



Mental Health
Review Tribunal

2011/12

Annual Report



The Hon Kevin Humphries MP
Minister for Mental Health
Minister for Healthy Lifestyles
Minister for Western NSW
Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Minister

I enclose the Annual Report of the Mental Health Review Tribunal, for the period from 1 July 2011 to 30 June 2012, as required by section 147 of the *Mental Health Act 2007*.

Yours sincerely



Professor Dan Howard SC
President

Contents

1. PRESIDENT'S REPORT - 1 July 2011 to 30 June 2012	1
2. FORENSIC DIVISION REPORT	5
3. CIVIL DIVISION REPORT	8
4. REGISTRAR'S REPORT	11
5. STATISTICAL REVIEW	22
5.1 Civil Jurisdiction	22
5.2 Financial Management	30
5.3 Forensic Jurisdiction	31
6. APPENDICES	37

TABLES

	page
A. Total number of hearings for 1991 - 2011/12	13
1. Summary of statistics relating to the Tribunal's civil jurisdiction under the <i>Mental Health Act 2007</i> for the period 1 July 2011 to 30 June 2012	22
2. Summary of statistics relating to the Tribunal's civil jurisdiction under the <i>Mental Health Act 2007</i> for the periods 2009/10, 2010/11 and 2011/12	23
3. Summary of outcomes for reviews of assessable persons at a mental health inquiry for the period 1 July 2011 to 30 June 2012	23
4. Flow chart showing progress of involuntary patients admitted during the period July 2011 to June 2012	24
5. Summary of patients subject to Involuntary patient orders or voluntary patient review as at 30 June 2012	25
6. Involuntary patients reviewed by the Tribunal under the <i>Mental Health Act 2007</i> for the period 1 July 2011 to 30 June 2012	26
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 2007/08, 2008/09, 2009/10, 2010/11 and 2011/12	26
8. Community treatment orders for declared mental health facilities made by the Tribunal for the periods 2009/10, 2010/11 and 2011/12	27
9. Number of community counselling orders and community treatment orders made by the Tribunal and by Magistrates for the period 2000 - 2011/12	28
10. Summary of outcomes for applications for community treatment orders (s51) 2011/12	28
11. Tribunal determinations of ECT consent inquiries for voluntary patients for the period 2011/12	28
12. Tribunal determinations of ECT administration inquiries for patients for the periods 2008/09, 2009/10, 2010/11 and 2011/12	29
13. Summary of notifications received in relation to emergency surgery (s99) during the periods 2009/10, 2010/11 and 2011/12	29
14. Summary of outcomes for applications for consent to surgical procedures (s101) and special medical treatments (s103) for the period 2011/12	29
15. Summary of statistics relating to the Tribunal's jurisdiction under the <i>NSW Trustee & Guardian Act 2009</i> for the period July 2011 to June 2012	30
16. Combined statistics for Tribunal reviews of forensic patients under the <i>Mental Health (Forensic Provisions) Act 1990</i> for 2010/11 and 2011/12	31
17. Determinations following reviews held under the <i>Mental Health (Forensic Provisions) Act 1990</i> for the periods 2010/11 and 2011/12	32
18. Outcomes of reviews held under the <i>Mental Health (Forensic Provisions) Act 1990</i> for the periods 2010/11 and 2011/12	33

TABLES

	page
19. Determinations of the Mental Health Review Tribunal as to fitness to stand trial following reviews held under the <i>Mental Health (Forensic Provisions) Act 1990</i> for the periods 2010/11 and 2011/12	34
20. Location of forensic and correctional patients as at 30 June 2010, 30 June 2011 and 30 June 2012	35
21. Location of hearings held for forensic and correctional patients during 2009/10, 2010/11 and 2011/12	36
22. Category of forensic and correctional patients as at 30 June 2011 and 30 June 2012	36
23. Number of forensic patients 1994 - 30 June 2012	36

APPENDICES

	page
1. Patient statistics required under s147(2) <i>Mental Health Act 2007</i> concerning people taken to a mental health facility during the period July 2011 to June 2012	38
2. Tribunal's jurisdiction as at 30 June 2012	39-40
3. Mental Health Review Tribunal Members as at 30 June 2012	41
4. Tribunal organisational structure and staffing as at 30 June 2012	42
5. Financial Summary - Budget Allocation and Expenditure 2011/12	43

MENTAL HEALTH REVIEW TRIBUNAL ANNUAL REPORT 2011/12

The MENTAL HEALTH REVIEW TRIBUNAL is a quasi-judicial body constituted under the Mental Health Act 2007.

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 objectives 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

Having commenced in the President's role in June 2012, at the 'tail end' of the reporting period covered by this Annual Report, I would firstly like to acknowledge the many achievements of my predecessor, the Hon Greg James AM QC, particularly in relation to legislative and procedural reforms in mental health as they affect the workings of the Tribunal. The Tribunal's jurisdiction has greatly expanded under his custodianship, particularly in relation to the work of the Forensic Division, and also in respect to Mental Health Inquiries. I have taken over the reins of a Tribunal that is running efficiently, has a very capable staff with good morale and a very strong commitment to face the challenges ahead; that this is so is in no small measure due to Greg's remarkable energy and efforts.

The mental health system is a complex one that requires constant and creative cooperative engagement with many stakeholders including government departments and agencies, hospitals and non government organisations, the medical and allied health professions, consumers and caregivers, mental health advocates and many others, to ensure the best possible outcomes for patients, their families and those who support them. It also requires the establishment and management of proper resources and advocating for these. Perhaps most important of all is a good dose of humanity, compassion and effort, both inside and outside of Tribunal hearings, for achieving the best outcomes for those who experience mental illness. I am committed to ensuring that the Tribunal effectively harnesses its efforts to advance all of these priorities.

The past year has demonstrated that there is a considerable amount of political drive for improvement in mental health services. It has seen the passage of the *Mental Health Commission Act 2012* in fulfillment of an election promise of the O'Farrell Government. The Hon Kevin Humphries MP, appointed New South Wales' first Minister for Mental Health, created a taskforce to establish the Commission and after extensive public consultation, the Act was passed and assented to on 21 March 2012, to commence on 1 July 2012. Having been a member of the taskforce, I am optimistic that the Commission will be a powerful force for improvement and change in the mental health sector. The Tribunal looks forward to a very positive engagement with the Commission. The Commission's primary task will be to monitor, review and improve the mental health system and the mental health and well-being of the people of New South Wales, by addressing systemic issues, and to prepare, in consultation with providers of mental health and related services and government agencies, a draft strategic plan for the mental health system in New South Wales.

As the statistics set out within this Report demonstrate, the past year has also seen a significant increase in the Tribunal's workload. Some 14,648 hearings were held in 2011/12, an increase of 1,144 or 8.5% over 2010/11. This is in keeping with a consistent growth trend in our caseload in recent years.

Mental Health Inquiries (the initial review of persons after they are involuntarily detained) accounted for 4,910 of the Tribunal's hearings. The Tribunal took over the Inquiries jurisdiction from Magistrates in June 2010 and until 30 June 2012, mental health inquiries were generally held between 14 and 28 days after a person was first detained. This period was regarded by many as too long, such as to be beyond a timeframe that could fairly be said to be 'as soon as practicable' as is required under s 27(d) of the *Mental Health Act 2007*. Following an independent evaluation, increased funding was provided to the Tribunal such that, commencing from 1 July 2012, mental health inquiries will be held within the shorter period of between seven and 21 days of detention. Whilst, inevitably, this will increase the number of inquiries (as fewer patients will have recovered sufficiently enough to be discharged prior to being brought before the Tribunal for an inquiry) this shorter period more appropriately meets the statutory requirement. This is an important safeguard against unnecessary involuntary detention and also assures patients of the Tribunal's careful and independent scrutiny aimed at ensuring that their civil liberties are being respected and their treatment needs are being met. Patients continue to have the important right, under s44 of the Act, to appeal to the Tribunal against an authorised medical officer's refusal to discharge them from hospital, and this applies at any time during their detention.

