



ANNUAL REPORT 2021

NSW MENTAL HEALTH REVIEW TRIBUNAL

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The Honourable Bronnie Taylor MLC

Minister for Mental Health
Parliament House
Macquarie Street
Sydney NSW 2000

29 October 2021

Dear Minister

I enclose the Annual Report of the NSW Mental Health Review Tribunal for the period 1 July 2020 through 30 June 2021 as required by section 147 of the *Mental Health Act 2007*.

Yours sincerely,



Judge Paul Lakatos SC
President

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THE VALUES WE BRING TO OUR WORK

The NSW Mental Health Review Tribunal is an independent Tribunal which plays an important role in safeguarding the civil liberties of persons under the *Mental Health Act 2007* and in ensuring that people living with mental illness receive the least restrictive care that is consistent with safe and effective care. In exercising its functions and its jurisdiction under the law, the Tribunal adopts the following values:

- Our independence as a decision maker is paramount and our decisions shall, at all times, be arrived at independently and free from improper influence.
- We acknowledge the importance of the objects of and principles for care and treatment contained in the *Mental Health Act 2007* (MHA) and of our role in prompting and giving effect to those objects and principles.
- We acknowledge and respect the dignity, autonomy, diversity and individuality of those whose matters we hear and determine and our important role in protecting their civil liberties.
- Procedural fairness is to be accorded to all persons with matters before the Tribunal.
- Courtesy and respect are to be extended at all times to all persons that we deal with.
- We acknowledge the importance of our procedures being transparent to the public.
- We acknowledge the importance of open justice and also the need to balance this with considerations of individual privacy and confidentiality where appropriate.
- Our work is specialised and requires a high level of professional competence as well as ongoing training, education and development for members and staff.
- We value our members and staff and will continually strive to maintain a supportive, efficient and enjoyable working environment where the dignity and the views of all are respected and where appropriate development opportunities are available.
- As a key stakeholder in the mental health system in New South Wales we shall, where appropriate, seek to promote and to engage collaboratively with other stakeholders and agencies in promoting the ongoing improvement of mental health services in New South Wales.

THE WORK THAT WE DO

The Tribunal has some 47 heads of jurisdiction covering:

- the disposition and release of persons acquitted of crimes by reason of mental illness;
- determining matters concerning persons found unfit to be tried and prisoners transferred to a mental health facility for treatment;
- reviewing the cases of detained patients (both civil and forensic) and long-term voluntary psychiatric patients;
- hearing appeals against an authorised medical officer's refusal to discharge a patient;
- making, varying and revoking community treatment orders;
- determining applications for certain treatments and surgery; and
- making orders for financial management where people are unable to manage their own financial affairs.

In performing its role, the Tribunal actively seeks to pursue the objects of the *Mental Health Act 2007* including delivery of the best possible kind of care to each person in the least restrictive environment. The Tribunal also seeks to meet the requirements of the United Nations principles for the protection of persons with mental illness and the improvement of mental health care, including the requirement that 'the treatment and care of every patient shall be based on an individually prescribed plan, discussed with the patient, reviewed regularly, revised as necessary and provided by qualified professional staff'

The COVID-19 -19 pandemic situation has been challenging for the staff, members and participants in the work of the Tribunal (as it has been for society in general). The effect on mental health facilities has been to limit the capacity of patients to exercise leave in the usual fashion and to have visits by their family and friends.

Against that background, the Tribunal was called upon to decide whether the leave provisions under the repealed *Mental Health (Forensic Provisions) Act 1990*, permitted overnight leave of up to 7 nights. The mental health facility was presented with the dilemma that due to potential COVID-19 transmission, a patient returning to the facility after exercising lesser periods of overnight leave, posed a significant risk to other patients and therefore leave was difficult to implement with safety. The Tribunal determined that such leave was authorised by the Act and the decision became an Official Report available on the website. There were no adverse outcomes to leave of this kind being implemented.

Remarkably, through the goodwill and forbearance of the staff, members and participants, the Tribunal has been able to maintain a workable oversight of its responsibilities in the mental health system. That was assisted by the passing of emergency legislation namely the insertion of section 202 of the *Mental Health Act* by the *COVID-19 Legislation Amendment (Emergency Measures) Act 2020 No 1*. The effect of that provision was to facilitate mental health inquiries by allowing the assessable person to appear by telephone; by permitting the Tribunal to adjourn a mental health inquiry for up to 28 days and to extend the period of current community treatment orders for up to 3 months. Section 202 had a sunset clause of 12 months.

CASE LOAD

In the Forensic Division, the Tribunal adjusted its procedures by adjourning a significant number of the scheduled reviews on the papers and only proceeding with those matters, which required a hearing or review to occur. The full quota of hearings was resumed in September 2020.

In the Civil Division, there was increased resort to audio visual link hearings and the suspension of reviews of involuntary patient orders (for those who had been detained for over a year) and reviews of voluntary patients.

As it transpired, only limited resort to the COVID-19 legislation was required and it was applied only to the extent that normal practices and procedures could not be implemented. In order to lessen the impacts of the curtailed procedures on consumers, the Tribunal worked with the Mental Health Advocacy Service and the treating teams, by inviting them to bring urgent matters before the Tribunal for consideration or review. That system worked effectively.

The Registrar's Report sets out in greater detail the breakdown of the work done by the Tribunal. For present purposes it is salient to note that in the financial year 2021, the Tribunal conducted 18,501 hearings (less than 1% down on the 2020 figures). Those hearings involved 8962 individuals as compared with the previous year: 8826 individuals. With the exception of the reduction in the number of mental health inquiries (6156) which was 38% less than the previous year, resort to the emergency measures brought about by the COVID-19 legislation was generally minimal. By way of example, mental health inquiries conducted by telephone were utilised on one occasion during the relevant period and less than 1% of Community Treatment Orders were extended for 3 months. The number of forensic hearings increased to 1669 (a 4% increase on the preceding year).

That the Tribunal was able to in many respects carry on "business as usual" was in no small part due to the efforts of members and staff. Registrar Alisa Kelley and Team Leaders Danielle White and Nadia Sweetnam carried a particularly heavy load. I also wish to express my gratitude on behalf of the Executive Team to the members and staff who have worked assiduously and diligently to ensure that the legislative protections of those with mental illnesses, continued during this period.

MENTAL HEALTH AND COGNITIVE IMPAIRMENT FORENSIC PROVISIONS ACT 2020

The *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* came into force in March 2021 after considerable input from many individuals and organisations. I acknowledge the work of Deputy President Ms Anina Johnson and Team Leader Ms Nadia Sweetnam in the implementation of that Act as it affects the Tribunal. In particular, they have done considerable work in drafting Practice Directions and templates necessary to accommodate the new legislative requirements and in providing training sessions about the new Act.

The Forensic Division Report notes that problems continue to exist in relation to delays in transferring forensic patients to beds in appropriate mental health facilities. It should be noted that a contributing factor in the last year has been the impact of the COVID-19 pandemic on allowing patients in medium and low secure facilities to access leave. Generally, the treating teams in these facilities transition patients through the system by according increasing amounts of leave in appropriate circumstances and monitoring how the patients fare in exercising the leave. This approach has proved to be an effective method of managing any risks which may attach to the ultimate release of the relevant patients.

CARERS

The Tribunal recognises the importance of facilitating full engagement in its processes by consumers and carers. Accordingly, work has continued to develop a Consumer and Carer Advisory Group, which will interact with the Tribunal by means of a consumer and carer engagement officer within this organisation. It is hoped that there will be such an officer can be appointed by the beginning of 2022. The significant work by Deputy President Ms Maria Bisogni in leading this initiative should be acknowledged.

WEBSITE UPDATE AND SECURE DATA STORAGE

To increase the accessibility of stakeholders to the work of the Tribunal, work has commenced to review and update the website, which is often the first port of call for those seeking information. The work has involved a review of the website, an assessment of the costs involved and an analysis of the feedback from consumers and carers. The project will continue in the course of the next year and a more user-friendly product is envisaged at the conclusion of it.

In addition, work has commenced to ensure secure data storage within the Tribunal and an update of the case management system which currently operates. The present system is somewhat aged and has limitations which impede the desired efficiencies in the work of the Tribunal. I acknowledge the work of the Registrar, Ms Alisa Kelly in relation to this important project.

COURT OF APPEAL DECISIONS

In the preceding year, the law relating to the powers of the Tribunal have been clarified in two Court of Appeal decisions, namely *Secretary, NSW Ministry of Health v W* (2020) 102 NSW LR 969; [2020] NSWCA 212 and *JKL by his tutor Jennifer Thompson v Justice Health and Forensic Mental Health Network* [2021] NSWCA 94.

In *Secretary, NSW Ministry of Health v W*, the Court of Appeal held that the power of the Tribunal to make an order “that the patient continue to be detained as an involuntary patient in a mental health facility for further observation or treatment, or both” per section 38 (4) of the *Mental Health Act 2007*, does not permit the Tribunal to order the transfer of a patient to a less restrictive mental health facility.

In *JKL by his tutor Jennifer Thompson v Justice Health and Forensic Mental Health Network*, the Court of Appeal determined that the Tribunal was authorised to make an order under section 48 of the now repealed *Mental Health (Forensic Provisions) Act 1992* “for the transfer of a forensic patient to a mental health facility, correctional centre or other place” (cf the terms of section 48), when a bed becomes available. It should be noted that section 82 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*, is relevantly in identical terms.

The work of the Tribunal in exercising its jurisdiction, is assisted by the clarification of its powers and duties by the superior courts.

RECRUITING

Recruiting for the positions of lawyer members, psychiatrists and other qualified members, began in February 2020, but interviews were only able to be conducted during this reporting period because of the impact of the COVID-19 pandemic. This involved half of the Tribunal’s existing members needing to reapply for their position via a competitive external recruitment process. The other half of the Tribunal’s membership will be subject to an external recruitment process in 2024. The recruitment was also an opportunity for the Tribunal to consider applications from new external candidates.

STAFF AND MEMBERS

There has been a significant turnover of staff and members in the last year. I wish to acknowledge the contributions of all of them but particularly the following members who have left the Tribunal, after many years of invaluable contribution:

Dr Sidney Williams – Psychiatrist Member

Associate Professor Kimberlie Dean – Psychiatrist Member

Ms Janet Koussa – Other Suitably Qualified Member

Dr Rosemary Howard – Psychiatrist Member

Judge Paul Lakatos SC
President

COMMENCEMENT OF THE MENTAL HEALTH AND COGNITIVE IMPAIRMENT FORENSIC PROVISIONS ACT 2020

On 27 March 2021, the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (MHCIFPA) commenced. The MHCIFPA repealed and replaced the *Mental Health (Forensic Provisions) Act 1990*. The MHCIFPA had its genesis with a referral to the Law Reform Commission in September 2007. It was pleasing to see the work of many finally come to fruition.

The MHCIFPA updates, clarifies and streamlines the work of the courts and the Tribunal in the area of forensic mental health. Forensic patients who previously received a verdict of “not guilty by reason of mental illness” (NGMI) are now taken to have received a verdict of “act proven but not criminally responsible” (APNCR). A person can receive a verdict of act proven but not criminally responsible due to their mental health impairment, cognitive impairment (new verdict), or both. In addition to a new verdict, arrangements for dealing with fitness to stand trial and receiving a limiting term were streamlined. The statutory criteria to be applied by the Tribunal did not change significantly, consistent with the recommendations of the Law Reform Commission and the Hon Anthony Whealy QC in his 2017 report.

The Tribunal is now involved in collecting data to report to a multi-agency Forensic Working Group for the purposes of monitoring and evaluating the operation of the MHCIFPA.

The Tribunal used the new MHCIFPA as an opportunity to review aspects of the within work its Forensic Division. The following changes were made:

- The timeframe for listing a first review of an inmate admitted to a mental health facility (correctional patient) has been reduced from about 6 weeks to 3 weeks. These reviews now align more closely with the timeframe for mental health inquiries (that is, the equivalent review under the *Mental Health Act 2007*).
- The Tribunal’s previous Forensic Practice Direction and Forensic Guidelines have been replaced by three new forensic Practice Directions.
- The templates used for the Tribunal’s written reasons have been rewritten and reformatted, for improved clarity.

Deputy President Anina Johnson and Team Leader Nadia Sweetnam delivered many training sessions on the legislative changes for audiences inside and outside the Tribunal.

COVID-19 RESPONSE

The President has generally outlined the Tribunal’s response to the COVID pandemic.

In the Forensic Division, hearings were running at 70% capacity by July 2020 and had returned to 100% by September 2020. They continued uninterrupted throughout this reporting period, despite the varying COVID-19 restrictions.

No changes were made to the statutory criteria that applied to Tribunal decisions to grant leave or release during the pandemic. However, there were occasions on which the Tribunal granted forensic patients up to 7 nights leave from a mental health facility for a specified period of time. The purpose of a 7 night leave order was to avoid a forensic patient returning to a mental health facility for one night, which would increase the risk of transmitting COVID-19 between the returning patient and others on the ward. The nature of these orders is discussed in *Williams [2020] NSWMHRT 2*.

Orders granting 7 nights leave per week were first made in the last reporting period and continued to be made throughout this reporting period where the changing COVID-19 hotspots made it necessary. There were six orders of this kind made for three forensic patients during the last reporting year. Where urgent decisions were needed, a delegate of the Secretary of Health granted one nights leave (in addition to the standard six nights of overnight leave) using the exceptional circumstances leave power under s 50 of the MHFPA and s 96 of the MHCIFPA.

FORENSIC PATIENTS AND THEIR WHEREABOUTS

There were 32 new findings of not guilty by reason of mental illness/act proven but not criminally responsible made in this financial year, similar to the previous year. *See Appendix 2 Table 8.*

As at 30 June 2021, there were 469 forensic patients, 40 correctional patients, and 125 consumers on forensic community treatment orders. This was the same number as the previous financial year. *See Appendix 2 Table 20.*

The numbers of unconditional release orders do fluctuate from year to year. In 2020/21 there were 22. By comparison, in 2019/20 the Tribunal made 17 unconditional release orders, 12 in 2018/19, 19 in 2017/18, and 10 in 2017/16. *See Appendix 2 Table 10.*

During the year, 78 patients were granted an extension of their review period, of up to 12 months. This was 30% more than 2019/20 (60), but comparable to 2018/19 (73). *See Appendix 2 Table 10.*

TIMEFRAMES FOR ADMISSION TO LESS RESTRICTIVE FORENSIC MENTAL HEALTH FACILITIES

In its Annual Reports from 2009 onwards, the Tribunal has been reporting on delays in transferring forensic patients to a bed in an appropriate mental health facility.

The importance of the appropriate placement of forensic patients is highlighted by the introduction of a new principle in s 70(2) the MHCIFPA which says that

A forensic patient who is ordered to be detained in a mental health facility should, so far as practicable, be detained in a mental health facility or other facility that is appropriate to the patient's needs and appropriate having regard to the safety of the patient and other persons.

As the President has noted in his report, in May 2021, the Court of Appeal held that the Tribunal was empowered under the MHFPA to make an order for transfer “when a bed becomes available”: *JKL by his tutor Jennifer Thompson v Justice Health and Forensic Mental Health Network* [2021] NSWCA 94. This decision confirmed the legality of a practice that the Tribunal had adopted in 2013, after the decision of *State of New South Wales v TD* [2013] NSWCA 32.

As at 30 June 2021, there were 47 forensic patients awaiting a more appropriate placement in a mental health facility. Of those, 37 male forensic patients were waiting in custody for a bed in the Forensic Hospital. This is a significant increase from the 27 patients waiting at the same time last year. Three people had been waiting in custody for 4 or more years for admission to the Forensic Hospital and a further 10 people had been waiting in custody for more than 3 years. As at 30 June, 7 patients were waiting in the Forensic Hospital for a medium secure bed, 5 less than in the previous year. An additional 3 patients in custody were awaiting placement in a medium secure unit.

The lengthy waiting list can be partly attributed to the impact of the COVID-19 pandemic. The pandemic reduced access to leave for those in medium and low secure facilities and made it harder to arrange the accommodation and services to support conditional release applications. Admissions were also delayed to limit the possibility of infection. As forensic patients stayed longer in medium secure settings, there was a delay in forensic patients exiting the Forensic Hospital, which in turn delayed admissions to the Forensic Hospital from custody. Nonetheless, the impact of these significant delays on the mental health and recovery of the forensic patients waiting in custody is significant.

When the clinical evidence suggests that the transfer of a forensic patient to a less restrictive environment would be appropriate, the Tribunal retains the power to make an order that a forensic patient be transferred within a specified time frame (“a time limited order”). In the last financial year, time limited orders were made on 10 occasions or 23% of the occasions on which the Tribunal ordered a patient’s transfer. In 2019/20, 12 time limited orders were made. *See Appendix 2 Table 10.*

PLANNING FOR THE CARE OF FORENSIC PATIENTS

In its Annual Report for 2019, the Tribunal noted that the NSW Forensic Mental Health Strategic Plan had been in discussion for three years. The Tribunal was pleased to be consulted on a draft of this Plan during the 2020/2021 reporting period, although a final version of the Plan is not yet available.

In the Tribunal's last Annual Report, we expressed concern that funding for the Community Safety Program (CSP) was due to end in June 2021. The work of the CSP includes providing urgent advice, case management, risk assessment and support to forensic patients with a cognitive impairment. As noted above, with commencement of the MHFCIPA and the introduction of the verdict of APNCR because of a cognitive impairment, the work of the CSP became even more important. The Tribunal was delighted to be told at the end of 2020 that the Department of Communities and Justice would ensure ongoing funding for this program.

This year has seen ongoing issues with finding options for the safe and least restrictive placement of forensic patients who have cognitive impairments alone. There are no NSW government places of detention for forensic patients with cognitive impairments and the availability of accommodation and support services depend upon adequate NDIS funding being approved. Even if an appropriate NDIS package is approved, the Tribunal and the NSW government do not have control over providers of accommodation and support services to forensic patients.

Some NDIS funded services are excellent, with care and support carefully adapted to the needs of the forensic patient. These services can be life changing. In other circumstances the NDIS funded services do not have the skills to be able to safely manage and support forensic patients with complex needs. If the Tribunal considers that the proposed supports are not safe, its options are limited. It can refuse to grant conditional release, which usually means that the forensic patient remains detained in custody. If the forensic patient's conditions of release are breached, the patient can only be detained in a mental health facility or custody. Neither is appropriate.

These challenges were documented by the Law Reform Commission (Report 138) in 2013, and have made it difficult for the Tribunal to properly exercise its statutory functions since then. The number of patients facing these difficulties is likely to increase with the new verdict of APNCR by reason of cognitive impairment.

The Tribunal was pleased to see that the Cognitive Impairment sub-committee of the Forensic Working Group has been reinvigorated and we hope that the recommendations of this group will lead to concrete short, medium and long term changes to the options for forensic patients.

WORKING WITH STAKEHOLDERS & RESEARCH

The Tribunal and its members have continued to contribute to research into the outcomes for forensic patients and those with mental illness in the custody by collaborating with Professor Kimberlie Dean and Professor Tony Butler, UNSW.

