2014/15

Annual Report

Mental Health
Review Tribunal

The Hon Pru Goward MP
Minister for Mental Health
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Minister

I enclose the Annual Report of the Mental Health Review Tribunal for the period from 1 July 2014 to 30 June 2015, as required by section 147 of the *Mental Health Act 2007*.

Yours sincerely

Professor Dan Howard SC
PRESIDENT

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THE VALUES WE BRING TO OUR WORK

The Mental Health Review Tribunal is an independent Tribunal that 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 and of our role in promoting 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, considering 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 patient in the least restrictive environment; and 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'.

PRESIDENT'S REPORT

I am pleased to present the Annual Report of the Mental Health Review Tribunal for 2014/15, which has been a most productive and innovative year.

2014/15 has been a busy year. In keeping with the trend over the past several years, the Tribunal's workload has continued to increase steadily. We have consolidated a number of new initiatives that we introduced last year and have continued to be innovative in our contribution to law reform and improvement of the Tribunal experience for those persons appearing before us. We have worked hard to ensure optimum results in relation to transparency of the Tribunal's processes, stakeholder and community engagement, and in achieving recovery-oriented outcomes, for those whose matters we hear and determine, that are the least restrictive outcomes consistent with safe and effective care.

Looking at the Statistics

The Registrar's Report herein contains a detailed summary and breakdown of the Tribunal's hearing statistics and other data. I will make a few observations about these here.

Hearings are our core work. The Tribunal's total number of hearings increased by over 4% (618 hearings) in the civil division, to a total of 16,039 hearings. The greatest increase was in the number of mental health inquiries, up by 6.4% or 401 hearings for a total of 6,633 for the year. A Mental Health Inquiry is the initial hearing held by the Tribunal after a person has been detained in a mental health facility, and this represents a statistically significant increase in the number of persons being involuntarily admitted to and detained at a mental health facility. Whilst interpretation of these numbers must be guarded without more detailed research into each case, it is pertinent to note that the NSW Bureau of Crime Statistics and Research identified a very large increase in the number of offences for possession or use of cocaine or amphetamines (in the vicinity of 40%) for the first half of 2015 and similar increases overall for the year 2013/14. There has also been a steady (but smaller) percentage increase in the number of offences for possession or use of cannabis over the same periods. That use of these drugs can trigger symptoms of mental illness is a well-established fact. The long experience of the Tribunal is that a substantial proportion of those appearing before the Tribunal have substance use issues in addition to mental health issues.

There was a moderate increase in ECT administration applications for involuntary patients of 8% to 758 in total for the year.

In other respects, our hearing numbers across the various types of matters that we hear in the Tribunal's Civil Division have remained reasonably steady.

The Tribunal's members continue to keep a lookout for systemic issues as well as individual cases that require attention beyond that which can be achieved at a hearing, and report these matters to the Tribunal's executive for further action, where possible and appropriate. I would like to acknowledge the significant contribution of Deputy President Maria Bisogni, who is responsible for the Tribunal's Civil Division, and of the Civil Division's staff, whose diligence and skill in attending to these issues is one of the Tribunal's continuing and strong contributions to the improvement of mental health in NSW.

The Tribunal's Forensic Division staff have continued to bring the highest professionalism to bear in their demanding role of not only preparing the complex hearing briefs for our forensic patient reviews, but also in the ongoing care and diligence that they exercise in monitoring the progress of forensic patients who have been conditionally released into the community. I extend my sincere thanks to them for their great contribution to the Tribunal's work, and to Deputy President Anina Johnson, whose leadership of the Forensic Division has been outstanding.

In the Tribunal's Forensic Division, the number of forensic patients under the Tribunal's jurisdiction increased in 2014/15 from 422 to 448, in keeping with the slow but steady rise trend over the past several years. Total cases referred by the Courts on a finding of 'Not Guilty on the Grounds of Mental Illness' (NGMI) increased from 24 last year to 32 (a 33.3% increase) and referrals from the Courts to the Tribunal of persons found unfit for trial increased from 44 to 57 (an increase of 29.5%), although the number of new limiting term matters referred from the courts to and heard by the Tribunal fell from 11 last year to 8 this year. The total number of hearings in the Forensic Division increased by 4.6% to 1,017 for the year.

I noted in the Tribunal's last annual report that the upward trend in the total number of forensic patients will continue to put pressure on bed-flow in the forensic system, which will need to be adequately resourced by government to manage this situation. This is not a new issue, and policy makers across the sector must address this issue into the future through adequate resourcing and management strategies.

In the Forensic Division there was a significant increase in the number of forensic patients granted conditional release – up from 11 last year (and 8 for each of the previous two years) to 18 in 2014/15, an increase of 64%. This has been in part due to the availability of a small yet critical number of four 'HASI Plus' packages made available through the Ministry of Health. Funding of these housing and support packages, which are delivered through the engagement of NGO's skilled in this area, has provided accommodation and a high level of support in the community. This has enabled these forensic patients, who have made excellent progress in their rehabilitation journey, to be conditionally released into the community, thereby providing some much needed relief to the bed-flow situation. In addition, the Tribunal has conditionally released two persons with intellectual disability, who have had limiting terms imposed, into high level supported accommodation provided by the Criminal Justice Program within the NSW Office of Ageing, Disability and Home Care. The Tribunal continues to review conditionally released forensic patients regularly under the *Mental Health (Forensic Provisions) Act1990* and to monitor their progress and compliance with their conditions of release.

There is still much to be done to address the bed-flow and alternative pathway issues into the future, and the success of the HASI Plus program indicates that this kind of program can make an important difference. The current HASI Plus funding has provided a viable pathway back to the community for a number of Civil and Forensic patients, but extends only to 2016, and it is vital that programs of this kind continue to be funded. Whilst the National Disability Insurance Scheme is still being piloted, the extent to which it will extend to ensure the safe and effective support of forensic patients in the community remains a work in progress. Until this becomes clearer, continued HASI Plus funding will assist the mental health system to ensure the safe placement in the community of forensic and 'long (hospital) stay' civil patients, at a cost far less than hospitalisation.

Deputy President Anina Johnson's and Team Leader Siobhan Mullany's Forensic Division Report herein provides more details about bed-flow and patient accommodation issues and highlights two significant developments that the Tribunal has encouraged.

Statutory Changes

Mental Health Act 2007

The Tribunal has been closely engaged, along with other stakeholders, with making recommendations for the review of the *Mental Health Act 2007*. This has involved a good deal of input from the Tribunal's executive as to the contents of the amendments and their implementation once the amendments commence. I extend my gratitude to all staff members who have been engaged in this extensive process. It is appropriate that I briefly mention here some of the chief amendments.

The *Mental Health Amendment (Statutory Review) Act 2014*, was assented to on 28 November 2014, and is due to come into operation in August, 2015. There are a number of important new provisions in the amended Act. The objects in s4 of the Act have been expanded to acknowledge the importance of promoting recovery of mentally ill and mentally disordered persons; this acknowledges the benefits of a recovery-oriented approach to mental health, which the Tribunal endeavors to give expression to in its approach to hearings and outcomes.

Important changes have also been made to the Principles of Care and Treatment contained in s68 of the Act, in particular, the addition of (h1) which provides:

> (h1) every effort that is reasonably practicable should be made to obtain the consent of people with a mental illness or mental disorder when developing treatment plans and recovery plans for their care, to monitor their capacity to consent and to support people who lack that capacity to understand treatment plans and recovery plans.

This addition acknowledges the importance of clinicians engaging in a consensual process with the person, wherever reasonably practicable, when developing treatment and recovery plans for that person. This also accords with modern recovery principles.

Another significant change is the statutory recognition given to the role of a person's 'Principal Care Provider', who is given similar rights under the Act as the 'Designated Carer' (formerly called the 'primary carer'). A person may also now nominate up to two designated carers.

New section 72B of the Act requires clinicians, where it is reasonably practicable to do so, to take into account information provided by any designated carer, principal care provider, relative or friend of the patient or person, as well as any medcial practitioner or other health professional who has treated the patient and any person who brought the person to the mental health facility, when making decisions to admit a person to or discharge a person from a mental health facility. This will help to ensure that a greater voice is given to those persons, who will often have a great deal of insight into, and first-hand experience of, the person's illness.

There have been a number of procedural changes to the Act that give additional flexibility to the Tribunal's processes, particularly in relation to deferring discharges from hospital in appropriate circumstances and in waiving certain formal requirements in CTO applications.

Importantly, for the first time the Act will require a Statement of Rights to be given to voluntary patients, and the interests of children have been further safeguarded by the requirement that they have legal representation when appearing before the Tribunal, and that ECT in respect of any person under 16 cannot proceed without being approved by the Tribunal, with the requirement that a certificate must be provided from a psychiatrist with expertise in the treatment of children or adolescents.

There are new provisions that authorise certain examinations by accredited persons and also the use of audio-video link for examinations of persons in certain circumstances. This will significantly enhance service delivery in remote areas of the State.

The Tribunal's Hearing Kit, available on our website, is in the process of being updated to reflect these changes.

Revocation of Financial Management Orders

For some time the Tribunal has advocated statutory amendments to enable the Tribunal to revoke financial management orders on the basis of a 'best interests' test. On 15 May 2015 an amendment to section 88 of the *NSW Trustee and Guardian Act 2009* came into effect. That section now allows the Tribunal to revoke a financial management order based on the best interests of the protected person. This is in addition to a revocation based on a person's regained capacity. Another important amendment is that a person who is currently a patient may apply to have an order revoked. Previously, the Tribunal could only entertain applications for protected persons who ceased to be patients. These amendments allow more flexibility to make a revocation order in appropriate circumstances, even if the protected person has not regained capacity, or whilst they remain a patient. This applies to civil and forensic patients, and this added flexibility will assist the Tribunal in promoting their recovery, where it is appropriate to do so, by restoring a person's financial autonomy.

Transparency

The Tribunal has continued its efforts to ensure that its procedures are appropriately transparent and that information about the Tribunal is readily accessible to the public.

'Official Reports' of Tribunal proceedings

Last year the Tribunal commenced to publish 'Official Reports' of important and illustrative decisions of the Tribunal's Forensic Division as part of our drive to enhance the transparency of our processes, and the opportunities of others to better understand these. After negotiations with AUSTLII, they arranged this year to publish our official reports on the AUSTLII website, so that they are now readily available on-line at: http://www.austlii.edu.au/au/cases/nsw/NSWMHRT/

They are also available on the Tribunal's website at http://www.mhrt.nsw.gov.au/the-tribunal/

We have now expanded our Official Reports to include selected decisions in the Tribunal's Civil Division and the first of these (a determination setting out a number of important principles for reviews of voluntary patients) was delivered in May 2015.

Practice Directions

The Tribunal issues Practice Directions under the *Mental Health Act 2007* and sees these as an important way of ensuring that the procedures of the Tribunal are transparent and readily accessible. The Tribunal has issued new practice directions during the year relating to ECT determinations and 'maintenance ECT'; Mentally Disordered Persons; and in relation to Notification to the Minister for Health and the Attorney General regarding forensic patient reviews and reasons. These are available on the Tribunal's website at http://www.mhrt.nsw.gov.au/the-tribunal/practice-directions.html

DVD Project

This year the Tribunal, together with the Mental Health Commission, engaged Northern Pictures to produce three short educational DVDs on the processes of the Tribunal. The first is for persons having a matter before the Tribunal, the second for clinicians presenting a matter to the Tribunal and the third for lawyers appearing before the Tribunal. The final cuts are currently being edited and we expect the project to be completed in late 2015. These will be made available on the Tribunal's website and will be distributed to various mental health facilities.

We anticipate that these DVDs will be of considerable practical assistance in explaining how a Tribunal hearing works and how to participate effectively in a hearing. The aim is to 'demystify' the process and to reassure, as well as to educate with a view to optimising the hearing experience and outcomes.

The Tribunal wishes to express its gratitude to the Mental Health Commission for its support with this project and to Northern Pictures, whose experience in producing the ground breaking 'Changing Minds' series broadcast during Mental Health Week last October, will be invaluable in the production of our DVDs. I also thank the Tribunal's Registrar, Rodney Brabin, for his determined efforts in bringing this ambitious project to fruition, and also acknowledge the Tribunal members and staff who have participated in the production of the DVDs.

Statement of Values

The Tribunal has updated its statement of the 'values that we bring to our work' – this can be found at the front of this report (see page v).

Ongoing Education and outreach

The Tribunal has continued to provide regular professional development sessions for its members and staff, as well as providing outreach presentations about the Tribunal to staff at a number of mental health facilities and community mental health services. Tribunal members have made presentations to community groups, judicial officers, clinicians at the Forensic Hospital and at a variety of conferences including the inaugural Justice Health Forensic Mental Health Conference and the ANZAPPL conference held in Sydney. Deputy President Maria Bisogni has prepared an important paper to present in July, 2015 at the IALMH Conference at Sigmund Freud University in Vienna, about the role of an advocate at a Tribunal hearing, and a number of our members will be making a presentation to that conference on the hearing of a Community Treatment Order application by our Tribunal.

Welcome to the New Minister for Mental Health

After the State election in 2015, The Hon. Pru Goward MP was sworn in as the new Minister for Mental Health (in addition to a number of other responsibilities in her portfolio). On behalf of the Tribunal, I welcome her to this challenging and important role. I also extend the Tribunal's thanks to her predecessor, Jai Rowell MP, for his ready accessibility and responsiveness to matters of interest raised by the Tribunal. We wish him well in his future endeavours.

Members

The Tribunal's 120 part time Members have continued to provide the highest quality of service to the Tribunal, and I extend my personal thanks to them all for the deep commitment, wisdom and skill that they have each brought to our work this year. The increased number of hearings has required diligence and skillful management of the hearing lists and the Members have been very ably supported in this by the Tribunal's hard working staff.

This year the Tribunal has been conducting Member performance appraisals. The appraisal system is based on a set of competency standards and performance indicators drawing on the Tribunal's existing standards and from the "Competence Framework for Chairmen and Members of Tribunals" (2002) and the "Fundamental Principles and Guidance for Appraisals in Tribunals and Model Scheme" (2003) published by the Judicial Studies Board (UK). This is consistent with the approach taken by other Australian Tribunals. The process involves observation and video-recording of members during hearings and providing feedback, as well as an opportunity for members to review and reflect on their competencies and to provide the Tribunal with important feedback on professional development needs. Observations have been carried out by Deputy Presidents Maria Bisogni and Anina Johnson, with reports and comments being forwarded to the member and a copy to me. I am very grateful to the members for participating, and to Maria and Anina for their helpful and thoughtful feedback to members, and for ensuring the success of this process. I am pleased to say that the appraisals have confirmed that the members continue to maintain a very high standard of competence and bring a great deal of experience,

wisdom and knowledge of the best contemporary mental health practices to our hearings.

