

**THIS IS AN OFFICIAL REPORT OF THE MENTAL HEALTH  
REVIEW TRIBUNAL PROCEEDINGS IN RELATION TO MR JOHN  
VALANCE AUTHORISED BY THE PRESIDENT OF THE  
TRIBUNAL ON 9 SEPTEMBER 2016**



*This is an edited version of the Tribunal's decision. The forensic patient has been allocated a pseudonym for the purposes of this Official Report*

**FORENSIC REVIEW:** John Valance  
Fxxx - 15<sup>th</sup> Review

**s46(1) Review of forensic patients**  
*Mental Health (Forensic Provisions) Act 1990*

**TRIBUNAL:** Dan Howard SC President  
Raphael Chan Psychiatrist  
Lynn Houlahan Other Member

**DATE OF HEARING:** 12 May 2015

**PLACE:** The Hospital

**APPLICATION:** Grant of leave of absence;  
- Unsupervised Overnight Leave for up  
to six nights per week

## **DECISION**

1. Having determined pursuant to section 49 of the *Mental Health (Forensic Provisions) Act 1990* that neither the safety of John Valance nor any member of the public would be seriously endangered thereby and having considered the matters to which section 74 refers, the Tribunal orders that John Valance be allowed the following leave subject to any conditions and restrictions which the medical superintendent may impose:
  - 1.1 Unsupervised overnight leave for up to six nights per week.
2. Otherwise, that the current arrangements for John Valance's care, treatment and detention as a forensic patient at Bloomfield Hospital continue to apply including any previously approved leave.

Signed

President  
Dated this day 14<sup>th</sup> July 2015.

## REASONS

This is the 15<sup>th</sup> review of John Valance who is currently detained in Bloomfield Hospital on an order of the Tribunal in 2014 with access to escorted day leave, supervised day leave, unsupervised day leave, supervised overnight leave with his mother and unsupervised overnight leave for up to three nights per week. Mr Valance's treating team are seeking that the already approved unsupervised overnight leave be extended to six nights per week at this review.

### BACKGROUND

The Supreme Court found Mr Valance not guilty by reason of mental illness of the charge of murder and ordered him to be detained. Background information concerning Mr Valance's history, care and treatment as a forensic patient is provided in Annexure 'A' to these reasons (not included in this report). In reaching its decision in this matter, the Tribunal has had regard to, and accepts as accurate, this background information which is maintained by the Tribunal's registry.

### TRIBUNAL REQUIREMENTS

This is a review pursuant to section 46(1) of the *Mental Health (Forensic Provisions) Act 1990* ("the Act"). Under section 46 the Tribunal is required to review the case of each forensic patient every six months. On such a review the Tribunal may make orders as to the patient's continued detention, care or treatment or the patient's release.

The Act has special evidentiary requirements in relation to leave or release which must be satisfied before the Tribunal can grant leave or release. In view of this, the Tribunal requires notice of applications for leave or release to ensure that the necessary evidence is available. This process also enables the Tribunal to provide notice of such applications to the Minister for Health, the Attorney General, and any registered victims who are entitled to make submissions concerning any proposed leave or release. A notice was provided to the Tribunal prior to this review for an application for the unsupervised overnight leave to be extended to six nights per week.

The Tribunal must be satisfied pursuant to section 49 of the Act

*'that the safety of the patient or any member of the public will not be seriously endangered if the leave of absence is granted.'*

Without limiting any other matters the Tribunal may consider, the Tribunal must consider the principles set out in section 40 of the Act and section 68 of the *Mental Health Act 2007* as well as the following matters under section 74 of the Act when determining what order to make:

- (a) *whether the person is suffering from a mental illness or other mental condition,*
- (b) *whether there are reasonable grounds for believing that care, treatment or control of the person is necessary for the person's own protection from serious harm or the protection of others from serious harm,*

(c) *the continuing condition of the person, including any likely deterioration in the person's condition, and the likely effects of any such deterioration,*

(d) .....

(e) .....

## **DOCUMENTARY EVIDENCE**

The Tribunal considered the documents listed in the Forensic Patient Exhibit List annexed to these reasons.

