 March 2008 (bands of £5,000)	Lump sum at age 60 related to accrued pension at 31 March 2008 (bands of £5,000)	Cash Equivalent Transfer Value 31 March 2007	Cash Equivalent Transfer Value at 31 March 2008	Real increase in Cash Equivalent Transfer Value	Employer's Contribution to stakeholder pension
	£000	£000	£000	£000	£000	£000	£000	£0
Mr. Christopher Heginbotham (Chief Executive) [to 31.03.08]	See note below							
Mrs. Gemma Pearce (Deputy Chief Executive/Director of Strategy)	0 to 2.5	2.5 to 5	10 to 15	30 to 35	116 to 117	152 to 153	13 to 14	903
Mr. Martin Donohoe (Director of Corporate Services)	0 to 2.5	2.5 to 5	15 to 20	55 to 60	263 to 264	319 to 320	14 to 15	804
Ms. Rachel Munton (Interim Deputy Chief Executive) [to 21.04.06]	0	0	0	0	330 to 335	0	0	0
Mrs. Susan McMillan (Director of Operations [from 01.06.06]/ Regional Director)	0 to 2.5	0	15 to 20	0	259 to 260	315 to 316	17 to 18	1878
Mr. Philip Wales (Regional Director)	0 to 2.5	0	15 to 20	0	201 to 202	246 to 247	9 to 10	1746
Mrs. Suki Desai (Regional Director) [to 31.08.07]	0 to 2.5	0	0 to 5	0	27 to 28	46 to 47	12 to 13	1788
Mr. Stephen Klein (Regional Director)	0 to 2.5	0	20 to 25	0	382 to 383	446 to 447	16 to 17	1788
Mrs. Surrinder Kaur (Regional Director) [from 01.03.08]	Pension details unavailable, paid by direct employer							
Mr. John Knox (Finance Director) [from 01.03.08]	Pension details unavailable, paid as consultant							
Prof. Kamlesh Patel (Chairman)	0		0		0	0	0	0
Ms. Deborah Jenkins (Vice Chairman)	0		0		0	0	0	0
Mr. Simon Armson (Non Executive Board member/ Area Commissioner)	0		0		0	0	0	0
Mr. Patrick Callaghan (Non Executive Board member from 01.07.07)	0		0		0	0	0	0
Mrs. Ann Curno (Non Executive Board member)	0		0		0	0	0	0
Mr. Barry Delaney (Non Executive Board member/Area Commissioner)	0		0		0	0	0	0
Mr. John Knox (Non Executive Board member) [to 29.02.08]	0		0		0	0	0	0
Mrs. Kay Sheldon (Non Executive Board member/Local Commissioner)	0		0		0	0	0	0
As Non-Executive members do not receive pensionable remuneration, there are no entries in respect of pensions for Non-Executive members								

CEO Pension

The Chief Executive is not a member of the Principal Civil Service Pension Scheme. Consent to disclose pension details for 2007-08 has been withheld.

Signed Gemma Pearce

Accounting Officer

Date 19 June 2008

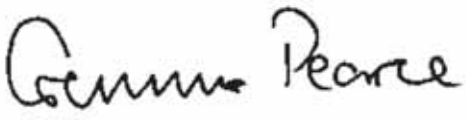
9 This section of the Annual Report was subject to National Audit Office scrutiny as part of the final audit in May 2008.

Cash Equivalent Transfer Values

13. A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capital value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The CETV figures and the other pension details include the value of any pension benefits in another scheme or arrangement which the individual has transferred to the NHS pension scheme. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

Real Increase in CETV

14. This reflects the increase in CETV effectively funded by the employer. It takes account of the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Signed 

Accounting Officer **Date** 19 June 2008

Annual Account of the Mental Health Act Commission Special Health Authority 2007-08

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

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

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

- observe the Accounts Direction issued by the Secretary of State, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the accounts; and
- prepare the accounts on a going concern basis.

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

STATEMENT ON INTERNAL CONTROL

1. Scope of Responsibility

As Accounting Officer of the Mental Health Act Commission, supported by the Commission Board, I have responsibility for maintaining a sound system of internal control that supports the achievement of the Commission's policies, aims and objectives, whilst safeguarding the public funds and the organisation's assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Managing Public Money.

I commenced my role as Acting Chief Executive on 1 April 2008. My review of the effectiveness of the systems of internal control has been informed by the opinion of the former Chief Executive, who held that position throughout 2007-08, and has taken account of the work of the Senior and Executive Management teams which have responsibility for the development and maintenance of the internal control framework. Areas highlighted within the 2007-08 statement have been addressed and I can confirm that:-

- The Commission has undertaken a self-assessment exercise against the core Controls Assurance standards (Governance, Financial Management and Risk Management).
- An action plan has been developed and implemented to meet any gaps.
- As part of its risk identification and management process, the Commission has in place arrangements to monitor compliance with other key standards, including relevant Controls Assurance standards covering areas of potentially significant organisational risk.
- The Commission has made strenuous efforts to identify all risks from all sources to its business and put in place arrangements to minimise the impact if any risks materialise.

2. The Purpose of the System of Internal Control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on a continuing process designed to identify and prioritise the risks to the achievement of the organisation's policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

The system of internal control has been in place in the Mental Health Act Commission Special Health Authority for the year ended 31 March 2008 and up to the date of the approval of the Annual Report and Accounts and accords with Treasury guidance.

3. Capacity to Handle Risk

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

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

4. The Risk and Control Framework

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

The Commission's Assurance Framework encompasses all key workstreams identified within the Business and Corporate Plans. The Assurance Framework also provides the Commission with its Risk Register by identifying the following:-

- Principal Risks
- Impact/Likelihood analysis
- Key Controls and Assurances

- Gaps in Controls and Assurances
- Responsible Director and target date for completion of identified task.