Comings and Goings

I express the Tribunal's thanks to the Hon Mark Marien SC and to Geoffrey Graham who have moved on from their roles as part time Deputy Presidents, and our thanks and congratulations to Tracy Sheedy, a valued legal member, who has been appointed to the bench of magistrates.

I note with sadness the passing of former Deputy President the Hon Ken Taylor and of former psychiatrist member Dr Maurice Sainsbury who both passed away in late 2014. Both were highly respected and made large contributions to the Tribunal's work, and will be greatly missed by their former colleagues.

The Tribunal was also pleased to welcome a new psychiatrist member this year, Dr Sarah-Jane Spencer who brings with her a wealth of experience in forensic psychiatry.

Some Challenges

There remain countless challenges in the mental health sphere and the Tribunal has a significant role to play in meeting those challenges. I have mentioned above the Tribunal's growing caseload and some issues relating to bed flow management. I will mention two further matters here.

The Mental Health Commission's Strategic Plan

In December 2014, the Mental Health Commission released its important report entitled Living Well – a strategic plan for mental health in NSW 2014-2024 that maps out a root and branch blueprint for re-casting the delivery of mental health services in NSW, with a significant emphasis on better access to integrated mental health services in the community. The Commission acknowledges that such changes are long overdue. The Tribunal supports the Commission's ongoing efforts to bring the strategic plan into effect. The plan can be found at: http://nswmentalhealthcommission.com.au/our-work/strategic-plan The government's positive response so far has resulted in its proposals for Strengthening Mental Health Care in NSW and a boost of $115 million in mental health spending over the next three years; see: http://www.health.nsw.gov.au/mentalhealth/Pages/default.aspx The Tribunal and the Commission have instigated regular meetings to discuss ongoing systemic challenges, and how they can best be met. We are developing an information sharing protocol with the Commission that will facilitate this process whilst also maintaining information privacy obligations.

Forensic Patients' Pensions

The Federal Government has introduced a bill entitled the Social Services Legislation Amendment Bill 2015 which, if passed, will have the consequence of denying social security payments to persons in psychiatric confinement who have been charged with a serious offence. The changes aim to save the federal budget the relatively small sum of $30 million over four years. If passed, the proposal is likely to have a seriously detrimental impact upon the well-being and therapeutic progress of these patients who are among the most disadvantaged in our society. The bill is an example of how poorly understood the forensic mental health system is, and on behalf of the Tribunal, I wrote a letter to the responsible Senate Standing Committee, urging that the proposed legislation not proceed. In addition, Deputy President Anina Johnson gave evidence before the Senate Committee, effectively articulating the Tribunal's concerns.

Division Reports and Registrar's Report

I commend to you Deputy President Maria Bisogni's and Team Leader Danielle White's report on the Tribunal's Civil Division, Deputy President Anina Johnson's and team leader Siobhan Mullany's Forensic report on the Tribunal's Forensic Division, and the report of, and statistics compiled by, the Tribunal's tireless Registrar, Rodney Brabin. These informative reports are set out below and indicate the scale and breadth of our work and the many positive achievements that the Tribunal has accomplished this year, not only in our core hearing work,

but also in the important inter-agency and broader liaisons, which are so critical to our continued efforts to meet the challenges of providing a modern, efficient Tribunal that is responsive both to the recovery needs and goals of the persons whose matters we hear, and to the community interests inherent in our work.

The Tribunal is indeed fortunate to have so effective a Registrar as Rodney Brabin, who has continued to manage the Tribunal's staff, listings and office administration (including, amongst many other important tasks, a major upgrade this year of our case management system database) with the consummate skill and approachability that are his trademarks.

On a Personal Note

The Tribunal's staff members have performed magnificently throughout this busy year, and I thank them all most sincerely for their dedication, professionalism and constant good humour, which has been an inspiration.

Last of all, I have informed the Minister that I propose to relinquish my role as President at the end of calendar year 2015. As this will therefore be my last annual report, I will take this opportunity to say that I have been truly privileged to be involved in the work of the Tribunal as a part time Member since 2008 and as its President since June, 2012. After more than 40 years in the law, I have decided to cut back my commitments to some degree, although I hope to continue to make a contribution to mental health in NSW in other ways.

The President's role at the MHRT is a demanding but very rewarding one, and I cannot think of a time in my career that I have enjoyed more than my years at the MHRT. This is a fine Tribunal that makes a powerful contribution to mental health in NSW and whose members and staff are deeply committed to achieving the highest standards in their work. I have thoroughly enjoyed being a part of such a wonderful team, I have made many good friends, and I will leave with many fond memories. To all of my colleagues here I extend my great thanks and admiration, and every good wish for the future.

Professor Dan Howard SC
President

FORENSIC DIVISION REPORT

The work of the Forensic Division continues to grow. In total, there were 448 forensic and correctional patients at the end of the reporting period. This represents a 6% increase on the number of forensic and correctional patients in 2013/2014. The number of hearings held increased by 5% to 1019.

This increase is consistent with the trend of the last 18 years, which has seen a tripling of the number of forensic and correctional patients over that period. The increasing number of forensic patients creates an inevitable pressure on the resources available to offer mental health care and treatment in the least restrictive environment.

Recovery in a forensic context

The principles in section 68 have always emphasised that people living with a mental illness should be offered care and treatment in the least restrictive environment. Forensic patients who have received a finding of not guilty by reason of mental illness (347 of the current 448 current forensic patients as at 30 June 2015) are subject to an indefinite period of control over their lives and living conditions. As such, it is vital that the arrangements for the detention of forensic patients only restrict their circumstances in so far as it is necessary for their treatment and the community's safety.

Amendments to the section 68 Principles of Care and Treatment in the *Mental Health Act 2007*, come into effect on 30 August 2015 and refer to the importance of supporting people with mental illness to plan for and pursue their own recovery. In a forensic context, this often involves supporting people, through various therapies, to understand their illness and to take responsibility for living safely and well.

The Tribunal has highlighted its concerns about these issues in many of its previous annual reports. We are pleased to report some improvements this year, as well as some ongoing difficulties.

Improvements

There have been several positive developments which have enhanced recovery opportunities for forensic patients in the past year.

Many previous annual reports have noted the significant delays faced by female forensic patients waiting to be transferred to a less secure setting. In the Tribunal's last annual report, we noted that the Bunya Unit of the Cumberland Hospital had decided to prioritise the admission of female forensic patients. This has led to an enormous improvement in the time that female patients spend waiting for admission to a medium secure unit. In all, four women were transferred from the Forensic Hospital to the Bunya Unit and one woman was admitted to the Bunya Unit from the community after relapsing. On 30 June 2015, there was only one female patient waiting to move to the Bunya Unit, and that was only because a slow and staged transition process had been approved by the Tribunal.

In the Tribunal's last annual report, we also noted that the Forensic Hospital had begun to offer limited therapeutic outside leave to its patients. This allows those patients waiting for a bed at a medium secure unit some hope, and the chance to begin reconnecting to the outside world. This program has been a real success, as the case study below illustrates. Eleven patients utilised the leave during the year, including three women. The leave is approved and closely monitored by the Forensic Hospital's Therapeutic Leave Committee.

Case study

Since 2010, Mr M has been detained in a secure environment, at first in the Metropolitan Remand and Reception Centre (MRRC) at Silverwater and then at the Forensic Hospital. He has significant mental illness and was abusing drugs and alcohol prior to committing a serious offence. He was found not guilty by reason of mental illness of that offence.

In April 2015, the Tribunal made an order that Mr M be transferred to a medium secure unit when a bed became available. He was also granted escorted day leave from the Forensic Hospital.

Mr M recently used his escorted day leave for the first time, accompanied by three staff members. He told the Tribunal that for the first time in 5 ½ years, he had taken off his shoes and walked on the beach. He said it felt "amazing". The experience gave him an incentive to strive to get his freedom back and reminded him what life is like "out there". Mr M told the Tribunal that the leave "gave me hope" and he was really looking forward to the next outing.

The Tribunal also continues to work with the Justice Health and Forensic Mental Health Network, Family and Community Services (Ageing, Disability and Homecare) and Corrective Services to develop a process for bringing appropriate leave and conditional release applications before the Tribunal. This is particularly important for those forensic patients who have a limiting term and who do not have a mental illness. These patients have traditionally spent the entirety of their limiting term in custody. When they leave custody they have no further supervision. This makes a safe transition to community living more difficult.

Leave from custody, and the opportunity for conditional release, offers a graduated, supported and monitored return to the community which reduces the likelihood of reoffending and better supports the patient's recovery and rehabilitation.

Case study

Mr N has a mild intellectual disability, but no mental illness. He had killed another drinker in a pub, whilst drunk, and a lengthy limiting term had been imposed. Mr N had a range of risk factors for future violence, in particular, alcohol misuse. However, he had not been violent in custody and had maintained a strong connection with his wife, her family and their young children. The Tribunal noted the evidence of the MRRC's clinical nurse consultant:

Mr N has now been in custody for over nine years and aside from restrictions on freedom any further confinement in gaol carries with it a variety of collateral consequences which in Mr N's case may include the loss of employment opportunities, the disruption of family life, loss of social skills and a very high risk of institutionalisation. Serving his full limiting term may be in fact counterproductive and actually exacerbate the factors associated with reoffending especially as the relationship with his family members may deteriorate over the coming years

In July 2014, the Tribunal granted Mr N leave to reside at drug and alcohol rehabilitation facility to undertake their drug and alcohol program. This program includes access to educational and vocational pathways. Leave to the facility also offered a stepping stone between high secure correctional facilities and community living.

Without leave, Mr N would have almost no chance of conditional release and would have spent all of his limiting term in custody. There would have been no supervision of his community reintegration. Importantly, he might also have lost the chance to become an integral part of his young family. It is Mr N's drive to be a good father which motivates him to stay away from alcohol, drugs and violence. The Tribunal has prepared an Official Report published under the name: Mr Naylor [2014] NSWMHRT 5 and available on the Tribunal's website and on AUSTLII.

Since amendments to the *Mental Health (Forensic Provisions) Act1990* in 2008 the Tribunal has been able to make Community Treatment Orders for forensic and correctional patients to facilitate the provision of mental health treatment and medication in custody. These orders, known as Forensic Community Treatment Orders (FCTO's), offer a tool for improving the mental health of those in a custodial setting. On release, a FCTO can be varied so that it is implemented by a local Community Mental Health Team. This is one way of developing mental health support for people leaving custody (see Mental Health Commission's Strategic Plan – Action Item 6.6.1).

The Tribunal was very pleased to see that in 2014/2015, 34 FCTOs were made, which reflects an increased focus by Justice Health staff in correctional centres on applying for FCTOs. This is double the number of FCTOs made in 2013/2014, which in turn was double the number made in 2012/2013.

In this reporting year, the Tribunal has conditionally released 4 forensic patients into HASI Plus accommodation. HASI Plus is an expansion of the New South Wales Housing and Accommodation Support Initiative (HASI) program that provides 16 to 24 hour supported accommodation. One more forensic patient is transitioning to that accommodation. The transition arrangements are very successful and the Tribunal has been told that the extensive therapeutic work undertaken by forensic patients makes them ideal participants in this recovery based program. HASI Plus beds are also available to people leaving custody with who have severe and persistent mental illness.

The Tribunal continues to improve the transparency of its processes. In April 2015, the Tribunal published a Practice Direction which sets out the arrangements for providing notice of hearings to the Minister for Mental Health and the Attorney General, as required by section 76A of the *Mental Health (Forensic Provisions) Act1990*. Many of these arrangements have been in place for more than five years, but this is the first time that they have been documented and publicly available.

The Tribunal was pleased that as part of this process, the Ministers agreed to some practical adjustments to the notification arrangements which will avoid unnecessary delays in the implementation of Tribunal decisions, and improve the availability of beds for forensic patients.

The Forensic Division has continued its positive working relationships with key stakeholders in the field of forensic mental health, including the Ministry of Justice, the Justice and Forensic Mental Health Network, Legal Aid NSW, Corrective Services NSW, Family and Community Services and victims' organisations. The Tribunal values the strong working relationships that it has with the many stakeholders in this area. The Tribunal's role in these improvements is a testimony to the strength of these relationships.

Challenges to recovery

The Tribunal remains very concerned at the length of time that patients spend waiting in correctional centres before they are transferred to the Forensic Hospital. As at 30 June 2015, there were 14 patients in a correctional centre who have current Tribunal orders to be detained in the Forensic Hospital when a bed becomes available. Six had been waiting in custody for more than a year since the Tribunal order was made, and their total time waiting in custody exceeded two years.

There are few therapeutic programs available in the correctional centres where most forensic patients are detained, so that time spent waiting in custody serves little therapeutic purpose. Patients feel that they are being punished, rather than offered treatment. Not surprisingly, patients in this situation begin to lose hope and with it, their motivation to continue along their recovery journey.

As at 30 June 2015, there were ten patients who had been assessed as ready to leave the Forensic Hospital and were waiting for a bed in one of the medium secure forensic units at the Cumberland, Bloomfield or Morriset Hospitals. Again, several patients have been waiting more than a year for transfer.

In the Tribunal's experience, approximately one third of the 74 patients detained in medium secure units could live safely in low secure accommodation, or in highly supported community accommodation, if that accommodation were available. The expansion of the highly successful HASI Plus program could accommodate some of these patients, while the development of other forms of accommodation for forensic patients would free up valuable resources in high secure and medium secure units for those who need it most. The Tribunal notes that similar problems have been identified by the Mental Health Commission in other areas of the mental health system (see Strategic Plan, Chapter 5).

Finally, there are 12 elderly forensic patients, the majority on limiting terms, who were assessed as being suitable for nursing home care, but were instead detained in custody. The custodial environment is not suitable for aging patients who often have significant physical needs.

The Tribunal welcomes the needs analysis being undertaken by the Justice Health and Forensic Mental Health Network which is expected to offer concrete evidence for the Tribunal's long held views on this issue. This research is an evidence based review of all forensic patients, covering their social and clinical needs including needs related to the patient's security, dependency, social, functional ability and treatment. The risk assessment tool will also assess the patient's own recovery goals. These recovery needs and goals will be compared to the level of service and security in which the person is currently detained.

On a different note, the Tribunal is concerned by the delay in responding to the Law Reform Commission's (LRC) reports No 135 and 138 (concerning the criminal law and procedure applying to people with cognitive and mental health impairments). These reports were handed down in 2012 and 2013 and identify some significant deficiencies in the structure of the*Mental Health (Forensic Provisions) Act1990*. There are also other procedural issues and legislative ambiguities which the Tribunal wishes to clarify, but which are not given any priority until there is a response to the LRC report. Progress on these reforms appears to have stalled and deserves priority.

