THE MENTAL HEALTH ACT COMMISSION

The Mental Health Act Commission was established in 1983 and consists of some 170 members (Commissioners), including laypersons, lawyers, doctors, nurses, social workers, psychologists and other specialists.

Its functions are:

- To keep under review the operation of the Mental Health Act 1983 in respect of patients liable to be detained under the Act.
- To visit and interview, in private, patients detained under the Act in hospitals and mental nursing homes.
- To investigate complaints which fall within the Commission's remit.
- To review decisions to withhold the mail of patients detained in the High Security Hospitals.
- To appoint medical practitioners and others to give second opinions in cases where this is required by the Act.
- To publish and lay before Parliament a report every 2 years.
- To monitor the implementation of the Code of Practice and propose amendments to Ministers.

In addition, the Commission is encouraged by the Secretary of State to advise on policy matters that fall within the Commission's remit.

THE STRUCTURE OF THE COMMISSION

The MHAC is a Special Health Authority which comprises approximately 170 part-time Commission Members including a Chairman and Vice Chairman. In addition the Commission has a panel of approximately 150 Consultant Psychiatrists appointed by the Commission as Second Opinion Doctors. The responsibility for the management of the Commission rests with the Mental Health Act Commission Board. The operational management of the Commission is the responsibility of its Chief Executive. Members of the Commission, with the exception of the Chairman and Vice Chairman and Complaints Co-ordinator, work within the following operational groups: Commission Visiting Teams (CVTs) and High Security Hospital Panels (HSHP). Each CVT is responsible for the Commission's visits and complaints activities for a particular geographical area, usually co-terminous with territory of the NHS Executive Regional Offices. One team also takes responsibility for Wales. Each team is managed by an Area Manager who is an experienced Commissioner who is responsible for arranging and monitoring the teams' activities. Each HSHP is similarly managed and has responsibilities equivalent to those of the CVTs in respect of the three High Security Hospitals: Ashworth, Broadmoor and Rampton. Each year the Commission arranges and undertakes approximately 750 visits to hospitals, registered mental nursing homes and social services departments.

COMPLAINTS

A Member of the Commission is responsible for directing the work of the Complaints Investigation Members and for the handling of particularly complex or high profile complaints. This member also monitors all notified deaths of detained patients.
SECRETARIAT
The Commission has a staff of approximately 35 people who work under the operational direction of the Commission's Chief Executive. Management responsibility for the secretariat rests with the Director of Finance and Operations. All members of staff are Department of Health civil servants on secondment to the Commission. The staff are divided into teams which provide administrative support to the Commission Management Board, the CVTs, HSHPs and all other Commission activities. Within the Secretariat, there is a small unit, whose task is to lead the Commission's development of policy.

THE ROLE OF COMMISSION MEMBERS
Members of the Commission are responsible for carrying out the Commission's statutory functions relating to visiting and complaints. They are asked to devote approximately two days each month to Commission business, however, given that the majority are busy working professionals, the diversity of Commission activities and varying personal factors, in practice not everyone devotes the same amount of time to Commission work. All Members of the Commission have to meet detained patients, some of whom may be both vulnerable and disturbed. Meetings are generally held in private with individual patients/clients and are normally undertaken by a single member of the Commission. Some Members also have to lead visiting teams, chair meetings and deal with senior managers. At the conclusion of a Commission visit the Commissioner who leads the Visiting Team provides a verbal feedback to senior staff; this will be followed by a detailed written report to the Trust or Authority visited.

SECOND OPINION SERVICE
Within Section 58 of the Mental Health Act there are safeguards relating to medication and ECT procedures where the detained patient is unable or unwilling to consent to the prescribed treatment. Where a detained patient is unable or unwilling to consent to treatment the Consultant Psychiatrist responsible for the patients care has a statutory responsibility to obtain a second opinion from a second consultant appointed by the MHAC. The Commission has a panel of approximately 150 consultants spread throughout England and Wales. The second opinion service is demand led and the Commission currently arranges approximately 9,000 second opinions each year. The Commission also appoints doctors and other persons to validate treatments falling within the provisions of Section 57 (neurosurgery for mental disorder).

PERFORMANCE MONITORING
The Commission is funded from public funds and the organisation is committed to raising standards and obtaining value for money in all areas of its activities. Performance monitoring is key part of the culture of professionalism and consistency within the organisation. The Staff Performance Review and reporting procedures include objectives relating to standards, value for money and performance monitoring. When recommending a period of appointment, the Commission must be able to satisfy the Secretary of State for Health that the Commissioner and Second opinion doctors are able to fulfil the responsibilities of their appointment. In order to ensure all Commissioners are judged using the same criteria, the Commission has in place Performance Indicators for key elements of its statutory functions.