The Tribunal has also continued to build on its strong relationships with stakeholders including the SVSS, consumer and carer organisations, Ministry of Health, Ministry of Communities and Justice, the Justice Health and Forensic Mental Health Network and Legal Aid NSW.

The Specialist Victim Support Service started in February 2019. The Tribunal and the SVSS have been working collaboratively since then. An example of the way in which our two organisations can achieve positive things for forensic patients and victims is set out below.

CASE STUDY

A forensic patient was recommended for transfer from a high secure facility to a medium secure facility. He was from a cultural background with a strong community in western Sydney and used an interpreter to communicate with clinical staff. The ideal placement for this forensic patient was the Bunya Unit at Cumberland Hospital, rather than a medium secure facility in regional NSW, which would have more limited access to interpreters and services.

The victim of his index offence was a family member, who had been supported by the SVSS from the time of the court proceedings. She was from the same cultural background as the forensic patient and also lived in the western area of Sydney. The victim had initially requested that the forensic patient be prohibited from entering the Parramatta Local Government Area which would have made it impossible for him to be detained at the Cumberland Hospital.

Before the Tribunal hearing, the SVSS case worker explained to the victim that if the forensic patient were able to live in Sydney he would have greater access to culturally appropriate services than if he were living in a regional area. Accessing these services would improve the forensic patient's opportunities for a safe recovery. The victim appreciated the importance of this. She and the SVSS decided to work together to develop strategies that would allow her to safely visit the Parramatta LGA if she needed to access services, even if the forensic patient was also living in that area.

The victim withdrew her request for Parramatta LGA to be included as a place restriction for the forensic patient. The Tribunal ordered his transfer to the Bunya Unit, but put in place other restrictions to protect the registered victim.

INTERSTATE ARRANGEMENTS

Since 2010, the Tribunal has noted in its Annual Reports that there are no interstate arrangements for the transfer of forensic patients. Queensland and Victoria have already successfully arranged for the transfer of forensic patients between those two States. Similar arrangements should be possible for forensic patients in NSW. The lack of these arrangements impacts on the recovery of forensic patients and the safety of the community.

CASE STUDY

This reporting year included a protracted hearing for a young man whose family and supports are in Queensland, although he is a NSW forensic patient. He had recently been living in Queensland with family on conditional release but became unwell and again travelled to NSW.

Arrangements for his safe discharge from a NSW hospital were complicated by the fact he understandably wishes to live in Queensland, but the Tribunal's orders only have effect in NSW. Despite the co-operation of Queensland mental health services, this young man's discharge was delayed by months.

If his forensic order were able to be transferred to Queensland, arrangements for his safe and effective care near family and friends could have been quickly arranged.

THANKS

This year has seen staff and members working remotely for much of the year. At the same time they have managed the transition to a new Act, new templates and new processes. It has been a mammoth effort. Staff and members have risen to these challenges with their usual diligence and good humour. We hope for smoother sailing in the year ahead.

Anina Johnson
Deputy President

Nadia Sweetnam
Team Leader

In the reporting year, the Tribunal continued to work through the challenges of ensuring that its hearings remained accessible, fair, recovery focused, and person centred in a COVID-19 environment.

The ongoing impact of COVID-19 on the work of the Tribunal is covered in the President's report.

KEY STATISTICS

Statistics over the reporting period indicate that hearing numbers in the Civil Division have remained largely stable over the last few years.

During the reporting year there were 16,872 civil hearings, representing a decrease of 1% since the previous year. In the Civil Division, there were 10,635 hearings, 253 more than last year. There were 81 hearings relating to financial management orders, 29 fewer than the preceding year.

There was a decrease in mental health inquiries of 5% from the previous year (i.e. 311 fewer hearings). There was an increase in involuntary patient review hearings from 2,270 in the previous year to 2,369 (up 4%), relating to 1,426 consumers.

Appeal hearings against the authorised medical officer's refusal to discharge increased by 194 to a total of 991, with 721 of the appeals (or 73%) being dismissed and 17 orders for discharge (24 such orders were made in the previous year) and 2 patients were reclassified as a voluntary patient.

There were 786 applications for ECT hearings in relation to involuntary patients (including 4 forensic patients) and ECT was approved in 706 cases (or 90%) and not approved in 20 cases (or 3%). In 23 cases, the Tribunal found that the patient had capacity and had given consent to ECT. Three involved children under the age of 16.

Under the *NSW Trustee and Guardian Act 2009*, the Tribunal conducted 81 hearings for Financial Management Orders (down from 110 in 2019/2020). Interested parties were responsible for 38 applications for Financial Management Orders and 24 were considered at mental health inquiries. The Tribunal made 38 Orders, 7 of which were interim orders; 15 were made at mental health inquiries; 22 were made on the application of interested parties; and 1 was made at the review of an interim order.

There were 42 applications for the revocations of Financial Management Orders, an increase of 9 from the previous year. The Tribunal revoked 24 of the orders. 13 were adjourned.

The number of applications for Community Treatment Orders (CTOs) increased by 310 (or 6%) to 5853 this year. A total of 5398 CTO determinations were made. Of these, 788 were made for more than 6 months (usually 12 months), and this represents 14% of orders made. This is lower than the previous year when 926 were made for more than 6 months.

COVID-19

In the Civil Division, changes were made to hearing processes to accommodate a 36% percent increase in Audio Visual Link hearings from Gladesville instead of face-to-face hearings. This involved changes to the usual time frames for conducting mental health inquiries and suspending reviews of involuntary patient orders for consumers who had been detained for over a year.

Similarly, reviews for voluntary patient were also suspended. These changes were monitored over the year with a view to restoring all face-to-face hearings as soon as it was safe to do so.

As noted in last year's Annual Report, we were conscious of the impact of the changes to hearings on the rights of consumers to have their matters reviewed. To that end, we worked with the Mental Health Advocacy Service (MHAS) to establish an in-reach program by the Service to affected consumers. The MHAS agreed to contact consumers whose hearings were either postponed or not held and to provide legal representation for those wishing to have their review or wishing to appeal to the Tribunal for discharge.

Urgent amendments were made to the *Mental Health Act 2007* (MHA) to do the following: enable telephone hearings for mental health inquiries; to extend the adjournment power for mental health inquiries for up to 28 days; and to

extend Community Treatment Orders for 3 months. These provisions were only to be used for COVID-19 related reasons. The legislation remained in force until February 2021.

Statistics compiled over the reporting period demonstrate that the Tribunal's recourse to the emergency provisions was indeed minimal. For example, less than 1% of Community Treatment Orders were extended for 3 months (or 4 out of 5857), less than 1% of mental health inquiries were by telephone (or 1 out of 6156), and less than 1% (or 11 out of 6156) were adjourned.

By January 2021, it appeared that NSW had to some extent suppressed COVID-19, and the Tribunal planned a staged return to its usual hearing schedule. Unfortunately, the resurgence of COVID-19 in June 2021 resulted in lockdown orders putting a halt to the Tribunal plan to return to normal processes. However, the Civil Division returned to its usual time frames for all of its hearings, albeit by AVL. The only modification made during this period was changing the timetable in which mental health inquiries were held, by moving to 14 – 28 days instead of their usual rostered 7- 21 days.

COVID-19 has thrown up special challenges for the Tribunal, not the least of which was the imperative to have processes in place to respond to hearing disruptions. In the next reporting period, a focus of the Civil Division will be on innovating hearing processes and moving to paperless hearings. Equipping members with the capacity to conduct all aspects of hearings remotely will be another key priority.

RECRUITMENT AND REAPPOINTMENT OF MEMBERS

This year the Tribunal completed its recruitment of new members and finalised the reappointment process. We look forward to incorporating new members into the civil roster after their induction and hearing observations in late 2021. The Tribunal plans to commence a mentorship program with this new cohort of members. Having a senior Tribunal member to contact, particularly when members may not be sitting together for some time, will assist their transition.

CONTINUOUS IMPROVEMENT

For many years now, Tribunal panels who have concerns about individual cases or systemic issues may relay these to the Tribunal's Executive, via a Member Feedback Form. Usually, the issues of concern cannot be readily resolved in the hearing and require further inquiry or liaison with other bodies. In this sense, some matters require 'case management' to bring them to a satisfactory conclusion.

It should be noted that every year many thousands of hearings are conducted by the Civil Division and issues brought to the attention of the Executive represent a small fraction of the overall caseload. Case Study 2 is an example of exemplary care and treatment of a consumer on a CTO.

Access to the NDIS continues to be raised by Tribunal panels for Executive follow up. Case Study 1 illustrates the challenges consumers face if NDIS funding is delayed. In this case study the failure to favourably determine a funding package for a consumer with complex needs was a barrier to her discharge to less restrictive and appropriate care in the community. At the time of writing the issue had not been resolved.

KEY RELATIONSHIPS AND LIAISON

The impact of COVID-19 on Tribunal processes and their impact on the rights of carers and consumers meant that engaging with key stakeholders was a key priority in the reporting period. Close contact was maintained with Local Health Districts, clinicians and the Legal Aid Commission to seek their input into hearing processes. The Tribunal also sought the input from peak bodies such as Being NSW and NSW Carers.

A number of training sessions with clinicians in relation to the MHA and the Tribunal's practice and procedure were also undertaken.

The Tribunal is part of NCAT's Guardianship Division's User Group. During the year the Tribunal attended mental health cross agency sharing information meetings hosted by the NSW Mental Health Commission.

The Tribunal continued to develop the concept of its own Consumer and Carer Advisory Group and considered that the Group should be led by a Tribunal consumer and carer engagement officer. It is hoped that such a position will be created and filled at the beginning of 2022.

CARERS

A Carer group has communicated to the Tribunal that the failure to involve them in hearings remains a significant barrier to their support and involvement in Tribunal hearings. This was felt by the Carer's group to be particularly the case during the periods of COVID-19 lockdowns, at which time many facilities had introduced social distancing measures to protect consumers and staff. This meant that carers could no longer freely visit their loved ones or participate in hearings from the mental health facility.

Deputy President Maria Bisogni participated in a Webinar hosted by Carers NSW to set out the Tribunal's expectations in relation to compliance with the requirement to give notice to all carers of Tribunal hearings. In addition, the Tribunal will work with Carers NSW to try to improve the attendance of carers at hearings via new initiatives to enhance the understanding of clinicians of the importance of complying with their statutory duty to notify carers of hearings. The MHA was amended on 1 July 2018 to require that notice be given to all carers in relation to all Tribunal hearings conducted at mental health facilities.

In order to gain a better sense as to whether the statutory obligation to give notice to carers is being met, the Tribunal now records if notice has been given and if carers are involved in hearings, and importantly, if they were advised of the hearing but are not attending and their reasons for not doing so.

An additional benefit of asking these questions is also to encourage clinicians to make the necessary notifications. The Tribunal emphasises the importance of carer notification and involvement in its hearings in and in its training sessions for clinicians who present to the Tribunal.

THE PEER WORK FORCE 2021

The paid consumer peer work force in NSW has grown significantly in recent years. As with carers, the Tribunal has commenced to formally record their attendance at hearings, which will give an accurate picture of their level of involvement.

As stated in last year's Annual Report, the value of having a peer worker in a hearing may be that consumers might see the peer worker's presence as a way of bringing their perspectives and views into prominence and independently from the perspectives of treating teams, families and carers. This additional source of communication may address perceived power imbalances in hearings and reduce the stress associated with hearings.

Ms Maria Bisogni gave the keynote address at the Peer Workers Forum this year. The theme of the Forum was on "What Brings Us Together". In her paper, "Realising Rights - the things that bind us - a Tribunal perspective", Ms Bisogni highlighted the shared responsibility of the Tribunal and peer workers in safeguarding the human rights of consumers and upholding the important principles of the MHA. These principles reflect the growing consensus that consumers are fundamental participants in their care and treatment needs.

PROFESSIONAL DEVELOPMENT

The Tribunal was fortunate to have Mr Matthew Ball, the 2017 Australian Mental Health Nurse of the Year, and Founder and Director of the Humane Clinic, a private practice that facilitates alternative approaches to working with people who experience hearing voices, present to the Tribunal. Mr Ball, who has lived experience, shared his insights on the value of lived experience in the clinical setting.

The Tribunal also hosted a training session on 'Best Practice Prescribing for Schizophrenia' by Professor Anthony Harris.

ACKNOWLEDGEMENT OF STAFF AND MEMBERS

The Tribunal is fortunate in having staff and Tribunal members who worked tirelessly to make the transition to wholly remote hearings work effectively in the face of COVID-19. The Tribunal remains indebted to its wonderful staff and to its Tribunal members who bring consistently high levels of professionalism and expertise to their work.

Maria Bisogni
Deputy President

Danielle White
Team Leader

CASE STUDY 1

The Tribunal made a 12-month Community Treatment Order for Mr X at the request of his treating team and with the full support of Mr X.

Mr X had been on a CTO in the previous 6 months which had been made at the end of an involuntary patient admission of 4 years and 10 months. Under the CTO, Mr X was being provided with assertive outreach including the following: supervision of his oral medication; 4 nights a week medication phone prompting; one night a week phone prompting; and self-administered two nights a week. During the CTO period there were no re-admissions to hospital.

At the hearing there was evidence that a Specialist Rehabilitation Clinician was seeing Mr X regularly and providing a treatment called Hearing Voices Exploration, which had assisted Mr X greatly in coping with ongoing voices.

Mr X also has a comprehensive NDIS package that provided considerable support. There was also Carer support that included the treating team seeking the carer's written thoughts and opinions about the effectiveness of the CTO. All of this information was provided to the Tribunal. The treating team worked with Mr X on a self-identified stages of recovery report.

The Tribunal remarked at the hearing that the treating team was providing an impressive service which was having a positive impact on Mr X. The Tribunal noted that the model of service was recovery focused, collaborative and took into account Mr X's views and preferences. At the hearing, Mr X and his carer reported very favourably on the service being provided and acknowledged the incredible progress that had been made. Mr X has successfully undertaken a collaborative and recovery-oriented treatment plan.

CASE STUDY 2

Ms W was a long-term involuntary patient with diagnoses of mood disorder, intellectual disability, autism and personality disorder. At her Tribunal review the treating team advised that Ms W was only being detained in the hospital because her accommodation funding had yet to be favourably determined by the NDIA. At the hearing, the Tribunal noted in its reasons for decision that this was the sole barrier to discharge. Both Ms W, her carer and the treating team were frustrated that Ms W was residing in more restrictive conditions than necessary because appropriate accommodation with 24-hour support had not been funded. Evidence was given that appropriate accommodation had been identified but that Ms W was unable to access it until she had received the funding.

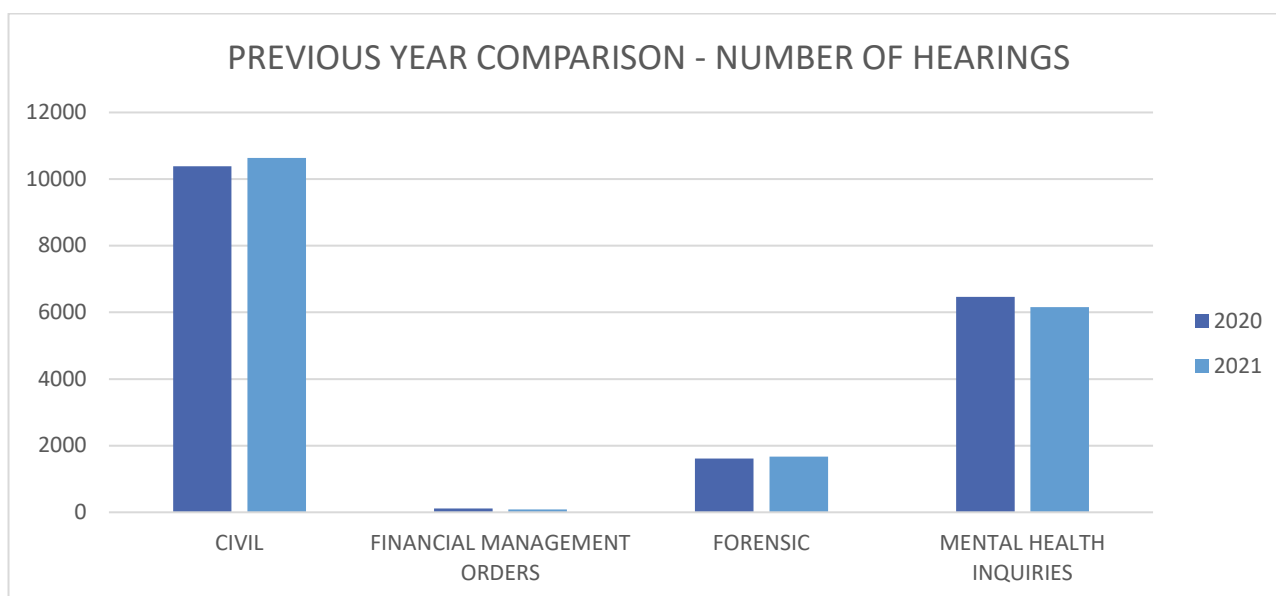
The Tribunal wrote to the NDIA requesting that Ms W's package be given urgent priority. Ms W remained as an Involuntary patient. Unfortunately, at her next review, 6 months later, the NDIA had still not approved the funding.

Nonetheless, Ms W at the hearing indicated that she was agreeable to remaining in hospital while she went through a graduated discharge process. At the time of the hearing, Ms W continued to experience episodic psychotic transient states, often accompanied by acts of violence. The Tribunal noted Ms W's vulnerability, risk of misadventure, and potential harm to self and others.

The financial year 2021 was marked primarily by the impact of the COVID-19 pandemic. While the legislative amendments agreed at the beginning of the pandemic concluded on 26 March 2021, the swift rise of new Delta cases meant that the Tribunal was unable to return to ordinary face-to-face hearings at any time in some locations and only briefly in others. Our staff and members adapted as required to the oft-changing conditions and the Tribunal continued to provide full services through out the period.

CASE LOAD SUMMARY

The Tribunal conducted 18,541 hearings in the financial year 2021 involving 8,962 individuals representing an overall movement of less than 1% in the number of hearings from 2020 (18,571 hearings; 8,826 individuals). An increase of 35% was reflected in individual persons presenting to the Tribunal.



The Tribunal saw a slight increase in Forensic and Civil matters during the financial year 2021, offset by a drop-in inquiries and financial management orders.

CATEGORY	HEARINGS 2021	HEARINGS 2020	MOVEMENT	INDIVIDUALS 2021 ¹
CIVIL	10635	10382	2%	5925
MENTAL HEALTH INQUIRIES	6156	6467	-5%	5188
FINANCIAL MANAGEMENT ORDERS	81	110	-26%	62
FORENSIC	1669	1612	4%	783
Grand Total	18541	18571	<1%	-

¹ Individuals are counted in each category in which they have appeared. The total number of individuals brought before the Tribunal was 8,962.

Over the past 10 years the number of civil hearings has increased by an average of 3% per year, forensic hearings by 9% per year and inquiries by 4% per year.

The following table shows the number of hearings conducted since the Tribunal's first full year of operation in 1991.