Interstate Forensic Patients

The importance of facilitating interstate agreements for transfer of forensic patients to other States has been consistently noted in previous Annual Reports. Only some States (NSW, Victoria and Tasmania) have enabling legislation and no interstate agreements are yet in place. Proximity to family, community and cultural ties is often a critical aspect of a patient's recovery. Family and country is particularly important for Aboriginal and Torres Strait Islander patients. The Tribunal has identified a number of forensic patients who would be appropriate candidates for an interstate transfer but these transfers cannot be progresses as there are no interstate agreements in place with the relevant States or Territories.

Recently, courts have made several orders conditionally releasing patients to live in other States. This makes it very difficult for the Tribunal to monitor the patient's safety and engagement with treatment. If there was the ability to transfer a patient's care to another State, this difficulty could be overcome.

The review of the *Mental Health Act 2007* (that empowers the establishment of interstate agreements) has been completed and the Tribunal hopes that negotiations by the Ministry of Health with other States and Territories can now proceed.

Research

The Tribunal remains to be an active partner in the successful National Health and Medical Research Council (NHMRC) Partnership Project “Improving the Mental Health Outcomes of People with Intellectual Disability”. The project aims to improve mental health outcomes for people with intellectual disability. This work is of great importance as people with intellectual disability experience very poor mental health and encounter major barriers to effective treatment. A number of important findings are already emerging from this work, including a paper dealing with the increased mortality levels for those with intellectual disability and mental illness.

Victims Register

The Forensic Division continues to manage the Forensic Patient Victims Register, through which it notifies victims of upcoming hearings and the outcomes of those hearings. The Tribunal regularly updates the information for victims that is available on its website and keeps abreast of victims’ concerns through its membership of the Victims of Crime Interagency Forum.

Thanks

The members and staff of the Forensic Division handle their ever increasing workload with skill, compassion and good humour. Our sincere thanks to them all.

Siobhan Mullany	Anina Johnson
Team Leader	Deputy President

CIVIL DIVISION REPORT

Law Reform

A major focus for the Tribunal in the reporting past year has been engaging with its major stakeholders in widespread consultation about the review of the *Mental Health Act 2007* ('the Act'). The *Mental Health (Statutory Review) Act 2014* was passed by Parliament in November 2014 and is due to commence in the second half of 2015. The review of the Act has given the Tribunal an invaluable opportunity to recommend changes it considers will make the Act work more effectively. The conduct of many thousands of hearings means that the Tribunal has been well placed to identify helpful changes. The Tribunal supports strengthening person centred care such as to enable consumers to participate meaningfully in their own care and treatment decisions and the Tribunal understands the application of 'recovery' principles will be a key reform. A strong statement about 'recovery' will be important in effecting real cultural change and will complement the NSW Mental Health Commission's Strategic Plan of 2014. At the heart of the Plan is supporting persons living with mental illness or disorder to recover and live well in the community. The changes to the Act will bring NSW legislation in line with steps that have been taken or are about to be taken, in Tasmania, Victoria, Western Australia, the ACT and Queensland.

As the President said in his report, on 15 May 2015, section 88 of the *NSW Trustee and Guardian Act 2009* was amended to enable the Tribunal to revoke a financial management order for a 'protected person' who 'is or ceased to be a patient' based on their best interests. This amendment brings the *NSW Trustee and Guardian Act 2009* into alignment with the tests for revocation in s 25P of the *Guardianship Act 1987*. The Tribunal had advocated for these amendments for some time and they are very welcome. It means that consumers will be able to apply for the revocation of orders on the same footing as persons whose orders have been made by the Guardianship Division of the NSW Civil and Administrative Tribunal (NCAT), formerly known as the Guardianship Tribunal. It will bring much needed consistency between the two Tribunals and put an end to forum shopping. The 'best interests' test will mean that the Tribunal can take into account broader considerations beyond the interests of the person's estate and which are focussed upon consumers well-being and welfare. The new test dovetails with the 'recovery' focus of the amended *Mental Health Act 2007* and means that in some cases a consumer may be allowed to regain control of their finances to give them an opportunity to demonstrate they can be responsible for their affairs. It is anticipated that there will be a steady increase in the number of applications for revocation.

In anticipation of these reforms the Tribunal embarked on a wide ranging review of its internal and external resources, including the Civil Hearing Kit, Member's Manual, and Information Sheets for consumers, education and training resources and Order forms.

Key statistics

Statistics relating to each head of jurisdiction in the civil jurisdiction have remained largely stable for the last few years. As noted in the Registrar's report, this year there was an overall increase in hearings by 3.9%, with most of this being attributed to an increase in mental health inquiries. Of the 17,222 Tribunal hearings that took place, 16039 were for civil patient hearings under the *Mental Health Act 2007* .

There was a notable increase in mental health inquiries which were up 6.4% or 401 more hearings (total of 6,633); followed by Involuntary Patient Review hearings from 2,422 in the previous year to 2,585 (up 6.7% or 163 hearings). The number of hearings to consider applications for Community Treatment Orders (CTOs) increased marginally by 73 (or 1.4%) to 5142 this year. The CTO determinations made were for a total of 3473 affected persons.

Appeals against the authorised medical officer's refusal to discharge decreased slightly from 649 in the previous year to 643 with 520 being dismissed and 11 patients being discharged, being 1.7%. These appeals related to 503 individuals.

There were 758 hearings to consider applications for ECT in relation to involuntary patients, 10 applications for forensic patients and one application for review of the capacity of a voluntary patent to consent to ECT. ECT was approved in 649 cases.

Under the *NSW Trustee and Guardian Act 2009* the Tribunal conducted 170 hearings for Financial Management Orders (down from 191 in 2013/14). Interested parties were responsible for 106 applications for a financial management order, there were four hearings to review interim financial management orders, 24 hearings to consider applications for revocation of financial management orders and the remaining 36 financial management hearings were considered at mental health inquiries. The Tribunal made 72 financial management orders. An order for the revocation of the financial management order was made in 17 cases. Amendments to s88 of the *NSW Trustee and Guardian Act 2009* are likely to result in more applications for revocation (see below).

As the Registrar's report notes, the trajectory is for increased hearing loads. The ever-present challenge for the Tribunal is to ensure that it continues to provide transparent, fair and accessible review within a context of limited resources. To cater to the demand for increased hearings the Tribunal, this year has changed the commencement time of hearings held at Gladesville, which has given some flexibility to list additional cases.

Recovery

The amendments to the *Mental Health Act 2007* will refer to person centred care and the Tribunal has taken steps to be ready to apply the concepts of 'recovery' and 'trauma informed' care. As noted in last year's annual report, in 2013, the Tribunal and the Mental Health Commission jointly held a recovery forum to increase the Tribunal members' understating of these concepts and to consider how they might guide Tribunal hearings. This year the Civil Division has embarked on the rewriting of information packages (Civil Hearing Kit, Information Sheets) and its policies, manuals and training resources with these concepts in mind. Anecdotally, there is good evidence that Tribunal members, in appropriate cases, are leading by example and bringing a recovery focus to hearings. All parties at hearings can expect that the Tribunal will concern itself with the subject matter of the application and more broadly about how the consumer can play a greater role in decisions about their care, treatment and well-being and how they might be supported to recover and live well.

The current Act provides mechanisms for recognising that a patient is in recovery by allowing the Tribunal to make decisions about the care and treatment of patients in hospital on a voluntary basis and order less restrictive care such as a CTO or in appropriate cases, make no CTO at all. Amendments to the Act will further expand the Tribunal's power to order voluntary patient status at s44 Appeal Hearings where a patient is asking that the Tribunal discharge them from a mental health facility after it has been denied by an authorised medical officer.

The Tribunal has been very pleased to witness some remarkable examples of recovery as illustrated in the following case study.

Case Study

Mr P is a 58 year old man who was detained at Rozelle and Concord Hospitals for 13 years. He has a diagnosis of severe, treatment resistant schizophrenia. He had 67 prior admissions to hospital and he was first admitted at age 17. His treatment history is characterised by poor medication compliance, drug and alcohol abuse, violence and fire setting. He has been incarcerated for assaults.

He was re-started on Clozapine medication in 2010. The medical evidence at Tribunal reviews for many years was that Mr P was considered at risk of reoffending if not in a highly structured and supervised hospital setting. However, since 2010, improvements were noted in his behaviour and functioning. In 2014, Mr P transitioned from the hospitals 'disability stream' to the 'rehabilitation stream' and from long term maintenance care to psycho-social rehabilitation, with a view to community discharge.

In late 2014 Mr P agreed to remain as a voluntary patient. The psychiatrist noted that 'this symbolised further progress in terms of his recovery, with an increased focus on Mr P taking responsibility for maintaining his own health', and 'while previously it was thought unlikely that he would be able to live independently in the community (even with the highest level of support), this is no longer the case.'

Mr P was accepted by Richmond PRA (Psychiatric Rehabilitation Australia) for supported accommodation and transitioned gradually out of hospital over a six month period. He was discharged by the Tribunal on a CTO in September 2015. Mr P has now fully transitioned to the community and receives high level support and daily visits by the Mobile Assertive Treatment Team.

Continuous Improvement

The Tribunal aims to drive continuous improvement in its processes and for many years has had a referral system in place whereby Tribunal panels can relay to the Executive Members of the Tribunal concerns about particular cases or systemic issues. These are promptly attended to and feedback given to the panels about any outcomes.

In some cases concerns relate to the restrictive conditions of a patient's detention. A consistent theme raised by panels is the comparative lack of accommodation and support options for persons with complex needs. Frequently, consumers who were the focus of the NSW Ombudsman's Report 'Denial of Rights: the need to improve accommodation as support for people with psychiatric disability' (tabled in November 2012) are the subject of concern. The Ombudsman's report identified gaps in service, support and accommodation for a large number of consumers with psychiatric disability.

As noted in recent annual reports, the Tribunal takes an active role in advocating for the appropriate discharge planning of these patients. As has been the practice of the Tribunal for some years now, cases of identified consumers with dual diagnosis of mental illness and cognitive impairment/intellectual disability will continue to be referred to the Mental Health Advocacy Service for legal representation at hearings. This is an important safeguard for consumers who are vulnerable and who might not otherwise have an opportunity for an independent third party to elicit their views and advocate those to the Tribunal. The Tribunal also liaises with the Mental Health Advocacy Service, treating teams and mental health and disability service providers, to identify consumers who could be discharged, with support from hospitals and/or community mental health teams.

In the reporting year the Tribunal has continued to work with the above stakeholders as well as ADHC (Ageing Disability and Homecare) and the NSW Public Guardian to successfully advocate for support and accommodation for a number of individuals who were the subject of the Ombudsman's report. Consistent with the Tribunal's remit under the *Mental Health Act 2007* to make decisions that are the least restrictive, and consistent with safe and effective care, the Tribunal has advocated for this option in a number of challenging cases. The following case studies are examples of successful outcomes for patients, instigated by advocacy from the Tribunal.

Case Study

Mr Y is 31 years old and has longstanding treatment resistant schizophrenia, severe developmental delay and past polysubstance abuse. He has had multiple involuntary admissions to mental health units and is so impaired by his illness that he has spent only 14 months of the last 16 years in the community. Despite trials on the full range of antipsychotic medications he has had a limited response. He is assessed to be a risk of unprovoked assaults due to his persecutory delusions.

Mr Y lacks independent living skills and needs prompting to do all basic activities. He has attacked over 50 staff members. He had been managed in a highly restrictive ward because of his risk of unprovoked assaults. Tribunal panels reported concerns about the restrictive nature of his detention, after which the Tribunal formally advocated for less restrictive options. It enlisted the support of the Official Visitors who shared serious concerns for this patient.

Mr Y's case was considered by the Complex Needs Patient's Committee in December 2014 and a decision was made to transfer Mr Y to another Hospital. He was transferred in March 2015 initially on a temporary 3 month transfer. However, his transition was a very positive experience and Mr Y asked if he could remain and he was eventually accepted as a full time patient. At the most recent Tribunal review Mr Y reported being very happy in his new environment and his treating psychiatrist advised the Tribunal that he has adapted well, with Mr Y reporting on several occasions that he really likes his unit as there is so much more space. Mr Y is interacting particularly well with staff one to one, who engage him in card games and chess. Plans are now being made to transition him slowly to an open ward.

Case Study

Mr C is a 52 year old man with a diagnosis of schizoaffective disorder and intellectual disability, with a history of multiple admissions to mental health units since the age of 28 for impulsive, disruptive behaviours which threaten the safety of others, and for alcohol and cannabis misuse.

He was admitted in 2011 after funding for the supported accommodation he was living in was reduced from 12 to five hours a day. His behaviour deteriorated and he frequently called police and took himself to emergency departments and was evicted after damaging property. The behaviours were due to his poor coping skills, low frustration tolerance and impulsivity.

A Public Guardian was appointed in 2012 to make decisions about accommodation, medical and community services. Evidence was given by Mr C's treating team at a number of Tribunal hearings that Mr C was ready for discharge (with support) as he no longer presented with symptoms of mental illness. Furthermore, that he had been on an ADHC accommodation waiting list since late 2011, but no offer had been made despite requests by the treating team and the Public Guardian. The Tribunal requested the involvement of ADHC at subsequent hearings and that Mr C be represented by the MHAS.

Evidence was given at a hearing in July 2014 that a meeting between the Hospital, Public Guardian and ADHC settled on a plan to house Mr C in a group home after a detailed transition plan was devised by ADHC, including high level support including care for his medical needs. Mr C was gradually transitioned to the group home and was discharged in December 2014.

The Tribunal wishes to ensure that clients have an opportunity to meaningfully participate in the Tribunal process, and is conscious that consumers often are not legally represented at hearings and are sometimes anxious about the hearings. To that end the Tribunal has commenced two important initiatives to enhance the hearing experience for consumers. As the President said in his report, the Tribunal has commissioned a DVD for consumers about Tribunal hearings (in addition to a DVD for clinicians and lawyers) and has trialled a new Client Form. The Form was devised by the Tribunal with the input of the NSW Consumer Advisory Group and the Tribunal also sought the views of the Mental Health Advocacy Service. The Form will give persons appearing before the Tribunal an opportunity to reflect in advance of the hearing about the matters that they wish to raise with the Tribunal in relation to such matters as their treatment and care and their recovery goals. The form will be entirely voluntary and is to be placed only on the Tribunal's file. It is expected that both initiatives of the DVD and Form will be rolled out together later this year.

Where the hearing numbers justify it, the Tribunal seeks to have as many hearings it can in person. To that end, last year the Tribunal trialled attending Croydon Community Mental Health Service in person on a monthly basis due to increased hearing numbers. Croydon had, prior to this, conducted its hearings by telephone. The Tribunal has now included Croydon on the roster on a permanent basis. The Tribunal will continue to monitor the number of hearings at all venues and where the numbers justify it, seek to have face to face hearings, thereby reducing hearings by telephone or video-conference.