An action log has also been developed to ensure that all action taken is captured. The Assurance Framework is reviewed each month by directors who then report on progress into the Audit and Risk Committee which reviews the framework and the reports at its regular meetings, usually quarterly; and into the Board.

The Assurance Framework is then used in conjunction with the business continuity plans (one for normal business continuity, and a second concerned specifically with the transition to the proposed new regulator for health and adult social care, the Care Quality Commission, bringing together the Mental Health Act Commission, Healthcare Commission and the Commission for Social Care and Inspection).

The Commission's Information Governance work programme encompasses four detailed initiatives as detailed in the Information Governance Toolkit, these being:-
- Confidentiality and Data Protection;
- Corporate Information Assurance;
- Information Governance Assurance;
- Information Quality Assurance.

For 2007-08 the Commission has increased its compliance with the requirements of the Information Toolkit to 90%. All scores are supported by evidence which is independently assessed by the Commission's Caldicott Guardian before submission to the Board.

Further improvements are planned for 2008-09 with a focus on the development of an information asset register.

5. Review of Effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed in a number of ways. The Head of Internal Audit provides me with an opinion on the overall arrangements for gaining assurance through the Assurance Framework and on the controls reviewed as part of the internal audit work; and executive managers within the organisation have responsibility for the continuing development and maintenance of the system of internal control. The Assurance Framework itself provides me with evidence that the effectiveness of controls have been reviewed in relation to the risks of the organisation not achieving its principal objectives.

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

My review concludes that the Assurance Framework meets the requirements of the 2007-08 Statement on Internal Control, incorporates robust systems to ensure that all organisational risks are identified and reviewed, and provides reasonable assurance that the principal risks are managed effectively. The Assurance Framework records associated controls and assurances and incorporates an action plan identifying action to be taken to remedy identified gaps.

The Commission has during 2007-08 seen further personnel changes within the Finance team and Audit and Risk Committee but has continued to operate with a sufficient level of financial expertise within and contracted to the organisation. Work has been completed on addressing the matters raised by the National Audit Office within its Report to Those Charged with Governance 2006-07. Further to this, all recommendations made by Internal Audit following completion of the Financial Systems audit 2006-07 had been completed, and no further recommendations were received following Internal Audit's follow up work in 2007-08 to review the Commission's financial systems, Assurance Framework and associated processes. As a result of this programme of work, significant assurance has again been given by Internal Audit that there is a generally sound system of internal control, designed to meet the organisation's objectives, and that controls are generally being applied consistently.

Signed Gemma Pearce

Accounting Officer Date 19 June 2008

MENTAL HEALTH ACT COMMISSION SPECIAL HEALTH AUTHORITY

THE CERTIFICATE AND REPORT OF THE COMPTROLLER AND AUDITOR GENERAL TO THE HOUSES OF PARLIAMENT

I certify that I have audited the financial statements of the Mental Health Act Commission for the year ended 31st March 2008 under the National Health Service Act 2006. These comprise the Operating Cost Statement, the Balance Sheet, the Cash Flow Statement and Statement of Recognised Gains and Losses and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Acting Chief Executive and auditor

The Acting Chief Executive as Accounting Officer is responsible for preparing the Annual Report, the Remuneration Report and the financial statements in accordance with the National Health Service Act 2006 and directions made thereunder by the Secretary of State with the approval of the Treasury and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of the Acting Chief Executive's Responsibilities.

My responsibility is to audit the financial statements and the part of the remuneration report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the National Health Service Act 2006 and directions made thereunder by the Secretary of State with the approval of the Treasury. I report to you whether, in my opinion, the information which comprises the Management Commentary and the Introduction to the Mental Health Act Commission included in the Annual Report, is consistent with the financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if the Mental Health Act Commission has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the Mental Health Act Commission's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Mental Health Act Commission's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information includes the Foreword and the unaudited parts of the Remuneration Report. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

Basis of audit opinions

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments

made by the Board and Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Mental Health Act Commission's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the National Health Service Act 2006 and directions made thereunder by the Secretary of State with the approval of the Treasury, of the state of the Mental Health Act Commission's affairs as at 31st March 2008 and of its net operating costs for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the National Health Service Act 2006 and directions made thereunder by the Secretary of State with the approval of Treasury; and
- information, which comprises the Introduction to the Mental Health Act Commission and the Management Commentary, included in the Annual Report is consistent with the financial statements.

Opinion on Regularity

In my opinion, in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Report

I have no observations to make on these financial statements.

T J Burr

Comptroller and Auditor General

27 June 2008

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

Operating Cost Statement for the year ended 31 March 2008

	Notes	31 March 2008 £000	Prior Year £000
Programme costs	2.1	**5,948**	5,782
Operating income	4	**(387)**	(507)
Net operating cost before interest		**5,561**	5,275
Interest		**0**	0
Net operating cost		**5,561**	5,275
Net resource outturn	3.1	**5,561**	5,275

All income and expenditure is derived from continuing operations

Statement of Recognised Gains and Losses for the year ended 31 March 2008

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

The notes at pages 49 to 59 form part of these accounts.