Tribunal Members bring a wealth of experience and expertise to Tribunal hearings. Just prior to the end of the reporting year, interviews were held for new part time Members, with the standard of applicants exceptionally high. The Tribunal anticipates that, after recruitment of new members there will be 120 highly qualified part time Members across the three categories, namely: lawyer, psychiatrist and 'other' suitably qualified members. A small number of additional part time Deputy Presidents will shortly be appointed to assist with the Tribunal's Forensic Division workload.

The Tribunal continues to educate patients, clinicians and the public about its role. I anticipate that over the next year our already significant education program will be expanded and plans are in development for changes to the Tribunal's website, which contains a vast amount of material about the Tribunal and its functions. In addition the Tribunal continues to maintain a dynamic in-house program of continuing professional development for its members, to ensure that they are aware of and sensitive to current and emerging issues.

In 2012 the Tribunal has been involved in some excellent research partnerships with the University of New South Wales and Macquarie University that are described in more detail in the Forensic Division Report. The Tribunal has also been approached by the University of Wollongong in respect of a research project. The Tribunal is highly conscious of the benefit of research and encourages engagement with research that is germane to the work of the Tribunal.

As at 30 June 2012, there were some 387 forensic and correctional patients in New South Wales (including 3 persons for whom a Forensic Community Treatment Order is in force and one forensic patient from Norfolk Island). The Tribunal is responsible for regularly reviewing these patients to ensure that they are receiving appropriate care, control and treatment. The Tribunal may only grant leave and release to a forensic patient if satisfied that neither the safety of the patient nor that of the community is seriously endangered. This requires a very comprehensive balancing of proposed rehabilitation strategies and risk management against assessment of risk in every case. To a great extent the Tribunal relies upon the quality of medical and allied health reports that are presented to the Tribunal at reviews.

The standard of presentations by treating teams is generally very high and the Tribunal expresses its gratitude to those clinicians and other professionals engaged in this process in Civil and Forensic hearings. The Tribunal hopes to foster continuing improvement in the quality of discharge planning and case management in the community and looks forward to the anticipated publication of the Transition of Care Guidelines being developed by the Ministry of Health.

Perhaps the most prominent area for future effort in relation to forensic patients is the issue of bed-flow. Although there has been significant investment in recent years by the Ministry of Health targeting this problem, notably in the establishment of the Forensic Hospital at Long Bay and of a medium secure unit at Bloomfield Hospital in Orange, Tribunal panels continue to feel frustration where on review forensic patients are assessed as ready for a 'step down' from a high secure to a medium secure facility where they would have access to more rehabilitative opportunities, but they cannot be transferred until a bed is available. Waiting lists are sometime substantial. The Tribunal acknowledges that this is a resource problem that every agency involved in the forensic system is aware of and frustrated by and that to a large extent the lack of beds is a function of years of underdevelopment of community facilities for forensic patients, which has created a 'knock on' effect.

It is very pleasing to see that in this year Justice Health has been working hard to establish an effective Forensic Mental Health Network and that it is developing a service agreement with all relevant agencies to foster a cooperative approach towards common goals and to overcoming barriers that can occur when silos of interest operate in disconnected ways. It is acknowledged that efforts are being made to improve the bed-flow problem but the success of effort will very much depend on an injection of resourcing. The Tribunal looks forward to working with the Forensic Mental Health Network to address these crucial issues.

Another related problem that continues to cause the Tribunal concern is the apparent lack of sharing of forensic patient records between treating teams that operate in different Health 'silos'. By default, the Tribunal has become the only repository of comprehensive forensic patient histories. The proper sharing of information is as important to patient rehabilitation and welfare as it is to risk management and community safety. This is an issue about which the Tribunal will seek reform by making submissions to the Law Reform Commission's current reference on persons with cognitive and mental health impairments in the criminal justice system and to the Forensic Mental Health Network.

The Tribunal has also made a number of other submissions in the reporting year for law reform, as discussed in the Forensic Division Report. The Tribunal is actively compiling a submission for the up-coming review of the *Mental Health Act 2007*. The Tribunal also continues as a member of the Reference Group for the inquiry initiated by the NSW Ombudsman into access to services under the *Disability Services Act 1993*, referred to in the Civil Division Report.

In late 2011 the Tribunal made submissions to the inquiry established by the Law and Justice Committee of the Legislative Council into 'opportunities to consolidate tribunals in NSW'. The Tribunal strongly advocated that the Mental Health Review Tribunal should remain as a 'stand alone' Tribunal given the specialist nature of its work and jurisdiction. The final report from the inquiry was released in March 2012 announcing the Government's intention to establish an expert panel to pursue the consolidation of a number of smaller tribunals in NSW to provide a 'one stop shop' for minor disputes and review of administrative decisions. A final decision had not been made prior to the end of this reporting period. However, indications are that the Mental Health Review Tribunal will not be included in any consolidation of Tribunals. This would be a welcome and appropriate outcome in the best interests of persons with a mental illness living in New South Wales.

Other issues deserving of attention include the provision of additional resources to address cultural needs of Aboriginal and Torres Strait Islander forensic patients and the need to improve the somewhat cumbersome arrangements that exist for the repatriation of forensic patients, who are foreign nationals, to their homelands.

Whilst noting some issues need reform and resourcing, the Tribunal has continued throughout the reporting year to operate at a very high level of efficiency and impact.

I would like to express to all Tribunal Members and staff my sincere gratitude for their hard work and for the great support and guidance provided to me in taking on the role of President. I look forward to an excellent year ahead for the Tribunal and the public we serve.

The Tribunal also expresses its thanks to the many agencies that assist it in its work, including the Ministry of Health, the Department of Attorney General and Justice, Justice Health, Corrective Services NSW, Juvenile Justice and numerous other agencies. In particular I would like to thank the Minister for Mental Health, the Hon Kevin Humphries MP, and his staff for their support. My thanks also go to David McGrath, Director of the Mental Health, Drug and Alcohol Office within the Ministry of Health. I also wish to thank the Mental Health Advocacy Service and its hard working lawyers who continue to represent patients appearing before the Tribunal with great skill, and who assist the Tribunal by their submissions.

I would particularly like to thank Maria Bisogni and John Feneley, who as Deputy Presidents have done a fine job in managing their respective Divisions, and in inducting me into the procedures of the Tribunal. My very deep thanks also to Rodney Brabin for his exceptional skills and service as the Tribunal's Registrar.

Inside this report you will find a section on the Tribunal's Civil Division by Deputy President, Maria Bisogni and the Civil Team Leader, Danielle White; a report on the Forensic Division by Forensic Team Leader, Sarah Hanson; and a report from the Tribunal's Registrar, Rodney Brabin. I am most grateful to those persons for their assistance with this Annual Report. In addition there is a statistical review of our operations and appendices including a financial summary, a list of the various jurisdictions that the Tribunal exercises, an organisational chart and a list of Tribunal Members.

Professor Dan Howard SC
President

FORENSIC DIVISION REPORT

Key Statistics

The Forensic Division experienced a 6.7% increase in the number of hearings during 2011/12 compared to 2010/11 (928 to 870 respectively). This increase is largely reflective of the net increase in the number of forensic patients within the forensic mental health system as more forensic patients enter the system (through Court findings) than exit the system (either by unconditional release or upon expiry of their limiting term).

Patient Flow

In the 2010/11 Annual Report, the Tribunal anticipated that the establishment of the new Forensic Mental Health Network would see an improvement in the flow of patients through the system. Unfortunately, the delay in finalising network governance arrangements has meant that patient flow has continued to present issues for the forensic mental health system during 2011/12.