External training and liaison

As has been the case for many years now, the Tribunal has continued to deliver education and training sessions to both community and hospital based mental health facilities. In the reporting year, training events took place at the following hospitals: Cumberland, Blacktown, Braeside and Campbelltown Hospitals and also at Lake Macquarie Community Mental Health Services. A paper was given by Maria Bisogni at the Central Coast Legal Conference in December about the jurisdiction of the Tribunal and also about recovery focussed hearings. This paper and presentation were aimed at providing training to legal practitioners who appear before the Tribunal.

Good working relationships with mental health facilities are essential for the smooth and efficient conduct of hearings. The vast majority of hospital based facilities have appointed a Tribunal Liaison Clerk (TLC) whose role is to co-ordinate hearings. TLCs play an essential role in co-ordinating applications to the Tribunal from the facility and then providing support to Tribunal members on the hearing days. They are a key link between the Tribunal and the facility and the work they do is greatly appreciated.

There has also been effective liaison with a large number of bodies who interact with the Tribunal, including NSW CAG, NCAT (the Guardianship Division), the Department of Corrective Services, ADHC, the Mental Health Drug and Alcohol Office, LHD Directors, Directors of Mental Health Facilities, Medical Superintendents and the Mental Health Advocacy Service.

The Tribunal has set down regular meetings with the Mental Health Commissioner with the aim of advising of systemic issues and identifying common areas to work on together. An issue raised by the Tribunal was the requirement of some community mental health facilities that patients on CTOs pay for medication. The Tribunal had written to directors of community mental health facilities advising that the Tribunal's orders were not contingent on payment and the practice has since ceased. An agreement was reached that the Tribunal and the Commission should partner the production of three DVDs (for patients, clinicians and lawyers about appearing before the Tribunal) with the cost to be shared 50/50 between the two organisations. There was also agreement about settling an Information Sharing Agreement between the Tribunal and the Mental Health Commission.

Submissions

The Tribunal provided the Mental Health Drug and Alcohol Office with a submission in respect of their draft policy (Suicidal People - Clinical Assessment and Management by Mental Health Services) acknowledging that discharge to the community for patients can be an extremely vulnerable time and that careful and supportive discharge planning is required to minimise the risk.

The Tribunal undertook an active role in NSW Health's Working Group of the NSW Government's Advance Planning for Quality Care at End of Life: Action Plan 2013-2018. The Working Group is developing and will publish an online resource about advance care planning for end of life in mental health settings. The Group is working on a resource which has been approved for mental health consumers, their families and carers and health professionals, with a view to completion in late 2015. The objective of the resource is to educate these groups about advanced care planning for end of life, including the right to participate in these decisions; express their wishes, choices and preferences and to be supported in their decisions if capacity is lacking.

An acknowledgement of members and staff

The Tribunal thanks its members and staff for their excellent work over the past year. The enormous challenge of Tribunal hearings continues to be met by dedicated and hardworking staff who are committed to the ideals and principles of the *Mental Health Act 2007*. We look forward to meeting the challenges of the next year.

Maria Bisogni	Danielle White
Deputy President	Team Leader

REGISTRAR'S REPORT

As noted in the President's report this has been another busy and challenging year for the Tribunal with considerable time and energy devoted to preparing for the amendments to the *Mental Health Act 2007* which came into effect shortly after the end of this Reporting period (on 31 August 2015). The total number of hearings conducted by the Tribunal increased by 3.9% from 16,579 hearings in 2013/14 to 17,222 in 2014/15 (643 additional hearings).

This means that in the five years since the Tribunal assumed the responsibility for conducting mental health inquiries in June 2010 there has been a staggering 89% increase in the number of hearings conducted. Further details about this increase are discussed below.

Under s47 of the *Mental Health Act 2007* (the Act) a number of matters are required to be included in this Annual Report. Each of the following matters is reported on in Appendix 1:

a) the number of persons taken to mental health facilities and the provisions of the Act under which they were so taken;
b) the number of persons detained as mentally ill persons or mentally disordered persons;
c) the number of persons in respect of whom a mental health inquiry was held;
d) the number of persons detained as involuntary patients for three months or less and the number of persons otherwise detained as involuntary patients; and
e) any matter which the Minister may direct or which is prescribed by the Regulations.

No Regulations have been made for additional matters to be included nor has the Minister given any relevant direction.

In addition to the statutory requirements I report on the following:

Caseload

In 2014/15 the Tribunal conducted 17,222 hearings including 6,633 mental health inquiries. This 643 more hearings represents a 3.9% increase in the total number of hearings compared to 2013/14. The increase in hearings was mostly in the Tribunal's civil jurisdiction (predominantly in relation to mental health inquiries) and reverses a small decrease in the number of hearings during 2013/14.

This was the fifth full year of the Tribunal's jurisdiction to conduct mental health inquiries under s34 of the Act. Until 21 June 2010 this role had been carried out by Magistrates. During 2014/15 the Tribunal held 6,633 mental health inquiries – 401 more than the previous year (an increase of 6.4%).

Of the mental health inquiries conducted in 2014/15, 5,558 (83.8%) resulted in an involuntary patient order being made. This percentage is slightly down from 84.5% in 2013/14 and 85.7% in 2012/13 but still higher than the 79.3% in 2011/12 when changes were made to the timing of mental health inquiries and could reflect the shorter period for which patients have received treatment when presented for an inquiry at an earlier stage. There was a slight decrease in the percentage of Community Treatment Orders made at a mental health inquiry during 2014/15 – 5.1% (336) compared to 2013/14 - 5.8% (360) and to 2012/13 - 5.4% (339) but this is still significant lower than in 2011/12 – 11.8% (581). This is again a possible consequence of the earlier presentation of patients for a mental health inquiry in that there is less time for a person's condition to stabilise and for an appropriate Community Treatment Plan to be developed. A total of 66 orders were made at a mental health inquiry for the patient to be discharged or for deferred discharge (1%). This included 12 patients who were discharged into the care of their primary carer. The number of discharges is down from 88 in 2013/14 (which included 16 patients who were discharged into the care of their primary carer).

The total number of hearings for the review of involuntary patients under s37(1) of the Act increased by 143 in 2014/15 to 2585 from 2442 in 2013/14 – a 5.9% increase. The Tribunal is required to review the case of each involuntary patient on or before the end of the patient's initial period of detention ordered at a mental health inquiry (s37(1)(a)), then at least once every three months for the first 12 months that the person is an involuntary patient (s37(1)(b)), and then at least every six months while the person continues to be detained as an involuntary patient (s37(1)(c)). Significantly, the number of initial reviews under s37(1)(a) increased by 138 (11.1%) while the number of reviews under s37(1)(b) and s37(1)(c) remained relatively the same.

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 remained much the same with a slight decrease from 649 in 2013/14, to 643 in 2014/15. Of the appeal hearings conducted in 2014/15, 520 were dismissed (80.9%) and the patient was ordered to be discharged on 28 occasions (4.4%). The remaining 112 appeals were either adjourned, withdrawn or the Tribunal had no jurisdiction to deal with (see Table 7).

The number of hearings to consider applications for Community Treatment Orders increased by 73 from 5068 in 2013/14 to 5141 in 2014/15 (a 1.4% increase). These hearings related to 3437 individual patients.

Including those made at a mental health inquiry there were a total of 5142 Community Treatment Orders made in 2014/15 – a decrease of 42 (0.8%) over the previous year. Excluding those made at a mental health inquiry (336) the number of Community Treatment Orders made by the Tribunal under s51 of the Act decreased by 18 from 4824 in 2013/14 to 4806 in 2014/15 – a 0.4% decrease. As mentioned above, one of the consequences of the change to the timing of mental health inquires in July 2012 is that fewer Community Treatment Orders are made at a mental health inquiry and in more cases a separate application and subsequent hearing are required for a person to be discharged on a Community Treatment Order.

Under s56(2) of the Act the maximum duration of a Community Treatment Order is 12 months. However of the 5142 Community Treatment Orders made in 2014/15 only 372 were for a period of more than six months (usually 12 months). This is 7.3% which is a slightly lower percentage of such orders in 2013/14 (7.6%), 2012/13 (8.2%) and 2011/12 (9.6%). Although the Act provides that the Tribunal is able to make Community Treatment Orders for up to 12 months, the vast majority of orders continue to be made for periods of up to six months. Longer orders are generally only made in circumstances where there are clearly established reasons for justifying a longer period.

There was a 4.6% increase in the number of hearings held by the Forensic Division in 2014/15 compared to the previous year (1017 in 2014/15 compared to 972 in 2013/14).

In 2014/15 the Tribunal conducted:

	2014/15
Civil Patient hearings (for details see Tables 1-14) (* includes 6633 mental health inquiries)	*16035
Financial Management hearings (for details see Table 15)	170
Forensic Patient reviews (for details see Tables 16 - 23)	1017
	17222

Details for each area of jurisdiction of the Tribunal are provided in the various statistical Tables contained later in this Report. Table A shows the number of hearings conducted each year since the Tribunal's first full year of operation in 1991 when 2,232 hearings were conducted.

Table A

Total number of hearings 1991 - 2014/15

	Civil Patient Hearings	*Financial Management Hearings*	*Forensic Patient Hearings*	*Totals per year*	*% Increase over 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	+3.48%
2001	6151	304	481	6936	+14.8%
2002	6857	272	484	7613	+9.8%
2003	7787	309	523	8619	+13.2%
2004	8344	331	514	9189	+6.6%
2005	8594	293	502	9389	+2.2%
2006	9522	361	622	10505	+11.9%
2007	8529	363	723	9615	-8.5%
2007-08	8440	313	764	9517	N/A
2008-09	7757	224	771	8752	-8.1%
2009-10	8084	193	824	9101	+4.0%
2010-11	12413	221	870	13504	+43.4%
2011-12	13501	219	928	14648	+8.5%
2012-13	15510	225	943	16678	+13.9%
2013-14	15416	191	972	16579	-0.6%
2014-15	16035	170	1017	17222	+3.9%

The Tribunal has regular rosters for its mental health inquiries, civil and forensic hearing panels. In addition to the hearings held at the Tribunal's premises in Gladesville, in person hearings were conducted at 36 venues across the Sydney metropolitan area and regional New South Wales in 2014/15. Although the Tribunal has a strong preference for conducting its hearings 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 has continued to use telephone and video-conference hearings where necessary and conducted hearings by telephone and/or video conference to 241 inpatient or community venues across New South Wales. In 2014/15, 8581 hearings and mental health inquiries were conducted in person (49.8%), 7,483 by video (43.5%) and 1,158 by telephone (6.7%). The numbers and percentages although similar to the last four years, differ quite significantly from prior years due to the impact of mental health inquiries which can only be conducted in person or by video, that is, not by telephone.

If mental health inquiries are excluded from the figures then 3,789 hearings were conducted in person (35.8%), 5,645 by video (53.3%) and 1,155 by telephone (10.6%). These numbers and percentages varied slightly from 2013/14 when 3,713 hearings were conducted in person (35.9%), 5,331 by video (51.5%) and 1303 by telephone (12.6%) and show a continuing decrease in the number of hearings conducted by

telephone. This continued reduction in telephone hearings is particularly pleasing as telephone hearings are only used where an in person hearing is not practicable and where no video conference facilities are available. The vast majority of telephone hearings related to Community Treatment Orders (96.9%), most often for people in the community on an existing Community Treatment Order (48.1%). Hearings to vary the conditions of existing Community Treatment Orders comprised 15.4% of these telephone hearings – the majority of these hearings involved varying the order to reflect a change in treatment team following a change of address by the client.

Number of Clients

Having assumed the mental health inquires role the Tribunal is now responsible for making and reviewing all involuntary patient orders and all Community Treatment Orders (apart from a small number of orders made by Magistrates under s33 of the *Mental Health (Forensic Provisions) Act 1990*. This means that the Tribunal is now able to get a fairly accurate picture of the actual number of people subject either to an involuntary patient order or to a Community Treatment Order at any given time.

As at 30 June 2015 there were 1,259 people for whom the Tribunal had made an involuntary patient order either at a mental health inquiry or at a subsequent review (this compares to 1,195 at the same date in 2014 and 1250 in 2013). However it should be noted that a number of these patients may in fact have been discharged or reclassified as voluntary patients since the making of the order without reference to the Tribunal. There were 52 individuals who had been voluntary patients for more than 12 months and had been reviewed by the Tribunal – again a number of these may have been discharged or reclassified since the Tribunal review. See Table 5 for further details including a summary of the facilities in which these individuals were detained/admitted.

In terms of Community Treatment Orders, as at 30 June 2015 there were 2,715 individuals subject to an Order made by the Tribunal. While a small number of these orders may have been revoked by the Director of the Health Care Agency responsible for implementing the Order, this should be a fairly accurate count of the number of people subject to a Community Treatment Order at that point in time. This is slightly more than at the same date in 2014 when there were 2704 and slightly less than in 2013 when there were 2,763 individuals subject to a Community Treatment Order.

Mental Health Inquiries

The Tribunal assumed the role of conducting mental health inquiries on 21 June 2010 and at that time implemented a two weekly schedule for conducting mental health inquiries at 42 inpatient mental health facilities around the State. Initially inquiries were conducted on a fortnightly basis by video conference to most of these facilities.

In mid 2011 the Ministry of Health commissioned an external evaluation of the 'efficacy and cost of the mental health inquiry system'. The Final Report from this evaluation was released in early 2012. On 15 March 2012 the Minister for Mental Health announced the Government's response to the Report that in line with the Report's recommendations additional funding would be provided to the Tribunal to improve the Tribunal's capacity to conduct mental health inquiries in a timely manner.

Mental health facilities are required to present the patient to an inquiry 'as soon as practicable' after meeting various statutory requirements for the Tribunal to determine if the patient should continue to be detained as the subject of an involuntary patient order, discharged on a Community Treatment Order or otherwise discharged from the facility. From 1 July 2012 assessable persons are generally presented for a mental health inquiry on the first occasion that the Tribunal visits the relevant mental health facility to conduct mental health inquiries after the person has been detained for seven days. This means that assessable persons are now presented for mental health inquires in their second or third week of detention depending on the timing

of the rostered mental health inquires day for each facility. This is a change from the previous arrangement which generally saw people presented in the third or fourth week. Patients can be presented earlier for a mental health inquiry on request, and this is so particularly if it is proposed that the patient be discharged on a Community Treatment Order or if a hearing is required to consider an appeal or an application for ECT in relation to the patient.