Balance Sheet as at 31 March 2008

	Notes	31 March 2008 £000	Prior Year £000
Fixed assets:	5		
Intangible assets		**151**	191
Tangible assets		**175**	201
		326	392
Current assets			
Debtors	6	**153**	276
Cash at bank and in hand	7	**664**	99
		817	375
Creditors: amounts falling due within one year	8	**(1,033)**	(684)
Net current assets/(liabilities)		**(216)**	(309)
Total assets less current liabilities		**110**	83
Taxpayers' equity			
General Fund	10	**110**	83
		110	83

The financial statements on pages 46 to 59 were approved by the Board on 18 June 2008 and signed on its behalf by:

Signed Gemma Pearce

Accounting Officer Date 19 June 2008

Cash Flow Statement for the year ended 31 March 2008

	Notes	31 March 2008 £000	Prior Year £000
Net cash (outflow) from operating activities	11	**(4,968)**	(5,263)
Capital expenditure and financial investment:			
(Payments) to acquire tangible fixed assets		**(64)**	(309)
Net cash inflow/(outflow) from investing activities		**(64)**	(309)
Net cash (outflow) before financing		**(5,032)**	(5,572)
Financing			
Net Parliamentary funding:	10		
Revenue		**5,522**	5,340
Capital		**75**	331
		5,597	5,671
Increase/(decrease) in cash in the period	7	**565**	99

The notes at pages 49 to 59 form part of these accounts.

Notes to the Accounts

1. Accounting Policies.

The financial statements have been prepared in accordance with the Government Financial Reporting Manual issued by HM Treasury. The particular accounting policies adopted by the Commission are described below. They have been consistently applied in dealing with items considered material in relation to the accounts.

1.1 Accounting Conventions.

This account is prepared under the historical cost convention, modified to account for the revaluation of fixed assets at their value to the business by reference to current cost. This is in accordance with directions issued by the Secretary of State for Health and approved by HM Treasury.

Acquisitions and Discontinued Operations.

Activities are considered to be 'acquired' only if they are acquired from outside the public sector. Activities are considered to be 'discontinued' only if they cease entirely. They are not considered to be 'discontinued' if they transfer from one NHS body to another.

1.2 Income.

Income is accounted for by applying accruals convention. The main source of funding for the Commission is Parliamentary grant from the Department of Health from Request for Resource1/2 within an approved cash limit, which is credited to the general fund. Parliamentary funding is recognised in the financial period in which the cash is received.

Operating income is income which relates directly to the operating activities of the Commission. It principally comprises of fees and charges for services provided on a full-cost basis to external customers, as well as public repayment work, but it also includes other income such as that from investments and from other Departments. It includes both income appropriated-in-aid and income to the Consolidated Fund which HM Treasury has agreed should be treated as miscellaneous income.

Where operating income is received for a specific activity which is to be delivered in the following financial year, that income is deferred. A recharge is made to the Welsh Assembly Government. These payments are recorded as income.

1.3 Taxation.

The Commission is not liable to pay corporation tax. Expenditure is shown net of recoverable VAT. Irrecoverable VAT is charged to the most appropriate expenditure heading or capitalised if it relates to an asset.

1.4 Capital Charges.

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

a) tangible and intangible fixed assets where the cost of capital charge is based on opening values, adjusted pro rata for in-year:
    - additions at cost;

- disposals as valued in the opening balance sheet (plus any subsequent capital expenditure prior to disposal);
- impairments at the amount of the reduction of the opening balance sheet value (plus any subsequent capital expenditure);
- depreciation of tangible and amortisation of intangible fixed assets;

b) cash balances with the Office of the Paymaster General, where the charge is nil.

1.5 Fixed Assets.

a. Capitalisation

All assets falling into the following categories are capitalised:

I. Intangible assets where they are capable of being used for more than one year and have a cost, individually or as a group, equal to or greater than £5,000.
II. Purchased computer software licenses are capitalised as intangible fixed assets where expenditure of at least £5,000 is incurred.
III. Tangible assets which are capable of being used for more than one year, and they:
    - Individually have a cost equal to or greater than £5,000; or
    - Collectively have a cost of at least £5,000, where the assets are functionally interdependent, they had broadly simultaneous purchase dates, and anticipated to have simultaneous disposal dates and are under single managerial control; or
    - Form part of the initial equipping and setting-up cost of a new building, ward or unit irrespective of their individual or collective cost.
IV. Donated fixed assets are capitalised at their current value on receipt, and this value is credited to the donated asset reserve.

b. Valuation.

Intangible Fixed Assets

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

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

Tangible Fixed Assets

Tangible fixed assets are stated at the lower of replacement cost and recoverable amount. On initial recognition they are measured at cost including any costs such as installation directly attributable to bringing them into working condition. They are restated to current value each year. The carrying values of tangible fixed assets are reviewed for impairment in periods if events or changes in circumstances indicate the carrying value may not be recoverable.

I. Land and buildings (including dwellings).
The Commission does not have any assets classified under this heading.
II. Assets in the course of construction are valued at current cost, using the index as for land and buildings. These assets include any existing land or buildings under the control of a contractor.

III. Equipment, other than IT equipment is subject to indexation to arrive at current replacement costs. Equipment indexation is based on indices published by the Department of Health.

c. Depreciation and Amortisation.

Depreciation is charged on each individual fixed asset as follows:

I. Intangible assets are amortised, on a straight line basis, over the estimated lives of the assets.
II. Purchased computer software licences are amortised over the shorter of the term of the license and their useful economic lives.
III. Land and assets in the course of construction are not depreciated.
IV. Each equipment asset is depreciated evenly over the expected useful life. The Commission undertakes an annual revaluation exercise and depreciates its IT assets over a 5 year period from the commencement of the financial year following the date of purchase.
V. The lift at the Commission offices was replaced in 2006-07 the costs of which were met by capital funding. The lift is depreciated over the term of the current lease.

1.6 Losses and Special Payments.

Losses and special payments are items that Parliament would not have contemplated when it agreed funds for the Health Service or passed legislation. By their nature they are items that ideally should not arise. They are therefore subject to special control procedures compared with the generality of payments. They are divided into different categories, which govern the way each individual case is handled.

Losses and special payments are charged to the relevant functional headings in the operating cost statement on an accruals basis, including losses which would have been made good through insurance cover had the Commission not been bearing their own risks (with insurance premiums then being included as normal revenue expenditure).

1.7 Research and Development.

The Commission has not incurred any research and development costs.