Nonetheless some improvement has been evident as demonstrated by the reduction in the number of forensic patients detained in correctional centres following the Court's verdict while awaiting placement in an appropriate mental health facility. As at 30 June 2012 there were six forensic patients in correctional centres awaiting placement in the Forensic Hospital. Three of those patients had been waiting more than six months for a placement to become available. This figure is down from 19 forensic patients awaiting placement in an appropriate mental health facility as at 30 June 2011.

It is hoped that when the Forensic Mental Health Network is fully operational further improvements to the flow of patients through the forensic mental health system will be realised.

Increased Case Management

In the 2010/11 Annual Report the Tribunal reported on the development of a closer case management approach within the Forensic Division whereby it tracks key issues between Tribunal hearings as the need arises.

One of the key mechanisms utilised under this approach is the ability of the Tribunal to issue an order for apprehension rather than relying on the Tribunal's power to revoke an order for leave or release, which requires a full Tribunal hearing. An apprehension order under section 68 of the *Mental Health (Forensic Provisions) Act 1990* may be issued by the President of the Tribunal where it appears that a forensic patient has breached a condition of the grant of leave or release, or that a forensic patient's condition may have deteriorated such that they are at risk of causing serious harm to himself or herself or to any member of the public because of his/her mental condition.

The consequence of issuing a breach order is that the patient is taken to a mental health facility for a thorough assessment, following which the patient is reviewed by the Tribunal to consider the events leading to the issuing of the order, and the appropriateness of the continuation of leave or release. This effectively acts as an early intervention measure by temporarily suspending the forensic patient's leave or release to ensure that appropriate assessments occur in a timely fashion.

The Forensic Division increasingly utilised this breach mechanism in 2011/12 with 27 reviews in respect of 18 forensic patients being held compared to 10 reviews in relation to 8 forensic patients in 2010/11 (two forensic patients were reviewed in both 2010/11 and 2011/12 in relation to the same apprehension order).

In 2011/12, breach orders were issued in six cases due to concerns about a possible deterioration in the forensic patient's mental condition and 10 orders were issued in relation to possible breaches of conditions of leave or release (with or without an associated deterioration in the forensic patient's mental condition). This compares to one order related to a possible deterioration in mental condition and seven for possible breaches of conditions in 2010/11.

As the Tribunal and treating teams continue to work together on tracking issues between reviews, the rise of the number of matters in 2011/12 is unlikely to represent a true increase in the incidence of these types of issues arising. It is more likely a reflection of the proactive role the Tribunal has been adopting since the legislative changes were introduced.

Internal and External Training

The Forensic Division continued its work with Justice Health, Local Health Districts, Corrective Services NSW and other agencies regarding the practices and processes under the *Mental Health (Forensic Provisions) Act 1990*.

The Forensic Division ran a series of education sessions concerning mental health legislation and related Tribunal procedures. Sessions have been held with staff of Justice Health, key forensic mental health facilities, Local Health Districts, and specialist support services. The Forensic Division also presented at the Australian and New Zealand Association of Psychiatry, Psychology And Law (ANZAPPL) 'Filling the Gaps' conference held in May 2012.

In addition to the external training detailed above, the Forensic Division conducted a number of internal training sessions for staff and induction sessions for new members who will sit on forensic matters. The Forensic Division continues to hold regular information and training sessions for Presidential members and also held a Professional Development Session for all Tribunal members who sit on forensic hearings. This session benefited greatly from presentations delivered by researchers who had accessed the Tribunal's record of forensic patient matters.

Research Forum

The Tribunal has had the opportunity to consider the results of research, one conducted by graduate students from Macquarie University and the other by the University of New South Wales looking at the quality and substance of neuropsychological reports for those found unfit to be tried and the factors predicting community outcomes of people found not guilty due to mental illness, respectively. These projects provided a wealth of information on the topics and there are plans to extend both pieces of work. The research has informed the work of the Tribunal, with the Tribunal's database varied to include all factors identified as being related to outcomes for forensic patients.

The Tribunal has also continued to develop close contacts with universities to encourage research utilising the Tribunal records and has two research applications lodged for consideration by research governance and ethics bodies.

The Masters of Forensic Psychology program at the University of New South Wales has commenced a series of student placements with the Tribunal to continue work on the Forensic Database Enhancement Project, which will enable future interrogation of the Tribunal's data by researchers.

Submissions and Legal Amendments

The Tribunal made submissions in key areas affecting the care, treatment and supervision of forensic and correctional patients. This included responding to a survey conducted by the National Justice Chief Executive Officers Group Working Group on Mental Illness and Cognitive Disability in the Criminal Justice System as well as continuing to work with the Law Reform Commission in respect of its current reference concerning forensic patients and people with a cognitive impairment. In March 2012 the Tribunal made a submission to the Law Reform Commission on the issues relating to the appropriate diversion of persons with a mental illness or cognitive impairment from the Criminal Justice System.

In April 2012 changes were introduced to the *Births, Deaths and Marriages Registration Act 1995* to require 'restricted persons' to seek approval from their 'supervising authority' prior to applying to the Registrar of Births, Deaths and Marriages for a change of name. In the case of forensic patients, the Tribunal is the relevant supervising authority. The Tribunal worked with the Registry of Births, Deaths and Marriages and Local Health Districts in implementing this legislative amendment.

Victims Register

The Forensic Division also manages the Forensic Patient Victims Register. Part of the function of the Register is to provide notifications to registered victims about a variety of matters. As reported in 2009/10 and 2010/11, Victim Services within the Department of Attorney General and Justice initiated a number of reviews concerning victims of crime legislation and related services. As part of that process, a review has been conducted on the operation of the three victims registers maintained by the Tribunal, Corrective Services NSW and Juvenile Justice.

In March 2012 the Tribunal entered into a protocol between the Department of Attorney General and Justice and the other victims registers which identifies a number of goals and objectives including:

- facilitating a partnership approach which assists registered victims of crime
- providing improved information to the community about eligibility requirements and accessing the Victims Registers
- reviewing the type of information provided to registered victims within the context of relevant legislation relating to each Victims Register.

Now that this protocol has been finalised, the Tribunal will consult with the relevant agencies to ensure updated information is provided to registered victims about the Forensic Patient Victim Register, the role of the Tribunal, and victim's rights in relation to forensic patient matters before the Tribunal.

Interstate Forensic Patients

Under current interstate agreements with Queensland and Victoria, should a forensic patient abscond, the patient will be apprehended by police and taken to and detained in a mental health facility before being transferred back to his/her State of origin. The Tribunal is currently responsible for facilitating the distribution of notices of interstate apprehension orders issued by other States including the notification of police and local mental health facilities. In the reporting period the Tribunal received five orders from Queensland in relation to four patients. No interstate apprehension orders were received from Victoria.

The Tribunal has noted in previous Annual Reports that the Ministry of Health was not only reviewing the interstate agreements with Victoria and Queensland for the apprehension and return of forensic patients should they cross State lines but was considering entering into arrangements with other States to allow for the transfer of detained forensic patients. These negotiations have been postponed due to the review of the *Mental Health Act 2007* (which empowers the establishment of interstate agreements).

The Tribunal supports the establishment of interstate agreements to allow for forensic patients to return to their home State so that they are able to receive support from their family and friends. While the importance of support structures in the recovery and rehabilitation of persons with a mental illness has been well documented, this is particularly important for people of Aboriginal and Torres Strait Islander heritage. The Tribunal has identified a number of forensic patients who would be eligible for such a scheme not only with Victoria but also Queensland, Tasmania, and Western Australia. It is therefore hoped that once the review of the *Mental Health Act 2007* is complete and any legislative amendments commenced, that work can commence on entering into interstate agreements so that forensic patients can be returned to their State of origin.