The Tribunal anticipated that this change would result in an increase in mental health inquiries as more patients remained detained at the time they were due to be presented for an inquiry. The Tribunal conducted 6633 inquiries in 2014/15. This is 401 more than the 6232 conducted in 2013/14 (a 6.4 % increase) and 1723 more than in 2011/12 prior to the changes being made (a 35.1% increase).

Inquiries are now conducted 'in person' at most metropolitan and a number of rural mental health facilities with video conferencing only used at those facilities where in person inquiries are not feasible due to distance or the small number of inquiries required at the facility. This has had a significant impact on the percentages of inquires conducted in person or by video. During 2014/15 72.3% of mental health inquiries were held in person and 27.7% by video compared to 68.9% in person and 31.1% by video in 2013/14, 66.9% in person and 33.1% by video in 2012/13, 47% in person and 53% by video in 2011/12, and 35.6% in person and 64.4% by video in 2010/11.

In implementing the mental health inquiries system the Tribunal has had regard to the number of mental health inquiries previously adjourned by Magistrates. Of the 10,596 inquiries commenced by Magistrates in 2009/10, 5,808 were adjourned (54.8%). The Tribunal was concerned to ensure that moving the timing of inquiries forward did not result in an increase in the rate of adjournment. Although there has been a slight increase this year to 9.6%, the rate of adjournment had remained relatively consistent at about 7-8% for the previous four years the Tribunal has been conducting mental health inquiries – 2010/11 - 7.1%, 2011/12 - 7%, 2012/13 – 7.3% and 2013/14 - 8.1%. The increase in adjournments could in part be attributed to a change in practice which has seen some mental health inquiries listed for hearing more urgently when an application for an ECT determination is made. It is common in such cases for the Tribunal to deal with the urgent ECT determination and to adjourn the mental health inquiry.

In 2014/15, 15% of initial mental health inquiries were commenced during the first week of a person's detention (compared to 16% in 2013/14, 15.1% in 2012/13 and 5.5% in 2011/12), 58.1% during the second week (56.8% on 2013/14, 56.9% in 2012/13 and 22.2% in 2011/12), 26% in week three (26.5% in 2013/15, 36.6% in 2012/13 and 45.1% in 2011/12) and 0.7% in the persons fourth week of detention (0.4% in 2013/14, 1.2% in 2012/13 and 26.5% in 2011/12). In a small proportion of cases, 0.2%, the inquiry was commenced sometime after four weeks (0.3% in 2013/14, 0.2% in 2012/13 and 0.8% in 2011/12). Each such case was investigated by the Tribunal and where appropriate followed up with the facility involved. Many of these cases involved patients who were AWOL, on leave or too unwell to be presented for a mental health inquiry at the time they were due.

The Tribunal has continued to closely monitor the new system of holding inquiries earlier both in terms of its cost and any impact on patients and the mental health system. A monitoring group was established with representatives from a number of the peak mental health bodies as well as Legal Aid, Public Interest Advocacy Centre (PIAC) and the Ministry of Health to assist in monitoring the implementation of this process. Given that the system had been in place for three years the monitoring group was wound up during 2012/13.

When the Tribunal first assumed the role of conducting metal health inquiries there was a significant increase in the number of hearings to consider appeals against a decision of an authorised medical officer to refuse a request for discharge a patient (775 in 2011/12 and 608 in 2010/11 compared to 255 in 2009/10). However, following the change in timing of mental health inquires in July 2012 the number of appeals reduced in

2012/13 to 591 (23.7%). The number of appeals increased in 2013/14 by 58 to 649 (a 9.8% increase from 2012/13) but has remained relatively consistent this year at 643 (approximately 0.5% decrease from 2013/14).

This increase in the number of appeals has required the Tribunal to schedule more three member panels to consider the appeals. However an amendment contained in the *Mental Health Regulation 2013*, s19(3), which came into effect on 1 September 2013, 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 is able to be heard by an experienced single legal member of the Tribunal.

From 1 November 2013 the Tribunal has adopted the practice of wherever possible listing an appeal lodged by an assessable person with the mental health inquiry for that person to be heard by a single lawyer member. This generally allows for the appeal and mental health inquiry to be heard face to face rather than by video, and gives the Tribunal much more flexibility in hearing the appeal more promptly. In 2014/15 179 appeals were heard by a single member (27.8% of the total number of appeals held). This is a slight increase from 26.3% the previous year.

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 the MHAS has advised the Tribunal that the Service cannot automatically provide representation for all categories of matters heard by the Tribunal. In addition to all forensic cases, representation through the MHAS is usually provided for all mental health inquiries and reviews of involuntary patients during the first 12 months of detention; appeals against an authorised medical officer's refusal to discharge a patient and all applications for financial management orders. Representation is also provided for some applications for Community Treatment Orders and some applications for revocation of financial management orders, however this may be subject to a means and merits test. During 2011/12 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.

Including mental health inquiries, representation was provided in 77% of all hearings in the Tribunal's civil jurisdiction (see Table 1) and 98.7% of all forensic hearings in 2014/15.

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 about them. This attendance and participation in hearings can be in person or by way of video or telephone. In civil matters the person the hearing is about attended in 86% of all hearings – this is the roughly the same percentage as in 2011/12, 2012/13 and 2013/14. Included in these figures are mental health inquiries at which the patient must attend for the inquiry to proceed – for mental health inquiries the rate of client attendance was 97%. The mental health inquiry is usually 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, the rate was 98.2%.

Appeals

S163 of the Act and s77A of the *Mental Health (Forensic Provisions) Act 1990* provide for appeals by leave against decisions of the Tribunal to be brought to the Supreme Court of NSW.

During 2014/15 three appeals were lodged with the Supreme Court. Two of these appeals were finalised during the reporting period with both appeals being dismissed. The remaining appeal is still to be determined.

One other appeal that had been lodged in 2013 was settled by consent and another discontinued by the plaintiff.

Multicultural Policies and Services

The Tribunal is not required to report under the Multicultural Policies and Services Program. However both the Act and the *Mental Health (Forensic Provisions) Act 1990* 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 s158 of the Act to be assisted by an interpreter if they are unable to communicate adequately in English. During 2014/15 interpreters in 48 different languages were used in a total of 679 hearings. This is 126 less hearings involving an interpreter than in 2013/14 – a 15.6% decrease. The most common languages used were Vietnamese (85), Cantonese (81) Mandarin (77) and Arabic (67) followed by Korean (50), Serb/Croatian (49), Greek (35) and Italian (45).

In August 2009 the Tribunal entered in to a Memorandum of Understanding with the Community Relations Commission on the provision of translation services concerning the Tribunal's official forensic orders. No forensic orders were translated in 2014/15 or in the previous two years. Translated copies of the Statement of Rights are available from the Tribunal's website.

In future years, the Tribunal will continue to arrange interpreters and translations as required and ensure that its membership includes representation from people with a multicultural background. We will also investigate the option of translation of some of the Tribunal's publications now that the review of the *Mental Health Act 2007* is concluded.

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. Information relating to the judicial functions of the Tribunal is 'excluded information' under the GIPA Act and as such is generally not disclosed.

The administrative and policy functions of the Tribunal are covered by the GIPA Act. There were no requests for disclosure of information from the Tribunal's files during 2014/15.

This year the Tribunal published a number of new Practice Directions and Official Reports of Proceedings on its website.

Public Interest Dislocures 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 and Mental Health Inquiries

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).

Although a large number of Emergency Departments are now gazetted under the Act as emergency assessment facilities, most Emergency Departments have historically not completed Form 9s. This has meant that the data collected from these Forms has been incomplete and not accurately reflected the full number of involuntary referrals, particularly those taken by ambulance or police to an Emergency Department rather than directly to an inpatient mental health facility.

In September 2014 Mr Ken Whelan, then Deputy Secretary of the Ministry of Health, wrote to the Chief Executives of all Local Health Districts reminding of the requirement for Emergency Departments to comply with these reporting requirements. Since that time there has been some improvement in reporting from Emergency Departments, however an acceptable level of compliance is yet to be achieved, with only 25% of gazetted Emergency Departments returning the required Form 9s. These returns totalled 2881 involuntary referrals indicating that there remains a large number of people being involuntarily taken to mental health facilities that are not being recorded through this process. It is possible that some of these people are being recorded on the Form 9s submitted by mental health facilities within the same hospital, however, this is impossible to quantify. The Tribunal will monitor and follow this up during the next reporting period.

Information from this data is contained in Table 4 and in Appendix 1.

Official Visitor Program

The Official Visitor 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, Ms Jan Roberts and supported by two permanent and one temporary staff positions. In March 2008 the Official Visitor Program relocated to share premises with the Tribunal at Gladesville and 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 continue to report directly to the Minister. The Registrar of the Tribunal is a member of the Official Visitor Advisory Committee. A Memorandum of Understanding was entered into by the Tribunal and the Official Visitor Program in 2009 setting out the agreed systems for raising issues identified by the Tribunal or the Official Visitor Program in relation to the other body.

In May 2014 the Tribunal was consulted as part of a Functional and Operational Review of the Official Visitor Program commissioned by the Ministry of Health and has continued to be involved in discussions about the implementation of the recommendations made in the Review report. One of these recommendations related to consideration as to the most appropriate administrative reporting arrangements and physical location for the Program. This issue remains under discussion.

Premises

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

The Tribunal has six hearing rooms all fitted with video conferencing facilities. All video conference units are now able to make and receive calls using both IP (internet) and ISDN protocols. Video conferencing equipment has also been installed in the Tribunal's conference room. This room is now used occasionally for 'overflow' hearings when all other hearing rooms are being used. There are two separate waiting areas for use by people attending hearings and rooms available for advocates and representatives to meet with their clients prior to hearings.

One of the Tribunal's hearing rooms continues to be made available for use by the Northern Territory Mental Health Review Tribunal once or twice a week for the conduct of their hearings by video conference using psychiatrist members 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 occurred and correct documentation is available for mental health inquiries. The Tribunal is very appreciative of the support provided to the Tribunal by these Tribunal Liaison Clerks.

The Tribunal continues to be constrained by the limited resources and facilities available at some mental health facilities and correctional centres. Many venues do not have an appropriate waiting area for family members and patients prior to their hearing. There are safety and security concerns at a number of venues, with panels utilising hearing rooms without adequate points of access or other appropriate security systems in place. Essential resources such as telephones with speaker capacity are sometimes unavailable in some venues. An audit of facilities available at all venues used for Tribunal hearings was carried out in late 2013 with any issues of concern identified at particular venues followed up directly with the venue concerned.

Unfortunately, staff at some 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 was particularly evident again during 2014/15 as more Local Health Districts (LHDs) made changes to their video conference infrastructure to change over to IP video conferencing. Pleasingly, the Tribunal is now able to calls venues in most LHD's using IP video conferencing, which is much more cost effective and has overcome some of the previous compatibility issues with equipment at some venues.

Community Education and Liaison

During 2014/15 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 *Mental Health Act 2007* and the *Mental Health (Forensic Provisions) Act 1990*.

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. Managing the increase in the Tribunal's workload has only been possible due to the ongoing hard work and dedication of the Tribunal's staff.

With the assistance of the Ministry of Health, in July 2013 a number of long term temporary positions were able to be made permanent. This allowed for staff who had been working in positions for many years to be appointed permanently to their positions. For the last two years, apart from one part time temporary appointment, the Tribunal has maintained all of its positions being 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 2015. Including the President and two full time Deputy President positions, the Tribunal has a staffing establishment of 29.4 positions.

Tribunal Members

Appendix 3 provides a list of the members of the Tribunal as at 30 June 2015. As at this date the Tribunal had a President, two full time Deputy Presidents, seven part time Deputy Presidents and 120 part time members. One new psychiatrist member was appointed during the year.

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 part time membership reflects a sound gender balance with 70 female part time members and 57 male (this includes three female and four male part time Deputy Presidents). There are a number of members who have indigenous or culturally diverse backgrounds as well as a number who have a lived experience with mental illness and bring a valuable consumer focus to the Tribunal's hearings and general operations.

The Tribunal is supported by a large number of dedicated and skilled members who bring a vast and varied array of talents 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.

In 2014/15 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. The sessions are conducted out of hours and no payment is made for members' attendance. The Tribunal is encouraged and appreciative of the high rate of member attendance at these sessions. Topics covered during the reporting period included: Studies in the potency of cannabis; Tribunal case studies and scenarios; recent research into the efficacy of Community Treatment Orders and risk and capacity in involuntary outpatient treatment; and psychiatric medications - their place in treatment, potential side-effects and alternatives. A session was held in June 2015 specifically focusing on the changes to the *Mental Health Act 2007* and *NSW Trustee and Guardian Act 2009*.

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 receives its funding from the Mental Health Drug and Alcohol Office (MHDAO), Ministry of Health. Total net expenditure for 2014/15 was $6,226,574 (see Appendix 5). This was a decrease of approximately $86,000 (1.4%) from the previous financial year.

A Treasury Adjustment of $400,000 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. An additional $400,000 was provided by the Ministry of Health to fund the changes to the mental health inquiry system discussed above. The actual expenditure related to this role for the financial year was $793,000. This included the cost of additional three member Tribunal panels required to deal with the increased number of appeals lodged by patients against an authorised medical officer's refusal to discharge.

The Tribunal is most appreciative of the support provided by the Minister for Mental Health and MHDAO to enable the Tribunal to meet the obligations of its core business in the statutory review of patients under the *Mental Health Act 2007* and the *Mental Health (Forensic Provisions) Act 1990*.

Thank you

The Tribunal is very fortunate to have such great staff and fantastic and committed members. I would like to thank the staff and members of the Tribunal for their continued hard work and commitment to the very important work that we do. I would also like to thank those staff in the inpatient and community based mental health facilities with whom the Tribunal has had contact over the last 12 months. The successful operation of the Tribunal in conducting more than 17,200 hearings would not have been possible without their ongoing co-operation and support.