1.8 Leases.

Assets held under finance leases and hire purchase contracts are capitalised in the balance sheet and are depreciated over their useful lives. Rentals under operating leases are charged on a straight-line basis over the terms of the lease. Details of the Commission's operating leases are given at Note 14.

1.9 Contingent Liabilities.

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

2.1 Authority programme expenditure

	Notes	£000	31 March 2008 £000	Prior Year £000
Non-executive members' remuneration			**107**	91
Other salaries and wages	2.2		**1,249**	1,260
Establishment Expenses			**567**	378
Commissioner Fees			**907**	843
Commissioner Expenses			**155**	224
Second Opinion Doctors Fees			**2,193**	2,178
Second Opinion Doctors Expenses			**226**	202
Transport and moveable plant			**9**	15
Premises and fixed plant			**299**	237
*Project Expenditure			**101**	254
External Contractors			**0**	0
Non-cash items: Depreciation and amortisation	5	**113**		59
Capital charges interest		**(10)**		(6)
			103	53
**Auditors remuneration: Audit Fees			**32**	47
			5,948	5,782

*Staff costs of £56k are included within project expenditure.

**The audit fee represents the cost for the audit of the financial statements carried out by the Comptroller and Auditor General. There were no payments to the Comptroller and Auditor General for non-audit work. The audit fees relating to 2007-08 total £32k.

2.2 Staff numbers and related costs.

	2007-08 Total £000	Other £000	Prior Year £000
*Salaries and Wages	1,034	1,034	1,024
Social Security Costs	74	74	77
Employer contributions to NHSPA	0	0	0
Other pension costs	141	141	159
	1,249	1,249	1,260

The average number of employees during the year was:

	2007-08 Total Number	Permanently Employed Staff Number	Other Number	Prior Year Number
Total	40	0	40	39

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

*There are £138k staff costs included in 'other staff' which relate to agency staff (2006-07: £55k).

Expenditure on staff benefits
The amount spent on staff benefits during the year totalled £0 (2006-07: £0)

Retirements due to ill-health
None

2.3 Better Payment Practice Code – measure of compliance

	Number	£000
Total non NHS bills paid 2007-08	**823**	**884**
Total bills paid within target	**775**	**862**
Percentage of non NHS bills paid within target	**94.2%**	**97.5%**
Total NHS bills paid 2007-08	**20**	**1155**
Total NHS bills paid within target	**19**	**1070**
Percentage of NHS bills paid within target	**95.0%**	**92.6%**

2006-2007	**Number**	**£000**
Total bills paid 2006-07	**895**	**2585**
Total bills paid within target	**826**	**2493**
Percentage of bills paid within target	**92.3%**	**96.4%**

The Better Payment Practice Code requires the Commission to aim to pay all invoices by the due date or within 30 days of receipt of goods or a valid invoice, whichever is later.

No interest was paid under the Late Payment of Commercial Debts (Interest) Act 1998 (2006-07 £0)

3.1 Reconciliation of net operating cost to net resource outturn

	31 March 2008	Prior Year
	£000	£000
Net operating cost for the financial year	**5,561**	5,275
Net resource outturn	**5,561**	5,275
Revenue resource limit	**5,748**	5,391
Under spend against revenue resource limit	**187**	116

3.2 Reconciliation of gross capital expenditure to capital resource limit

	31 March 2008	Prior Year
	£000	£000
Gross capital expenditure	**64**	309
Net capital resource outturn	**64**	309
Capital resource limit	**158**	331
Underspend against limit	**94**	22

4 Operating income

Operating income analysed by classification and activity, is as follows:	Appropriated in aid £000	Not Appropriated in aid £000	31 March 2008 Total £000	Prior Year £000
Programme income:				
Income received from National Assembly for Wales re. core activity	243	0	243	237
Income received from other Departments, etc	142	0	142	266
Other	2	0	2	4
Total	387	0	387	507

5.1 Intangible fixed assets

	Software licences £000	Total £000
Cost or Valuation at 1 April 2007	275	275
Adjustments	(18)	(18)
Additions – purchased	24	24
Disposals	0	0
Gross cost at 31 March 2008	281	281
Accumulated amortisation at 1 April 2007	84	84
Adjustments	0	0
Provided during the year	46	46
Disposals	0	0
Accumulated amortisation at 31 March 2008	130	130
Net book value:		
Purchased at 31 March 2007	191	191
Total at 31 March 2007	191	191
Net book value at 31 March 2008:	151	151

5.2 Tangible fixed assets

	Information Technology £000	Furniture & fittings £000	Total £000
Cost or Valuation at 1 April 2007	293	50	343
Additions – purchased	40	0	40
Indexation	0	1	1
Adjustment	0	0	0
Disposal	0	0	0
At 31 March 2008	333	51	384
Accumulated depreciation at 1 April 2007	137	5	142
Reclassification accumulated depreciation at 1 April 2007	0	0	0
Provided during the year	56	11	67
Disposal	0	0	0
Accumulated depreciation at 31 March 2008	193	16	209
Net book value at 31 March 2007	156	45	201
Net book value at 31 March 2008	140	35	175

6. Debtors

Amounts falling due within one year.	31 March 2008 £000	Prior Year £000
NHS Debtors	15	51
Provision for irrecoverable debts	0	0
Prepayments	132	197
Accrued income	0	0
Other debtors	6	28
	153	276
Total debtors	153	276

7 Analysis of changes in cash

	At 31 March 2007 £000	**Change During the year £000**	**At 31 March 2008 £000**
Cash at OPG	99	**565**	**664**
Cash at commercial banks and in hand	0	**0**	**0**
	99	**565**	**664**

8 Creditors:
Amounts falling due within one year

	31 March 2008 £000	Prior Year £000
Tax and social security	**18**	0
Other creditors	**64**	9
Accruals	**912**	605
Deferred Income	**39**	70
	1,033	684