Sarah Hanson
Team Leader

CIVIL DIVISION REPORT

Hearing Statistics

There was an increase of 8.8% in hearings in the Tribunal's civil jurisdiction in 2011/12. Mental Health Inquiries increased by 10.4% or by 463 hearings and involuntary patient reviews increased by 3.6% or by 75 reviews. Consistent with the trend observed in last year's Annual Report there was an increase in the number of appeals against an authorised medical officer's refusal to discharge a patient. Appeals increased by a significant 27.5% or by 775 hearings compared with 608 in the previous year and 255 in 2009-10.

There were 4,687 hearings for Community Treatment Orders (CTOs), an increase of 7.2% or 317 more hearings. CTOs for more than six months were made in 9.6% cases representing a decrease over the previous year where such Orders were made in 11% of cases. The length of a CTO is governed by the *Mental Health Act 2007* (the Act) which requires that the period of time be determined by the time taken to establish or re-establish a therapeutic relationship with the patient's case manager or to stabilise a person's mental health condition. The primary goal of a CTO is the achievement of mental health stability through patient engagement with his/her case manager with a view to the person assuming responsibility for his/her care and treatment on a voluntary basis. CTOs are used as a treatment of last resort in keeping with the objects of the Act which emphasise voluntary care and treatment wherever possible and safe and effective care with the least restriction (see ss3 and 68 of the Act).

In 2011/12 the Tribunal heard 671 applications for Electro Convulsive Therapy (ECT) for involuntary patients, a marginal decrease from 680 in the previous period. There were 12 applications for voluntary patients, a significant increase in the five applications in 2010/11. Given the small number of applications it is not possible to comment on the increase though it is noted that such variations have occurred previously, for example, in the reporting period 2009/10 there were nine applications.

The Tribunal's role in relation to voluntary patients and applications for ECT is limited to determining whether the patient is able to give informed consent to the treatments where uncertainty exists about the capacity of the patient to consent. If the Tribunal determines that the patient has capacity, ECT may proceed. Where the Tribunal determines that the patient lacks capacity to consent, the treatment must not proceed.

No applications were received for special medical treatment and only 14 applications were made for consent to surgery.

Under the *Trustee and Guardian Act 2009* the Tribunal considered 192 requests for Financial Management Orders, five of which related to forensic patients. Interested parties were responsible for 134 applications with the remaining 53 requests considered at mental health inquiries. The Tribunal made 95 orders in total, including five interim orders. There were 32 applications made for the revocation of financial management orders with revocation approved in 25 cases after the subject person was able to demonstrate to the Tribunal he or she was capable of managing their financial affairs.

Mental Health Inquiries

The Tribunal assumed responsibility for mental health inquiries in June 2010 and continues to receive positive feedback about the patient focused manner in which inquiries are conducted.

A number of refinements to the inquiry process have been implemented, in part informed by feedback from the Mental Health Inquiries Monitoring Group which comprises representatives from key stakeholder groups. Communio Pty Ltd were commissioned by the Ministry of Health to conduct an external evaluation of the efficacy and cost of mental health inquiries. Arising from the Communio Report the Ministry for Health provided additional funds to allow the Tribunal to bring forward the timing of mental health inquiries from 1 July 2012.

From 1 July 2012 assessable persons will be presented to the Tribunal for a mental health inquiry between seven and 21 days after detention. The Tribunal can conduct a mental health inquiry at an earlier date upon request. Where an appeal has been lodged by a detained person against the authorised medical officer's refusal to discharge the person, the hearing will generally be combined with a mental health inquiry with the inquiry brought forward.

Community Treatment Orders

Applications for a Community Treatment Order (CTO) can be made in respect of a patient about to leave a mental health facility and persons living in the community. A CTO can also be made for a person about to leave a correctional centre. An order was made in early 2012 in respect of a person held in a detention centre.

The Tribunal is committed to ensuring that Treatment Plans, the central document that sets out the obligations of a person subject to a CTO, are crafted with the person's individual care and treatment needs in mind and that they accord with the objects of the Act and the principles of care and treatment. To support treating teams and consistent decision making, new guidelines were issued on CTO applications. The guidelines are available on the Tribunal's website and can be readily accessed by patients, mental health practitioners, lawyers, primary carers and the general community.

Training and Professional Development of Members

This year's professional development program included a paper by Dr Roy Laube from the Transcultural Mental Health Centre on Cross Cultural Issues and a paper by Jennifer Newman on Aboriginal Cultural Issues.

Dr Jackie Curtis from the Bondi Junction Early Psychosis Programme presented a session on the cardio-metabolic and health challenges faced by youth with psychosis. Dr Curtis' paper reported positive results on an initiative at the Programme which incorporated physical healthcare into a holistic process for persons aged 15 to 25 years who experienced a first episode psychosis. The Programme involves a multi disciplinary team giving young people regular access to a dietician, an exercise physiologist, an on-site gym, exercise and cooking classes and tracking their weight, waist measurements and treating any emerging metabolic complications.

Inspector Joel Murchie conducted a session on the important role played by the NSW Police Mental Health Intervention Team, which works in partnership with NSW Health, non government organisations, and the Schizophrenia Fellowship delivering training to front line police officers on mental health issues.

External Training

The Tribunal continues to respond to requests by external agencies for education and training about the role and functions of the Tribunal. There has been a particular demand for information sessions about the Tribunal's practice and procedure at mental health inquiries with anecdotal evidence suggesting an improvement in the quality and standard of reports prepared for hearings following the information sessions.

A key to the success of any hearing day is the work undertaken by Tribunal Liaison Clerks at mental health facilities. In the spirit of improving and building on these important relationships, on 4 June 2012, the Tribunal conducted its second 'meet and greet' session with Tribunal Liaison Clerks and key hospital contacts. The meeting focused on mental health inquiries and the new system of conducting inquiries at an earlier time following a person's admission to a mental health facility. In view of the positive feedback, arrangements are being made for annual information sessions for Tribunal Liaison Clerks.

Submissions

The Tribunal made a submission on the National Recovery - Oriented Mental Health Practice Framework Project Discussion Paper which recognised the desirability of a national document and framework with guiding principles in relation to mental health recovery based interventions. The Discussion Paper highlighted important human rights issues affecting persons living with a mental illness and their ability to access recovery focussed mental health care. While the term 'recovery' is not used in the *Mental Health Act 2007*, the legislation relevant to the Tribunal reflects many of the principles contained in the Discussion Paper, particularly self determination, autonomy and the right to appropriate treatment and care.

Ombudsman's Inquiry

The 2010/11 Annual Report referred to an inquiry initiated in June 2011 by the NSW Ombudsman into the role and responsibilities of Ageing, Disability and Homecare (ADHC) and NSW Health about the provision of services to involuntary patients who have not been discharged due to a lack of appropriate community options and support or who were admitted to a unit that was considered to be inappropriate to their needs.

The Ombudsman reviewed 95 files from 11 mental health facilities across NSW and consulted with 300 stakeholders including carers, consumer groups, government and non government organisations. The Tribunal expects that a final report tabling the Ombudsman's findings will be released in late 2012.

Looking ahead

The Tribunal will continue to monitor the increase in hearings and associated workload in its civil jurisdiction and with the cooperation, dedication and professionalism of its members and staff will continue to meet the challenges presented by the increase in hearings.

Maria Bisogni
Deputy President

Danielle White
Team Leader

REGISTRAR'S REPORT

REPORT CONTENT AND PERIOD

As noted in the President's report this has been another busy and challenging year for the Tribunal. We farewelled the Hon Greg James QC as President of the Tribunal and welcomed Professor Dan Howard SC into the role. I would like to acknowledge my appreciation for the enormous contribution made by Greg James as President. During his time at the Tribunal Mr James led the Tribunal through periods of significant legislative and procedural reform in both the forensic and civil jurisdictions. His passion and commitment to the welfare and interests of people with a mental illness and their carers was instrumental in these reforms and in their implementation. Staff and members of the Tribunal were privileged to have had the opportunity to work with Mr James as President.