Hearings 1991-2021						
Year	Mental Health Inquiries	Civil Hearings	Financial Management Hearings	Forensic Hearings	Total	% Variation from previous year
1991		1986	61	185	2232	%
1992		2252	104	239	2595	16.26%
1993		2447	119	278	2844	9.60%
1994		2872	131	307	3310	16.39%
1995		3495	129	282	3906	18.01%
1996		4461	161	294	4916	25.86%
1997		5484	183	346	6013	22.31%
1998		4657	250	364	5271	-12.34%
1999		5187	254	390	5831	10.62%
2000		5396	219	422	6037	3.53%
2001		6151	304	481	6936	14.89%
2002		6857	272	484	7613	9.76%
2003		7787	309	523	8619	13.21%
2004		8344	331	514	9189	6.61%
2005		8594	293	502	9389	2.18%
2006		9522	361	622	10505	11.89%
2007		8529	363	723	9615	-
2007-08		8440	313	764	9517	-1.02%
2008-09		7757	224	771	8752	-8.04%
2009-10	43	8041	193	824	9101	3.99%
2010-11	4447	7966	221	870	13504	48.38%
2011-12	4910	8591	219	928	14648	8.47%
2012-13	6321	9189	225	943	16678	13.86%
2013-14	6232	9184	191	972	16579	-0.59%
2014-15	6633	9402	170	1017	17222	3.88%
2015-16	6887	9709	168	1186	17950	4.23%
2016-17	6757	9832	169	1340	18098	0.82%
2017-18	6806	10098	144	1490	18538	2.43%
2018-19	6787	10219	121	1541	18668	0.70%
2019-20	6467	10382	110	1612	18571	-0.52%
2020-2021	6156	10635	81	1669¹	18541	0%
Variation from 2010	38%	34%	-63%	92%	37%	
Variation from previous year	-5%	2%	-26%	4%	0%	
Average yearly variation since 2010	4%	3%	-9%	7%	3%	

1 Mental Health Forensic Provisions Act 1990 – 1,254 hearings
Mental Health and Cognitive Impairment Forensic Provisions Act 2020 – 415 hearings

COVID-19

Legislative changes (*COVID-19 Legislation Amendment (Emergency Measures) Act 2020*) were introduced in March 2020 and expired on 26 March 2021. The changes were designed to enable the Tribunal to continue operating effectively during the pandemic. The Tribunal utilised these provisions as sparingly as possible with the result that the overall impact has been less than anticipated. The Tribunal also implemented a number of administrative changes, which have been outlined in previous reports. (COVID-19 provisions).

From March 2020, under pandemic response procedures, the Tribunal ceased holding face-to-face hearings at mental health facilities, correctional facilities and the Gladesville premises. Onsite inquiries resumed for some facilities from September 2020 – gradually increasing until more than half were returned by April 2021. Forensic and Civil matters largely remained remote for the financial year due to the resurgence of the Delta variant across NSW.

IMPACT ON HEARINGS

From July 2020 to March 2021 the legislative amendment allowed mental health inquiries to be conducted by telephone. This provision was not utilised unless absolutely necessary.

Inquiry Held by	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
PHONE				1									1
OTHER	472	383	478	474	535	464	454	565	616	632	545	537	6155
Total	472	383	478	475	535	464	454	565	616	632	545	537	6156

IMPACT ON MENTAL HEALTH INQUIRIES

During the pandemic, the Tribunal considered that persons should be brought before the Tribunal after 21 days from the date of admission. Assessable persons were therefore seen within 21 to 35 days after admission (ordinarily 7 – 14 days). Note that assessable persons could still be presented for earlier inquiries if they lodged an appeal (s44) or the treating team was seeking to discharge on a CTO (s35(5)(b)).

DAYS ELAPSED BETWEEN DATE DETAINED AND MENTAL HEALTH INQUIRY – 1 JULY 2020 – MARCH 2021		
ELAPSED DAYS	INQUIRIES	PERCENTAGE OF INQUIRIES
UNDER 14 DAYS	1736	34%
14 - 20 DAYS	1639	32%
21 - 35 DAYS	1584	31%
MORE THAN 35 DAYS	176	4%
TOTAL HEARINGS	5135	100%

The Tribunal was also empowered to adjourn mental health inquiries for up to 28 days. Figures below demonstrate the minimal usage of this provision.

DESCRIPTION	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
TOTAL MHI ADJOURNED 28+ DAYS	1	0	6	1	2	3	1	0	1	0	0	1	16
TOTAL MHI HEARINGS	472	383	478	475	535	464	454	565	616	632	545	537	6156
% OF TOTAL HEARINGS ADJOURNED	0%	0%	1%	0%	0%	1%	0%	0%	0%	0%	0%	0%	0%

IMPACT ON COMMUNITY TREATMENT ORDERS

Under the amendment, existing Community Treatment Orders could be extended by 3 months without change. This extension did not affect the right to apply for revocation, variation or review of a CTO. Figures below demonstrate the minimal usage of this provision.

DESCRIPTION	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
TOTAL CTO EXTENDED BY 3-4 MTHS	3	1	0	0	0	0	0	0	0	0	0	0	4
TOTAL CTO HEARINGS	483	486	488	350	422	468	438	468	618	548	584	504	5857
% OF TOTAL HEARINGS EXTENDED	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%

IMPACT ON FORENSIC HEARINGS

Between 1 July 2020 and 31 August 2020, approximately 30% of forensic hearings and all forensic Community Treatment Order reviews were adjourned for up to 6 months.

During this period, the Tribunal would conduct a review of a patient if requested to do so.

FORENSIC HEARINGS ADJOURNED ON PAPERS BETWEEN 1 JULY 2020 AND 31 AUGUST 2020	
MATTER TYPE – MHFPA	HEARINGS
s46(1) Review of forensic patients	96
s61(1) Review of correctional patients	0
s61(3) Review of person subject to a CTO in a correctional centre	5
s68(2) Review of person apprehended under s68	1
TOTAL	102

FORENSIC CTO'S ADJOURNED ON PAPERS BETWEEN 1 JULY 2020 AND 31 AUGUST 2020	
MATTER TYPE - MHFPA	HEARINGS
s61(3) Review of person subject to a CTO in correctional centre	5
TOTAL	5

S147 MENTAL HEALTH ACT 2007 – PRESCRIBED REPORTS

Certain matters are required to be reported under s 147 of the *Mental Health Act 2007* (the Act):

S147(2)(a) THE NUMBER OF PERSONS TAKEN TO A MENTAL HEALTH FACILITY AND THE PROVISIONS OF THE ACT UNDER WHICH THEY WERE SO TAKEN				
MHA	METHOD OF REFERRAL	ADMITTED	NOT ADMITTED	TOTAL
S19	CERTIFICATE OF DOCTOR	9056	289	9345
S22	APPREHENSION BY POLICE	2049	1366	3415
S20	AMBULANCE OFFICER	1877	690	2567
S58	BREACH OF COMMUNITY TREATMENT ORDER	113	41	154
S26	REQUEST BY PRIMARY CARER/RELATIVE/FRIEND	1307	1	1308
S24	COURT ORDER	323	87	410
S23 VIA S19	AUTHORISED DOCTOR'S CERTIFICATE	438	11	449
TOTAL		15163	2485	17648
	RECLASSIFIED FROM VOLUNTARY TO INVOLUNTARY	744	57	801
TOTAL		15907	2542	18449

S147(2)(b) CLASSIFICATION OF PERSONS DETAINED	
CLASSIFICATION	INDIVIDUALS
MENTALLY ILL	9889
MENTALLY DISORDERED	4080
VOLUNTARY PATIENTS ADMITTED	1938
TOTAL	15907

S147(2)(c) MENTAL HEALTH INQUIRIES	
NUMBER OF INQUIRIES	6156
NUMBER OF INDIVIDUALS	5188

OUTCOME OF MENTAL HEALTH INQUIRIES CONDUCTED	HEARINGS
INVOLUNTARY PATIENT ORDER	4,611
RECLASSIFY FROM VOLUNTARY TO INVOLUNTARY	0
DISCHARGE OR DEFERRED DISCHARGE	35
COMMUNITY TREATMENT ORDER	868
ADJOURNED OR WITHDRAWN	598
DECLINED TO DEAL WITH OR NO JURISDICTION	22
DISCHARGED OR MADE VOLUNTARY PRIOR TO HEARING	22
TOTAL	6,156

S147(2)(d) PERSONS TAKEN INVOLUNTARILY TO A MENTAL HEALTH FACILITY OR RECLASSIFIED FROM VOLUNTARY TO INVOLUNTARY	
CLASSIFICATION	INDIVIDUALS
ADMITTED AS A VOLUNTARY PATIENT	1,711
DETAINED AS A MENTALLY DISORDERED OR MENTALLY ILL PERSON	11,991
NOT ADMITTED	2,142
TOTAL	15,253

This report is also to include any matters the Minister may direct or that are prescribed by the regulations. No regulations have been made for additional matters to be included nor has the Minister given any relevant direction.

MENTAL HEALTH INQUIRIES

This was the eleventh full year of the Tribunal's jurisdiction to conduct mental health inquiries under s 34 of the Act. Until 21 June 2010, this role had been carried out by Magistrates. During the financial year 2021, the Tribunal held 6,156 inquiries relating to 5,188 individuals (2020: 6,467 inquiries - 5,320 individuals).

INVOLUNTARY PATIENT ORDERS

Of the mental health inquiries conducted in financial year 2021, 4,611 (74.9%) resulted in an involuntary patient order being made. This decrease from 2020 (5,079 – 78.5 %) reflects the impact of COVID-19 provisions which extended the period before which a patient can be brought before the Tribunal after admission for a significant period of the year. This later presentation meant more time for the patient's condition to stabilise and for community options to be explored.

COMMUNITY TREATMENT ORDERS AT MENTAL HEALTH INQUIRIES

The number of Community Treatment Orders made at a mental health inquiry increased to 868 (2020: 650) and represented 14.1% of inquiries.

DEFERRED DISCHARGE

Eighty orders were made for a deferred discharge (1.3%). These orders included 4 patients discharged into the care of their designated carer and 62 patients discharged to a community treatment order.

	FEMALE	MALE	TOTAL	% OF INQUIRIES
INVOLUNTARY PATIENT ORDER	2,167	2,444	4,611	74.9%
DISCHARGED	4	4	8	0.1%
DEFERRED DISCHARGE	7	7	14	0.2%
DISCHARGED TO CTO	309	497	806	13.1%
DEFERRED DISCHARGE TO CTO	21	41	62	1.0%
DISCHARGED TO CARER	3	6	9	0.1%
DEFERRED DISCHARGE TO CARER	3	1	4	0.1%
ADJOURNED	280	312	592	9.6%
DECLINED TO DEAL WITH MATTER	9	13	22	0.4%
WITHDRAWN	16	12	28	0.5%
RECLASSIFIED TO VOLUNTARY	0	0	0	0%
TOTAL MENTAL HEALTH INQUIRIES	2,819	3,337	6,156	-
INDIVIDUALS AFFECTED	2,347	2,841	5,188	-

DAYS TO MENTAL HEALTH INQUIRY FROM DATE DETAINED

In the financial year 2021, 8.2% of inquiries were commenced in the first week of a person's detention (2020: 12%), 30.9% during the second week (2020: 46%), 31.8% in the third week (2020: 27%) and 18.7% in week four (2020: 9%).

In 10.5% of cases, the inquiry was commenced after four weeks (2020: 6%). Each of these cases is reviewed and, where appropriate, followed up with the facility involved. The majority of these cases were subject to COVID-19 provisions in the period 1 June 2020 to 26 March 2021. Other cases involved patients who were AWOL or on approved leave or were too unwell to come before the Tribunal at the time they were due.

DAYS TO HEARING FROM DATE DETAINED	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total	%
Under 7 Days	34	36	29	24	35	29	30	49	64	62	56	55	503	8.2%
8 - 14 Days	82	56	78	63	106	144	72	192	312	285	250	259	1899	30.9%
15 - 21 Days	124	100	104	146	215	174	188	199	174	194	168	171	1955	31.8%
22 - 28 Days	141	125	172	152	122	84	106	96	39	49	37	27	1150	18.7%
29 - 35 Days	72	54	72	58	39	24	38	13	12	23	15	15	435	7.1%
Over 35 Days	19	12	23	32	18	9	20	16	15	19	19	10	212	3.4%
Grand Total	472	383	478	475	535	464	454	565	616	632	545	537	6156	-

Other than for some minor variations these figures have been relatively consistent for the last seven or eight years and reflect the Tribunal's expectation that assessable persons are presented for a mental health inquiry within three weeks of the person being detained in a mental health facility.

INVOLUNTARY PATIENT REVIEWS

The Tribunal held 2,369 hearings (1,426 individuals) for the review of involuntary patients during the financial year 2021 a 1.9% increase on 2020 figures (2,325 hearings - 1,767 individuals). This is largely driven by the fact that s37(1)(b) and s37(1)(c) hearings were not held during the second quarter of 2020 under COVID-19 provisions.

The Tribunal is required to review the case of each involuntary patient:

1. On or before the end of the patient's initial period of detention ordered at a mental health inquiry under s37(1)(a)
2. Once every three months for the first 12 months that the person is an involuntary patient under s37(1)(b)
3. Once every six months while the person continues to be detained as an involuntary patient under s37(1)(c).
4. At any other time necessary under s37(1A)

During 2021, the Tribunal held 1,235 initial reviews under s37(1)(a) (affecting 1,101 individuals) demonstrating a 6.1% decrease from 2020 (1,315 reviews - 1,155 individuals). An increase of 25% for s37(1)(b) reviews (2021:648 / 2020:486) was largely influenced by the cancellation of such hearings under COVID-19 provisions during April to June 2020. Little change was noted for s37(1)(c) reviews (2021: 485 / 2020: 469)

Outcomes for involuntary patient reviews									
SECTION	DESCRIPTION	GENDER	INDIVIDUALS AFFECTED	TOTAL HEARINGS	CONTINUED DETENTION AS AN INVOLUNTRY PATIENT	DISCHARGED OR MADE VOLUNTARY	DISCHARGED TO CTO	ADJOURNED	WITHDRWN OR NO JURISDICTN
S37(1)(a)	Review prior to expiry order for detention as a result of a mental health inquiry.	FEMALE	498	560	466	7	2	81	4
		MALE	603	675	587	6	3	72	7
		TOTAL	1,101	1,235	1,053	13	5	153	11
S37(1)(b)	Review at least once every 3 months while a person is an involuntary patient during the first 12 months	FEMALE	152	260	227	3	2	28	0
		MALE	232	388	354	4	0	29	1
		TOTAL	384	648	581	7	2	57	1
S37(1)(c)	Review at least once every 6 months while person is an involuntary patient after first 12 months.	FEMALE	93	177	166	1	0	10	0
		MALE	174	308	278	1	0	28	0
		TOTAL	267	485	444	2	0	38	0
S37(1A)	Review at any other time.	FEMALE	0	0	0	0	0	0	0
		MALE	1	1	1	0	0	0	0
		TOTAL	1	1	1	0	0	0	0
S37(1) TOTAL			1,426	2,369	2,079	22	7	248	13

See also Appendix 1 – Tables 1, 2 and 3

APPEALS AGAINST A REFUSAL TO DISCHARGE

The number of hearings held under s44 of the Act, to consider an appeal against an authorised medical officer’s refusal to discharge a patient, increased by 24% to 991 (2020: 797) representing 781 individuals. Of these hearings, 758 were dismissed (76%) of which 37 were subject to an order of no further right of appeal before the next review. The patient was ordered to be discharged on 17 occasions (2%) and the remaining appeals were either adjourned, withdrawn or the Tribunal had no jurisdiction to deal with the matter.

Outcomes for appeals against refusal to discharge									
FIN. YEAR	GENDER	INDIVIDUALS	TOTAL APPEALS	APPEAL DISMISSED	DISMISSED WITH NO FURTHER APPEAL	RECLASSIFY TO VOLUNTARY	DISCHARGE	ADJOURN	WITHDRAWN OR NO JURISDICTION
2021	FEMALE	359	469	329	21	2	10	42	65
	MALE	422	522	392	16	0	7	34	73
	TOTAL	781	991	721	37	2	17	76	138
	%			73%	4%	0%	2%	8%	14%
2020	FEMALE		367	598	15	0	24	67	93
	MALE		430						
	TOTAL		797						
2019	FEMALE		287	468	18	0	18	53	72
	MALE		342						
	TOTAL		629						
2018	FEMALE		294	559	15	1	12	43	55
	MALE		391						
	TOTAL		685						
2017	FEMALE		286	533	21	1	16	60	59
	MALE		404						
	TOTAL		690						

Regulation 16(3) of *Mental Health Regulation 2019* allows for appeals lodged by persons other than involuntary patients to be heard by the President, a Deputy President or a member qualified for appointment as a Deputy President. This means that an appeal lodged by an assessable person (a person who has not yet had a mental health inquiry) is able to be heard by an experienced single legal member of the Tribunal. During the financial year 2021, 506 appeals were heard by a single member (48.5% of the total number of appeals held).

See also Appendix 1 – Tables 2 and 3

COMMUNITY TREATMENT ORDERS

The Tribunal considered 5,857 applications for CTO's under s51 of the Act during the financial year 2021 relating to 4,227 individuals, a 1% decrease in hearings but a 7% increase in individual consumers from 2020 (5,915 hearings - 3,950 individuals).

The number of CTO's made at a mental health inquiry surged by 34% to 868 (2020: 650) reflecting the influence of a delayed inquiry under the COVID-19 provisions. An additional 5,543 CTO's were made by the Tribunal, an increase of 2% from 2020 (5,426 CTO's made).

SECTION	APPLICATION TYPE	GENDER	INDIVIDUALS AFFECTED	HEARINGS	CTO MADE	CTO MADE DISCHARGE DEFERRED	ADJOURNED	DECLINED OR NOT RENEWED	WITHDRAWN OR NO JURISDICTION
S51	Application for a CTO for a person on an existing CTO	FEMALE	963	1,271	1,205	2	45	17	2
		MALE	1,721	2,303	2,214	4	67	13	5
		TOTAL	2,684	3,574	3,419	6	112	30	7
S51	Application for a CTO for person detained in mental health facility	FEMALE	620	659	562	58	30	7	2
		MALE	819	862	738	77	39	8	0
		TOTAL	1,439	1,521	1,300	135	69	15	2
S51	Application for a CTO for a person not detained or on a current CTO	FEMALE	216	239	215	0	17	7	0
		MALE	460	519	464	4	42	7	2
		TOTAL	679	758	679	4	59	14	2
Total S51 Outcomes									
s202(4)	Application to extend a CTO *	FEMALE	2	2	0	0	0	0	2
		MALE	2	2	0	0	0	0	2
		TOTAL	4	4	0	0	0	0	4
Total Hearing Outcomes			4,227	5,857	5,398	145	240	59	1586

* COVID-19 provisions (1 July 2020 – 26 March 2021) allow for the extension of a CTO for up to 3 months under section S202(4).