## **ATTENDEES**

Mr Valance attended the hearing and was represented by his lawyer, Ms S of the Mental Health Advocacy Service. Also in attendance were:

- Dr P, Psychiatrist
- Dr R, Psychiatry Registrar
- Ms CP, Psychologist
- Mr N, Registered Nurse
- Ms O, Occupational Therapist
- Mrs V, mother (by telephone)

## **PRESENT CIRCUMSTANCES**

The Tribunal was provided with a report prepared by Dr R, Psychiatry Registrar and Dr P, Forensic Psychiatrist. The doctors' report notes Mr Valance has a diagnosis of paranoid schizophrenia (treatment resistant) and cannabis dependence (in remission in a controlled environment) and also alcohol abuse and dependence (in remission in a controlled environment).

By way of background information, the report refers to the circumstances of the index offence when Mr Valance killed his father whilst Mr Valance was suffering paranoid delusions and held the belief that his father had been replaced by a "clone". At the time Mr Valance was experiencing thought insertion, thought broadcasting, thought interference and delusions of reference from the television.

The doctors' report notes that Mr Valance first experienced psychiatric symptoms when he was 18 years old, although Mr Valance had never been admitted to a psychiatric facility prior to the index offence.

The doctors note in their report that Mr Valance was smoking marijuana daily at the age of 16 although he reports having ceased it a few years prior to the index offence. He was also a heavy consumer of alcohol although he denied drinking alcohol at the time of the index offence.

The doctors' report sets out background information in relation to Mr Valance's progress through in the forensic system.

After an initial period in custody then in the J Hospital, Mr Valance was transferred to the H Hospital in 2011. However, after a breakdown of his therapeutic relationship with the treating team at H Hospital, Mr Valance was readmitted to the J Hospital in 2011.

The doctors' report notes that in mid-April 2012, Mr Valance was noted to present with a "warm affect" and was "able to reflect on black and white thinking which contributed to his deterioration in H Hospital" and was "able to integrate ambiguity rather than use paranoia". At the time it was felt that his mental state had improved since his Quetiapine dose had been increased. He progressed at the J Hospital. The reports note that, in an interview with Dr M in 2012, Mr Valance was noted to be irritable and hostile. He swore at the consultant and thought he was being persecuted by staff. He no longer believed he had a mental illness and described social isolation and immaturity as the main drivers for his index offence. He continued to oppose treatment with Clozapine. Subsequent to that interview, Mr Valance expressed suicidal ideation. This quickly resolved although he continued to feel depressed.

The doctors' report notes that Mr Valance consented to commencement of Clozapine in 2012, although, due to his subsequent reluctance to commence on Clozapine, this was not started until late 2012. He complained of some side effects (sedation, constipation and hyper salivation) and his weight increased. Nevertheless, staff noted changes in his affect. Mr Valance was subsequently transferred to a medium secure unit in 2013.

The doctors' report notes that there have been no reported incidents of physical aggression since Mr Valance was admitted to the J Hospital in 2011. There had been one reported episode of verbal abuse to a consultant in 2012, but Mr Valance apologised and no verbal threats were involved.

The doctors' report refers to Mr Valance's progress since his admission to the medium secure unit. They note that Mr Valance's mental state has remained stable and that there has been no evidence of psychosis or pervasive mood disturbance. He has been appropriate in his interactions and compliant with ward rules and routines. His Clozapine dose has been reduced to improve his daytime sedation and reduce his antipsychotic load. It is hoped that this will improve his weight and cardio metabolic health, although there has been minimal improvement in his cardio metabolic parameters, which continue to be a significant problem.

The doctors' report notes that Mr Valance has engaged well with vocational and recreational rehabilitation activities. He has developed his ability to set goals and plan his future. He has accessed his leave appropriately and used it productively, including unsupervised overnight leave since the last Tribunal review.

The doctors note in their report that Mr Valance maintains a close contact with his mother who provides strong emotional support.