9 Movements in working capital other than cash

	31 March 2008 £000	Prior Year £000
Increase/(decrease) in debtors	**(123)**	122
(Increase)/decrease in creditors	**(349)**	(80)
	(472)	42

10 Movements on Reserves
General Fund

The movement on the General Fund in the year comprised:

	31 March 2008 £000	Prior Year £000
Balance at 31 March 2007	**83**	(307)
Net operating costs for the year	**(5,561)**	(5,275)
Net Parliamentary funding:		
Revenue	**5,522**	5,340
Capital	**75**	331
Non-cash items:		
Capital charge interest	**(10)**	(6)
Indexation allowances	**1**	0
Balance at 31 March 2008	**110**	83

11 Reconciliation of operating costs to operating cash flows

	31 March 2008	Prior Year
	£000	£000
Net operating cost before interest for the year	5,561	5,275
Adjust for non-cash transactions	(121)	(54)
Adjust for movements in working capital other than cash	(472)	42
Net cash outflow from operating activities	4,968	5,263

12 Contingent liabilities

Liabilities for 2007-08 are £77,600. The Commission has a number of claims outstanding from Second Opinion Appointed Doctors (SOADs) relating to the financial years 2004-05, 2005-06 and 2006-07. Extensive attempts have been made to encourage the SOADs to submit claims, however as these remain outstanding they have been treated within the 2007-08 Accounts as Contingent Liabilities. (2006-07 liabilities were £129,000)

13 Capital commitments

At 31 March 2008 the value of contracted capital commitments was £0
(2006-07 : £0).

14 Commitments under operating leases

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

	31 March 2008	Prior Year
	£000	£000
Current year non cancellable operating leases	152	135
	152	135

Future commitments under non-cancellable operating leases:

		£000	£000
Land and Buildings			
Operating leases which expire –	within 1 year	0	0
	between 1 and 5 years	147	126
	after 5 years	0	0
		147	126
Other leases			
Operating leases which expire –	within 1 year	3	5
	between 1 and 5 years	0	4
	after 5 years	0	0
		3	9

15 Intra-government balances

	Debtors: Amounts falling due within one year £000	Debtors: Amounts falling due after more than one year £000	Creditors: Amounts falling due within one year £000	Creditors: Amounts falling due after more than one year £000
Balances with other central government bodies	14	–	31	–
Balances with local authorities	–	–	–	–
Balances with NHS Trusts	–	–	–	–
Balances with public corporations and trading funds	–	–	–	–
Balances with bodies external to government	139	–	1,002	–
At 31 March 2008	153	–	1,033	–
Balances with other central government bodies	–	–	–	–
Balances with local authorities	–	–	–	–
Balances with NHS Trusts	51	–	40	–
Balances with public corporations and trading funds	–	–	–	–
Balances with bodies external to government	225	–	644	–
At 31 March 2007	276	–	684	–

16 Losses and special payments

There were 3 cases of losses and special payments totalling £11,749 paid during 2007-08, as detailed below. (Prior year: 7 cases totalling £26,408.00)

3 Fruitless payments £ 11,749

17 Related parties

The Mental Health Act Commission is a corporate body established by order of the Secretary of State for Health.

The Department of Health is regarded as a controlling related party. During the year the Commission has had a significant number of material transactions with the Department, and with other entities for which the Department is regarded as the parent. These entities are listed below.

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

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

18 Post balance sheet events

There were no post balance sheet events.

19 Financial instruments

FRS 13, Derivatives and Other Financial Instruments, requires disclosure of the role that financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. Because of the way Special Health Authorities are financed, the Commission is not exposed to the degree of financial risk faced by business entities. Also financial instruments play a much more limited role in creating or changing risk than would be typical of the listed companies to which FRS 13 mainly applies. The Commission has limited powers to borrow or invest surplus funds and financial assets and liabilities are generated by day-to-day operational activities rather than being held to change the risks facing the Commission in undertaking its activities.

As allowed by FRS 13, debtors and creditors that are due to mature or become payable within 12 months from the balance sheet date have been omitted from all disclosures other than from the currency profile.

Liquidity risk

The Commission's net operating costs are financed from resources voted annually by Parliament. The Commission largely finances its capital expenditure from funds made available from Government under an agreed capital resource limit. The Commission is not, therefore, exposed to significant liquidity risks.

Interest-rate risk

100% of the Commission's financial assets and 100% of its financial liabilities carry nil or fixed rates of interest. The Commission is not, therefore, exposed to significant interest-rate risk.

The accounts were authorised by the Acting Chief Executive Officer as Accounting Officer to be issued on 27 June 2008.

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

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

1. The Secretary of State directs that an account shall be prepared for the year ended 31 March 2007 and subsequent financial years in respect of the Mental Health Act Commission. The basis of preparation and the form and content shall be as set out in the following paragraphs and Schedules.

BASIS OF PREPARATION

2. The account of the Mental Health Act Commission shall comply with accounting guidance approved by the FRAB and contained in the Government Financial Reporting Manual (FReM).

FORM AND CONTENT

3. The account of the Mental Health Act Commission shall follow the format prescribed in the FReM.

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

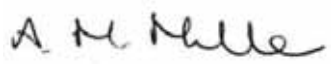
a. give a true and fair view of the state of affairs as at the end of the financial year and the net operating costs, recognised gains and losses and cash flows during the year; and
b. provide disclosure of any material expenditure or income that has not been applied for the purposes intended by Parliament or material transactions that have not conformed to the authorities that govern them.

5. The Annual Report (incorporating the remuneration report), statement on internal control and balance sheet shall be signed by the accounting officer of the authority and dated.