** Individuals are counted separately for each category under which they appear before the Tribunal

Under s 56(2) of the Act, the maximum duration of a CTO is 12 months. Under COVID-19 amendment s202(4) a CTO may be extended by 3 months even where this means that it would be in force for more than 12 months. No CTO's were extended during FY 2021 under this provision.

During the financial year 2021, 14% of CTO's were made for 7 - 12 months, 85% for 3 – 6 months and 1% for less than 3 months. Despite the impact of the COVID-19 pandemic, the majority of orders continue to be made for periods of six months or less. *See also Appendix 1 - Tables 2, 3 and 5*

ELECTRO CONVULSIVE THERAPY (ECT)

Under s96 of the Act, the Tribunal held 785 hearings to consider the administration of ECT to involuntary patients, including 4 hearings concerning forensic patients. This is a marginal decrease of 5% from 2020 (828 hearings - 6 forensic).

ECT was approved in 705 hearings (89%) and of these approvals, 21 patients (5%) were found to be capable of consent.

ECT ADMINISTRATION INQUIRIES UNDER S96(2)								
Outcome	INDIVIDUALS		TOTAL HEARINGS		CIVIL		FORENSIC	
	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE
Capable of consent - ECT approved	11	10	11	10	11	10	0	0
Capable of consent - ECT not approved	2	2	2	2	2	2	0	0
Incapable of consent - ECT approved	270	192	386	298	386	294	0	4
Incapable of consent - ECT not approved	8	8	8	8	8	8	0	0
Adjourned	29	24	31	27	31	27	0	0
Withdrawn or no jurisdiction	1	0	1	0	1	0	0	0
Total	284	211	440	345	440	341	0	4

ECT administration hearings were held for 501 individual patients – 3 of whom were under the age of 16 years.

ECT ADMINISTRATION INQUIRIES UNDER S96(3A) - PERSONS UNDER 16 YEARS				
Outcome	Voluntary Patient		Involuntary Patient	
	FEMALE	MALE	FEMALE	MALE
Capable of consent - ECT approved	1	1	0	0
Capable of consent - ECT not approved	0	0	0	0
Incapable of consent - ECT approved	0	0	1	0
Incapable of consent - ECT not approved	0	0	0	0
Adjourned	0	0	0	0
Withdrawn or no jurisdiction	0	0	0	0
Total	1	1	1	0

The Tribunal also conducted two ECT consent inquiries to consider a voluntary patient's capacity to give informed consent to the administration of ECT. One person was found capable and consented, one person was found incapable of consent and ECT was not able to be administered to that patient while they remained a voluntary patient.

ECT CONSENT INQUIRIES UNDER S96(1)								
Outcome	INDIVIDUALS		TOTAL HEARINGS		CIVIL HEARINGS		FORENSIC HEARINGS	
	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE
Capable and has consented	0	1	0	1	0	1	0	0
Capable but has refused consent	0	0	0	0	0	0	0	0
Incapable of consent	1	0	1	0	1	0	0	0
Adjourned	0	0	0	0	0	0	0	0
Withdrawn or no jurisdiction	0	0	0	0	0	0	0	0
Total	1	1	1	1	1	1	0	0

See also Appendix 1 – Tables 1 and 2

FINANCIAL MANAGEMENT HEARINGS

Under the *NSW Trustee and Guardian Act 2009 (TAG Act)* the Tribunal can make a Financial Management Order appointing the NSW Trustee and Guardian of a person's estate in the following circumstances:

1. After a mental health inquiry if ordering that a person is to be detained in a mental health facility (s44 of the *TAG Act*);
2. After reviewing a forensic or correctional patient if ordering that a person is to be detained in a mental health facility (s45 of the *TAG Act*), and
3. On application for a patient in a mental health facility (s46 of the *TAG Act*).

The Tribunal is also able to review interim Financial Management Orders under s48 of the *TAG Act* and to consider applications to revoke financial management orders, made under the *TAG Act* or under the former *Protected Estates Act*, under s88 of the *TAG Act*.

During the financial year 2021, the Tribunal conducted 105 hearings (2020: 110 hearings) in relation to financial management and made a total of 38 Financial Management Orders (2020: 48 orders) including 7 Interim Financial Management Orders (2020: 3 interim orders) and revoked 24 orders (2020: 15 revocations).

SECT	DESCRIPTION	GENDER	INDIVIDUALS AFFECTED	TOTAL HEARINGS	LEGAL REPRESENT PRESENT	ORDER MADE	NO ORDER MADE	REVOCATION APPROVED	REVOCATION DECLINED	ADJOURNED	WITHDRAWN OR NO JURISDICTION
S44	Application for order at a mental health inquiry	FEMALE	10	10		6	1	-	-	2	1
		MALE	13	14		9	1	-	-	4	0
		TOTAL	23	24		15	2	-	-	6	1
Sh(1) (9)	Referral for order from Magistrate	FEMALE	0	0	0	0	0	-	-	0	0
		MALE	0	0	0	0	0	-	-	0	0
		TOTAL	0	0	0	0	0	-	-	0	0
S46	On application to the Tribunal for an order (Forensic patient)	FEMALE	0	0	0	0	0	-	-	0	0
		MALE	0	0	0	0	0	-	-	0	0
		TOTAL	0	0	0	0	0	-	-	0	0
S46	On application to the Tribunal for an order (Civil patient)	FEMALE	9	12		6	2	-	-	4	0
		MALE	23	26		16	4	-	-	5	1
		TOTAL	32	38		22	6	-	-	9	1
S48	Review of an interim order (Forensic patient)	FEMALE	0	0	0	0	0	-	-	0	0
		MALE	0	0	0	0	0	-	-	0	0
		TOTAL	0	0	0	0	0	-	-	0	0
S48	Review of an interim order (Civil patient)	FEMALE	0	0	0	0	0	-	-	0	0
		MALE	1	1		1	0	-	-	0	0
		TOTAL	1	1		1	0	-	-	0	0
S88	Revocation of an order (Forensic patient)	FEMALE	1	1		-	-	1	0	0	0
		MALE	1	1		-	-	0	0	1	0
		TOTAL	2	2		-	-	1	0	1	0
S88	Revocation of an order (Civil patient)	FEMALE	13	19		-	-	9	4	6	0
		MALE	16	21		-	-	14	1	6	0
		TOTAL	29	40		-	-	23	5	12	0
TOTAL		FEMALE	33	42		12	3	10	4	12	1
		MALE	54	63		26	5	14	1	16	1
		TOTAL	87	105		38	8	24	5	28	2

EMERGENCY SURGERY & SPECIAL MEDICAL TREATMENT

Under the *Mental Health Act 2007* and the *Guardianship Act 1987*, the following table sets out the consent regime by reference to patient category and treatment for persons.

Category	Mental health treatments	Electro convulsive therapy (ECT)	Sterilisation	Termination of pregnancy	Surgical Treatment ⁵	Any other non-surgical treatment
Voluntary patient	Mental Health or Guardianship ¹	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
Detained patient ²	Mental Health	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
Assessable person ³	Mental Health	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
Mentally disordered patient	Mental Health	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
Involuntary patient ⁴	Mental Health	Mental Health	Mental Health	Mental Health (if surgical treatment ²)	Mental Health	Guardianship (including non-surgical termination of pregnancy)
Forensic or correctional patients	Mental Health	Mental Health	Mental Health	Mental Health (if surgical treatment ²)	Mental Health	Guardianship (including non-surgical termination of pregnancy)

¹ Mental Health Act 2007 applies if patient has capacity to consent. Guardianship Act 1987 applies if the treating practitioner believes the patient lacks capacity to consent.

² Involuntarily admitted and awaiting assessment under s27 of the MHA or admitted on a breach of a CTO

³ Involuntarily admitted and assessment carried out under s27 of the MHA but before the Mental Health Inquiry

⁴ Involuntarily detained after the Mental Health Inquiry

⁵ Surgical treatment' is defined in the Mental Health Act 2007 as 'a surgical procedure, a series of related surgical operations or surgical procedures, and the administration of an anaesthetic for the purpose of medical investigation' (s98).

During the financial year 2021, the Tribunal held 7 hearings under s101 for the provision of non-urgent surgical procedures (6 were approved) and 2 civil hearings for special medical treatment. No emergency surgery hearings were required.

SEC	DESCRIPTION	GENDER	INDIVIDUALS AFFECTED	TOTAL HEARINGS	APPROVED	REFUSED	ADJOURNED	WITHDRAWN OR NO JURISDICTION
S99	Emergency Surgery	FEMALE	0	0	0	0	0	0
		MALE	0	0	0	0	0	0
		TOTAL	0	0	0	0	0	0
S101(1)	Non-urgent Surgical Procedures	FEMALE	1	1	1	0	0	0
		MALE	5	5	4	0	1	0
		TOTAL	6	6	5	0	1	0
S101(3)	Non-urgent Surgical Procedures (Forensic Patients)	FEMALE	0	0	0	0	0	0
		MALE	1	1	1	0	0	0
		TOTAL	1	1	1	0	0	0
S103	Special Medical Treatments	FEMALE	2	2	2	0	0	0
		MALE	0	0	0	0	0	0
		TOTAL	2	2	2	2	2	0
S102	Special Medical Treatments (Forensic Patients)	FEMALE	0	0	0	0	0	0
		MALE	0	0	0	0	0	0
		TOTAL	0	0	0	0	0	0

SEC	DESCRIPTION	GENDER	2020/2021	2019/20	2018/19	2017/18	2016/17	2015/16
S99	Emergency Surgery	FEMALE	0	0	2	0	2	1
		MALE	0	0	0	2	2	1
		TOTAL	0	0	2	2	4	2

FORENSIC HEARINGS

The Tribunal held a total of 1669 hearings during the financial year 2021, representing 783 individuals. This demonstrates a 4% increase on previous year activity (2020: 1,612 hearings - 756 individuals). The forensic jurisdiction has seen an average of 7% increase each year for the past 5 financial years.

Approximately 14% of hearings in 2021 were for the Tribunal to consider an application for a Forensic Community Treatment Order (FCTO). These applications have been consistent at around 290 per year for the past three years. The Tribunal is required to conduct three monthly reviews of each person subject to a FCTO who is detained in a correctional centre. During the 2021 financial year, 99 such hearings were conducted (2020: 133).

The Tribunal ordered the conditional release of 47 forensic patients (2020: 29 patients) and the unconditional release of 22 forensic patients (2020: 17 patients), including 20 patients for whom a CTO was also made to have effect on the date of unconditional release (2020: 15 patients). The Tribunal made 8 orders revoking conditional release of a forensic patient (2020: 1).

FORENSIC HEARINGS – DETERMINATIONS & REVIEWS

SEC	DESCRIPTION	GENDER	2020/21	2019/20	2018/19	2017/18
Mental Health Act 2007						
S96(1)&(2)	Application for ECT	FEMALE	0	0	2	0
		MALE	4	6	2	2
		TOTAL	4	6	4	2
S101 & s102	Application for surgical operation	FEMALE	0	0	0	0
		MALE	1	1	0	0
		TOTAL	1	1	0	0
S162	Application to allow publication of names	FEMALE	0	0	0	0
		MALE	1	0	4	2
		TOTAL	1	0	4	2
Total Mental Health Act 2007		FEMALE	0	0	2	0
		MALE	5	7	6	4
		TOTAL	5	7	8	4
NSW Trustee & Guardian Act 2009						
S88	Application to revoke Financial Management Order	FEMALE	1	1	0	1
		MALE	1	0	1	2
		TOTAL	2	1	1	3
Total NSW Trustee & Guardian Act 2009		FEMALE	1	1	0	1
		MALE	1	0	2	2
		TOTAL	2	1	2	3
Births Deaths & Marriages Registration Act 1995						
S31D	Approval of change of name	FEMALE	0	0	2	0
		MALE	3	1	2	4
		TOTAL	3	1	4	4

SEC	DESCRIPTION		2020/21	2019/20	2018/19	2017/18
Mental Health (Forensic Provisions) Act 1990						
S16	Fitness to stand trial	FEMALE	8	11	3	9
		MALE	54	75	66	65
		TOTAL	62	86	69	74
S24	Following limiting term	FEMALE	0	1	3	2
		MALE	7	7	16	8
		TOTAL	7	8	19	10
S44	Review after finding of <i>not guilty by reason of mental illness</i>	FEMALE	0	5	3	8
		MALE	26	32	27	25
		TOTAL	26	37	30	33
S45(1)(a)	Review after detention imposed under s17 following finding of unfitness	FEMALE	0	0	0	0
		MALE	0	0	0	1
		TOTAL	0	0	0	1
S45(1)(b)	Review after limiting term imposed following a special hearing	FEMALE	1	1	1	3
		MALE	7	5	9	3
		TOTAL	8	6	10	6
S46(1)	Regular review of forensic patients	FEMALE	95	118	109	89
		MALE	658	843	804	781
		TOTAL	753	961	913	870
S46(4)	Application to extend period of review of forensic patients	FEMALE	0	0	0	0
		MALE	0	0	0	0
		TOTAL	0	0	0	0
S61(1)	Regular review of correctional patients	FEMALE	2	0	1	0
		MALE	9	16	11	7
		TOTAL	11	16	12	7
S68(2)	Review of a forensic patient following their apprehensions due to an alleged breach of a condition of leave or release	FEMALE	9	11	16	7
		MALE	34	62	38	45
		TOTAL	43	73	54	52
S76	Application by a victim of a forensic patient for the imposition of a non-contact or place restriction condition on the leave or release of the forensic patient	FEMALE	0	2	1	0
		MALE	2	2	11	5
		TOTAL	2	4	12	5
S59	Initial review of person transferred from correctional centre to mental health facility	FEMALE	5	5	11	11
		MALE	71	69	80	94
		TOTAL	76	74	91	105
S58	Review of person awaiting transfer from correctional centre to a mental health facility	FEMALE	0	4	4	3
		MALE	24	47	25	17
		TOTAL	24	51	29	20
S67	Application for a forensic community treatment order	FEMALE	7	17	28	11
		MALE	161	137	154	162
		TOTAL	168	154	182	173
S61(3)	Regular review of person subject to the forensic community treatment order and detained in a correctional centre	FEMALE	1	8	12	10
		MALE	64	125	96	115
		TOTAL	65	133	108	125
S77A(11)	Request to suspend operations of an order pending determination of an appeal	FEMALE	0	0	0	0
		MALE	0	0	0	0
		TOTAL	0	0	0	0
Total Mental Health (Forensic Provisions) Act 1990		FEMALE	128	171	186	142
		MALE	1117	1338	1255	1256
		TOTAL	1245	1509	1441	1398

Mental Health & Cognitive Impairment Forensic Provisions Act 2020						
S78(a)	First review following nomination of limiting term	FEMALE	0	-	-	-
		MALE	3	-	-	-
		TOTAL	3	-	-	-
S78(b)	First review following fitness referral from court	FEMALE	3	-	-	-
		MALE	12	-	-	-
		TOTAL	15	-	-	-
S78(c)	First review following special verdict of act proven but not criminally responsible	FEMALE	2	-	-	-
		MALE	4	-	-	-
		TOTAL	6	-	-	-
S78(d)	Review of forensic patient (6 monthly)	FEMALE	21	-	-	-
		MALE	181	-	-	-
		TOTAL	202	-	-	-
S91(b)	Review of correctional patient (6 monthly)	FEMALE	1	-	-	-
		MALE	2	-	-	-
		TOTAL	3	-	-	-
S79	Forensic patient review at any time	FEMALE	5	-	-	-
		MALE	27	-	-	-
		TOTAL	32	-	-	-
S93	Correctional patient review at any time	FEMALE	1	-	-	-
		MALE	0	-	-	-
		TOTAL	1	-	-	-
S78(e)	Review of forensic patient subject to FCTO in correctional centre	FEMALE	0	-	-	-
		MALE	2	-	-	-
		TOTAL	2	-	-	-
S100	Review of person subject to a FCTO in a correctional centre (not a forensic patient)	FEMALE	0	-	-	-
		MALE	32	-	-	-
		TOTAL	32	-	-	-
S109(4)	Review of person apprehended under S109	FEMALE	0	-	-	-
		MALE	22	-	-	-
		TOTAL	22	-	-	-
S146	Application of Registered Victim for non-association or place restriction	FEMALE	0	-	-	-
		MALE	2	-	-	-
		TOTAL	2	-	-	-
S90	First review following transfer from correctional centre to a mental health facility	FEMALE	3	-	-	-
		MALE	35	-	-	-
		TOTAL	38	-	-	-
S89	Limited review of person awaiting transfer to a mental health facility	FEMALE	0	-	-	-
		MALE	1	-	-	-
		TOTAL	1	-	-	-
S99	Application for an FCTO	FEMALE	2	-	-	-
		MALE	53	-	-	-
		TOTAL	55	-	-	-
Total Mental Health & Cognitive Impairment Forensic Provisions Act 2020		FEMALE	38	-	-	-
		MALE	376	-	-	-
		TOTAL	414	-	-	-
TOTAL REVIEWS & DETERMINATIONS		FEMALE	166	172	190	143
		MALE	1493	1346	1265	1266
		TOTAL	1659	1518	1455	1409

See also Appendix 2, Tables 6-23.

HEARING LOCATIONS AND TYPES

The Tribunal has regular rosters for its mental health inquiries and civil and forensic hearing panels. Due to COVID-19 restrictions, only 1 in-person hearing was held at the Tribunal's premises in Gladesville. 1,843 in-person hearings were conducted at 35 venues across the Sydney metropolitan area and regional New South Wales in the financial year 2021.

While the preference for conducting hearings is always in-person at a mental health facility, or other venue convenient to the patient and other parties, this is not always practical or possible. The Tribunal also holds telephone and video-conference hearings where necessary. During 2020, COVID-19 restrictions necessitated the use of video more broadly than ordinary practice. During 2021, 1,461 telephone and 14,607 video conference hearings were held for 17 inpatient or community venues across New South Wales.

During the 2021 financial year, 1,844 (10%) hearings and mental health inquiries were conducted in person (2020: 6,269 - 21%), 14,607 (79%) by video (2020: 10,762 - 57%) and 1,461 (8%) by telephone and 629 (3%) hearings "on the papers" (2020: 1,883 - 10% by phone and papers combined). The increase in video hearings and consequent decrease in face-to-face hearings is directly attributable to the COVID-19 impact. During a significant portion of the financial year, 100% of hearings were held by video, telephone or on the papers.

JURISDICTION	LIVE	VIDEO	PHONE	PAPERS	TOTAL
CIVIL	145 (1%)	8639 (81%)	1433 (13%)	418 (4%)	10635 (57%)
FMO	0 (0%)	72 (89%)	8 (10%)	1 (1%)	81 (<1%)
FORENSIC	0 (0%)	1440 (86%)	19 (1%)	210 (13%)	1669 (9%)
MHI	1699 (28%)	4456 (72%)	1 (<1%)	0 (0%)	6156 (33%)
Grand Total	1844 (10%)	14607 (79%)	1461 (8%)	629 (3%)	18541

The vast majority of civil hearings conducted by telephone or on the papers related to CTOs (98% of telephone hearings and 78% of hearings on the papers). This is commonly for persons in the community on an existing CTO. A significant proportion (80% of CTO related hearings on the papers) were to vary the conditions of existing CTOs. The majority of these hearings involved varying the order to reflect a change in treatment team following a change of address by the client. All forensic hearings conducted 'on the papers' were adjournments.