Rodney Brabin
Registrar

5. STATISTICAL REVIEW

5.1 CIVIL JURISDICTION

Table 1

Summary of statistics relating to the Tribunal's civil jurisdiction under the Mental Health Act 2007 for the period 1 July 2014 to 30 June 2015

Section of Act	*Description of Review*	*Hearings (Including Adjournments)*			*% Reviewed by Sex*		*Legally Represented*	*Client Attended*
		M	*F*	*Total*	*M*	*F*		
s9	Review of voluntary patients	30	32	62	48	52	46 (74%)	60 (97%)
s34	Mental Health Inquiry	3636	2997	6633	55	45	6537 (99%)	6435 (97%)
s37(1)(a)	Initial review of involuntary patients prior to expiry of initial period of detention as a result of mental health inquiry	734	605	1339	55	45	1241 (93%)	1237 (92%)
s37(1)(b)	3 monthly review of involuntary patients after initial 12 month period	368	256	624	59	61	576 (92%)	559 (90%)
s37(1)(c)	Continued review of involuntary patients after initial 12 month period	395	227	622	64	36	348 (56%)	546 (88%)
s44	Appeal against an authorised medical officer's refusal to discharge	365	278	643	57	43	513 (80%)	601 (93%)
s51	Community treatment orders	3303	1838	5141	64	36	2481 (48%)	3721 (72%)
s63	Review of affected persons detained under a community treatment order	3	1	4	75	25	3 (75%)	4 (100%)
s65	Revocation of a community treatment order	3	3	6	50	50	5 (83%)	6 (100%)
s65	Variation of a community treatment order	121	69	190	64	36	14 (7%)	12 (6%)
s67	Appeal against a Magistrate's community treatment order	-	-	-	-	-	-	-
s96(1)	Review of voluntary patient's capacity to give informed consent to ECT	1	-	1	100	-	1 (100%)	1 (100%)
s96(2)	Application to administer ECT to an involuntary patient with or without consent	287	471	758	38	62	594 (78%)	662 (87%)
s99	Review report of emergency surgery involuntary patient	4	-	4	100	-	-	-
s101	Application to perform a surgical operation	6	1	7	86	14	3 (43%)	6 (86%)
s103	Application to carry out special medical treatment	-	2	2	-	100	1 (50%)	1 (50%)
s154(3)	Application to be represented by a person other than an Australian legal practitioner	-	1	1	-	100	-	-
s162	Application to publish or broadcast name of patient	1	1	2	50	50	-	-
TOTAL		**9257**	**6782**	**16039**	**58**	**42**	**12363 (77%)**	**13851 (86%)**

Table 2

Summary of statistics relating to the Tribunal's civil jurisdiction under the Mental Health Act 1990/Mental Health Act 2007 for the periods 2011/12, 2012/2013, 2013/14 and 2014/15

	2011/12	*2012/13*	*2013/14*	*2014/15*
Reviews of assessable persons - Mental Health Inquiries (s34)	4910	6321	6232	6633
Reviews of persons detained in a mental health facility for involuntary treatment (s37(1))	2137	2433	2442	2585
Appeal against authorised medical officer's refusal to discharge (s44)	775	591	649	643
Applications for orders for involuntary treatment in a community setting (s51)	4697	5180	5068	5141
Variation and Revocation of Community Treatment Orders (s65)	190	191	207	196
Review of those persons detained in a mental health facility following a breach of the Community Treatment Order (s63)	11	8	9	4
Appeal against a Magistrate's Community Treatment Order (s67)	-	-	-	-
Review of those in a mental health facility receiving voluntary treatment who have been in the facility for more than 12 months (s9)	83	77	74	62
Notice of Emergency Surgery (s99)	8	3	5	4
Consent to Surgical Operation (s101)	14	12	21	7
Consent to Special Medical Treatment (s103)	-	-	3	2
Review voluntary patient's capacity to consent to ECT (s96(1))	12	5	5	1
Application to administer ECT to an involuntary patient	671	692	702	758
Application for representation by non legal practitioner	1	-	1	1
Application to publish or broadcast	-	-	3	2
TOTALS	**13509**	**15513**	**15421**	**16039**

Table 3

Summary of outcomes for reviews of assessable persons at a mental health inquiry for the period 1 July 2014 to 30 June 2015

M	*F*	*T*	*Adjourn*	*Invol Patient Order*	*Discharge*	*Deferred Discharge*	*Discharge on CTO*	*Discharge to Primary Carer*	*Declined to deal with/ withdrawn*	*Reclass to Voluntary*
3636	2997	6633*	639	5558	25	29	336	12	34	-

Note: * These determinations related to 5396 individuals.

Table 4

Flow chart showing progress of involuntary patients admitted during the period July 2014 to June 2015

Persons taken to a mental health facility involuntarily

Total involuntary referrals

Involuntary admissions (12018 mentally ill and 5042 mentally disordered persons)

Mental health inquiries commenced under s34 (includes 639 hearings that were adjourned)

Involuntary patient orders made at a mental health inquiry (32.6% of total involuntary admissions; 83.8% of mental health inquiries commenced)

Involuntary patient reviews by Tribunal under s37(1)(a) (7.8% of total involuntary admissions; 24.1% of persons placed on involuntary orders at a mental health inquiry)

Involuntary patient orders made by Tribunal pursuant to s37(1)(a) review (6.8% of total involuntary admissions; 86.8% of patient reviews under s37(1)(a))

Involuntary patient review unders s37(1)(b) (3.7% of total involuntary admissions; 53.7% of patients placed on involuntary orders by Tribunal under s37(1)(a))

Involuntary patient orders made by Tribunal pursuant to s37(1)(b) reviews (3.3% of total involuntary admissions; 90.1% of patient reviews under s37(1)(b)).

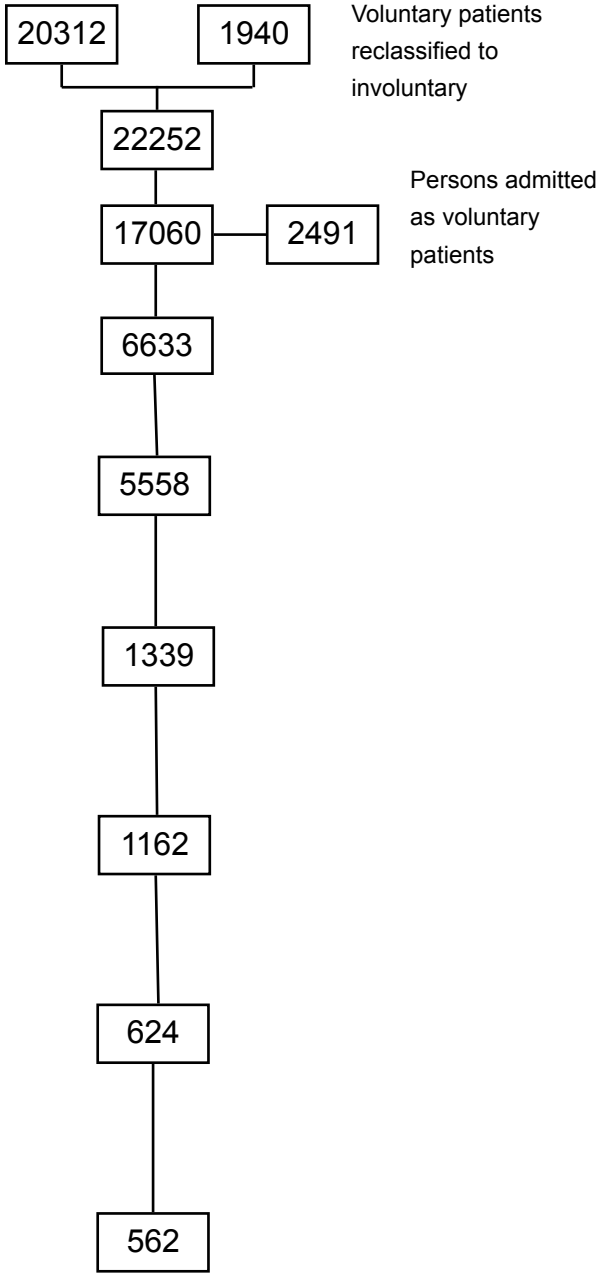

Table 5

Summary of patients subject to Involuntary patient orders or voluntary patient review as at 30 June 2015

Hospital	*s34*	*s37(1)a*	*s37(1)b*	*s37(1)c*	*Total Involuntary*	*Voluntary*	*Total*
Albury	7	0	0	0	7	0	7
Bankstown	10	7	2	0	19	0	19
Bega	2	2	0	0	4	0	4
Blacktown	11	5	1	1	18	0	18
Bloomfield	22	8	21	25	76	10	86
Blue Mountains	2	5	0	0	7	0	7
Braeside	6	1	0	0	7	0	7
Campbelltown	16	7	3	0	26	0	26
Coffs Harbour	10	4	2	0	16	0	16
Concord	45	29	12	14	100	9	109
Cumberland	38	25	20	66	149	12	161
Dubbo	8	2	2	0	12	0	12
Forensic Hospital	0	0	1	8	9	0	9
Gosford	10	4	0	0	14	0	14
Goulburn	9	3	3	0	15	0	15
Greenwich	5	4	0	1	10	0	10
Hornsby	21	12	1	0	34	0	34
James Fletcher	0	1	0	0	1	0	1
Kenmore	6	1	2	1	10	4	14
Lismore	16	2	1	0	19	1	20
Liverpool	28	6	4	1	39	1	40
Macquarie	10	6	20	124	160	6	166
Maitland	11	3	0	1	15	0	15
Manly	11	9	0	0	20	0	20
Mater MHC	51	13	9	9	82	3	85
Morisset	2	2	10	40	54	4	58
Nepean	13	8	2	0	23	0	23
Prince of Wales	28	16	5	1	50	0	50
Port Macquarie	11	2	1	0	14	0	14
Royal North Shore	12	8	1	0	21	0	21
Royal Prince Alfred	21	6	2	1	30	0	30
Shellharbour	21	3	1	0	25	1	26
St George	16	5	2	1	24	0	24
St Joseph's	4	1	1	0	6	0	6
St Vincent's	19	6	2	0	27	0	27
Sutherland	7	5	4	1	17	0	17
Sydney Childrens	0	0	1	0	1	0	1
Tamworth	8	4	1	0	13	0	13
Taree	7	2	2	0	11	0	11
Tweed Heads	3	2	1	0	6	0	6
Wagga	8	3	1	1	13	0	13
Westmead Adult Psych	6	1	0	2	9	1	10
Westmead Child/Adolesc	6	0	0	0	6	0	6
Westmead PsychGeriatric	2	1	0	0	3	0	3
Wollongong	10	3	1	0	14	0	14
Wyong	15	6	2	0	23	0	23
Total	**574**	**243**	**144**	**298**	**1259**	**52**	**1311**

Note: This table represents a 'snap shot' as at 30 June 2015 of the number of people subject to involuntary patient orders, CTOs or reviewed as long term voluntary patients. A number of these people may have been discharged from the facility or order. There will also be other voluntary patients who have not been reviewed by the Tribunal as they have not been a voluntary patient for 12 months.

Table 6

Involuntary patients reviewed by the Tribunal under the Mental Health Act 2007 for the period 1 July 2014 to 30 June 2015

		M	*F*	*T*	*Adjourn*	*Withdrawn No Jurisdic-tion*	*Discharge/ voluntary*	*Discharge on CTO*	*Continued detention as involuntary patient*
s37(1)(a)	Review prior to expiry order for detention as a result of a mental health inquiry	734	605	1339	145	7	18	7	1162
s37(1)(b)	Review at least once every 3 months during first 12 months person is an involuntary patient	368	256	624	54	1	6	1	562
s37(1)(c)	Review at least once every 6 months while person is an involuntary patient after first 12 months	395	227	622	35	-	4	-	583
Total		1497	1088	2585	234	8	28	8	2307

Note: The 1339 reviews under s37(1)(a) related to 1212 individuals
The 624 reviews under s37(1)(b) related to 381 individuals
The 622 reviews under s37(1)(c) related to 348 individuals
The total of 2585 reviews under s37(1) related to 1624 individuals

Table 7

Summary of outcomes of appeals by patients against an authorised medical officer's refusal of or failure to determine a request for discharge (s44) during the periods 2009/10 - 2014/15

	M	F	T	Adjourned	Withdrawn no jurisdiction	Appeal Dismissed	Dismissed and no further Appeal to be heard prior to next scheduled review	Discharged	Reclass to Voluntary
Jul 09 - Jun 10	137	118	255	27	14	192	18	3	1
Jul 10 - Jun 11	336	272	608	50	43	471	18	25	1
Jul 11 - Jun 12	413	362	775	49	62	613	20	26	5
Jul 12 - Jun 13	304	287	591	46	28	461	26	29	1
Jul 13 - Jun 14	365	284	649	56	25	521	25	22	-
Jul 14 - June 15	365	278	643*	38	74	492	28	11	-

Note: * These determinations related to 503 individudals

Table 8

Community Treatment Orders for declared mental health facilities made by the Tribunal for the periods 2012/13, 2013/14 and 2014/15

Health Care Agency	*2012/13 Total CTOs*	*2013/14 Total CTOs*	*2014/15 Total CTOs*	*Health Care Agency*	*2012/13 Total CTOs*	*2013/14 Total CTOs*	*2014/15 Total CTOs*
Albury CMHS	12	20	24	Inner City MHS	151	97	88
Auburn CHC	35	27	26	Kempsey CMHS	36	32	35
Bankstown MHS	157	165	167	Lake Illawarra Sector MHS	110	135	88
Bega Valley Counselling & MHS	20	20	25	Lake Macquarie MHS	96	78	84
Blacktown	190	189	197	Leeton/Narrandera CHC	3	4	1
Blue Mountains MHS	101	101	86	Lismore MHOPS	90	89	107
Bondi Junction CHC	5	7	7	Liverpool MHS	154	145	113
Bowral CMHS	11	9	14	Macquarie Area MHS	69	79	77
Campbelltown MHS	160	160	136	Manly Hospital & CMHS	150	141	148
Camperdown	140	155	169	Maroubra CMH	202	184	184
Canterbury CMHS	119	137	155	Marrickville CMHS	165	143	109
Central Coast AMHS	282	302	291	Merrylands CHC	132	112	108
Clarence District HS	47	37	48	Mid Western CMHS	102	123	109
Coffs Harbour MHOPS	98	84	71	Mudgee MHS	2	7	3
Cooma MHS	11	21	18	Newcastle MHS	124	145	132
Cootamundra MHS	1	1	-	Northern Illawarra MHS	135	144	107
Croydon	182	166	161	Orange C Res/Rehab Services	17	15	11
Deniliquin District MHS	4	9	12	Parramatta	77	86	106
Dundas CHC	29	27	23	Penrith MHS	114	118	114
Eurobodalla CMHS	23	15	29	Port Macquarie CMHS	54	63	61
Fairfield MHS	153	191	173	Queanbeyan MHS	35	49	61
Far West MHS	54	30	27	Redfern CMHS	74	59	51
Goulburn CMHS	48	38	35	Royal North Shore H & CMHS	139	147	117
Granville	20	17	31	Ryde Hospital & CMHS	97	109	104
Griffith (Murrumbidgee) MHS	15	17	24	Shoalhaven MHS	31	49	63
Hawkesbury MHS	10	26	18	St George Div of Psychiatry & MH	242	241	221
Hills CMHC	52	42	57	Sutherland C Adult & Family MHS	97	87	87
Hornsby Ku-ring-gai Hospital & CMHS	107	100	101	Tamworth	6	1	2
Hunter	11	3	1	Taree CMHS	77	52	48
Hunter NE Mehi/McIntyre	29	27	38	Temora	15	16	10
Hunter NE Peel	33	29	52	Tumut	9	6	7
Hunter NE Tablelands	15	15	14	Tweed Heads	124	118	115
Hunter Valley HCA	55	55	63	Wagga Wagga CMHS	48	54	59
Illawarra CMHS	-	-	109	Young MHS	15	14	10

Total Number of Community Treatment Orders 2012-13 5221*
Total Number of Community Treatment Orders 2013-14 5184**
Total Number of Community Treatment Orders 2014-15 5142***

* Includes 339 Community Treatment Orders made at mental health inquiries.
** Includes 360 Community Treatment Orders made at mental health inquiries.
*** Includes 336 Community Treatment Orders made at mental health inquiries.