MISCELLANEOUS

6. The notes to the accounts shall, inter alia, include details of the accounting policies adopted.

Signed by the authority of the Secretary of State for Health

Signed  Date: 08 May 2008

SCHEDULE 1

APPLICATION OF THE ACCOUNTING AND DISCLOSURE REQUIREMENTS OF THE COMPANIES ACT AND ACCOUNTING STANDARDS

Companies Act

1. The disclosure exemptions permitted by the Companies Act shall not apply to the NHS unless specifically approved by the Treasury.

1. The Companies Act requires certain information to be disclosed in the Director's Report. To the extent that it is appropriate, the information relating to NHS bodies shall be contained in the Annual Report.

2. The operating cost statement, balance sheet and cashflow statement shall have regard to the format prescribed in the FReM.

SCHEDULE 2

ADDITIONAL REQUIREMENTS

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

2. The Annual Report shall also contain a description of the statutory background and main functions of the Mental Health Act Commission together with a fair review of its operational and financial activities, remuneration report and a summary of performance against targets.

APPENDIX 1

ACTIVITY DETAIL

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

	Area Commissioners	Local Commissioners	SOADs
TOTAL BY GENDER			
Male	**21**	**16**	**70**
Female	**10**	**41**	**26**
TOTAL BY ETHNICITY			
British	**22**	**41**	**46**
Irish	**0**	**2**	**5**
Any Other White Background	**0**	**4**	**3**
Welsh (white)	**0**	**0**	**4**
White & Black Caribbean	**0**	**0**	**0**
White & Black African	**0**	**0**	**0**
White & Asian	**0**	**1**	**1**
Any Other Mixed Background	**0**	**0**	**0**
Indian	**1**	**2**	**14**
Pakistani	**0**	**1**	**4**
Bangladeshi	**0**	**0**	**2**
Any Other Asian Background	**0**	**1**	**10**
Caribbean	**1**	**1**	**0**
African	**0**	**1**	**0**
Any Other Black Background	**0**	**0**	**0**
Chinese	**0**	**0**	**1**
Any Other Ethnic Groups	**0**	**1**	**5**
Not stated	**7**	**2**	**1**
Total	**31**	**57**	**96**

Table 2: Board and Committee Membership and Attendance 2007-08

Members	Attendance/ Meetings
Non-executive Board members	
Chair, Prof. Lord Patel of Bradford OBE	9/9
Vice–Chair, Deborah Jenkins MBE	7/9
Simon Armson	8/9
Patrick Callaghan [from 01.07.07]	4/6
Ann Curno	9/9
Barry Delaney	7/9
John Knox [to 29.02.08]	7/8
Kay Sheldon	8/9
Executive Board members	
Prof. Christopher Heginbotham, Chief Executive	9/9
Martin Donohoe [to 29.02.08]	7/8
John Knox [from 01.03.08]	1/1
Audit and Risk Committee	
John Knox, Chairman [to 29.02.08]	5/5
Simon Armson, Chairman [from 01.03.08]	4/5
Ann Curno, Non-Executive Member	5/5
Barry Delaney, Non-Executive Member	4/5
Kay Sheldon, Non-Executive Member [from 01.03.08]	0/0
Remuneration Committee	
Prof. Lord Patel of Bradford OBE, Chair	8/8
Deborah Jenkins MBE, Vice Chair	5/8
Simon Armson, Non-Executive Member	7/8
Patrick Callaghan, Non-Executive Member [from 01.07.07]	3/5
Ann Curno, Non-Executive Member	8/8
Barry Delaney, Non-Executive Member	6/8
John Knox, Non-Executive Member [to 29.02.08]	6/7
Kay Sheldon, Non-Executive Member	8/8

Table 3: Commission Activity Report 2007-08

Visiting Activity	Activity Reported		
	April 07 – March 08	**April 06 – March 07**	**% Change**
Total number of regular activity visits to providers	**1692**	**1679**	**+0.78**
Total number of Section 17 Themed activity visits to providers	31	–	–
Regular visiting activity – meetings with detained patients (including individual private meetings and patients seen in groups)	6109	6077	+0.5
Regular visiting activity – total number of patient documents checked	6220	6148	+1.17
Section 17 Themed activity meetings with patients	115	–	–
Section 17 Themed activity – documents checked	165	–	–
Total patient related activity	**14301**	**12225**	**+16.98**
Average patient related activity per visit	**8.3**	**7.28**	**+14**

Table 4: Summary of patients seen by Commissioners in private

Recorded Patient Ethnicity[10]	Region 1 (North)	Region 2 East & Central)	Region 3 (Wales, W.Mids/ S.W)	Region 4 (London & S.E)	Total	**% of total patients seen**	**% inpatients in 2005 census**
White							
British	1044	987	1026	817	3874	**65.94**	**78.59**
Irish	18	18	12	35	83	**1.41**	**1.81**
Any Other White Background	123	43	31	92	289	**4.92**	**3.77**
Welsh (white)	4	6	44	3	57	**0.97**	**0.00**
Mixed							
White & Black Caribbean	16	13	13	21	63	**1.07**	**0.89**
White & Black African	4	1	4	11	20	**0.34**	**0.31**
White & Asian	2	5	1	10	18	**0.31**	**0.34**
Any Other Mixed Background	8	4	5	12	29	**0.49**	**0.54**
Asian							
Indian	15	11	15	44	85	**1.45**	**1.30**
Pakistani	23	10	17	13	63	**1.07**	**1.08**
Bangladeshi	3	2	2	14	21	**0.36**	**0.49**
Any Other Asian Background	5	8	5	25	43	**0.73**	**0.81**
Black or Black British							
Caribbean	48	68	37	215	368	**6.26**	**3.94**
African	15	15	12	129	171	**2.91**	**2.03**
Any Other Black Background	9	8	2	60	79	**1.34**	**1.67**
Other Ethnic Groups							
Chinese	2	4	3	8	17	**0.29**	**0.24**
Any Other Ethnic Groups	9	8	2	31	50	**0.85**	**1.10**
Not Stated							
Not stated	153	47	218	128	546	**9.29**	**1.05**
Total	**1501**	**1258**	**1449**	**1667**	**5875**	**–**	**–**