Mental health inquiries are conducted 'in person' at most metropolitan and a number of rural mental health facilities. Under COVID-19 provisions, inquiries were held 100% by video but were also permitted to be conducted by telephone if necessary. Under ordinary Tribunal conditions, video conferencing is only used at those facilities where in person inquiries are not practical.

Of the 6,156 mental health inquiries this year, 28% were held in person (2020: 50%) and 79% by video (2020: 50%). The variation reflects the impact of the COVID-19 pandemic restrictions.

NUMBER OF CLIENTS

As at 30 June 2021, there were 1,170 people for whom the Tribunal had made an involuntary patient order either at a mental health inquiry or at a subsequent review (2020: 994). The negative variation from previous year figures is directly attributable to the COVID-19 provisions under which S9, S37(1)(b) and S37(1)(c) hearings were not scheduled during the period July - September 2020. However, it should be noted that a number of these patients may, without reference to the Tribunal, have been discharged or reclassified as voluntary patients since the last Tribunal hearing.

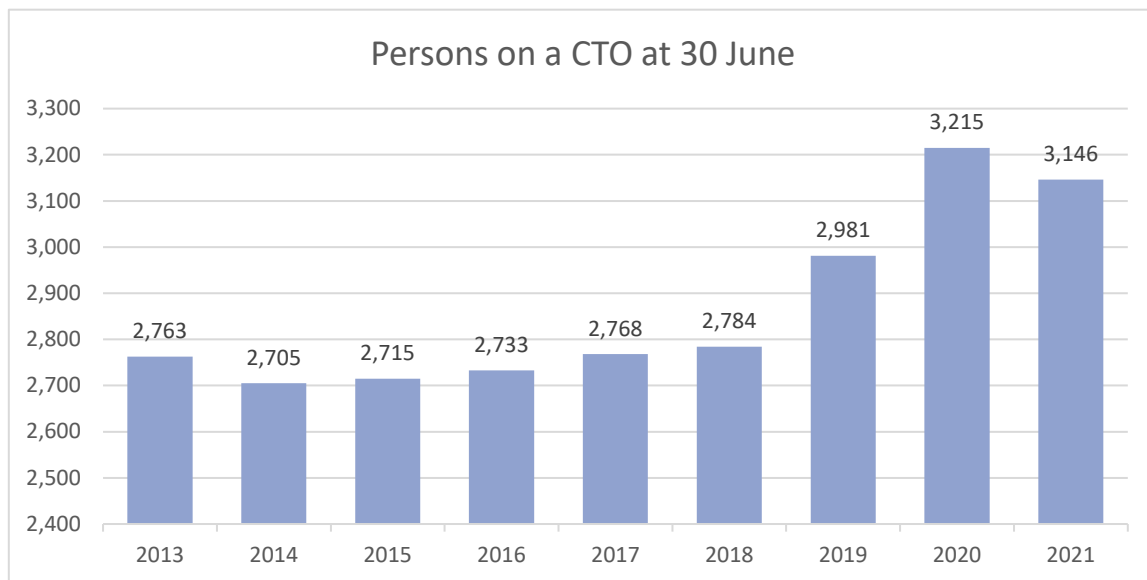
There were 6 individuals who had been voluntary patients for more than 12 months and had been reviewed by the Tribunal (2020: 28) – again, these figures are distorted by the lack of S9 hearings under COVID-19 provisions. A number of these people may have been discharged or reclassified since their last Tribunal review.

Hospital	INVOLUNTARY					VOLUNTARY	Grand Total
	SEC034	SEC0371A	SEC0371B	SEC0371C	Total	SEC009	
ALBURY	2	3			5		5
BANKSTOWN	9	3	1		13		13
BLACKTOWN	14	9	3		26		26
BLOOMFIELD	15	8	19	19	61	1	62
BLUE MOUNTAINS	8	2			10		10
BRAESIDE	1		3		4		4
BROKEN HILL	3				3		3
CAMPBELLTOWN	22	10	1		33		33
COFFS HARBOUR	11	8	3		22		22
COMMUNITY	4		1		5		5
CONCORD	51	29	26	23	129		129
CUMBERLAND	38	12	20	22	92	2	94
DUBBO	2				2		2
FORENSIC	3	2	3	2	10		10
GOSFORD	10	3	1	1	15		15
GOULBURN	10	1			11		11
GREENWICH	5	2	2		9		9
HORNSBY	13	12	1	2	28		28
JOHN HUNTER	3	1			4		4
KENMORE	1	2			3		3
LISMORE	13	5	2		20		20
LIVERPOOL	22	9	10	5	46		46
MACQUARIE	12	9	28	43	92	3	95
MAITLAND	10	6			16		16
MATER	46	16	12	12	86		86
MORISSET	4	3	13	22	42		42
NEPEAN	10	13	3		26		26
NORTHERN BEACHES	7	3	2		12		12
PORT MACQUARIE	7				7		7
PRINCE OF WALES	31	31	7		69		69
PROF MARIE BASHIR	25	28	7		60		60
ROYAL NORTH SHORE	13	6	4		23		23
SHELLHARBOUR	7	9	5	1	22		22
SOUTH EAST REGIONAL	5	1			6		6
ST GEORGE	12	11	2	1	26		26
ST. JOSEPH'S	1	2			3		3
ST. VINCENT'S	12	4			16		16
SUTHERLAND	11	3	3	1	18		18
TAMWORTH	5	3		2	10		10
TAREE		1	1		2		2
THE TWEED	7	5	1		13		13
TWEED VALLEY	1		1		2		2

Hospital	INVOLUNTARY					VOLUNTARY	Grand Total
	SECO34	SEC0371A	SEC0371B	SEC0371C	Total	SEC009	
WAGGA WAGGA	14	5	3	1	23		23
WESTMEAD	1				1		1
WESTMEAD ADULT	6	2			8		8
WESTMEAD CHILD	1				1		1
WOLLONGONG	10	1	1		12		12
WYONG	15	6	2		23		23
Total for FY2021	533	289	191	157	1170	6	1176
Total for FY2020	370	109	244	271	994	28	1022
Variation	31%	62%	-28%	-73%	15%	-367%	13%

The Tribunal is responsible for making and reviewing all involuntary patient orders and all CTOs (apart from a small number of orders made by Magistrates under s 33 of the *MHFPA*). This means that the Tribunal is now able to provide a reasonably accurate picture of the actual number of people subject either to an involuntary patient order or to a CTO at any given time.

At 30 June 2021, 3,146 individuals were subject to an order made by the Tribunal (2020: 3,215). While a small number of these orders may have been revoked by the Director of the declared community mental health facility responsible for implementing the order, this should be a fairly accurate count of the number of people subject to a CTO at that point in time.



REPRESENTATION AND ATTENDANCE AT HEARINGS

All persons appearing before the Tribunal have a right under s152 and s154 of the Act to be represented, notwithstanding their mental health issues. Representation is usually provided through the Legal Aid Commission of NSW by the Mental Health Advocacy Service (MHAS), although a person can choose to be represented by a private legal practitioner (or other person with the Tribunal's consent) if they wish.

Due to funding restrictions, Legal Aid representation cannot automatically be provided for all categories of matters heard by the Tribunal. During 2021, the Legal Aid Commission expanded representation to include some ECT inquiries, particularly those held before an involuntary patient order has been made at a mental health inquiry.

In addition to all forensic cases, representation through the MHAS is usually provided at:

- Mental health inquiries
- Reviews of involuntary patients during the first 12 months of detention
- Appeals against an authorised medical officer's refusal to discharge a patient
- Applications for Financial Management Orders

Representation is also provided for some applications for CTOs and some applications for revocation of Financial Management Orders, however this may be subject to a means and merits test.

Representation was provided in 57% of hearings in the Tribunal's civil jurisdiction (2020: 57%) and 81% of forensic hearings (2020: 81%).

MATTER TYPE	Represented	Total	%
CIVIL			
s101(1) Application for a Surgical Operation Involuntary Patient	6	6	100%
s103 Application for special medical treatment	2	2	100%
s151(4) Procedural Order	1	1	100%
s156 Procedural Hearing: Access to documents	1	1	100%
s202(4) Application for extension of a CTO (COVID-19)	3	4	75%
s37(1)(a) Initial Review of Involuntary Patient	1155	1235	94%
s37(1)(b) Review of Involuntary Patient	605	648	93%
s37(1)(c) Review of Involuntary Patient	370	485	76%
s37(1A) Review of an involuntary Patient - at any other time	1	1	100%
s44 Appeal Refusal to Discharge	856	991	86%
s44 Consideration of Financial Management at a mental health inquiry	22	24	92%
s51 Community Treatment Order - existing CTO	2114	3574	59%
s51 Community Treatment Order - Mental Health Facility	1041	1521	68%
s51 Community Treatment Order - no current CTO	447	758	59%
s63 Review of detained person under CTO	12	14	86%
s65 Revocation of CTO	9	12	75%
s65 Variation of (Forensic) CTO	47	87	54%
s65 Variation of CTO	138	437	32%
s9 Review of Voluntary Patient	41	48	85%
s96(1) ECT Consent Inquiry - Voluntary patient	1	2	50%
s96(2) ECT Administration Inquiry - Involuntary patient (includes forensic patients)	683	781	87%
s96(3A)(a) ECT for person under 16 - Involuntary patient	1	1	100%
s96(3A)(b) ECT for person under 16 - Voluntary patient	2	2	100%
CIVIL Total	7558	10635	71%
FINANCIAL MANAGEMENT ORDERS			
s46 Application for Financial Management Order	36	38	95%
s48 Review of Interim Financial Management Order	1	1	100%
s88 application for revocation of a Financial Management Order		2	0%
s88 Application for revocation of Financial Management Order	19	40	48%
FINANCIAL MANAGEMENT ORDERS Total	56	81	69%
FORENSIC - MHFPA			
s96(2) ECT Administration Inquiry - Involuntary patient (includes forensic patients)	4	4	100%
s101 (3) Application for Surgical operation Involuntary Patient (Forensic or Correctional patient)	1	1	100%
s16 Determination of fitness to be tried	58	62	94%
s162 Application to Publish or Broadcast Name		1	0%
s24 Determination following nomination of limiting term	7	7	100%
s31D Approval of change of name	2	3	67%
s44 First review following finding of not guilty by reason of mental illness	26	26	100%
s45(1)(b) First review following detention under s27	8	8	100%
s46(1) Review of forensic patients	722	753	96%
s58 Limited review those awaiting transfer to a mental health facility	22	24	92%
s59 First review following transfer from a correctional centre to a mental health facility	76	76	100%

MATTER TYPE	Represented	Total	%
s61(1) Review of Correctional Patients	11	11	100%
s61(3) Review of person subject to a CTO in gaol	20	65	31%
s67 Application for a forensic CTO	145	168	86%
s68(2) Review of person apprehended under s68	42	43	98%
s76 Application of Registered Victim for Non Association or Place Restriction	2	2	100%
FORENSIC – MHFPA Total	1146	1254	91%
FORENSIC - MHCIFPA			
s78(a) First review following nomination of limiting term	3	3	100%
s78(b) First review following fitness referral from court	15	15	100%
s78(c) First review following special verdict of act proven but not criminally responsible	5	6	83%
s78(d) Review of forensic patient (6 monthly)	193	202	96%
s78(e) Review of forensic patient subject to FCTO in correctional centre	2	2	100%
s79 Forensic patient review at any time	31	32	97%
s89 Limited review of person awaiting transfer to a mental health facility	1	1	100%
s90 First review following transfer from correctional centre to a mental health facility	38	38	100%
s91(b) Review of correctional patient (6 monthly)	3	3	100%
s93 Review of correctional patient at any time	1	1	100%
s99 Application for a FCTO	52	55	95%
s100 Review of person subject to a FCTO in correctional centre (not forensic patient)	9	32	28%
s109(4) Review of person apprehended under s109	17	22	77%
s146 Application of Registered Victim for non association or place restriction	2	2	100%
s151(4) Application for procedural order/s	1	1	100%
FORENSIC - MHCIFPA Total	373	415	90%
MENTAL HEALTH INQUIRIES			
s34 Mental Health Inquiry - Review of Assessable Person	6059	6156	98%
MENTAL HEALTH INQUIRIES Total	6059	6156	98%
Grand Total	15192	18541	82%

All persons with matters before the Tribunal are encouraged to attend the hearing to ensure that their views are heard and considered by the Tribunal and to ensure that they are aware of the application being made and the evidence that is being presented.

This attendance and participation in hearings can be in person or by way of video or telephone. During the financial year 2021, the subject of civil hearings attended in 86% of cases (2020: 87%). Included in this figure are mental health inquiries which under ordinary conditions require the patient to attend in order for the inquiry to proceed. During the financial year 2021, the rate of client attendance at mental health inquiries was 98% (2020: 97%). The mental health inquiry is ordinarily adjourned if the patient is not able to attend.

In forensic matters, where there is a general requirement that the person attend unless excused from doing so by the Tribunal, attendance was 83% (2020: 80%). Of the hearings where the forensic patient did not attend, 30% were reviews of FCTOs which, with the agreement of the forensic patient, were often conducted 'on the papers'.

HEARINGS PROCEEDINGS IN THE ABSENCE OF THE PATIENT

Involuntary patients detained in a mental health facility under s37 of the Act or persons detained for breaching their CTO under s63 of the Act, or patients or persons subject to an application for an ECT inquiry under s96 of the Act are required by the Act to be 'brought before' the Tribunal for the hearing. Every reasonable effort should be made to bring the patient or person before the Tribunal for all such hearings. Where appropriate, this can include participation by video or by telephone.

The Act allows for these hearings to take place in the absence of the patient in limited circumstances. In circumstances where the patient or person is too unwell to attend or refuses to attend the hearing the authorised medical officer may apply to the Tribunal for the hearing to take place in the patient's absence.

The Tribunal may conduct hearings in the absence of the patient only if it is satisfied that the patient is too unwell to attend the hearing or they refuse to attend the hearing within a reasonable period and that it is desirable for the safety and welfare of the patient that the hearing proceed. In making its determination the Tribunal is required to consider the views (if known) of the patient, any representative, the designated carer and the principal care provider.

During the 2020 financial year, a total of 255 such applications were received from authorised medical officers to proceed in the absence of the patient (2020: 254). Of these 170 (67%) were s37 reviews of involuntary patients (2020: 170 hearings - 67%) of which 92 patients (53%) were detained (2020: 66 patients – 39%). The remaining 80 (31%) were s96 ECT hearings (2020: 83 hearings - 33%) of which 66 (83%) were approved (2020: 68 (82%) approved). The increase in numbers reflects both the COVID-19 provisions in force until 26 March 2021 that all hearings may, where necessary, be conducted in the absence of the patient in addition to the increased difficulty surrounding the safe transport of patients within facilities during pandemic conditions.

HEARINGS HELD IN THE ABSENCE OF THE PATIENT					
Act	MATTER DESCRIPTION	Patient did not attend	% of hearings	Approvals	%
S37	Reviews of involuntary patients	173	68%	92	53%
S63	Review of affected persons detained under a CTO	2	<1%	2	100%
S96	Applications to administer ECT	80	31%	66	83%
Total		255	-	134	53%

APPEALS

Section 163 of the Act and s77A of the *Mental Health (Forensic Provisions) Act 1990 (MHFPA)* provide for appeals by leave against decisions of the Tribunal to be brought to the Supreme Court of NSW. An appeal as to the release of a forensic patient may be made to the Court of Appeal.

One appeal was lodged in the previous financial year (2020) with the Supreme Court of NSW and was concluded in May 2021. The appeal was dismissed.

Section 50 of the *NSW Trustee and Guardian Act 2009* provides for appeals to be made to the NSW Civil and Administrative Tribunal (NCAT) against estate management orders made by the Tribunal. There were no such appeals lodged during 2021.

MULTICULTURAL POLICIES AND SERVICES

The Tribunal is not required to report under the Multicultural Policies and Services Program. However, both the Act and the *MHFPA* contain specific provisions designed to promote and protect the principles of access and equity. Members of the Tribunal include consumers and persons from various ethnic origins or backgrounds including Aboriginal and Torres Straight Islanders.

Persons appearing before the Tribunal have a right under s 158 of the Act to be assisted by an interpreter if they are unable to communicate adequately in English. During 2021, interpreters in 39 different languages assisted a total of 422 hearings (2019: 47 languages - 533 hearings). The ten most common languages interpreted were Mandarin (80), Cantonese (61), Arabic (59), Vietnamese (43), Korean (18), Italian (17), Spanish (13), Farsi (12), Greek (11) and Persian (8). Together, these languages constitute 76% of the hearings in which an interpreter was required.

In August 2009 the Tribunal entered into a Memorandum of Understanding with Multicultural NSW on the provision of translation services concerning the Tribunal's official forensic orders. There were no forensic orders translated in the financial year 2021.

Translated copies of some of the Statements of Rights are available from the NSW Health website.

GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009

Applications for access to information from the Tribunal under the *Government Information (Public Access) Act 2009 (GIPA Act)* are made through the Right to Information Officer at the NSW Ministry of Health. The administrative and policy functions of the Tribunal are covered by the *GIPA Act*. However, information relating to the judicial functions of the Tribunal is 'excluded information' under the *GIPA Act* and as such is generally not disclosed.

There were no requests for disclosure of information from the Tribunal's client files during the financial year 2021. All requests were met within the terms of the *GIPA Act*.

PUBLIC INTEREST DISCLOSURES ACT 1994

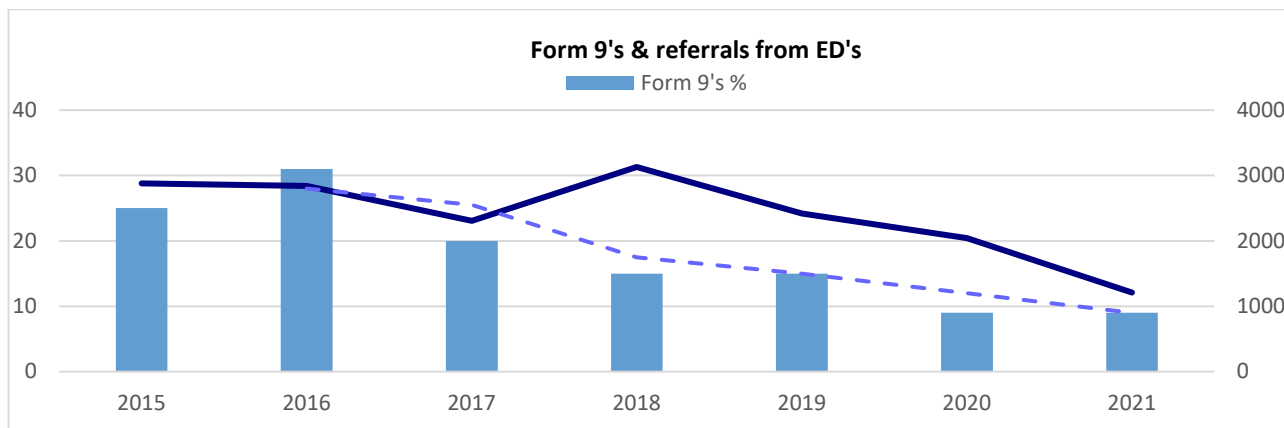
Public Authorities in New South Wales are required to report annually on their obligations under the *Public Interest Disclosures Act 1994*. There were no Public Interest Disclosures received by the Tribunal during the reporting period.