Table 9

Number of Community Counselling Orders and Community Treatment Orders made by the Tribunal and by Magistrates for the period 2003 to 2014/15

	2003	2004	2005	2006	2007	2007/8	2008/9	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Total MagistrateCCO/ CTOs	1159	2092	1542	1585	1460	1318	997	806	-	-	-	-	-
Mental Health Inquiry CTOs								10	566	581	339	360	336
Total TribunalCCO/ CTOs	3676	3992	4325	4661	4854	4706	4058	3956	4128	4426	4882	4824	4806
Total CCO/CTOs made	**4835**	**6084**	**5867**	**6256**	**6314**	**6024**	**5055**	**4772**	**4694**	**5007**	**5221**	**5184**	**5142**

Note 1: The capcaity to make Community Counselling Orders (CCOs) ceased in November 2007 with the introduction of the *Mental Health Act 2007*

Note 2: Magistrates ceased making Community Treatment Orders (CTOs) at mental health inquiries in June 2010 when the Tribunal took over responsibility for conducting mental health inquiries.

Table 10

Summary of outcomes for applications for Community Treatment Orders (s51) 2014/15

	M	F	Total	Adjourned	Withdrawn No Jurisdiction	Application Decline	CTO Made
Application for CTO for a person on an existing CTO	1432	740	2172	40	2	25	2105
Application for a CTO for a person detained in a mental health facility	972	633	1605	105	9	18	1473
Application for a CTO not detained or on a current CTO	899	465	1364	87	10	39	1228
Totals	**3303**	**1838**	**5141**	**232**	**21**	**82**	**4806**

Note: * These determinations related to 3437 individuals

Table 11

Tribunal determinations of ECT consent inquiries for voluntary patients for period 2014/15

Adjourned	-
Capable and has consented	1
Incapable of consent	-
Total	**1***

Note: * This determination relates to one individual

Table 12

Tribunal determinations of ECT administration inquiries for the periods 2010/11, 2011/12, 2012/13, 2013/14 and 2014/15

Outcome	2010/11	2011/12	2012/13	2013/14	2014/15
Capable and has consented	28	24	31	30	42*
Incapable of giving informed consent	-	-	-	-	-
ECT approved	584	581	560	616	649***
ECT not approved	23	11	38	15	19**
No jurisdiction/withdrawn	7	13	7	6	10
Adjourned	38	42	56	49	48
Totals	**680**	**671**	**692***	**716**	**768**

Note: These determinations related to 476 individual patients (including 10 hearings four forensic patients)
* Includes one forensic patient determination
** Includes two forensic patient determinations
*** Includes 7 forensic patients determinations

Table 13

Summary of notifications received in relation to emergency surgery (s99) during the periods 2011/12, 2012/13, 2013/14 and 2014/15

	M	F	T	Lung/Heart/ Kidney	Pelvis/Hip/ Leg	Tissue/Skin	Hernia	Gastro/ Bowel/ Abdominal	Brain
2011/12	3	5	8	4	-	1	-	1	1
2012/13	1	2	3	1	1	-	1	-	-
2013/14	3	2	5	1	-	-	-	4	-
2014/15*	4	0	4	2	1	-	-	1	-

Note: * These notifications related to three patients (including two forensic patients)

Table 14

Summary of outcomes for applications for consent to surgical procedures (s101) and special medical treatments (s103) for the period 2014/15

	M	***F***	***T***	***Approved***	***Refused***	***Adjourned***	***Withdrawn/ No Jurisdiction***
Surgical procedures	6	1	7*	4	-	1	2
Special medical treatment	-	2	2**	1	-	1	-

Note: * These determinations related to 7 individuals
** This determination related to one individual

5.2 FINANCIAL MANAGEMENT

Table 15

Summary of statistics relating to the Tribunal's jurisdiction under the NSW Trustee & Guardian Act 2009 for the period July 2014 to June 2015

Section of Act	*Description of Reviews*	*Reviews*			*Adjourn-ments*	*With-drawn no jurisdic-tion*	*Order made*	*No Order made*	*Interim Order under s20*	*Revoca-tion Ap-proved*	*Revo-cation Declined*	*Legal Repres.*
		M	*F*	*T*								
s44	At a Mental Health Inquiry	23	13	36	12	2	14	5	3	-	-	36
s46	On application to Tribunal for Order	64	42	106	20	1	57	23	5	-	-	99
s48	Review of interim FM order	2	2	4	2	-	1	1	-	-	-	2
s88	Revocation of Order	17	7	24	2	-	-	-	-	17	5	13
Total		**106**	**64**	**170**	**36**	**3**	**72**	**29**	**8**	**17**	**5**	**150**

5.3 FORENSIC JURISDICTION

Table 16

Combined statistics for Tribunal reviews of forensic patients under the Mental Health (Forensic Provisions) Act 1990 for 2013/14 and 2014/15

Description of Review	***2013/14 Reviews***			***2014/15 Reviews***		
	M	F	T	M	F	T
Review after finding of not guilty by reason of mental illness (s44)	23	1	24	26	6	32
Review after detention or bail imposed under s17 MHCPA following finding of unfitness (s45(1)(a))	-	-	-	-	-	-
Review after limiting term imposed following a special hearing (s45(b))	3	-	3	9	-	9
Regular review of forensic patients (s46(1))	643	75	718	668	69	737
Application to extend period of review of forensic patients (s46(4))	-	-	-	1	-	1
Regular review of correctional patients (s61(1))	10	-	10	9	-	9
Review of a forensic patient following their apprehension due to an alleged breach of a condition of leave or release (s68(2))	27	-	27	32	3	35
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 (s76)	2	1	3	2	1	3
Initial review of person transferred from prison to MHF (s59)	69	2	71	61	4	65
Review of person awaiting transfer from prison (s58)	19	1	20	1	-	1
Application for a forensic community treatment order (s67)	16	-	16	33	1	34
Application to vary forensic community treatment order (s65)	4	-	4	7	1	8
Regular review of person subject to a forensic community treatment order and detained in a correctional centre (s61(3))	-	-	-	4	-	4
Appeal against decision of Director-General (s76F)	-	-	-	-	-	-
Application for ECT (s96)[1]	14	-	14	8	2	10
Application for surgical operation (s101)	1	1	2	-	-	-
Application for access to medical records (s156)	-	-	-	-	-	-
Application to allow publication of names (s162)	3	-	3	-	-	-
Approval of change of name (s31D)	-	2	2	3	1	4
Total	**834**	**83**	**917**	**864**	**88**	**952**
Determinations						
Fitness s16	33	11	44	55	2	57
Following limiting term s24	11	-	11	7	1	8
Total	**44**	**11**	**55**	**62**	**3**	**65**
Combined Total	**878**	**94**	**972**	**926**	**91**	**1017**

[1] In 2013/14 the Tribunal approved the administration of ECT for forensic patients on 14 occasions and in 2014/15 on eight occasions in relation to three forensic patients

Table 17

Determinations following reviews held under the Mental Health (Forensic Provisions) Act 1990 for the periods 2013/14 and 2014/15

	2013/14			2014/15		
	M	F	T	M	F	T
Forensic Community Treatment Order - order made	16	-	16	35	1	36
Forensic Community Treatment Order - not made	-	-	-	1	-	1
Variation to Forensic CTO	4	-	4	8	1	9
Revocation of Forensic CTO	-	-	-	-	-	-
Determination under s59 person IS a mentally ill person who should continue to be detained in a mental health facility	61	2	63	55	4	59
Determination under s59 person IS NOT a mentally ill person who should continue to be detained in a mental health facility	1	-	1	-	-	-
Determination under s59 person is NOT a mentally ill person and should NOT continue to be detained in a mental health facility	5	-	5	2	-	2
Classification as an involuntary patient	2	-	2	1	-	1
Determination under s76F appeal against Director-General's failure or refusal to grant leave allowed, leave granted	-	-	-	-	-	-
Approval for publication of name under s162	3	-	3	-	-	-
Approval for change of name	-	2	2	2	1	3
Application for change of name - withdrawn	-	-	-	1	-	1
Application for change of name - not forwarded or acted upon	-	-	-	1	-	1
Total	92	4	96	106	7	113

Table 18

Outcomes of reviews held under the Mental Health (Forensic Provisions) Act 1990 for the periods 2013/14 and 2014/15

	2013/14			2014/15		
	M	F	T	M	F	T
No change in conditions of detention	331	37	368	342	29	371
Transfer to another facility	61	3	64	50	5	55
Transfer to another facility - CTO made	-	-	-	1	-	1
Transfer to another facility - time limited order	-	-	-	3	-	3
Order to be detained in a mental health facility	72	2	74	64	4	68
Variation to order of detention	-	-	-	1	-	1
Grant of leave of absence	104	16	120	107	16	123
Revocation of leave of absence	1	-	1	2	-	2
Less restrictive conditions of detention	1	1	2	-	-	-
Conditional release	11	-	11	16	2	18
No change to conditional release	113	17	130	106	13	119
Court order for conditional release replaced by Tribunal order	-	-	-	1	1	2
Current order for conditional release to continue pending apprehension	-	-	-	2	-	2
Variation of conditions of release	54	5	59	66	9	75
Revocation of conditional release	-	-	-	6	-	6
Unconditional release	4	1	5	3	1	4
Non-association or place restriction on leave or release (s76)	2	1	3	2	1	3
Extend review period to 12 months[1]	36	1	37	42	4	46
Extend period of review - not granted	-	-	-	3	1	4
Adjournments	45	-	45	40	5	45
Order for apprehension or detention	1	-	1	1	-	1
Decision Reserved	6	-	6	7	-	7
No jurisdiction	2	-	2	-	-	-
Total	**844**	**84**	**928**	**865**	**91**	**956**

[1] Under s 46(5)(b) the Tribunal may extend the review period of forensic and correctional patients from six months up to 12 months if it is satisfied that there are reasonable grounds to do so or that an earlier review is not required because:

(i) there has been no change since the last review in the patient's condition, and
(ii) there is no apparent need for any chane in existing orders relating to the patient, and
(iii) an earlier review may be detrimental to the condition of the patient.

Table 19

Determinations of the Mental Health Review Tribunal as to fitness to stand trial following reviews held under the Mental Health (Forensic Provisions) Act 1990 for the periods 2013/14 and 2014/15

	2013/14			2014/15		
	M	**F**	**T**	**M**	**F**	**T**
s16 person WILL become fit to stand trial on the balance of probabilities within 12 months	7	-	7	10	-	10
s16 person WILL NOT become fit to stand trial on the balance of probabilities within 12 months	18	6	24	26	1	27
s24 person is mentally ill	7	-	7	3	1	4
s24 person is suffering from a mental condition and DOES object to being detained in a mental health facility	1	-	1	-	-	-
s24 person is suffering from a mental condition and DOES NOT object to being detained in a mental health facility	-	-	-	3	-	3
s24 person is neither mentally ill nor suffering from a mental condition	1	-	1	1	-	1
s45 person has not become fit to stand trial and will not become fit within 12 months	3	-	3	-	-	-
s47 person has become fit to stand trial	6	-	6	13	-	13
s47 person has not become fit to stand trial and will not become fit within 12 months	57	1	58	72	3	75
Adjournments/Decision Reserved	10	5	15	24	1	25
TOTAL	**110**	**12**	**122**	**152**	**6**	**158**

Table 20			
Location of forensic and correctional patients as at 30 June 2013, 30 June 2014 and 30 June 2015			
	30 June 2013	**30 June 2014**	**30 June 2015**
Bathurst Correctional Centre	1	-	-
Blacktown Hospital	1	1	-
Bloomfield Hospital	17	21	21
Blue Mountains Hospital	2	-	-
Cessnock Correctional Centre	2	-	1
Community	97	120	128
Concord Hospital	6	6	5
Cumberland Hospital - Bunya Unit and Cottages	37	31	35
Forensic Hospital	111	112	113
Gosford Hospital	1	-	-
Goulburn Correctional Centre	4	4	3
High Risk Management Correctional Centre	-	-	-
Junee Correctional Centre	-	-	3
Juvenile Justice Centre	-	-	-
Lismore Hospital	1	-	1
Liverpool Hospital	3	1	3
Long Bay Prison Hospital	38	43	44
Macquarie Hospital	9	7	7
Maitland Hospital	-	1	-
Metropolitan Remand and Reception Centre	19	23	36
Metropolitan Special Programs Centre	8	8	7
Mid North Coast Correctional Centre	-	1	-
Morisset Hospital	31	32	31
Nepean Hospital	-	2	1
Parklea Correctional Centre	-	2	5
Shellharbour	2	2	-
Silverwater Womens Correctional Centre	1	1	3
Sutherland Hospital	-	1	-
Wagga Wagga	-	-	1
Wellington Correctional Centre	1	-	-
Windsor Correctional Cenre	-	1	-
Wyong	1	2	-
TOTAL	**393**	**422**	**448**

Table 21

Location of hearings held for forensic and correctional patients during 2012/13, 2013/14 and 2014/15

	2012/2013	2013/14	2014/15
Bathurst Correctional Centre	2	-	-
Bloomfield Hospital	-	39	41
Concord Hospital	2	-	-
Cumberland Hospital - Bunya Unit	88	83	89
Forensic Hospital	232	252	246
Goulburn Gaol	7	-	-
Long Bay Prison Hospital	147	181	196
Macquarie Hospital	15	14	10
Metropolitan Remand and Reception Centre	73	64	72
Morisset Hospital	65	69	77
Tribunal Premises	312	270	288
TOTAL	**943**	**972**	**1019**

Table 22

Category of forensic and correctional patients as at 30 June 2014 and 30 June 2015

Category	**Male**		**Female**		**Total**	
Year	**June 14**	**June 15**	**June 14**	**June 15**	**June 14**	**June 15**
Not Guilty by Reason of Mental Illness	299	310	33	37	332	347
Fitness/Fitness Bail	28	31	4	4	32	35
Limiting Term	25	24	-	2	25	26
Correctional Patients	23	24	1	5	24	29
Forensic CTO	8	10	-	-	8	10
Norfolk Island NGMI	1	1	-	-	1	1
Total	**384**	**400**	**38**	**48**	**422**	**448**

Table 23

Number of forensic and correctional patients 1997 - 30 June 2015

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Forensic Patients	126	144	176	193	223	247	279	277	284	310	309	315	319	348	374	387	393	422	448

NOTE: Figures for 1997-2001 taken from MHRT Annual Reports as at 31 December of each year. Figures from 2002 - 2014 were taken as at 30 June of these years. Figures for 2009 - 2015 include correctional patients. Figures for 2011 - 2015 include one Norfolk Island forensic patient.