The doctors note in their report that since the last Tribunal review, Mr Valance's mental state has remained stable. He has a good rapport with staff and other patients and is warm and affable in his interactions. The doctors state that there have been no positive psychotic symptoms or evidence of pervasive mood disturbance (despite reduction in his Clozapine dose). His affect is reactive and congruent. There have been no incidents of aggression or violence on the unit or in the community. He is assessed as having a reasonable understanding of his mental illness, the needs for medication and the impact of substance and alcohol misuse. His goals are reasonably realistic and he remains well motivated in his rehabilitation.

The doctors note in their report that Mr Valance remains morbidly obese and is likely to suffer obstructive sleep apnoea to some extent and further assessment and treatment of this will be undertaken. As part of managing his cardio metabolic health, his Clozapine dose has been further reduced whilst increasing his Aripiprazole dose and his mental state has remained stable despite these changes.

The doctors note that Mr Valance has completed his TAFE course in retail and is looking at appropriate vocational options in retail or hospitality. He continues his employment. His employer considers that Mr Valance is now ready for open employment were it available to him.

The doctors note that Mr Valance has acquired his own flat in the local town centre, which he has been staying for three nights per week on unsupervised overnight leave, and this has progressed well without incident. Random urine drug screen tests have all returned negative results.

The doctors note that Mr Valance has also had occasions of travel to Sydney and to [another regional centre] in which he has spent time with his extended family.

In relation to risk assessment, the doctors state in their report that an HCR-20 Version 3 risk assessment tool was completed. They note that his current overall risk of violence has consistently been rated as low. His main vulnerability is in response to stress but he is continuing to demonstrate improved insight and skill in managing this. They note that his strongest risk factors remain in the historical domain including past violence, illicit substance use and onset of schizophrenia. However, they note his mental illness is currently well treated, there are no positive symptoms and there have been no incidents of aggression or violence.

The doctors propose in their report an ongoing management plan for Mr Valance which will include regular assessment of his mental state and review of his medications, random urine drug screens, support to facilitate building of social networks, individual psychological sessions (particularly dealing with stress management, processing of his index offence and managing substance use). His physical health will continue to be monitored with a view to improving his weight and cardio metabolic risk factors. He will have ongoing psychoeducation as to his early warning signs and protective factors. There will be a regular liaison between the staff of the farm and the occupational therapist and nursing unit manager at

the Hospital. The treating team will continue to explore opportunities in the open employment market and link Mr Valance with a disability employment service provider. As he begins to spend more time in the community, he will be referred to (and there will be liaison with) the local community mental health team.

The treating team considered that an increase of Mr Valance's unsupervised overnight leave to up to six nights per week would further help him to reintegrate into the community and encourage him to develop additional community contacts and supports. They note that any such increase in his leave would be implemented in a graded manner and that Mr Valance's mental state would be closely monitored, including random urine drug screens, location checks and close liaison with supervisors and other services.

The Tribunal was provided with a psychology report prepared by Ms CP, Clinical Psychologist at the hospital. Ms CP notes that Mr Valance was selected to attend the Violence Reduction Program (VRP) which was commenced on the unit. She is also using his individual therapy sessions to further discuss issues raised in the VRP sessions and also to commence a violence risk scale assessment. She observes that Mr Valance may have other cognitive deficits and cognitive assessment had commenced in early 2015 but has not been completed. From her clinical observations, Mr Valance appears to have difficulty comprehending the relevance of information to a new context and generalising the newly gained knowledge to other contexts. This needs to be more thoroughly explored.

Ms CP considers that a completed assessment of the violence risk scale will provide further information of the presence of any dynamic variables for violence and this assessment has not yet been completed.

Ms CP notes that Mr Valance appears to be coping well although he tends not to report any difficulties so it has not been easy for her to gauge his ability at managing stress and what strategies he chooses to employ. Her therapy sessions have centred around possible scenarios as a way of helping him prepare for possible stressors.

The Tribunal was also provided with a nursing report prepared by Mr N, RN and supervised by Ms N, RN. This report confirms that, since his last Tribunal review in 2014, Mr Valance has presented with a stable mental state without any overt signs of psychosis. There have been no incidents of aggression or violence. He has not posed any risk management issues and, according to the nursing report, demonstrates an understanding of his mental illness, need of medication and the impact of substances and alcohol misuse and their associated risks.