DATA COLLECTION – INVOLUNTARY REFERRAL TO MENTAL HEALTH FACILITIES

The Tribunal is required under the Act to collect information concerning the number of involuntary referrals and the provisions of the Act under which the patients were taken to hospital and admitted or released. The Regulations to the Act provide that these details are collected by means of a form which all inpatient mental health facilities are required to forward to the Tribunal with respect to each involuntary referral (Form 9).

More than 70% of Emergency Departments (ED's) are now gazetted under the Act as emergency assessment facilities. Historically, most ED's do not complete Form 9's. This has meant that data collected from these forms has been incomplete and has not accurately reflected the number of involuntary referrals – in particular those referred by ambulance or police as they are more commonly presented to an ED rather than directly to an inpatient unit.

Despite some improvement in reporting from ED's over time, a sufficient level of compliance is yet to be achieved. During the financial year 2021, 4 of the 55 gazetted ED's (7%) returned Form 9's (2020: 5 of 55 - 9%).



Four ED's made 1,210 involuntary referrals during the financial year 2021, indicating that there remains a significant number of persons taken to emergency assessment mental health facilities who are not being recorded through this process. It is possible that some are being recorded on Form 9s submitted by the mental health facilities within the same hospital, however this is not quantifiable.

OFFICIAL VISITORS PROGRAM

The Official Visitors Program (the Program) is an independent statutory program under the Act reporting to the Minister for Mental Health. The Program is headed by the Principal Official Visitor and supported by three permanent staff positions, including a Program Manager.

In March 2008 the Official Visitors Program became administratively reportable to the Registrar of the Tribunal. Although the Program is administratively supported by the Registrar and staff of the Tribunal, it remains completely independent of the Tribunal in terms of its statutory role. Official Visitors and the Principal Official Visitor report directly to the Minister.

A Memorandum of Understanding was entered into by the Tribunal and the Official Visitors Program in 2009 setting out the agreed systems for raising issues identified by the Tribunal or the Official Visitors Program in relation to the

other body. No matters were referred to the Official Visitors Program by the Tribunal during financial year 2021 for follow up by Official Visitors.

The Registrar of the Tribunal meets regularly with the Principal Official Visitor and Program Manager to discuss issues relating to the administration of the Program.

PREMISES

The Tribunal continues to operate from its premises in the grounds of Gladesville Hospital.

The Tribunal has four large hearing rooms and three small inquiries rooms - all fitted with video conferencing facilities. Video conferencing equipment has also been installed in two large meeting rooms. During the COVID-19 pandemic, all hearing and inquiries rooms were in full use as well as several offices ordinarily made available to visitors.

One of the Tribunal's hearing rooms is occasionally made available for use by the Northern Territory Mental Health Review Tribunal for the conduct of their hearings by a psychiatrist member located in New South Wales.

VENUES

Regular liaison with hearing venues is essential for the smooth running of the Tribunal's hearings. Venue coordinators or Tribunal Liaison Clerks at each site provide invaluable assistance in the scheduling of matters; collation of evidence and other relevant information for the panels; contacting family members and advocates for the hearing; and supporting the work of the Tribunal on the day.

This role is particularly important in ensuring that all the necessary notifications have been provided and correct documentation is available for mental health inquiries. In most facilities this role is carried out by staff who are already very busy with their other responsibilities. The Tribunal is very appreciative of the support provided by staff at all the facilities where we conduct hearings.

The Tribunal continues to experience some difficulties with facilities at some venues:

- Many venues do not have an appropriate waiting area for family members and patients prior to their hearing.
- Essential resources such as video conference equipment or telephones with speaker capacity are sometimes unavailable or not working in some venues.
- The sound quality with video equipment at some venues is very poor – particularly if the microphones have been installed in the ceiling.
- Staff at venues are not always familiar with the video conferencing equipment used to conduct hearings or the help desk or support arrangements in place to deal with problems with this equipment. This can lead to delays in some hearings.

These issues have been particularly problematic during the COVID-19 pandemic with additional pressure placed on AVL resources and all participants obliged to manage the remote hearing environment. Issues are monitored and particular concerns or incidents discussed with venues and members as they arise.

COMMUNITY EDUCATION AND LIAISON

During the financial year 2021 the Tribunal conducted a number of community education sessions to inpatient and community staff at various facilities across the State. These sessions were used to explain the role and jurisdiction of the Tribunal and the application of the Act and the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*.

Staff and full-time members of the Tribunal also attended and participated in a number of external conferences, training sessions and events.

STAFF

Although the number of hearings conducted by the Tribunal has increased more than sevenfold since the Tribunal's first full year of operation in 1991, staffing levels remained relatively the same for many years with the increased workload absorbed through internal efficiencies and the increased use of information technology.

The COVID-19 pandemic placed enormous pressure on members and staff and it was necessary to boost numbers with several temporary appointments to both the Civil and Forensic Divisions during this period.

The Tribunal has very stable staffing with many staff having worked here for a number of years. Apart from some recent turnover in staff, almost all of the Tribunal's staffing positions remain occupied by permanent staff all working in their own positions. This is a very positive position and provides stability for our staff and recognises their ongoing commitment to the work of the Tribunal.

Appendix 4 shows the organisational structure and staffing of the Tribunal as at 30 June 2021. Including the President and two full time Deputy President positions, the Tribunal's permanent establishment totals 30.4 positions, all of which are filled.

See also Appendix 4

TRIBUNAL MEMBERS

As at 30 June 2021, the Tribunal had a President, two full time Deputy Presidents, nine part time Deputy Presidents and 137 part time members. Members of the Tribunal sit on hearings in accordance with a roster drawn up to reflect members' availability, preferences and the need for hearings. Most members sit between two and four times per month at regular venues.

The Tribunal's membership reflects an equitable gender balance. As at 30 June 2021, including Presidential members, there were 77 female and 60 male members. Several members have indigenous or culturally diverse backgrounds as well as a number who have a lived experience of mental illness, bringing a valuable consumer or carer's focus to the Tribunal's hearings and general operations.

Part time Tribunal members are generally appointed for four-year terms with the last recruitment carried out in 2021.

NEW MEMBERS

The Tribunal welcomed six new psychiatrist members in August 2020 – Dr Karen Arnold, Professor Alan Rosen, Dr Philip Boyce, Dr Fiona McGregor, Associate Professor Jagmohan Gilhotra and Dr Gerald Chew.

RESIGNATIONS

Three part time psychiatrist members and one suitably qualified member finished their appointments during financial year 2021. The Tribunal would like to acknowledge the important contribution made by Associate Professor Kimberlie Dean, Dr Rosemary Howard, Ms Janet Koussa and Dr Sidney Williams.

PROFESSIONAL DEVELOPMENT

The Tribunal has a large number of dedicated and skilled members who bring vast and varied backgrounds, qualifications and perspectives. The experience, expertise and dedication of these members is enormous and often they are required to attend and conduct hearings in very stressful circumstances at inpatient and community mental health facilities, correctional centres and other venues.

During the financial year 2021, the Tribunal continued its program of regular professional development sessions for its members. These sessions involve presentations from Tribunal members and staff as well as guest speakers.

Topics covered during the reporting period included:

- A fresh approach to the correctional system with Glen Scholes, GM at Clarence Correctional Centre
- Making contact with the human experience in mental health settings with Matt Ball, MH Nurse
- A review of the *Mental Health & Cognitive Impairment Forensic Provisions Act 2020* with Anina Johnson
- Best Practice Prescribing for Schizophrenia with Prof. Anthony Harris

The Tribunal continues to regularly distribute Practice Directions, circulars and information to our members to support their work in conducting hearings. Presidential members are also available on a day-to-day basis to assist and respond to enquiries from members and other parties involved in the Tribunal process.

FINANCIAL REPORT

The Tribunal is funded directly from the Finance Branch of the Ministry. The budget allocation for 2019/2020 was \$7,896,066. Total net expenditure for the year was \$7,985,373 – a budget variation of \$89,307 (1%) which is primarily driven by back payments made to part-time Tribunal members.

A Treasury adjustment of \$800,000 was provided to the Ministry of Health being the agreed amount transferred for the Department of Attorney General and Justice to fund the Mental Health Inquiries role. The actual expenditure related to this role for the financial year was \$1,011,864. This included the cost of additional three-member Tribunal panels required for the increased number of appeals lodged by patients against an authorised medical officer's refusal to discharge.

See also Appendix 5

THANK YOU

The COVID-19 pandemic has had a significant impact on Tribunal staff and members, on consumers and their families and carers and on the staff in NSW Health facilities. It has been a challenging period during which staff across NSW Mental Health, as well as within the Tribunal, have demonstrated genuine commitment and hard work to meet the demands of operating under pandemic conditions and to ensure that consumers continued to receive quality care and oversight.

We are very fortunate at the Tribunal in the high calibre of our staff and our members and this has never been more evident than during the COVID-19 response. I would like to take this opportunity to thank the many people who have worked both for and with the Tribunal during the 2020 financial year and to acknowledge their skill, competence and dedication in conducting more than 18,900 hearings. The successful operation of the Tribunal would not have been possible without their ongoing co-operation and support.

Alisa Kelley
Registrar

APPENDIX 1 – CIVIL STATISTICS

TABLE 1 – INVOLUNTARY PATIENT FLOW CHART

Flow Chart showing progress of involuntary patients admitted during the period July 2020 through June 2021

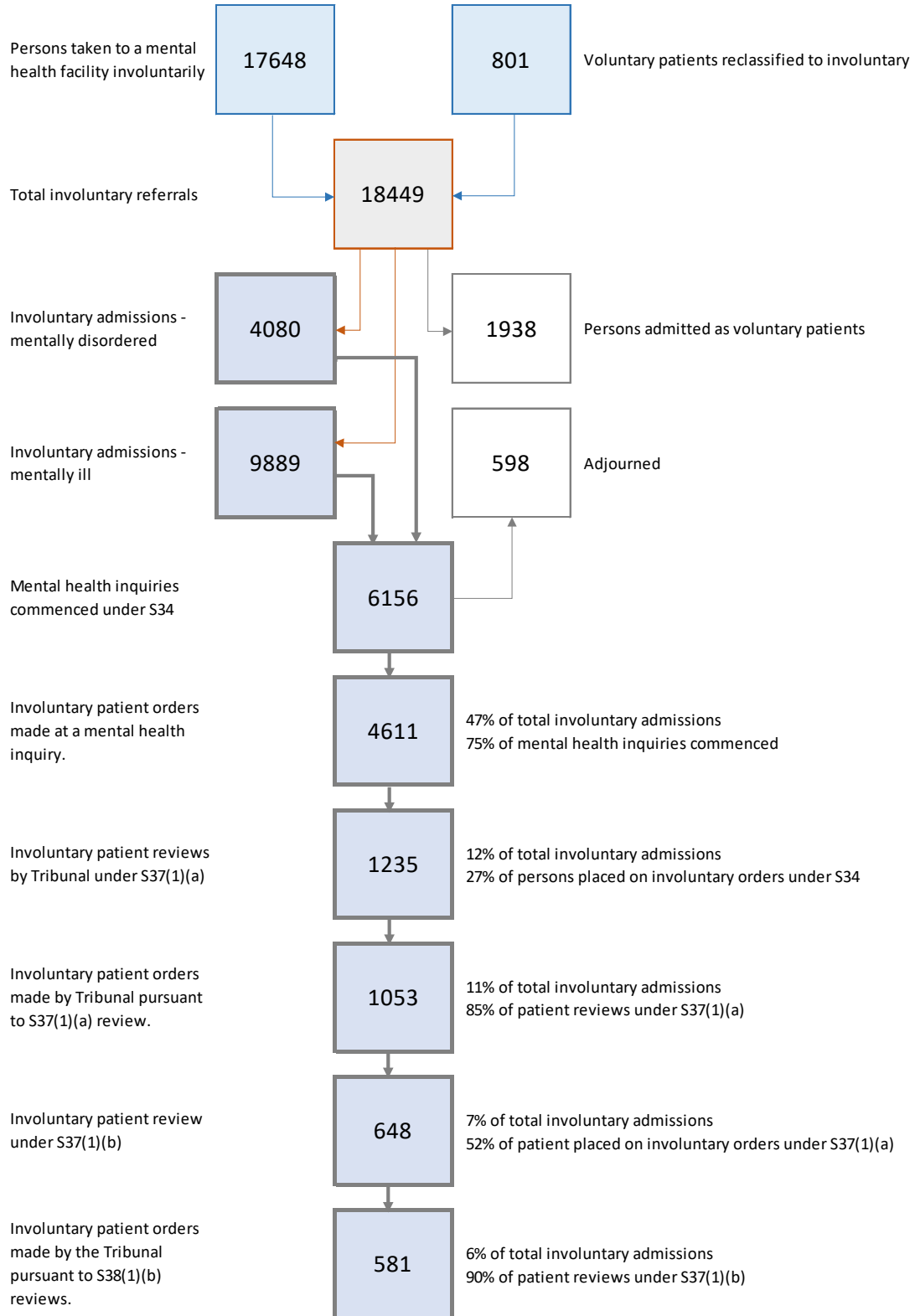


TABLE 2 – CIVIL HEARINGS – TOTAL BY GENDER & MATTER DESCRIPTION

Matter	MALE		FEMALE		Total
	Hearings	%	Hearings	%	
s9 Review of Voluntary Patient	24	50%	24	50%	48
s34 Mental Health Inquiry - Review of Assessable Person	3337	54%	2819	46%	6156
s37(1)(a) Initial Review of Involuntary Patient	675	55%	560	45%	1235
s37(1)(b) Review of Involuntary Patient	388	60%	260	40%	648
s37(1)(c) Review of Involuntary Patient	308	64%	177	36%	485
s37(1A) Review of an involuntary Patient - at any other time	1	100%		0%	1
s44 Appeal Refusal to Discharge	522	53%	469	47%	991
s51 Community Treatment Order - existing CTO	2303	64%	1271	36%	3574
s51 Community Treatment Order - Mental Health Facility	862	57%	659	43%	1521
s51 Community Treatment Order - no current CTO	519	68%	239	32%	758
s202(4) Application for extension of a CTO (COVID-19)	2	50%	2	50%	4
s63 Review of detained person under CTO	10	71%	4	29%	14
s65 Revocation of CTO	6	50%	6	50%	12
s65 Variation of (Forensic) CTO	85	98%	2	2%	87
s65 Variation of CTO	283	65%	154	35%	437
s96(1) ECT Consent Inquiry - Voluntary patient	1	50%	1	50%	2
s96(2) ECT Administration Inquiry - Involuntary patient (includes forensic patients)	341	44%	440	56%	781
s96(3A)(a) ECT for person under 16 - Involuntary patient		0%	1	100%	1
s96(3A)(b) ECT for person under 16 - Voluntary patient	1	50%	1	50%	2
s101(1) Application for a Surgical Operation Involuntary Patient	5	83%	1	17%	6
s103 Application for special medical treatment		0%	2	100%	2
s151(4) Procedural Order	1	100%		0%	1
s156 Procedural Hearing: Access to documents		0%	1	100%	1
Grand Total	9674	58%	7093	42%	16767

TABLE 3 – CIVIL MATTERS BY TYPE OVER 5 YEARS

ACT	MATTER DESCRIPTION	2020-21	2019-20	2018-19	2017-18	2016-17
S9	Review of those detained in a mental health facility receiving voluntary treatment for more than 12 months	48	64	79	79	98
S34	Mental Health Inquiry - Review of Assessable Person	6156	6467	6787	6806	6757
S37	Reviews of persons detained in a mental health facility for involuntary treatment	2369	2325	2727	2831	2725
S44	Appeal against an authorised medical officer's refusal to discharge	991	797	629	685	690
S51	Community Treatment Orders	5853	5915	5519	5357	5331
S63	Review of affected persons detained following a breach of a Community Treatment Order	14	13	8	15	7
S65	Variation and revocation of Community Treatment Orders	536 *	405	432	299	248
S96(1)	Review of voluntary patient's capacity to give informed consent to ECT	2	4	2	4	3
S96(2)	Application to administer ECT to an involuntary patient with or without consent	781	822	810	810	719
S96(3A)	Application to administer ECT to a person under 16 years	1	1	0	1	0
S101	Application for a Surgical Operation	6	10	7	10	9
S103	Application for special medical treatment	2	1	0	1	1
S151-S156	Procedural Orders	2	4	5	2	1
S162	Application to publish or broadcast names	0	0	1	1	0
S202(4)	COVID-19 special provisions	4	21	0	0	0
TOTAL		16765	16849	17006	16901	16589

*includes forensic

TABLE 4 – NUMBER OF COMMUNITY TREATMENT ORDERS MADE BY HEALTH CARE AGENCY

HEALTH CARE AGENCY	2020/21	2019/20	2018/19	2017/18
Albury Community Mental Health Service	42	29	38	30
Ashfield Community Mental Health Service	0	0	0	0
Auburn Community Mental Health Team	68	42	65	46
Bankstown-Lidcombe Mental Health Service	152	140	133	149
Bega Valley Mental Health Service	22	27	28	28
Blacktown & Mt. Druitt Psychiatry Service	262	292	292	246
Blue Mountains Mental Health Service	52	63	50	59
Bondi Junction Community Mental Health Service	11	6	9	6
Botany Community Health Care	0	0	0	0
Bowral Community Mental Health Service	20	10	15	11
Byron Mental Health Services	29	29	21	15
Campbelltown Mental Health Service	166	150	133	169
Camperdown Community Mental Health Service	177	169	169	158
Canterbury Community Mental Health Service	144	113	119	100
Catherine Mahoney Aged Care Psychiatry Unit	0	0	0	0
Central Coast Area Mental Health Service	449	460	441	401
Clarence District Health Service	0	0	0	0
Coffs Harbour District Hospital Outpatient Service	100	77	99	93
Cooma Mental Health Service	14	19	13	24
Cootamundra Mental Health Service	0	0	0	0
Croydon Community Mental Health Service	215	264	241	236
Deniliquin Mental Health Service	19	20	31	29
Dundas Community Mental Health Service	0	3	2	25
Eurobodalla Community Mental Health Service	41	44	25	32
Fairfield Mental Health Service	100	124	147	156
Far West Mental Health Service	23	22	17	20
Glebe Community Mental Health Service	0	0	0	0
Goulburn Community Mental Health Service	37	35	56	37
Grafton Mental Health Service	32	26	37	37
Granville Community Rehabilitation Service	78	77	49	25
Griffith Mental Health Service	46	51	53	38
Hawkesbury Mental Health Service	25	11	25	20
Hills Community Mental Health Centre	59	54	55	47
Hornsby Ku-ring-gai Community Mental Health Service	156	186	152	152
Hunter Psychiatric Rehabilitation Service	0	2	0	1
Hunter Valley Health Care Agency	0	0	104	82
Hunter New England Mehi/McIntyre Mental Health Service	0	36	38	29
Hunter New England Tablelands Mental Health Service	18	14	24	20
Hunter New England Peel Mental Health Service	29	28	32	39
Hunter Valley Mental Health Service	71	86	0	0
Hunter Valley Child & Adolescent Mental Health Service	0	0	0	0
Illawarra Community Mental Health Services	107	114	120	139
Inner City Mental Health Service Caritas Centre	58	64	81	73
James Fletcher Hospital	0	0	0	0
Kempsey Mental Health Service	48	43	49	43
Lake Illawarra Sector Mental Health Service	0	2	1	0
Lake Macquarie Mental Health Service	101	90	77	70
Lake Macquarie Child & Adolescent Mental Health Service	1	2	0	0
Leeton/Narrandera Community Mental Health Centre	0	0	0	0
Lismore Mental Health Services	85	110	114	112
Lithgow Mental Health Service	10	5	7	5
Liverpool Mental Health Service	208	178	147	127
Macquarie Area Mental Health Services	77	81	88	81
Manly Hospital & Community Health Service	1	0	68	140
Maroubra Mental Health Service	201	193	183	185
Marrickville Community Mental Health Service	102	135	114	121