Under s147 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:

OPERATIONS

Caseload

In 2011/12 the Tribunal conducted 14,648 hearings including 4,910 mental health inquiries. This represents a 8.5% increase or 1,144 more hearings than in 2010/11. The increase in hearings was shared across both the forensic and civil jurisdictions (including mental health inquiries).

This was the second full year of the Tribunal's jurisdiction to conduct mental health inquiries under s34 of the Act. Prior to 21 June 2010 this role had been carried out by Magistrates. During 2011/12 the Tribunal held 4,910 mental health inquiries, 463 more than the previous year (an increase of 10.4%). Of these 3,895 (79.3%) resulted in an involuntary patient order being made. Community Treatment Orders were made on 581 occasions (11.8%). Orders for the patient to be discharged or for deferred discharge were made on 77 occasions (1.6%). This included 9 patients discharged into the care of their primary carer. The statistics for the outcomes of mental health inquiries are consistent with those in 2010/11 with only minor variations.

The number of hearings for the review of involuntary patients under s37(1) of the Act increased by 75 in 2011/12 to 2,137 from 2,062 in 2010/11 – a 3.6% 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, then at least once every three months for the first 12 months that the person is an involuntary patient, and then at least every six months while the person continues to be detained as an involuntary patient.

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 continued to increase during 2011/12 – from 255 in 2009/10; 608 in 2010/11 to 775 in 2011/12. This was a 27.5% increase over 2010/11 and a 204% increase over the number of appeal hearings conducted in 2009/10. Of the appeal hearings conducted in 2011/12, 633 or 81.7% were dismissed. The patient was ordered to be discharged on 26 occasions (3.4%).

The number of hearings to consider applications for a Community Treatment Order increased by 317 from 4,380 in 2010/11 to 4,697 in 2011/12 (a 7.2% increase). These hearings related to 3,220 individual patients. A total of 5,007 Community Treatment Orders were made in 2011/12 – an increase of 313 (6.7%) over the previous year. Excluding those made at a mental health inquiry (581) the number of Community Treatment Orders made by the Tribunal under s51 of the Act increased from 4,128 in 2010/11 to 4,426 in 2011/12 – a 7.2% increase.

Under s56 (2) of the Act the maximum duration of a Community Treatment order is 12 months. However of the 5,007 Community Treatment Orders made in 2011/12 only 479 were made for a period of more than six months (usually 12 months). This represents 9.6%, which is a slightly lower percentage than the 11% of such orders made in both 2009/10 and 2010/11. Although *Mental Health Act 2007* provides that the Tribunal can 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 exceptional circumstances where a person has been subject a series of Community Treatment Orders and is likely to need to continue on an Order for a longer period of time, and where the negative effect of the Tribunal's hearing on a person's mental health is such that a longer term order is appropriate.

There was a 6.7% increase in the number of hearings held by the Forensic Division in 2011/12, 928 compared to 870 in 2010/11. The impact and reasons for this are discussed further in the report from the Forensic Division.

In 2011/12 the Tribunal conducted:

	2011/12
Civil Patient hearings (for details see Tables 1-14) (* includes 4910 mental health inquiries)	*13501
Financial Management hearings (for details see Table 15)	219
Forensic Patient reviews (for details see Tables 16 - 23)	928
	<hr/> 14648

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 - 2011/2012

	<i>Civil Patient Hearings</i>	<i>Financial Management Hearings</i>	<i>Forensic Patient Hearings</i>	<i>Totals per year</i>	<i>% Increase over previous year</i>
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%

The Tribunal has a regular roster for its civil and forensic hearing panels. In addition to the hearings held at the Tribunal's premises at Gladesville in 2011/12 in person hearings were conducted at 31 venues across the Sydney metropolitan area and regional New South Wales. 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, but this is not always practical or possible. Where necessary the Tribunal has continued its use of telephone and video-conference hearings and conducted hearings by telephone and/or video conference to 235 inpatient or community venues across New South Wales. In 2011/12, 5,784 hearings and mental health inquiries were conducted in person (39.5%), 7,591 by video (51.8%) and 1,273 by telephone (8.7%). The numbers and percentages although similar to last year, differ significantly from previous 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 3,477 hearings were conducted in person (35.7%); 4,988 by video (51.2%) and 1,273 by telephone (13%). These numbers and percentages varied slightly from 2010/11 when 3,502 hearings were conducted in person (38.7%); 4,236 by video (46.8%) and 1,319 by telephone (14.6%). The figures show a continued trend of decrease in the number of hearings conducted in person and by telephone and a corresponding increase in the number of video conference hearings. The continued reduction in telephone hearings is 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 (94%), most often for people in the community on an existing Community Treatment Order (65.8%).

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 for the first time the Tribunal is 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 2012 there were 1,074 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 1,043 at the same date in 2011). However it should be noted that a number of these patients may in fact have been discharged or reclassified since the making of the order without reference to the Tribunal. There were 67 individuals who had been voluntary patients for more than 12 months and who had been subject of review by the Tribunal – again a number of these individuals may have been discharged or reclassified since the Tribunal review. A summary of the facilities in which these individuals were detained/admitted appears at Table 5.

In terms of Community Treatment Orders, as at 30 June 2012, there were 2,709 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 on the number of people subject to a Community Treatment Order at that point in time. This is a slight increase than at the same date in 2011 when there were 2,543 individuals subject to an Order.

Mental Health Inquiries

The Tribunal assumed the role of conducting mental health inquiries on 21 June 2010. At that time a two weekly schedule for conducting mental health inquiries at forty two (42) inpatient mental health facilities around the State was implemented mostly via video conference. The exceptions to this were Concord and Cumberland hospitals where inquiries were held weekly and in person because of the number of inquiries required by these two large facilities.

Mental health facilities are required to present the patient to an inquiry 'as soon as practicable' after meeting various statutory requirements to allow the Tribunal to determine if the patient should continue to be detained on an involuntary patient order, discharged on a Community Treatment Order or otherwise discharged from the facility

The inquiry arrangements continue to be monitored and adjusted as required. The number of facilities where mental health inquiries are regularly conducted in person has increased over time and has resulted in a significant impact on the percentages of inquires conducted in person or by video. During 2011/12, 53% of mental health inquiries were held by video and 47% in person compared to 64.4% by video and 35.6% in person 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 felt that many such adjournments were of little value and could be avoided if the inquiry were held at a later stage in the person's admission which allowed sufficient time for the treating team to assess and treat the patient and to develop a plan for his or her treatment and discharge as provided in the Act.

Unless a request is made for an earlier hearing, the Tribunal aims to hold its mental health inquiries after a person has been detained for about two weeks. Of the 4,910 mental health inquiries commenced by the Tribunal in 2011/12 only 581 were adjourned (11.8%). This figure is higher than in 2010/11 when only 7.1% of mental health inquiries were adjourned.

Patients can be presented earlier for a mental health inquiry particularly where 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. In 2011/12, 5.5% initial mental health inquiries were commenced during the first week of a person's detention (compared to 3.2% in 2010/11), 22.2 % during the second week (16.5% in 2010/11), 45.1% in week 3 (48.5% in 2010/11) and 26.5% in the person's fourth week of detention (29.3% in 2010/11). In a small proportion of cases (0.8% in 2011/12 down from 2.7% in 2010/11) the inquiry was commenced sometime after four weeks, such cases were investigated by the Tribunal and where appropriate, followed up with the facility involved. Many of these cases involved patients who were absent without leave, on approved leave or too unwell to be presented for a mental health inquiry when due.

The Tribunal has continued to closely monitor the new system of holding inquiries earlier in terms of its cost and 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, the Public Interest Advocacy Group (PIAC) and the Ministry of Health to assist in this process. This monitoring group met once during the reporting period and provided valuable feedback to the Tribunal.