The nursing report mentions one occasion where a spot check was conducted in 2015 as a result of which Mr Valance was found to be outside of his stated itinerary and, as a result, his leave was suspended for one week.

The nursing report notes that Mr Valance passed a driving test in 2014 and he has now purchased a Hyundai vehicle which he is using without any issues. He is also continuing his part-time job at the farm and also at the opportunity shop as a volunteer. He is starting to make some social connection in the community and his goals seem reasonably realistic, according to the nursing report.

In relation to clinical risk management, the nursing report notes that Mr Valance's overall clinical risk is currently considered as low given that he is in remission in a controlled environment. The report notes that he does not act aggressively and has not scored on the Dynamic Appraisal of Situational Aggression (DASA). The report notes that Mr Valance is competent at independently implementing appropriate emotional, physical and personal boundaries within the unit. They note that he uses his mobile phone to make contact with the ward whilst he is accessing unsupervised day leave and unsupervised overnight leave. There have been no incidents of aggression or inappropriate conduct whilst he has been on or off the unit. The report states that he is fully compliant with medication and shows partial insight into his illness and the need to abstain from illicit drug use. The mental state examination referred to in the nursing report is consistent to that in the psychiatrists' report referred to above. He is participating co-operatively and willingly in nurse led activities. He has started a swimming program to assist in reducing his weight. His personal hygiene is very good and he is independent in his activities of daily living. He appears to be able to manage his money well.

The nursing report supports the application that Mr Valance be granted unsupervised overnight leave for up to six nights per week.

The Tribunal was provided with an occupational therapy report prepared by Ms O. Ms O notes that Mr Valance has adhered to expectations for regular contact with the unit during his unsupervised day and unsupervised overnight leave. She has conducted a home visit to his housing unit in town and found this to be satisfactory. She provided photos of the unit in her report which reveal a sparsely furnished but tidy environment.

Ms O comments that Mr Valance continues appropriate social contact and communication with staff and other patients at the unit and also at the farm and the opportunity store. He has completed his studies in the area of retail and has been seeking employment relevant to his qualifications. He maintains his interest in leisure and hobby pursuits (such as art, gardening and listening to music). She notes that he has had successful occasions of leave with his family which has continued to strengthen their relationship.

Ms O comments that Mr Valance requires occupational therapy to address his historical and future risk factors by supporting him to achieve his goals and to develop increased confidence in his social skills in the community. Ms O also supports the extension of Mr Valance's unsupervised overnight leave to up to six nights per week at his housing unit in town.

The Tribunal was also provided with a report by Ms D, Diversional Therapist. Ms D notes that Mr Valance has a very structured week that is busy and he undertakes activities that are both meaningful in his own recovery and useful in his move toward increased integration into the community. She notes that Mr Valance reports that he understands the importance of leisure in relation to his health and is motivated to be involved in leisure activities. He is being supported in this. Ms D also supports the proposed increase in unsupervised overnight leave to six nights per week.

At the hearing of the review Dr P told the Tribunal that Mr Valance had been exercising his unsupervised overnight leave to his unit in town three nights per week. There had been no concerns arising from this exercise of leave. She stated that his work and conduct at the farm and with the opportunity store was reported to be exemplary. His employer at the farm has recommended that Mr Valance is ready for open employment. Dr P stated that Mr Valance's mental state is stable. She noted that, with the reduced dose of Clozapine aimed at improving his metabolic syndrome, there had been no breakthrough symptoms of his illness.

Dr P told the Tribunal that it was proposed as a next step to refer Mr Valance to the community mental health team in town to commence a fortnightly relationship with that team.

Dr P told the Tribunal that Mr Valance was currently symptom free and was developing his social networks. He has been managing all of his ADLs and his dynamic risk variables are currently low. She considers that his risk is well managed within his proposed treatment plan.

Mr Valance told the Tribunal that he believed things were going well. He was enjoying his unit and is getting on well with his neighbours. He spoke of his completion of his Certificate 2 in Retail and his work. He said that, since his Clozapine had been reduced, he felt he was more alert and had more energy.