HEALTH CARE AGENCY	2020/21	2019/20	2018/19	2017/18
Merrylands Community Health Service	25	15	28	74
Mid-Western Community Mental Health Service	103	112	118	123
Mudgee Mental Health Service	10	13	17	11
Newcastle Mental Health Service	219	228	183	209
Newcastle Child & Adolescent Mental Health Service	3	2	0	0
Northern Illawarra Sector Mental Health Service	1	2	0	0
Northern Beaches Community Health	142	163	144	0
Nyngan Community Health Service	0	0	0	0
Orana Mental Health Service	0	0	0	0
Orange Community Health Team Orange Health Centre	0	0	0	0
Orange Community Residential/Rehab. Service	7	7	6	5
Parramatta Community Health Service	142	151	134	98
Penrith Mental Health Service	47	55	73	78
Penrith Child & Youth Mental Health Service	0	1	0	0
Port Macquarie Community Mental Health Service	61	53	47	30
Queanbeyan Mental Health Service	15	31	36	34
Redfern Community Mental Health Service	74	67	55	36
Royal North Shore Community Health Centre	135	135	0	0
Royal North Shore Hospital Community Health Services	41	31	199	157
Ryde Hospital & Community Mental Health Service	156	141	139	135
Shoalhaven Community Mental Health Services	54	59	77	72
Springwood Mental Health Service	8	9	17	8
St George Community Mental Health Centre	200	197	0	0
St Marys Mental Health Service	45	43	59	59
St George Div. of Psychiatry & Mental Health	0	0	208	221
St George Child & Adolescent Mental Health Service	1	1	0	0
Sutherland Hospital & Community Mental Health Service	110	93	85	80
Tamworth Community Mental Health Service	2	3	6	10
Taree Community Mental Health Service	38	54	65	70
Temora Community Mental Health	13	15	11	10
Tumut Community Mental Health Service	9	11	12	8
Tweed Mental Health Service	72	94	108	106
Upper Hunter Mental Health Service	0	0	0	0
Wagga Wagga Community Mental Health Service	53	49	47	57
Young Mental Health Service	13	7	11	20
CTO's made at Mental Health Inquiries & reviews	875	671	416	335
TOTAL	6295	6239	5647	5367

TABLE 5 – CTO’S MADE BY THE TRIBUNAL & BY MAGISTRATES SINCE 2009

Magistrates ceased making Community Treatment Orders (CTOs) at mental health inquiries in June 2010 when the Tribunal assumed responsibility for conducting those inquiries.

Year	Magistrate ~	Mental Health Inquiries	Tribunal Hearings	Total Orders Made
2020/21	3	868	5427	6298
2019/20	12	653	5586	6251
2018/19	13	416	5647	6076
2017/18	0	335	5367	5702
2016/17	0	362	5406	5768
2015/16	0	336	5050	5386
2014/15	0	336	4806	5142
2013/14	0	360	4824	5184
2012/13	0	339	4882	5221
2011/12	0	581	4426	5007
2010/11	2	566	4128	4696
2009/10	806	10	3956	4772
2008/09	997	0	4058	5055

~ 2018 - 2021 figures represent number of Tribunal orders revoked as order made by Magistrate

APPENDIX 2 – FORENSIC STATISTICS

TABLE 6 – MHFPA - S16 / MHCIFPA - S78(B): FIRST REVIEW FOLLOWING FITNESS REFERRAL FROM COURT

MHFPA - S16 FIRST REVIEW FOLLOWING FITNESS REFERRAL FROM COURT	INDIVIDUALS	HEARINGS
Person is likely to become fit to be tried and is suffering from a mental illness	10	10
Person is likely to become fit to be tried and is suffering neither from a mental illness nor a mental condition	1	1
Person will not become fit to be tried	37	37
Adjourned	12	14
TOTAL	60	62
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S16 reviews:	49	62

MHCIFPA - S78(b) FIRST REVIEW FOLLOWING FITNESS REFERRAL FROM COURT	INDIVIDUALS	HEARINGS
Person is FIT for trial	3	3
Person is not fit and will not become fit within 12 months	4	4
Adjourned	7	8
TOTAL	14	15
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S78(b) reviews:	13	15

COMBINED TOTAL number of individuals and hearings – SS16 & 78(b)	62	77
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TABLE 7 – MHFPA - S24 DETERMINATION FOLLOWING NOMINATION OF LIMITING TERM

MHFPA - S24 DETERMINATION FOLLOWING NOMINATION OF LIMITING TERM	INDIVIDUALS	HEARINGS
Person is mentally ill - court to be notified	6	6
Person is neither mentally ill nor suffering from a mental condition	1	1
Adjourned	0	0
TOTAL	7	7

TABLE 8 – MHFPA - S44 FIRST REVIEW FOLLOWING FINDING OF NOT GUILTY BY REASON OF MENTAL ILLNESS / MHCIFPA – S78(C) FIRST REVIEW FOLLOWING SPECIAL VERDICT OF ACT PROVEN BUT NOT CRIMINALLY RESPONSIBLE

MHFPA - S44 FIRST REVIEW FOLLOWING FINDING OF NOT GUILTY BY REASON OF MENTAL ILLNESS	INDIVIDUALS	HEARINGS
Court order for conditional release replaced by Tribunal order	1	1
Current order for detention to continue	3	3
Transfer to another facility	18	18
Release conditional	2	2
Release conditions varied	1	1
Adjourned	1	1
TOTAL	26	26
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S44 reviews:	25	26

MHCIFPA – S78(c) FIRST REVIEW FOLLOWING SPECIAL VERDICT OF ACT PROVEN BUT NOT CRIMINALLY RESPONSIBLE	INDIVIDUALS	HEARINGS
Court order for conditional release replaced by Tribunal order	3	3
Current order for detention to continue	1	1
Transfer to another facility	1	1
Release conditional	1	1
TOTAL	6	6

COMBINED TOTAL number of individuals and hearings – SS44 & 78(c)	31	32
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TABLE 9 – MHFPA - S45(1)(A) & (B) FIRST REVIEW FOLLOWING DETENTION UNDER S27 / MHCIFPA - S78(A) FIRST REVIEW FOLLOWING NOMINATION OF LIMITING TERM

MHFPA - S45(1)(a) & (b) FIRST REVIEW FOLLOWING DETENTION UNDER S27	INDIVIDUALS	HEARINGS
Person has become fit to be tried	0	0
Person has not become fit to be tried and will not become fit within 12 months	7	7
Adjourned	1	1
TOTAL	8	8
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for s45 reviews:	7	8

MHCIFPA – S78(a) FIRST REVIEW FOLLOWING NOMINATION OF LIMITING TERM	INDIVIDUALS	HEARINGS
Court order for detention replaced by Tribunal order	2	2
Person is unfit for trial	2	2
Transfer to another facility – time limited order	1	1
Adjourned	0	0
TOTAL	5	5
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S78(a) reviews:	3	3

COMBINED TOTAL number of individuals and hearings – SS45 & 78(a)	10	11
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TABLE 10 – MHFPA - S46 / MHCIFPA - SS78(D) & 79: REVIEW OF FORENSIC PATIENTS

MHFPA - S46 REVIEW OF FORENSIC PATIENTS	INDIVIDUALS	HEARINGS
Current order for apprehension to continue	1	1
Current order for conditional release to continue	97	112
Current order for detention to continue	171	218
Current order for transfer and detention to continue	20	23
Variation to current order for transfer and detention	1	1
Classified Involuntary Patient – Forensic Patient Status expires	1	1
Extension of period of review denied	1	1
Extension of period of review granted	70	70
Person is fit to be tried	14	16
Person is not fit to be tried	29	39
Release conditional	22	22
Release conditions varied	103	114
Release unconditional	2	2
Release unconditional under a CTO	16	16
Revocation of conditional release and order detention	2	2
Transfer to another facility	22	23
Transfer to another facility - time limited order	6	6
Leave of absence granted	81	106
Financial management order made	1	1
No Financial management order made	1	1
Fitness Adjourned	8	8
Adjourned	125	130
TOTAL	952	1167
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>		
Total number of individuals and hearings for S46 reviews:	463	753

MHCIFPA – SS78(d) & 79 REVIEW OF FORENSIC PATIENTS	INDIVIDUALS	HEARINGS
Current order for apprehension to continue	1	1
Current order for conditional release to continue	25	25
Current order for detention to continue	66	66
Current order for transfer and detention to continue	8	8
Variation to current order for detention	3	3
Variation to current order for transfer and detention	4	4
Extension of period of review granted	8	8
Person is fit to be tried	2	2
Person is not fit to be tried	5	5
Release conditional	9	9
Release conditions varied	31	31
Release unconditional under a CTO	4	4
Transfer to another facility	10	10
Transfer to another facility - time limited order	4	4
Leave of absence granted	45	45
Fitness Adjourned	2	2
Adjourned	29	36
TOTAL	256	263
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>		
Total number of individuals and hearings for SS78(d) & 79 reviews:	207	234

COMBINED TOTAL number of individuals and hearings – SS46, 78(d) & 79	481	987
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TABLE 11 – MHFPA - S58 / MHCIFPA - S89: LIMITED REVIEW OF THOSE AWAITING TRANSFER TO A MENTAL HEALTH FACILITY

MHFPA - S58 LIMITED REVIEW OF THOSE AWAITING TRANSFER TO A MENTAL HEALTH FACILITY	INDIVIDUALS	HEARINGS
Transfer to another facility	19	19
Revoke S55(1) order for transfer to a mental health facility	1	1
Adjourned	4	4
TOTAL	24	24
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S58 reviews:	21	24

MHCIFPA - S89 LIMITED REVIEW OF THOSE AWAITING TRANSFER TO A MENTAL HEALTH FACILITY	INDIVIDUALS	HEARINGS
Adjourned	1	1
TOTAL	1	1

COMBINED TOTAL number of individuals and hearings – SS58 & 89	22	25
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TABLE 12 – MHFPA - S59 / MHCIFPA S90: FIRST REVIEW FOLLOWING TRANSFER FROM A CORRECTIONAL CENTRE TO A MENTAL HEALTH FACILITY

MHFPA - S59 FIRST REVIEW FOLLOWING TRANSFER FROM A CORRECTIONAL CENTRE TO A MENTAL HEALTH FACILITY	INDIVIDUALS	HEARINGS
Ordered to be detained in a mental health facility	49	50
Person is a mentally ill person - continue in a mental health facility	47	48
Person is a mentally ill person - appropriate care is available in a correctional centre under an FCTO	18	18
Person is a mentally ill person - appropriate care is available in a correctional centre	2	2
Person is not a mentally ill person - continue in a mental health facility	2	2
Person is not a mentally ill person and should not continue in a mental health facility	1	1
Transfer to another facility	2	2
Financial Management Order made	0	0
No Financial Management Order made	43	43
Adjourned	5	6
TOTAL	169	172
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S59 reviews:	70	76

MHCIFPA - S90 FIRST REVIEW FOLLOWING TRANSFER FROM A CORRECTIONAL CENTRE TO A MENTAL HEALTH FACILITY	INDIVIDUALS	HEARINGS
Person is a mentally ill person - continue in a mental health facility	31	31
Person is a mentally ill person - appropriate care is available in a correctional centre under an FCTO	1	1
Classified as an Involuntary Patient – Correctional patient status expires	1	1
Financial Management Order made	0	0
No Financial Management Order made	8	8
Adjourned	6	6
TOTAL	47	47
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S90 reviews:	36	38

COMBINED TOTAL number of individuals and hearings – SS59 & 90	105	114
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TABLE 13 – MHFPA - S67 / MHCIFPA – S99: APPLICATION FOR A FORENSIC CTO

MHFPA - S67 APPLICATION FOR A FORENSIC CTO	INDIVIDUALS	HEARINGS
Forensic CTO made	145	147
Forensic CTO not made	1	1
CTO made to have effect on date of unconditional release	14	14
Adjourned	6	6
TOTAL	166	168
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>		
Total number of individuals and hearings for S67 reviews:	160	168

MHCIFPA - S99 APPLICATION FOR A FORENSIC CTO	INDIVIDUALS	HEARINGS
Forensic CTO made	49	49
Forensic CTO not made	1	1
CTO made to have effect on date of unconditional release	2	2
Adjourned	4	4
TOTAL	56	56
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>		
Total number of individuals and hearings for S67 reviews:	53	55

COMBINED TOTAL number of individuals and hearings – SS67 & 99	211	223
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TABLE 14 – MHA - S65 APPLICATION TO VARY A FORENSIC CTO

MHA - S65 APPLICATION TO VARY A FORENSIC CTO	INDIVIDUALS	HEARINGS
Variation approved to order	85	85
Withdrawn / discontinued at hearing	1	1
Adjourned	1	1
TOTAL	87	87
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>		
Total number of individuals and hearings for S65 reviews:	85	87

TABLE 15 – MHFPA - S61(1) / MHCIFPA – SS91(B) & 93: REVIEW OF CORRECTIONAL PATIENTS

MHFPA - S61(1) REVIEW OF CORRECTIONAL PATIENTS	INDIVIDUALS	HEARINGS
Ordered to be detained in a mental health facility	8	9
Classified as involuntary patient - correctional patient status expires	1	1
Transfer to another facility	1	1
TOTAL	10	11
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>		
Total number of individuals and hearings for S61(1) reviews:	9	11

MHCIFPA - SS91(b) & 93 REVIEW OF CORRECTIONAL PATIENTS	INDIVIDUALS	HEARINGS
Current order for detention to continue	2	2
Classified as involuntary patient - correctional patient status expires	1	1
Adjourned	1	1
TOTAL	4	4

COMBINED TOTAL number of individuals and hearings – SS61(1) & 91(b)	11	14
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TABLE 16 – MHFPA - S61(3) / MHCIFPA – S100: REVIEW OF PERSON IN CUSTODY SUBJECT TO A CTO

MHFPA - S61(3) REVIEW OF PERSON IN CUSTODY SUBJECT TO A CTO	INDIVIDUALS	HEARINGS
Forensic CTO to continue	39	40
Forensic CTO varied	3	3
Forensic CTO revoked	2	2
Adjourned	20	20
TOTAL	64	65
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S61(3) reviews:	51	65

MHCIFPA – S100 REVIEW OF PERSON IN CUSTODY SUBJECT TO A CTO	INDIVIDUALS	HEARINGS
Forensic CTO to continue	27	27
Adjourned	5	5
TOTAL	32	32
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S100 reviews:	29	32

COMBINED TOTAL number of individuals and hearings – SS61(3) & 100	75	97
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TABLE 17 – MHFPA - S68(2) / MHCIFPA – S109(4): REVIEW OF PERSON APPREHENDED UNDER BREACH OF ORDER FOR LEAVE OR RELEASE

MHFPA - S68(2) REVIEW OF PERSON APPREHENDED UNDER BREACH OF ORDER FOR LEAVE OR RELEASE	INDIVIDUALS	HEARINGS
Order for apprehension and detention	2	2
Confirm order for conditional release	9	9
Revocation of Conditional Release and Order Detention	5	5
Confirm order for detention and grant leave of absence	3	3
Interim order following breach granting leave of absence	2	2
Transfer to another facility	1	1
Adjourned	16	23
TOTAL	38	45
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S68(2) reviews:	22	43

MHCIFPA – S109(4) REVIEW OF PERSON APPREHENDED UNDER BREACH OF ORDER FOR LEAVE OR RELEASE	INDIVIDUALS	HEARINGS
Confirm order for conditional release	4	4
Revocation of Conditional Release and Order Detention	1	1
Confirm order for detention and grant leave of absence	1	1
Interim order following breach granting leave of absence	1	1
Transfer to another facility	2	2
Adjourned	13	15
TOTAL	22	24
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i> Total number of individuals and hearings for S109(4) reviews:	11	22

COMBINED TOTAL number of individuals and hearings – SS68(2) & 109(4)	28	65
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TABLE 18 – MHFPA - S76 / MHCIFPA S146: APPLICATION OF REGISTERED VICTIM FOR NON-ASSOCIATION OR PLACE RESTRICTION

MHFPA - S76 APPLICATION OF REGISTERED VICTIM FOR NON-ASSOCIATION OR PLACE RESTRICTION	INDIVIDUALS	HEARINGS
Application refused	1	1
Impose place restriction and non-association condition on conditional release	1	1
TOTAL	2	2

MHCIFPA – S146 APPLICATION OF REGISTERED VICTIM FOR NON-ASSOCIATION OR PLACE RESTRICTION	INDIVIDUALS	HEARINGS
Impose non-association and/or place restriction condition	2	2
Vary non-association and/or place restriction condition	1	1
Decline to make a non-association and/or place restriction condition	1	1
TOTAL	4	4
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>		
Total number of individuals and hearings for S146 reviews:	2	2

COMBINED TOTAL number of individuals and hearings – SS76 & 145	3	4
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TABLE 19 PROCEDURAL HEARINGS – MHA S162 APPLICATION TO PUBLISH OR BROADCAST NAME / BDMA S31D APPROVAL OF CHANGE OF NAME

PROCEDURAL HEARINGS	INDIVIDUALS	HEARINGS
S162 APPLICATION TO PUBLISH OR BROADCAST NAME		
Application granted	1	1
TOTAL	1	1

S31D APPROVAL OF CHANGE OF NAME		
Application granted	2	3
TOTAL	2	3

S151(4) APPLICATION FOR A PROCEDURAL ORDER		
Application granted	1	1
TOTAL	1	1

TOTAL PROCEDURAL HEARINGS	4	5
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TABLE 20 FORENSIC PATIENTS, CORRECTION PATIENTS & FCTOS BY LOCATION AT 30 JUNE 2021

LOCATION	NUMBER OF PATIENTS AT 30 JUNE				
	2021	2020	2019	2018	2017
Bloomfield Hospital	23	24	23	18	21
Community	230	216	193	182	186
Concord Hospital	6	6	8	8	7
Cumberland Hospital	32	30	31	31	32
Forensic Hospital	108	116	110	109	119
Juvenile Justice Centre	0	0	0	4	0
Long Bay Hospital	45	51	51	57	46
Macquarie Hospital	3	5	5	9	9
Metropolitan Remand and Reception Centre	91	89	79	83	70
Metropolitan Special Programs Centre	15	15	14	18	16
Morisset Hospital	30	29	28	31	27
Other Community Hospitals	11	11	10	13	9
Other Correctional Centres	35	34	51	48	19
Silverwater Women's Correctional Centre	6	8	15	7	5
TOTAL	635	634	618	616	566

TABLE 21 – LOCATION OF HEARINGS HELD FOR FORENSIC PATIENTS, CORRECTIONAL PATIENTS & FCTOS

LOCATION OF HEARINGS HELD FOR FORENSIC AND CORRECTIONAL PATIENTS OVER 4 YEARS				
LOCATION	2020/21 ¹	2019/20 ²	2018/19	2017/18
BLOOMFIELD HOSPITAL	0	22	44	46
CONCORD HOSPITAL	0	0	14	15
CUMBERLAND HOSPITAL	0	86	117	95
FORENSIC HOSPITAL	0	182	269	281
LONG BAY HOSPITAL	0	180	253	251
MACQUARIE HOSPITAL	0	0	14	19
METROPOLITAN REMAND AND RECEPTION CENTRE	0	98	119	133
MORISSET HOSPITAL	0	46	62	54
TRIBUNAL PREMISES GLADESVILLE	1671	998	651	599
TOTAL	1671	1612	1543	1493

¹ Hearings were held entirely on site at Gladesville during the financial year 2021 due to COVID-19 restrictions.