The Ministry of Health commissioned Communito Pty Ltd to conduct 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.

From 1 July 2012 assessable persons will be presented for a mental health inquiry on the first occasion that the Tribunal visited the relevant mental health facility to conduct mental health inquiries after the person has been detained for seven days. This will mean that assessable persons will be presented for mental health inquiries in their second or third week of detention depending on the timing of the rostered mental health inquiries day for each facility. Individual patients can be presented at an earlier mental health inquiry if there is a particular need with most patients presented within 14 days of being detained. In person inquiries will be conducted at most metropolitan and a number of rural mental health facilities with video conferencing used at those facilities where in person inquiries are not feasible because of distance or the small number of inquiries required at the facility

Multicultural Policies and Services

Due to its size the Tribunal is not required to report under the Multicultural Policies and Services Program. However, both the *Mental Health Act 2007* 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 Strait Islanders.

Persons appearing before the Tribunal have a right under s158 of the *Mental Health Act 2007* to be assisted by an interpreter if they are unable to communicate adequately in English. During 2011/12 interpreters in 47 different languages were used in a total of 600 hearings. This is 47 more hearings involving an interpreter than in 2010/11 – a 9.6% increase. Consistent with previous years the most common languages continue to be Vietnamese, Cantonese, Mandarin, Greek and Arabic.

As part of the Tribunal's ongoing professional development program for its members a session was conducted in June 2012 providing training on both cross cultural issues and aboriginal cultural issues. The Tribunal is most appreciative to Dr Roy Laube from the Transcultural Mental Health Centre and Ms Jennifer Newman who provided this training.

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 2011/12.

Representation and client attendance at hearings

All persons appearing before the Tribunal have a right under s154 of the *Mental Health Act 2007* to be represented notwithstanding their mental health issues. Representation is usually provided through Legal Aid 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). Due to funding restrictions the Mental Health Advocacy Service 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 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 Community Treatment Order applications and some applications for revocation of financial management orders, however representation may be subject to a means and merits test. Including mental health inquiries, representation was provided in 63% of all hearings in the Tribunal's civil jurisdiction (see Table 1) and 98.1% of all forensic hearings. 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.

All persons with matters before the Tribunal are encouraged to attend the hearing so that their views are heard and considered by the Tribunal and to ensure that they are aware of the application being made and of the evidence that is being presented about them. 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 consistent with 2010/11 (85.6%). 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 98%. In forensic matters, where there is a general requirement that the person attend unless excused by the Tribunal, the rate was 95.8%.

Appeals

Section 163 of the *Mental Health Act 2007* 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 2011/12 seven appeals were lodged with the Supreme Court. Four of these were finalised during the reporting period with the remaining three still to be determined as at 30 June 2012. Two appeals lodged in 2010/11 were also finalised during 2011/12.

Of the appeals finalised during this reporting period two were discontinued – one by the plaintiff, and the other as the Community Treatment Order, the subject of the appeal, was revoked by the Director of the treating agency. One appeal was dismissed and in another leave to appeal was refused by the Court.

The remaining two finalised appeals were upheld and orders made that the person the subject of the appeal be discharged from the mental health facility in which they were detained. The Tribunal has carefully reviewed the Court's decision in both these appeals with a view to adjusting its procedures as required.

Government Information (Public Access) Act 2009

Applications for access to information held at 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.

Parties to proceedings may, in certain cases, obtain a copy of the record of the hearing to which they were a party. If of the opinion that sufficient cause is shown the President may direct that a copy of the audio recording or transcription of a hearing be made and copies provided to a party to those proceedings.

The administrative and policy functions of the Tribunal are covered by the GIPA Act. No applications for disclosure of information were received during 2011/12.

Public Interest Disclosures Act 1994

Public Authorities in New South Wales are required to report annually on their obligations under the *Public Interest Disclosures Act 1994*. Staff and members of the Tribunal are covered by the Public Interest Disclosures policy directive issued by NSW Health.

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 *Mental Health Act 2007* to collect information concerning the number of involuntary referrals, and the provisions of the Act under which persons were taken to hospital and admitted or released. The Regulations provide that these details are collected by means of a form (Form 10) which all inpatient mental health facilities are required to forward to the Tribunal for each involuntary referral.

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

Official Visitor Program

The Official Visitor Program is an independent statutory program under the *Mental Health Act 2007* 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.

The Program was previously located at the Ministry's Head Office in North Sydney and received administrative support from the Mental Health and Drug and Alcohol Office. It was agreed that the independent role of the Program would be better supported if it was located outside of the Ministry.

Although the Program is now 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.

The Program is appreciative of the ongoing support and advice provided by the Mental Health and Drug and Alcohol Office in the Ministry of Health.

Premises

The Tribunal continues to conduct its business from its premises in the grounds of Gladesville Hospital. Renovations were carried out between March and June 2010 to previously unused areas of the Tribunal's premises in preparation for taking over the conduct of mental health inquiries. The renovations included commissioning and fitting out three new hearing rooms for the conduct of mental health inquiries by video conference.

The Tribunal now has six hearing rooms fitted with video-conferencing facilities. Video conferencing equipment has also been installed in the Tribunal's conference room as this room is now used occasionally for 'overflow' hearings when all other hearing rooms are being used. There are two separate waiting areas for people attending hearings and private rooms are available for advocates and representatives to meet with clients prior to a hearing.

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. The clerks 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 Tribunal Liaison Clerks. As reported in the Civil Division Report the Tribunal hosted a meeting of Tribunal Liaison Clerks in June 2012 with approximately 40 staff attending from various mental health facilities. This was a great opportunity for the Tribunal to show its appreciation of the work carried out by staff and to discuss key issues and procedures particularly relating to mental health inquiries and the Tribunal's civil jurisdiction.

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. At some venues there are safety and security concerns with panels utilising hearing rooms that have inadequate points of access or other appropriate security systems in place. Essential resources such as working telephones with speaker capacity are sometimes unavailable in some venues. Staff at venues are not always familiar with the video conferencing equipment used to conduct hearings or there is no help desk or support arrangement in place to deal with equipment problems – this was particularly evident during 2011/12 as a number of Local Health Districts (LHDs) made changes to their video conference infrastructure which resulted in ongoing difficulties for Tribunal panels attempting to conduct hearings by video. The Tribunal is continuing to negotiate with particular venues and LHD's about these issues.

Community Education and Liaison

During 2011/12 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 other related legislation. A number of specific sessions were conducted relating to the changes to mental health inquiries system.

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

OUR STAFF AND TRIBUNAL MEMBERS

Staff

While the number of hearings conducted by the Tribunal increased more than fourfold since the Tribunal's first full year of operation in 1991, staffing levels remained relatively static 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.

In recognition of the increased workload the Tribunal was assisted by appointments to two temporary positions during 2006. These positions were supplemented in May 2008 when 4.4 additional staffing positions were approved. The need for these positions was identified as part of the Administrative Review to assist with the Tribunal's increased workload and to make provision for the additional responsibilities from changes to the forensic legislation and the establishment of the Forensic Division. While these temporary positions have continued to be extended, attempts to have the positions made permanent have been unsuccessful due to a lack of available recurrent funding through the Mental Health Drug & Alcohol budget. This has resulted in a large number of staff acting in positions or being appointed to the Tribunal on a temporary basis.

The Tribunal's establishment was increased by two permanent positions in 2008 following the independent review of the operations of the Forensic Executive Support Unit (FESU) commissioned by Justice Health which recommended that a number of the functions then carried out by FESU be transferred to the Tribunal along with the resources necessary to perform them. These functions included the management of the Forensic Patient Victims Register, management of the processing of Tribunal decisions and related correspondence, management of non compliance and breaches of conditions of leave or release and the apprehension of interstate forensic patients.

Two additional permanent positions were approved in 2010 and one additional temporary position was approved in mid 2012 to support the mental health inquiries function.