Dr P commented that Mr Valance's current dose of Clozapine was a reasonable dose, noting that he will face some additional stressors with an increase in leave entitlements. She told the Tribunal that it was proposed that Mr Valance's unsupervised overnight leave would initially only be increased to four nights per week until such time as he was fully engaged with a case worker at the community mental health centre in town. Dr P indicated that she would maintain a close liaison with the case worker.

Dr V, Psychologist, noted that he has only recently conducted an individual session with Mr Valance. He noted that Mr Valance is currently a participant in the Violence Reduction Program. He was asked whether there would be further cognitive investigations carried out and he indicated that these would be the subject of future reports to the Tribunal.

Mr Valance's mother, Mrs V, told the Tribunal that she had seen a big change in her son in the last six months. He has been taking on new challenges and understands his responsibilities and there has been

a change in his overall well-being and attitude. She stated that she was in contact with her son five times a week.

Dr P added that the Violence Reduction Program would play a part in assisting the treating team to determine whether drug and alcohol issues were still significant for Mr Valance. She told the Tribunal that she has not seen evidence of a current addiction.

Ms S, on behalf of Mr Valance, submitted that Mr Valance's progress notes over the last six months indicated that he had "done everything right". She noted that his risk will be closely monitored during any period of increased leave.

### **Discussion**

It is significant that there have been no reported incidents of physical aggression on Mr Valance's part since he was admitted to the J Hospital in 2011. He has progressed well with his rehabilitation since he was admitted to the medium secure unit two years ago (in April 2013). The evidence presented at this review by the reports referred to and in oral evidence indicate Mr Valance is very engaged with his rehabilitation programs and treatment. He is compliant with his treatment and is keeping himself very busy with his work and education program. He is having appropriate therapy and support from the members of the treating team.

The Tribunal notes that Mr Valance was granted unsupervised overnight leave at the last Tribunal review, for up to three nights per week and Mr Valance has since acquired an appropriate unit in town. His exercise of leave to the unit has gone without incident and the proposal is that his unsupervised overnight leave will be initially increased to four nights per week, but not further increased until such time as Mr Valance has established a therapeutic relationship with a case work in the community mental health team in town.

The proposed treatment plan for Mr Valance is appropriate and will support him as he increases his contact with the community.

The Tribunal notes that Ms CP has recommended that Mr Valance be assessed on the violence risk scale as an adjunct to the assessment that has been done using the HCR-20 Version 3. She has also recommended further cognitive assessment. The Tribunal notes that Dr P considers that Mr Valance's dynamic risk variables are currently low and that his risk is well managed under his current treatment plan and the proposed monitoring that will occur with increased unsupervised overnight leave. The Tribunal notes that the management plan will continue to include individual psychology, particularly dealing with stress management, processing of the index offence and management of substance use. These are all factors that the treating team will continue to pursue with Mr Valance and will no doubt monitor appropriately as he continues to exercise normal unsupervised time in the community.

The Tribunal notes that Mr Valance has good support from his family and that he is well motivated to continue with his rehabilitation and has realistic plans for his future.

The Tribunal is satisfied that there are reasonable grounds for believing that care, treatment or control of John Valance is necessary for his own protection from serious or the protection of others from serious harm. The Tribunal notes that Mr Valance is free of positive symptoms of his schizophrenia at this time, whilst noting that it has been diagnosed as being treatment resistant.

## **DETERMINATION**

The Tribunal is satisfied that increasing Mr Valance's unsupervised overnight leave to six nights per week would not give rise to any serious endangerment of the safety of Mr Valance or any member of the public. The Tribunal notes that such leave will initially commence with four nights per week and will not be further increased until the treating team is satisfied that Mr Valance has established an appropriate therapeutic relationship with the community mental health team in town. The Tribunal notes that all leave will be at the discretion of and subject to any conditions imposed by the medical superintendent and that it will be appropriately and closely monitored. Having regard to these matters and the other matters to which sections 49 and 74 of the *Mental Health (Forensic Provisions) Act 1990* refer, the Tribunal is minded to make an order granting Mr Valance unsupervised overnight leave for up to six nights per week. Such leave will be at the discretion of the medical superintendent and subject to any conditions that the medical superintendent may impose.

The Tribunal will issue an order accordingly.

Signed

President

**Dated this day 14th July 2015.**