RECRUITMENT
All Commission vacancies are through open competition. Recommendations are made to the Secretary of State only following formal interview. The final decision regarding
appointment to the Commission rests solely with the Secretary of State who requires the Commission to provide him with a choice of applicants for each vacancy that arises.

**Composition of the Commission**

The Commission has approximately 175 members drawn from a range of disciplines in mental health and related fields and all have a knowledge of and interest in mental health and learning disability issues. There is roughly an equal number of men and women. The percentage of current Commission members from black and ethnic minorities is 24%. Commission members fall into two categories: visiting Commission members whose primary duties include examining statutory documentation, meeting with detained patients and taking up immediate issues on their behalf, and Commission members who, in addition, lead the small groups which undertake the visits and write the visit reports.

**Visit Activity**

Visiting Activities Commissioners are divided into seven Commission Visiting Teams (CVTs), covering different geographic areas. Each of the High Security Hospitals also has a dedicated team. The CVTs work to a two-year programme, during which time every Trust or Registered Mental Nursing Home in their area which holds detained patients is visited at least three times. The Commission will visit establishments where there are particular difficulties or large numbers of patients more often. The primary purpose of the visits is to meet patients currently detained, to check their documentation and to validate in practice that arrangements ensure that they are being treated in accordance with the provisions of the Act and the Code of Practice.

Because of the wide range of services involved in the provision of care to detained patients, at least one of the visits to each Trust is used by Commissioners to seek the views of others who are involved with those patients. The most significant of these is Social Services, which are visited separately at least one in every two-year period to ensure that they too are properly fulfilling their functions under the Act. Additionally, when Commissioners undertake a full visit to a Trust, they invite representatives of users and carers, Patient Councils or similar bodies, relevant voluntary organisations, including advocacy services, and other statutory services such as the police and ambulance service to attend a general discussion so that concerns relating to the treatment of the patients can be fully discussed. During the course of each visit, Commissioners raise issues about particular patients with the staff who are directly responsible for them and in so doing are able immediately to resolve many difficulties. At the end of each visit, there is a meeting with senior
Managers from the Trust or Nursing Home at which Commissioners discuss their findings. This is followed by a formal written report to the Chief Executive which comments on what Commissioners have found and, where necessary, suggests remedial action. Commissioners see their visits as not only providing safeguards for the patients but also offering support to staff and managers who often find the observations and guidance of an outside expert body of considerable assistance. The visits and meetings described in the preceding paragraphs have been the primary source of evidence for the general and specific points made in the Commission’s Ninth Biennial Report.

**MHAC Administration of Second Opinions**

The Commission has a statutory responsibility for appointing medical practitioners to consider non-consenting detained patients' treatment with medication for mental disorder after an initial three month treatment or with ECT at any time (Section 58 of the Act). It also appoints other persons to validate treatments falling with Section 57 - neurosurgery for mental disorder.

In a two year period between 1999 and 2001, there were 16,257 requests for a second opinion for treatments falling within the provisions of Section 58.

In the same period, there were 9 referrals made to the Commission to consider certifying neurosurgery for mental disorder.

**Complaints**

**The Remit**

The Commission's remit to investigate complaints is set out in Section 120 (1)b of the Mental Health Act 1983. The Commission may investigate two types of complaint:

- any complaint made by a person in respect of a matter which occurred while he was detained under the Act, and which has not been dealt with to his satisfaction by the managers of the hospital or registered mental nursing home.
- any other complaint as to the exercise of powers and discharge of duties conferred or imposed by the Act in respect of a detained patient.

The Commission need not investigate all complaints coming within its jurisdiction and may discontinue an investigation where it is appropriate to do so.

In the vast majority of complaints which the Commission deals with, its primary function has become one of advising and supporting detained patients through the NHS complaint process, advising them of their rights.
and corresponding with the Trusts either on their behalf or, in relation to perceived shortcomings, in the way complaints are being handled. Between April 1999 and March 2001 the Commission handled 747 new written complaints and a further 244 complaints raised by patients on visits. None were made subject to a formal investigation by the itself, and most were referred to the NHS complaints procedure.

**Deaths**

The Commission is notified of any death of a detained patient. Between April 1999 and March 2001, 811 deaths were reported to the Commission. When considered necessary, a review is undertaken by a Commissioner with special experience. A hospital visit may be undertaken to view records and interview staff, if considered appropriate. A Commissioner may also attend the inquest and may, in some cases, request Properly Interested Person status, making it possible to ask questions of witnesses and make submissions to the coroner on potential issues to be covered at the inquest. The Commission attended 127 inquests reported above.