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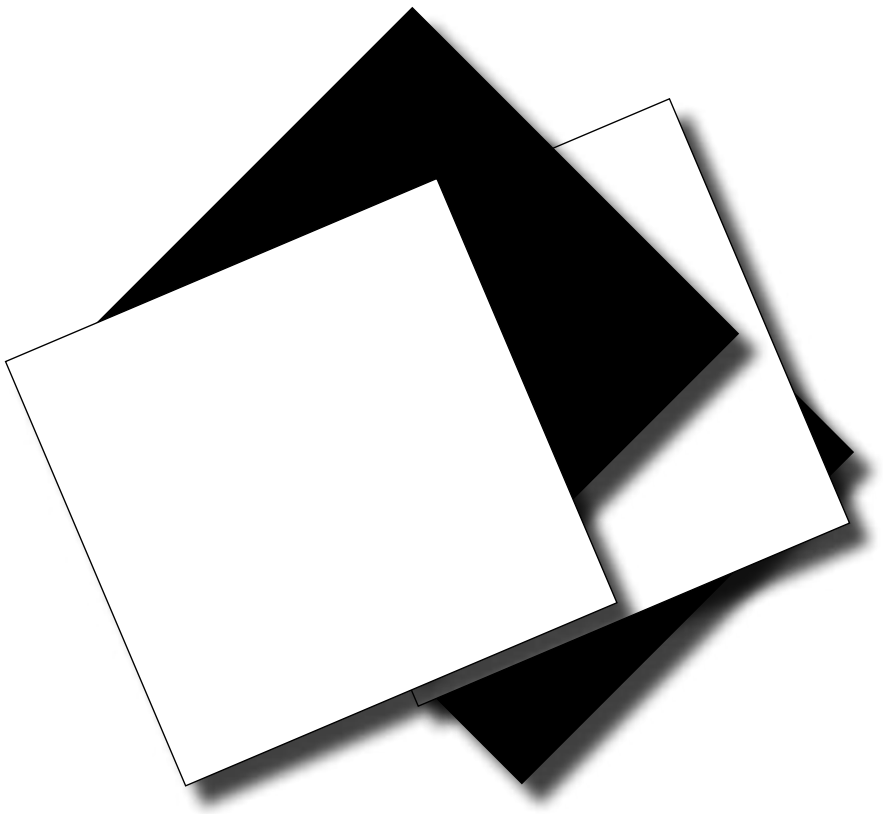
APPENDICES



Patient statistics required under MHA s147(2) concerning people taken to a mental health facility during the period July 2014 to June 2015

(1) 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.

	Method of referal	*Admitted*	*Not Admitted*	*Total*
MHA07				
s19	Certificate of Doctor	11423	520	11943
s22	Apprehension by Police	2735	1410	4145
s20	Ambulance Officer	1065	350	1415
s142/s58	Breach Community Treatment Order	111	37	148
s23/s26	Request by primary carer/relative/friend	1782	44	1826
s25/s24	Order of Court	301	104	405
s23 via s19	Authorised Doctor's Certificate	414	16	430
Total Admissions		**17831**	**2481**	**20312**
Reclassified from Voluntary to Involuntary		1720	220	1940
TOTAL		**19551**	**2701**	**22257**

(2) s147(2)(b)

Persons were detained as mentally ill persons on 12018 occasions and as mentally disordered persons on 5042 occasions. 2491 persons were admitted as voluntary patients.

(3) s147(2)(c)

A total of 6633 mental health inquiries were commenced relating to 5396 individuals.

Outcome of mental health inquiries conducted 1 July 2014 - 30 June 2015

	MHRT
Adjourned	639
Discharge or deferred discharge	66
Reclassify from involuntary to voluntary	-
Involuntary patient order	5558
Community treatment order	336
Declined to deal with	34
TOTAL	**6633**

(4) s147(2)(d)

In 2014/15 of the 22252 persons taken involuntarily to a mental health facility or reclassified from voluntary to involuntary: 2701 were not admitted; 2491 people were admitted as a voluntary patient and 17060 were detained as either a mentally ill or mentally disordered person - a total of 19551 admissions (including 1720 of the 1940 people who were reclassified from voluntary to involuntary).

There were 6633 mental health inquiries commenced with 5558 involuntary patient orders made. Of these only 1339 patients remained in a mental health facility until the end of the involuntary patient order (which could be made for a maximum of three months) and were reviewed by the Tribunal. This means 4219 people were discharged from a mental health facility or reclassified to voluntary status prior to the end of their initial involuntary patient order.

The jurisdiction of the Tribunal as at 30 June 2015 as set out in the various Acts under which it operates is as follows:

Mental Health Act 2007 Matters

• 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 of a community treatment order	s65
• 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 involuntary patient	s99(1)
• Review report of emergency surgery 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)

NSW Trustee & Guardian Act 2009 Matters

• Consideration of capability to manage affairs at mental health inquiries	s44
• Consideration of capability of forensic patients to manage affairs	s45
• Orders for management	s 46
• Interim order for management	s47
• Review of interim orders for management	s48
• Revocation of order for management	s86

Mental Health (Forensic Provisions) Act 1990 Matters

- 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 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 a 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 to be imposed on the leave or release of the patient s76
- Appeal against Director-General's refusal to grant leave s76F

Births, Deaths and Marriages Registration Act 1995 Matters

- Approval of change of name s31D
- Appeal against refusal to change name s31K

APPENDIX 3

Mental Health Review Tribunal Members as at 30 June 2015

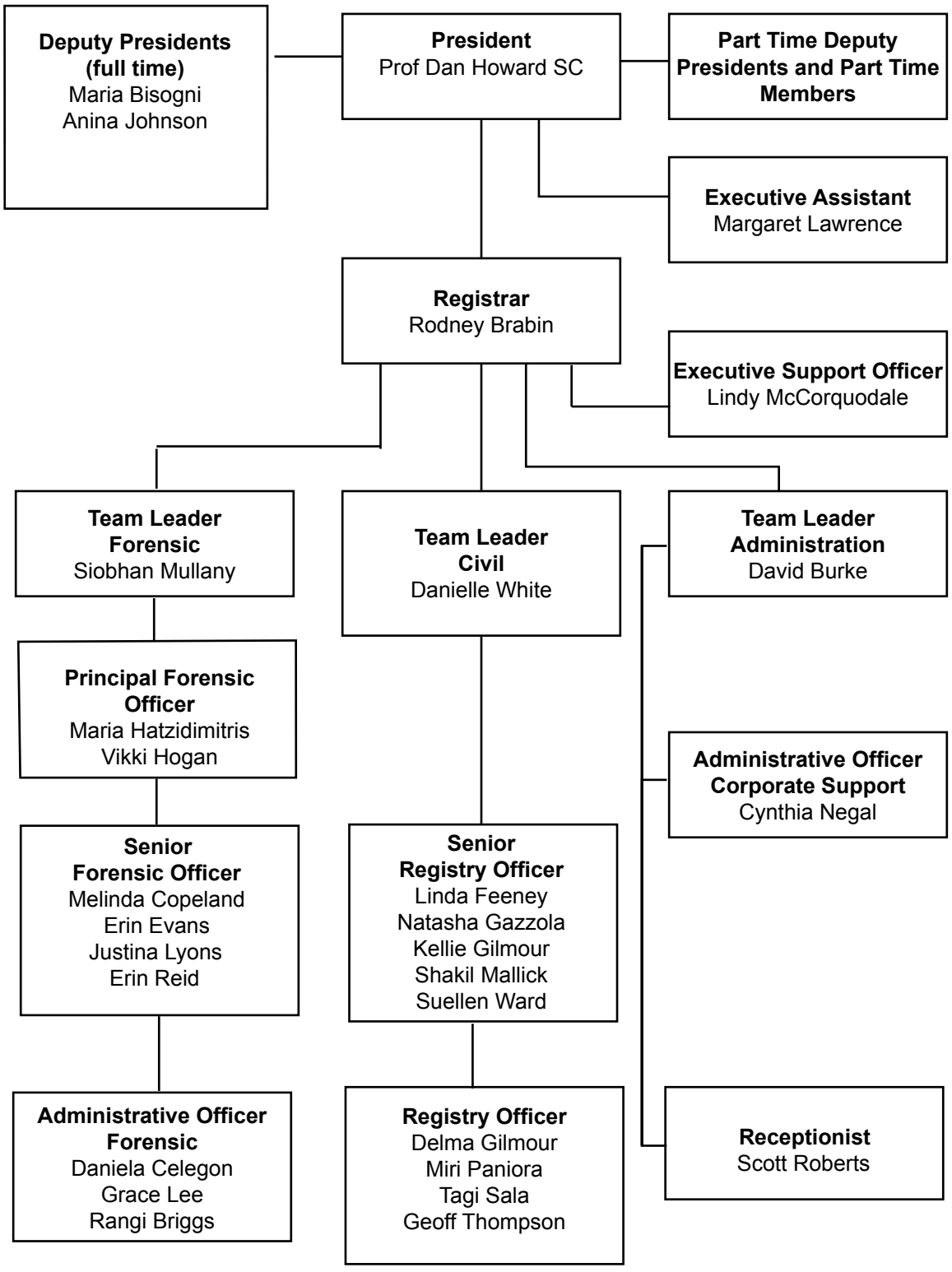
Full-Time Members	Professor Dan Howard SC (President)	Ms Maria Bisogni (Deputy President)	Ms Anina Johnson (Deputy President)
Part-Time Deputy Presidents	The Hon John Dowd AO QC The Hon Terry Buddin SC The Hon Hal Sperling QC Ms Mary Jerram	Mr Richard Gulley AM RFD The Hon Patricia Staunton AM The Hon Helen Morgan	

	Lawyers	**Psychiatrists**	**Other**
Part-Time Members	Ms Carol Abela	Dr Clive Allcock	Ms Lyn Anthony
	Ms Diane Barnetson	Dr Stephen Allnutt	Ms Elisabeth Barry
	Ms Rhonda Booby	Dr Josephine Anderson	Mr Peter Bazzana
	Mr Peter Braine	Dr Dinesh Arya	Mr Ivan L Beale
	Ms Catherine Carney	Dr Uldis Bardulis	Ms Diana Bell
	Ms Jennifer Conley	Assoc Prof John Basson	Ms Christine Bishop
	Ms Janice Connelly	Dr Jenny Bergen	Mr Peter Champion
	Mr Shane Cunningham	Dr Andrew Campbell	Mr Gerald Cheung
	Ms Jenny D'Arcy	Dr Raphael Chan	Ms Gillian Church
	Ms Linda Emery	Dr Shailja Chaturvedi	Ms Felicity Cox
	Ms Christine Fougere	Assoc Prof Kimberlie Dean	Dr Leanne Craze
	Mr Phillip French	Dr June Donsworth	Mr Michael Gerondis
	Ms Helen Gamble	Dr Charles Doutney	Mr John Hageman
	Ms Michelle Gardner	Dr Michael Giuffrida	Mr John Haigh
	Mr Anthony Giurissevich	Dr Robert Gordon	Ms Corinne Henderson
	Ms Yvonne Grant	Dr Adrienne Gould	Ms Sunny Hong
	Mr Robert Green	Prof James Greenwood	Ms Lynn Houlahan
	Ms Eraine Grotte	Dr Jean Hollis	Ms Susan Johnston
	Mr David Hartstein	Dr Rosemary Howard	Ms Janet Koussa
	Mr Hans Heilpern	Dr Mary Jurek	Ms Rosemary Kusuma
	Mr John Hislop	Dr Peter Klug	Ms Jenny Learmont AM
	Ms Barbara Hughes	Dr Karryn Koster	Ms Robyn Lewis
	Ms Julie Hughes	Dr Dorothy Kral	Ms Leonie Manns
	Mr Michael Joseph SC	Dr Lisa Lampe	Dr Meredith Martin
	Mr Thomas Kelly	Dr Rob McMurdo	Ms Sally McSwiggan
	Mr Dean Letcher	Dr Sheila Metcalf	Mr Shane Merritt
	Ms Monica MacRae	Dr Janelle Miller	Ms Tony Ovadia
	Mr Michael Marshall	Dr Olav Nielssen	Mr Rob Ramjan
	Ms Carol McCaskie	Dr Enrico Parmegiani	Ms Felicity Reynolds
	Mr Lloyd McDermott	Dr Martyn Patfield	Ms Jacqueline Salmons
	Ms Miranda Nagy	Dr Daniel Pellen	Mr Peter Santangelo
	Ms Anne Scahill	Dr Sadanand Rajkumar	Ms Robyn Shields
	Mr Jim Simpson	Dr Geoffrey Rickarby	Ms Alice Shires
	Ms Rohan Squirchuk	Dr Vanessa Rogers	Assoc Prof Meg Smith
	Mr Bill Tearle	Dr Satya Vir Singh	Dr Suzanne Stone
	Mr Herman Woltring	Dr John Spencer	Ms Bernadette Townsend
		Dr Sara-Jane Spencer	Ms Pamela Verrall
		Dr Gregory Steel	Dr Ronald Witton
		Dr Victor Storm	Prof Stephen Woods
		Prof Christopher Tennant	
		Dr Paul Thiering	
		Dr Susan Thompson	
		Dr Yvonne White	
		Dr Rosalie Wilcox	
		Dr Rasiah Yuvarajan	

The Tribunal also notes its appreciation for the following member whose appointment ended during 2014/15: Ms Tracy Sheedy. The terms of three Deputy Presidents also ended during 2014/15 - The Hon Ken Taylor, the Hon Mark Marien and Mr Geoffrey Graham.

MENTAL HEALTH REVIEW TRIBUNAL

Organisational Structure and Staffing as at 30 June 2015



FINANCIAL SUMMARY

Expenditure 2014/15

Expenditure for 2014/15 was directed to the following areas:

Salaries and Wages	2,914,058
Goods and Services	*3,294,407
Equipment, repairs and maintenance	9,809
Depreciation	15,785
Expenditure	**6,234,059
Less Revenue	7,485
	6,226,574

* Includes $2,898,928 payment of part-time member fees.

** Includes expenditure of $793,096 on the Mental Health Inquiries program.