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

Table 5: Complaints, Deaths and Second Opinion Activity

Complaints Activity	**2007-08**	**2006-07**	**%Change**
New complaints referred to the Commission	286	346	**-21**
Complaints raised on behalf of patients during a visit	29	40	**-37**
General correspondence and written enquiries	527	578	**-9.6**
Total Activity	**842**	**964**	**-14.48**
Deaths Activity	**2007-08**	**2006-07**	**%Change**
Deaths reported by natural causes	268	279	**-3.13**
Deaths reported by unnatural causes	83	82	**+1.2**
Total Deaths Reported	**351**	**361**	**-0.28**
Second Opinion Activity	**2007-08**	**2006-07**	**%Change**
Medication only opinions	10155	9730	**+4.37**
Electro Convulsive Therapy (ECT) Opinions	1729	1857	**-7.4**
Combined medication & ECT Opinions	89	75	**+18.66**
Total Second Opinions	**11973**	**11662**	**+2.66**

Please note the above figures for total Second Opinions do not include those requests that are subsequently marked as cancelled. Figures reported in previous annual reports did include those requests.

Table 6: Complaints received by Ethnicity

Ethnic Background	Complaints	Complaints from Visits	General Corresp.	Total number and percentage	Census %[11]
White					
British	209	22	190	421 (50%)	**78.59**
Irish	2	1	2	5 (0.59%)	**1.81**
Any Other White Background	16	0	22	38 (4.51%)	**3.77**
Welsh (white)	3	0	2	5 (0.59%)	**0.00**
Mixed					
White and Black Caribbean	6	0	3	9 (1.07%)	**0.89**
White and Black African	3	0	2	5 (0.59%)	**0.31**
White and Asian	2	0	6	8 (0.95%)	**0.34**
Any Other Mixed Background	2	0	4	6 (0.71%)	**0.54**
Asian					
Indian	5	0	5	10 (1.19%)	**1.30**
Pakistani	1	0	3	4 (0.48%)	**1.08**
Bangladeshi	2	0	1	3 (0.36%)	**0.49**
Any Other Asian Background	1	0	0	1 (0.12%)	**0.81**
Black or Black British					
Caribbean	16	4	23	43 (5.11%)	**3.94**
African	5	0	10	15 (1.78%)	**2.03**
Any Other Black Background	2	0	6	8 (0.95%)	**1.67**
Other Ethnic Group					
Chinese	0	0	1	1 (0.12%)	**0.24**
Any Other Ethnic Group	2	1	2	5 (0.59%)	1.10
Not Stated					
Not Stated	9	1	245	255 (30.29%)	1.05
Totals	**286**	**29**	**527**	**842**	**–**

11The final column of this report shows the percentage of in-patients of each ethnic group as recorded in the 'Count Me In Census 2005'

Table 7: Death notifications by Ethnicity

Ethnic Background	Unnatural	Natural	Total and percentage	Census%[12]
White				
British (white)	60	215	275 (78.35%)	**78.59**
Irish (white)	3	8	11 (3.13%)	**1.81**
Any Other White Background	6	16	22 (6.27%)	**3.77**
Welsh	1	3	4(1.14%)	**0.00**
Mixed				
White and Black Caribbean		1	1 (0.28%)	**0.89**
White and Black African	1		1 (0.28%)	**0.31**
Any Other Mixed Background		1	1 (0.28%)	**0.54**
Asian				
Indian	2	3	5 (1.42%)	**1.30**
Pakistani	2	1	3 (0.85%)	**1.08**
Any Other Asian Background	1	1	2 (0.57%)	**0.81**
Black or Black British				
Caribbean	1	7	8 (2.28%)	**3.94**
African	2	2	4 (1.14%)	**2.03**
Any Other Black Background		1	1 (0.28%)	**1.67**
Other Ethnic Groups				
Chinese		1	1 (0.28%)	**0.24**
Any Other Ethnic Group	2	2	4 (1.14%)	**1.10**
Not Stated				
Not Stated	2	6	8 (2.28%)	**1.05**
Totals	**83**	**268**	**351**	**–**

12 The final column of this report shows the percentage of in-patients of each ethnic group as recorded in the 'Count Me In Census 2005'