Appendix 4 shows the organisational structure and staffing of the Tribunal as at 30 June 2012

Tribunal Members

Appendix 3 provides a list of Tribunal members as at 30 June 2012. As at this date the Tribunal had three full time members (a President and two full time Deputy Presidents), three part time Deputy Presidents and 111 part time members. Members sit on hearings in accordance with a roster prepared based on members' availability, sitting preferences and the need for hearings. Most members sit at regular venues between two and four times per month.

The Tribunal's part time membership reflects a sound gender balance with 55 female part time members and 56 male members. There are a number of members who have indigenous or culturally diverse backgrounds. A number of the Tribunal's part time members bring a valuable consumer focus to the Tribunal's hearings and general operations.

The Tribunal is supported in its role 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 considerable and they are often required to attend and conduct hearings in very stressful circumstances at inpatient and community mental health facilities, correctional centers and other venues.

In 2011/12 the Tribunal continued its program of regular professional development sessions for its members. These sessions involved presentations from Tribunal members and staff as well as guest speakers. The sessions were conducted out of hours and no payment was made for members' attendance. The Tribunal is encouraged by and appreciative of the high rate of member attendance at the sessions. Topics covered during the reporting period included: Community Treatment Orders; the definition of mental illness; the interaction between mental health and guardianship legislation in relation to medical consent; the review of the *Mental Health Act 2007*; the Mental Health Intervention Team – NSW Police; cardio metabolic care in youth with psychosis; neuropsychological assessment and fitness to stand trial; factors predicting community outcomes of people found not guilty due to mental illness; and cross cultural and aboriginal cultural issues.

The Tribunal also distributed practice directions, circulars and information to members to support their work in the conduct of 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.

An important component of striving to maintain the high standards of Tribunal members is the formal appraisal of members, a process which commenced in 2011. The Tribunal's full time presidential members have been involved in the ongoing appraisal of part time members. Whilst the aim of the initiative is to ensure that Tribunal members maintain the highest standard, the appraisal mechanism also provides the Tribunal with additional opportunities to identify training needs or gaps in service.

The performance of members is appraised against a set of competency criteria drawn from the Tribunal's existing standards and from the 'Competence framework for Chairman and members of Tribunal' (2002) and the 'Fundamental Principles and Guidance for Appraisals in Tribunals and Model Scheme' (2003) published by the Judicial Studies Board (UK) and adopted by other Australian Tribunals.

The appraisal of members occurs at least once during each term of appointment and involves the member completing a self appraisal form which is used as a basis of discussion with the appraiser. This is followed by a hearing observation against the agreed standards and results in a report to the President which is signed by the appraiser and the member. The appraisal is a relevant consideration in the reappointment process.

The terms of all part time members were to expire on 31 August 2012. Approximately half of the Tribunal membership had their appointment reviewed by an internal process involving an interview with the President of the Tribunal. The remainder were required to compete in an external merits based recruitment process. Both processes were commenced in early 2012 with interviews for the external process held between April and June. Both processes were nearing completion as at 30 June 2012 with a view to appointments and reappointments being approved by the Minister for Mental Health, Cabinet and the Governor prior to 31 August 2012.

FINANCIAL REPORT

The Tribunal receives its funding from the Mental Health Drug and Alcohol Office (MHDAO), Ministry of Health. No formal allocation of funds was made during 2011/12 however expenditure was closely monitored against activity. Total net expenditure for 2011/12 was \$5,835,698. See Appendix 5.

Total expenditure increased by approximately \$240,000 (4.3%) over the previous financial year.

A Treasury Adjustment of \$400,000 was provided to the Ministry of Health being the agreed amount transferred from the Department of Attorney General and Justice to fund the mental health inquiries role. The actual expenditure related to this role for the financial year was \$735,555. This included approximately \$175,000 for 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. As mentioned previously in this Report in March 2012 the Minister for Mental Health agreed to provide additional funds to support changes to the timing of mental health inquiries.

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

THANK YOU

I would like to thank the staff and members of the Tribunal for their continued hard work and commitment to the very important work undertaken by the Tribunal. 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 almost 15,000 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 2011 to 30 June 2012

Section of Act	Description of Review	Hearings (Including Adjudgments)			% Reviewed by Sex		Legally Represented	Client Attended
		M	F	Total	M	F		
s9	Review of voluntary patients	41	42	83	49	51	17 (20%)	80 (96%)
s34	Mental Health Inquiry	2675	2235	4910	54	46	4797 (98%)	4762 (97%)
s37(1)(a)	Initial review of involuntary patients prior to expiry of magistrate's order	482	446	928	52	48	820 (88%)	857 (92%)
s37(1)(b)	3 monthly review of involuntary patients after initial 12 month period	339	222	561	60	40	500 (89%)	517 (92%)
s37(1)(c)	Continued review of involuntary patients after initial 12 month period	403	245	648	62	38	185 (29%)	583 (90%)
s44	Appeal against an authorised medical officer's refusal to discharge	413	362	775	53	47	634 (82%)	729 (94%)
s51	Community treatment orders	2998	1699	4697	64	36	1143 (24%)	3424 (73%)
s63	Review of affected persons detained under a community treatment order	5	6	11	45	55	11 (100%)	8 (73%)
s65	Revocation of a community treatment order	2	-	2	100	-	0 (-%)	1 (50%)
s65	Variation of a community treatment order	130	58	188	69	31	9 (5%)	10 (5%)
s67	Appeal against a Magistrate's community treatment order	-	-	-	-	-	-	-
s96(1)	Review of voluntary patient's capacity to give informed consent to ECT	5	7	12	42	58	2 (17%)	11 (92%)
s96(2)	Application to administer ECT to an involuntary patient with or without consent	284	387	671	42	58	359 (54%)	592 (88%)
s99	Review report of emergency surgery involuntary patient	3	5	8	38	62	-	-
s101	Application to perform a surgical operation	8	6	14	57	43	7 (50%)	14 (100%)
s103	Application to carry out special medical treatment	-	-	-	-	-	-	-
s154(3)	Application to be represented by a person other than an Australian legal practitioner	1	-	1	100	-	-	-
TOTAL		7789	5720	13509	58	42	8484 (63%)	11588 (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 2009/10, 2010/11 and 2011/2012**

	2009/10	2010/11	2011/12
Reviews of assessable persons - Mental Health Inquiries	43	4447	4910
Reviews of persons detained in a mental health facility for involuntary treatment	2572	2062	2137
Appeal against authorised medical officer's refusal to discharge (s44)	255	608	775
Applications for orders for involuntary treatment in a community setting (s118/s51)	4196	4380	4697
Variation and Revocation of Community Treatment Orders (s65)	186	134	190
Review of those persons detained in a mental health facility following a breach of the Community Treatment Order (s63)	10	11	11
Appeal against a Magistrate's Community Treatment Order (s67)	8	2	-
Review of those in a mental health facility receiving voluntary treatment who have been in the facility for more than 12 months (s9)	60	75	83
Notice of Emergency Surgery (s99)	4	2	8
Consent to Surgical Operation (s101)	27	9	14
Consent to Special Medical Treatment (s103)	2	-	-
Review voluntary patient's capacity to consent to ECT (s96(1))	9	5	12
Application to administer ECT to an involuntary patient	716	680	671
Application for representation by non legal practitioner	-	-	1
TOTALS	8088	12415	13509

Table 3**Summary of outcomes for reviews of assessable persons at a mental health inquiry for the period 1 July 2011 to 30 June 2012**

<i>M</i>	<i>F</i>	<i>T</i>	<i>Adjourn</i>	<i>Invol Patient Order</i>	<i>Discharge</i>	<i>Deferred Discharge</i>	<i>Discharge on CTO</i>	<i>Discharge to Primary Carer</i>	<i>Declined to deal with/ withdrawn</i>	<i>Reclass to Voluntary</i>
2675	2235	4910*	344	3895	41	27	581	9	12	1

Note: * These determinations related to 4130 individuals.