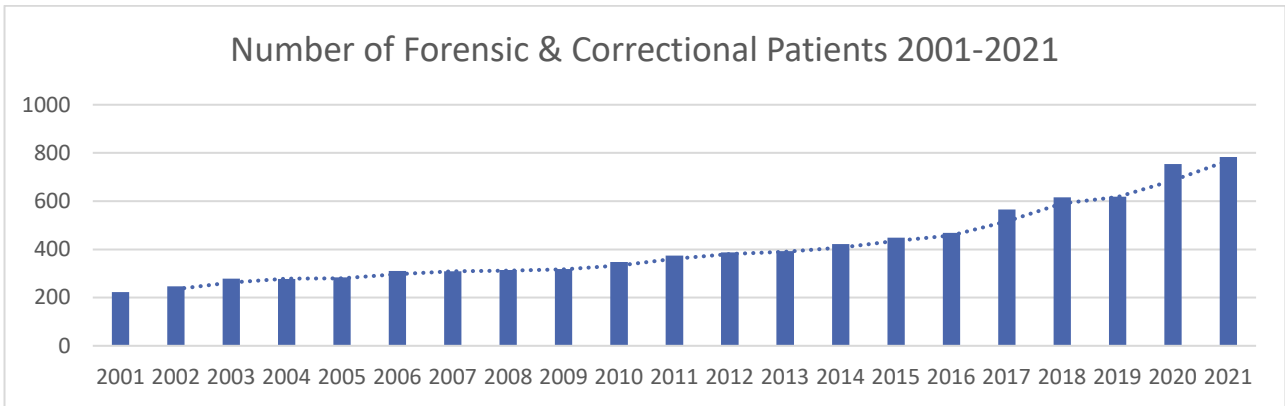
² Hearings were held entirely on site at Gladesville during the period April-June 2020 due to COVID-19 restrictions.

TABLE 22 – CATEGORY OF FORENSIC PATIENTS, CORRECTIONAL PATIENTS & FCTOS

CATEGORY OF FORENSIC AND CORRECTIONAL PATIENTS OVER 4 YEARS BY GENDER					
CATEGORY	GENDER	2020/21	2019/20	2018/19	2017/18
ACT PROVEN NOT CRIMINALLY RESPONSIBLE	FEMALE	47	50	48	47
	MALE	361	349	350	339
	TOTAL	408	399	398	386
FITNESS / FITNESS BAIL	FEMALE	3	8	3	1
	MALE	22	55	34	39
	TOTAL	25	63	37	40
LIMITING TERM	FEMALE	0	2	3	3
	MALE	22	21	28	22
	TOTAL	22	23	31	25
EXTENSION / INTERIM EXTENSION ORDERS	FEMALE	1	1	1	0
	MALE	13	10	10	10
	TOTAL	14	11	11	10
CORRECTIONAL PATIENTS	FEMALE	4	5	3	1
	MALE	37	42	45	29
	TOTAL	41	47	48	30
FORENSIC COMMUNITY TREATMENT ORDERS	FEMALE	7	6	12	10
	MALE	118	85	81	115
	TOTAL	125	91	93	125
TOTAL	FEMALE	62	72	70	62
	MALE	573	562	548	554
	TOTAL	635	634	618	616

TABLE 23 – NUMBER OF FORENSIC & CORRECTIONAL PATIENTS 2001-2020

NUMBER OF FORENSIC AND CORRECTIONAL PATIENTS 2001-2020																				
2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
223	247	279	277	284	310	309	315	319	348	374	387	393	422	448	468	566	616	618	754	783



NOTES

1. Figures for 2001 taken as at 31 December 2000.
2. Figures from 2009 forward include correctional patients
3. Figures from 2011 forward include Forensic CTOs
4. Years 2011-2016 include 1 Norfolk Island forensic patient

APPENDIX 3 – THE JURISDICTION OF THE TRIBUNAL AS AT 30 JUNE 2021

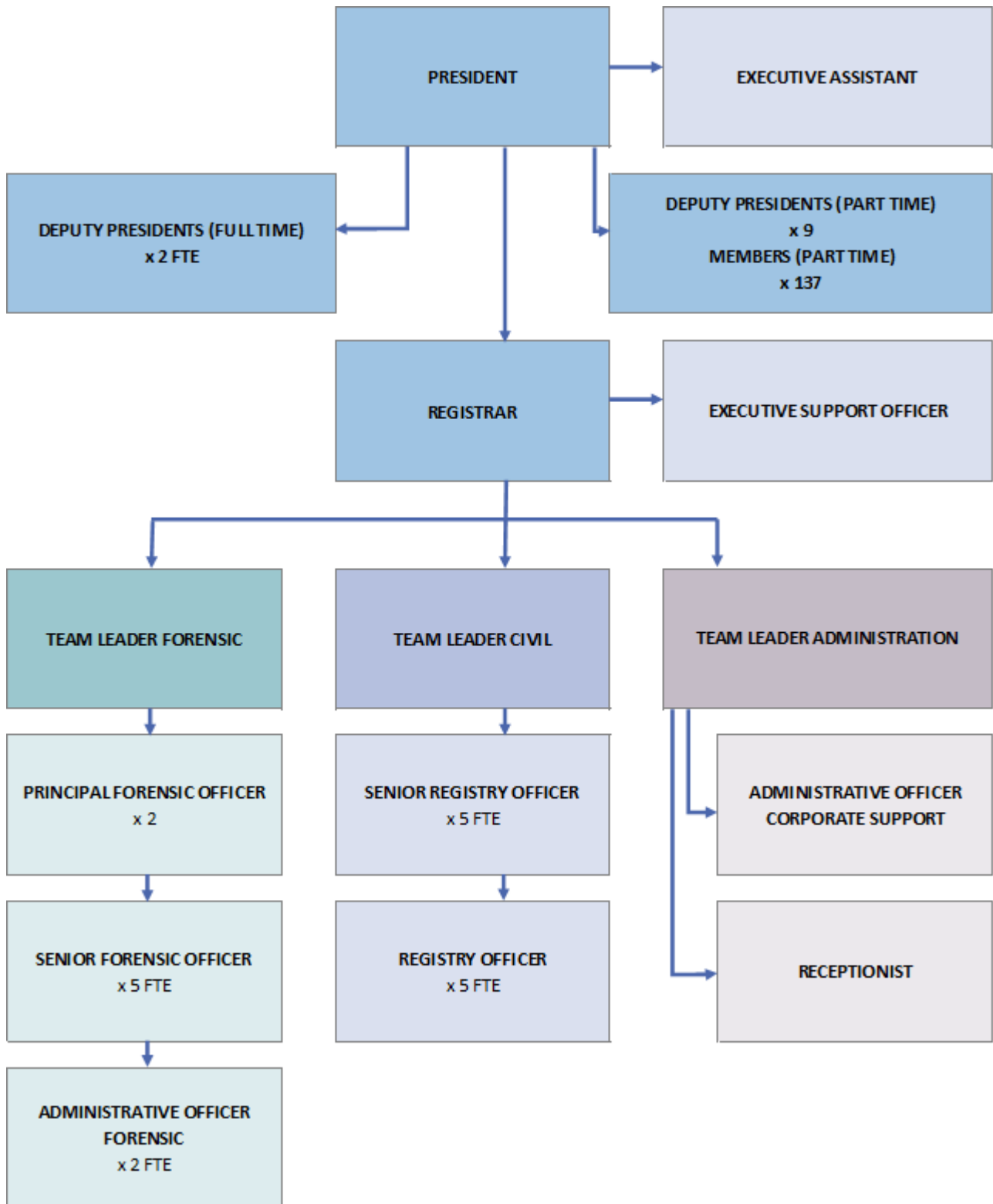
MENTAL HEALTH ACT 2007	
Review of voluntary patients	S9
Reviews of assessable persons - mental health inquiries	S34
Initial review of involuntary patients	S37(1)(a)
Review of involuntary patients during first year	S37(1)(b)
Continued review of involuntary patients	S37(1)(c)
Appeal against medical superintendent's refusal to discharge	S44
Making of community treatment orders	S51
Review of affected persons detained under a community treatment order	S63
Variation or revocation of a community treatment order	S65
Appeal against a magistrate's community treatment order	S67
Review of voluntary patient's capacity to give informed consent to ECT	S96(1)
Application to administer ECT to an involuntary patient (including forensic patients) with or without consent	S96(2)
Inspect ECT register	S97
Review report of emergency surgery for an involuntary patient	S99(1)
Review report of emergency surgery for a forensic patient	S99(2)
Application to perform a surgical operation on an involuntary patient	S101(1)
Application to perform a surgical operation on a voluntary patient or a forensic patient not suffering from a mental illness	S101(4)
Application to carry out special medical treatment on an involuntary patient	S103(1)
Application to carry out prescribed special medical treatment	S103(3)
Application for procedural order/s	s151(4)

MENTAL HEALTH (FORENSIC PROVISIONS) ACT 1990	
Determination of certain matters where person found unfit to be tried	S16
Determination of certain matters where person given a limiting term	S24
Initial review of persons found not guilty by reason of mental illness	S44
Initial review of persons found unfit to be tried	S45
Further reviews of forensic patients	S46(1)
Review of forensic patients subject to forensic community treatment orders	S46(3)
Application to extend the period of review for a forensic patient	S46(4)
Application for a grant of leave of absence for a forensic patient	S49
Application for a transfer from a mental health facility to a correctional centre for a correctional patient	S57
Limited review of persons awaiting transfer from a correctional centre to a mental health facility	S58
Initial review of persons transferred from a correctional centre to a mental health facility	S59
Further reviews of correctional patients	S61(1)
Review of those persons (other than forensic patients) subject to forensic community treatment order	S61(3)
Application to extend the period of review for a correctional patient	S61(4)
Application for a forensic community treatment order	S67
Review of person following apprehension on an alleged breach of conditions of leave or release	S68(2)
Requested investigation of person apprehended for a breach of a condition of leave or release	S69
Application by victim of a patient for a non-association or place restriction condition of leave or release	S76
Appeal against Director-General's refusal to grant leave	S76F

MENTAL HEALTH & COGNITIVE IMPAIRMENT FORENSIC PROVISIONS ACT 2020	
Review of person subject to a FCTO in correctional centre (not forensic patient)	s100
Review of person apprehended under s109	s109(4)
Review on request of person apprehended under s109	s112
Application of Registered Victim for non association or place restriction	s146
Request to suspend the operation of an order pending determination of an appeal	s153
Application to extend mandatory review period	s77
First review following nomination of limiting term	s78(a)
First review following fitness referral from court	s78(b)
First review following special verdict of act proven but not criminally responsible	s78(c)
Review of forensic patient (6 monthly)	s78(d)
Review of forensic patient subject to FCTO in correctional centre	s78(e)
Forensic patient review at any time	s79
Request to transfer back to correctional centre	s88
Limited review of person awaiting transfer to a mental health facility	s89
First review following transfer from correctional centre to a mental health facility	s90
Review of correctional patient (6 monthly)	s91(b)
Review of correctional patient at any time	s93
Appeal against failure or refusal of Secretary to consider granting leave	s97
Application for a FCTO	s99

NSW TRUSTEE & GUARDIAN ACT 2009	
Consideration of capability to manage affairs at mental health inquiries	S44
Consideration of capability of forensic or correctional patients to manage affairs	S45
Orders for management	S46
Interim order for management	S47
Review of interim orders for management	S48
Revocation of order for management	S86

BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1995	
Approval of change of name	S31D
Appeal against refusal to change name	S31K



APPENDIX 5 – FINANCIAL SUMMARY

Description	Full Year 2021	Budget 2021
Subpoena Reimbursements	-\$188.00	-\$12,505.00
Income	-\$188.00	-\$12,505.00
Salaries & Wages	\$9,377,631.36	\$9,191,104.00
Information Technology	\$207,503.09	\$220,000.00
Travel - Domestic	\$195,364.15	\$250,000.00
Utilities & Services	\$100,155.14	\$110,000.00
Education & Conferences	\$19,072.73	\$20,000.00
Sundry	\$2,513.45	\$5,000.00
Building/Office Maintenance	\$44,003.50	\$45,000.00
Printing & Stationery	\$24,614.38	\$25,000.00
Employee Expenses	\$10,134.28	\$15,000.00
Travel - International	\$0.00	\$0.00
Subscriptions & Memberships	\$5,401.86	\$5,000.00
Furniture & fittings	\$6,991.37	\$5,000.00
Office Consumables	\$3,782.90	\$5,000.00
Operating Expenses	\$33,287.50	\$40,000.00
Postage & Couriers	\$14,497.29	\$15,000.00
Consultants	\$1,250.00	\$2,000.00
Legal Expenses	\$3,565.00	\$5,000.00
Expenses	\$10,049,768.00	\$9,958,104.00
Grand Total	\$10,049,580.00	\$9,945,599.00

Variation from budget

\$103,981

The full year overspend of \$103,981 reflected both a drop in reimbursement revenue as a result of the Tribunal discontinuing the provision of services to the Northern Territory MHT and the increased staffing required to provision 100% remote hearing throughout the financial year.

APPENDIX 6 – TRIBUNAL MEMBERS AT 30 JUNE 2021

PRESIDENT
Judge Paul Lakatos SC

FULL TIME DEPUTY PRESIDENTS
Ms Anina Johnson Ms Maria Bisogni

PART TIME DEPUTY PRESIDENTS		
The Hon Peter Hidden AM QC Mr John Feneley Ms Angela Karpin	The Hon Patricia Staunton AM The Hon Stephen Walmsley SC Ms Mary Jerram AM	The Hon Judith Walker Mr Richard Gulley AM RFD Professor Hugh Dillon

PART TIME MEMBERS		
LAWYERS	PSYCHIATRISTS	OTHER
Ms Carol Abela	Dr Clive Allcock	Ms Lyn Anthony
Ms Barbara Adamovich	Dr Josephine Anderson	Ms Elisabeth Barry
Ms Diane Barnetson	Dr Karen Arnold	Mr Peter Bazzana
Ms Rhonda Booby	Dr Uldis Bardulis	Mr Ivan L Beale
Mr Peter Braine	Assoc Prof John Basson	Ms Diana Bell
Ms Catherine Carney	Dr Jennifer Bergen	Ms Christine Bishop
Ms Jennifer Conley	Dr Philip Boyce	Mr Mark Coleman
Ms Janice Connelly	Dr Andrew Campbell	Ms Felicity Cox
Ms Elaine Connor	Dr Raphael Chan	Ms Sarah Crosby
Mr Martin Culleton	Dr Gerald Chew	Mr Michael Gerondis
Mr Shane Cunningham	Dr Charles Doutney	Ms Corinne Henderson
Ms Jenny D'Arcy	Dr Tolulope Fajumi	Ms Sunny Hong
Ms Pauline David	Dr Herron Frances Joy	Ms Lynn Houlahan
Mr William de Mars	Associate Prof Jagmohan Gilhotra	Ms Susan Johnston
Mr Phillip French	Dr Michael Giuffrida	Ms Rosemary Kusuma
Ms Michelle Gardner	Dr Robert Gordon	Mr John Laycock
Mr Bruno Gelonesi	Dr Adrienne Gould	Mr John Le Breton
Mr Anthony Giurissevich	Prof James Greenwood	Ms Jenny Learmont AM
Ms Yvonne Grant	Dr Jean Hollis	Ms Robyn Lewis
Mr Robert Green	Dr Mary Jurek	Ms Ann MacLochlainn
Ms Athena Harris Ingall	Dr Kristin Kerr	Dr Meredith Martin
Mr David Hartstein	Dr Karryn Koster	Ms Maz McCalman
Mr Hans Heilpern	Dr Dorothy Kral	Ms Elizabeth McEntyre
Mr John Hislop	Dr Lisa Lampe	Dr Sally McSwiggan
Ms Julie Hughes	Dr Frank Lumley	Mr Francis Merritt
Mr Thomas Kelly	Dr Fiona McGregor	Assoc Prof Katherine Mills
Mr Brian Kelly	Dr Rob McMurdo	Dr Susan Pulman
Mr Dean Letcher Q.C.	Dr Janelle Miller	Mr Rob Ramjan
Mr Michael Marshall	Dr Enrico Parmegiani	Ms Felicity Reynolds
Ms Carol McCaskie	Dr Martyn Patfield	Ms Vanessa Robb
Ms Karen McMahan	Dr Daniel Pellen	Ms Pamela Rutledge
Mr Mark Oakman	Dr Sadanand Rajkumar	Ms Jacqueline Salmons
Ms Lynne Organ	Dr Vanessa Rogers	Dr Peter Santangelo
Ms Anne Scahill	Professor Alan Rosen	Ms Alice Shires

PART TIME MEMBERS		
LAWYERS	PSYCHIATRISTS	OTHER
Ms Rohan Squirchuk Mr Bill Tearle Mr Gregory West	Dr Satya Vir Singh Dr Sarah-Jane Spencer Dr Gregory Steele Dr Victor Storm Dr Stephen Susil Prof Christopher Tennant Dr Paul Thiering Dr Susan Thompson Dr Jennifer Torr Dr Yvonne White Dr Rosalie Wilcox Dr Rasiah Yuvarajan	Assoc Prof Meg Smith Ms Bernadette Townsend Ms Pamela Verrall Ms Kathryn Worne

The Tribunal offers its appreciation to the following members whose appointments ended during 2020/2021		
Dr Sidney Williams	Assoc Prof Kimberlie Dean Dr Rosemary Howard	Ms Janet Koussa