Table 8: Second Opinions by Ethnicity

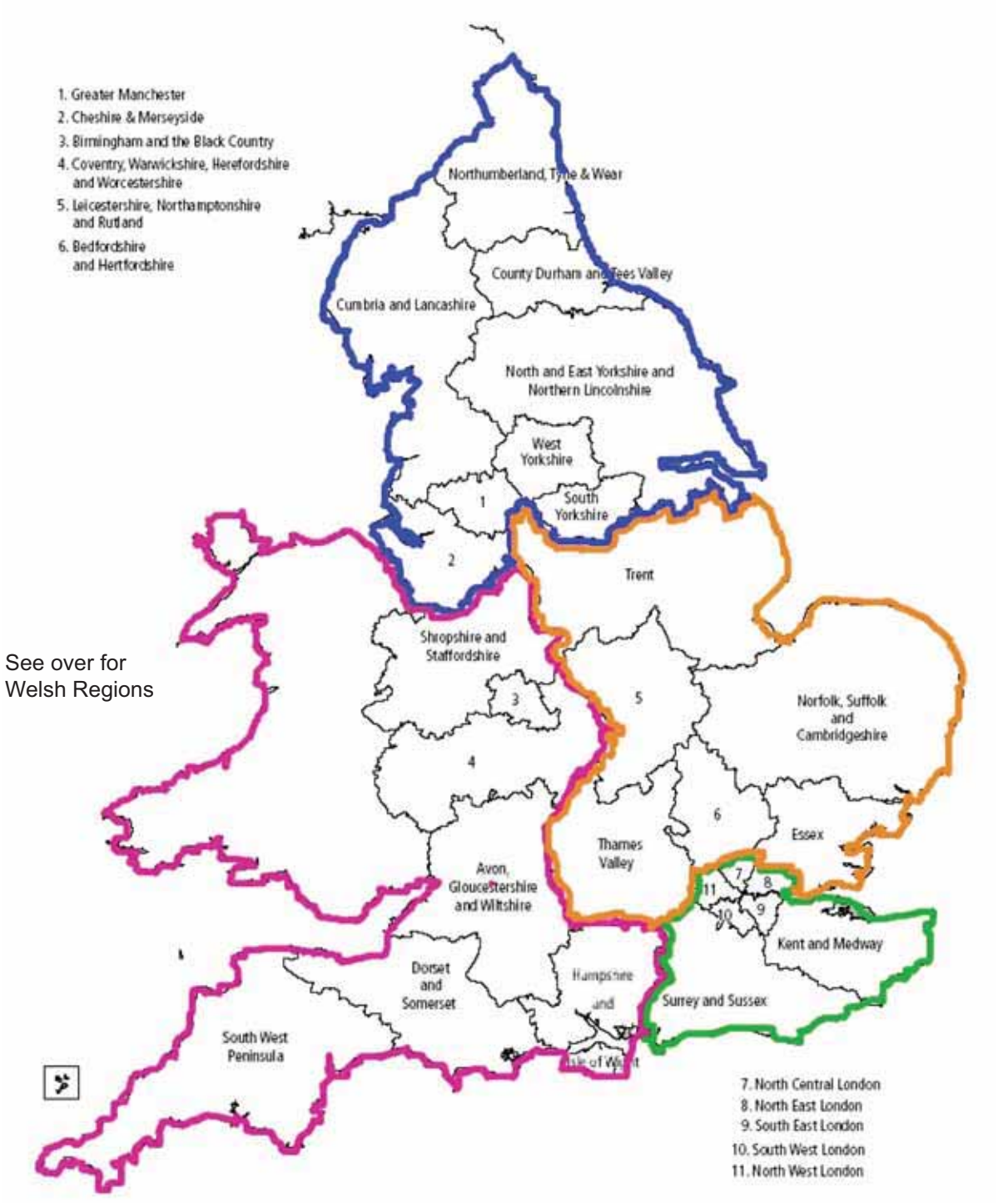
Ethnic Background	Medicine	ECT	Both	Total and percentage	Census %[13]
White					
British (white)	6921	1442	71	8434 (70.44%)	**78.59**
Irish (white)	102	23	1	126 (1.05%)	**1.81**
Welsh (white)	56	7	1	64 (0.53%)	**0.00**
Any Other White Background	406	57	4	467 (3.90%)	**3.77**
Mixed					
White and Black Caribbean	1141	5	–	116 (0.97%)	**0.89**
White and Black African	38	1	–	39 (0.33%)	**0.31**
White and Asian	33	2	–	35 (0.29%)	**0.34**
Any Other Mixed Background	99	7	–	106 (0.89%)	**0.54**
Asian					
Indian	175	24	2	201 (1.68%)	**1.30**
Pakistani	146	19	2	167 (1.39%)	**1.08**
Bangladeshi	69	3	1	73 (0.61%)	**0.49**
Any Other Asian Background	111	10	1	122 (1.02%)	**0.81**
Black or Black British					
Caribbean	763	27	3	793 (6.62%)	**3.94**
African	406	24	2	432 (3.61%)	**2.03**
Any Other Black Background	130	9	–	139 (1.61%)	**1.67**
Other Ethnic Groups					
Chinese	36	6	–	42 (0.35%)	**0.24**
Any Other Ethnic Group	142	15	–	157 (1.31%)	**1.10**
Not Stated					
Not Stated	411	48	1	460 (3.84%)	**1.05**
Totals	**10155**	**1729**	**89**	**11973**	

13 The final column of this report shows the percentage of in-patients of each ethnic group as recorded in the 'Count Me In Census 2005'

APPENDIX 2

REGIONAL MAPS

Regional and Commission Visiting Area (CVA) Boundaries in England

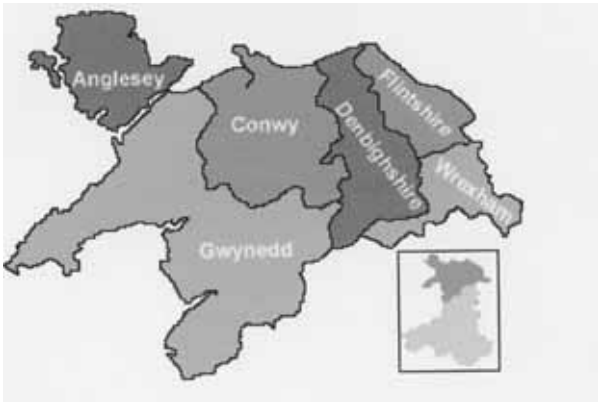


See over for Welsh Regions

Blue	Region 1:	Sue McMillan (to 31 March 2008)	sue.mcmillan@mhac.org.uk
		Rona Pickles (from 1 April 2008)	rona.pickles@mhac.org.uk
Orange	Region 2:	Surrinder Kaur	surrinder.kaur@mhac.org.uk
Pink	Region 3:	Phil Wales	phil.wales@mhac.org.uk
Green	Region 4:	Stephen Klein	stephen.klein@mhac.org.uk

Welsh Regions

North Wales



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