Table 4

Flow chart showing progress of involuntary patients admitted during the period July 2011 to June 2012

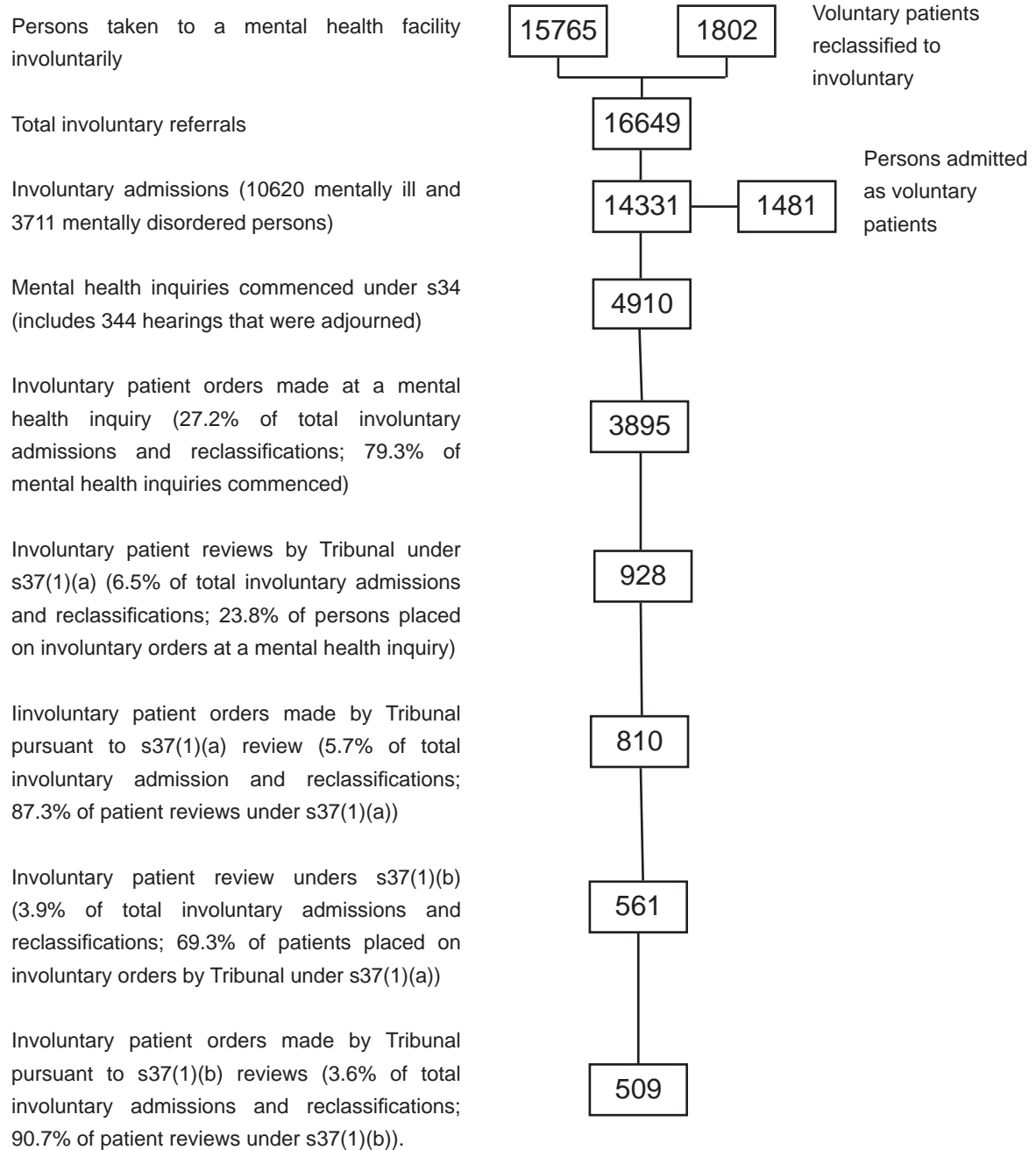


Table 5

**Summary of patients subject to Involuntary patient orders
or voluntary patient review as at 30 June 2012**

<i>Hospital</i>	<i>s34</i>	<i>s37(1)a</i>	<i>s37(1)b</i>	<i>s37(1)c</i>	<i>Total Involuntary</i>	<i>Voluntary</i>	<i>Total</i>
Albury	3	0	0	0	3	0	3
Bankstown	15	4	0	0	19	0	19
Bega	1	1	0	0	2	0	2
Blacktown	9	1	2	0	12	0	12
Bloomfield	13	10	14	24	61	17	78
Blue Mountains	5	0	2	0	7	0	7
Braeside	3	5	0	0	8	0	8
Broken Hill	0	1	0	0	1	0	1
Campbelltown	20	3	1	1	25	0	25
Cessnock	0	1	0	0	1	0	1
Coffs Harbour	13	1	2	0	16	0	16
Concord	38	27	19	21	105	5	110
Cumberland	22	22	11	71	126	15	141
Dubbo	4	3	0	0	7	0	7
Forensic Hospital	0	0	2	6	8	0	8
Gosford	16	2	0	0	18	0	18
Goulburn	9	3	2	1	15	2	17
Greenwich	5	3	0	1	9	0	9
Hornsby	8	0	2	1	11	0	11
John Hunter	3	0	0	0	3	0	3
Kenmore	5	2	4	10	21	6	27
Lismore	6	2	0	0	8	0	8
Liverpool	17	10	1	0	28	2	30
Macquarie	6	4	17	133	160	8	168
Maitland	9	1	0	3	13	0	13
Manly	4	1	0	1	6	0	6
Mater MHC	31	16	13	8	68	1	69
Morisset	3	1	9	43	56	8	64
Nepean	5	2	3	1	11	0	11
Prince of Wales	19	14	3	1	37	0	37
Port Macquarie	5	4	1	0	10	0	10
Royal North Shore	11	2	2	1	16	0	16
Royal Prince Alfred	9	4	0	0	13	0	13
Shellharbour	20	6	0	0	26	2	28
St George	16	5	1	1	23	1	24
St Joseph's	8	5	0	0	13	0	13
St Vincent's	16	1	1	1	19	0	19
Sutherland	12	8	2	0	22	0	22
Tamworth	6	0	0	0	6	0	6
Taree	1	3	0	0	4	0	4
Tweed Heads	7	1	2	0	10	0	10
Wagga	6	2	0	0	8	0	8
Westmead Adult Psych	3	0	0	0	3	0	3
Westmead Childrens	1	0	0	0	1	0	1
Westmead Psycho Geriatric	2	1	0	0	3	0	3
Wollongong	8	3	1	1	13	0	13
Wyong	13	4	2	0	19	0	19
Total	436	189	119	330	1074	67	1141

Table 6									
Involuntary patients reviewed by the Tribunal under the Mental Health Act 2007 for the period 1 July 2011 to 30 June 2012									
		<i>M</i>	<i>F</i>	<i>T</i>	<i>Adjourn</i>	<i>Withdrawn No Jurisdiction</i>	<i>Discharge/ voluntary</i>	<i>Discharge on CTO</i>	<i>Continued detention as involuntary patient</i>
s37(1)(a)	Review prior to expiry order for detention as a result of a mental health inquiry	482	446	928	81	3	29	5	810
s37(1)(b)	Review at least once every 3 months during first 12 months person is an involuntary patient	339	222	561	38	1	8	5	509
s37(1)(c)	Review at least once every 6 months while person is an involuntary patient after first 12 months	403	245	648	31	-	1	-	616
Total		1224	913	2137	150	4	38	10	1935

Note: The 928 reviews under s37(1)(a) related to 838 individuals
The 561 reviews under s37(1)(b) related to 318 individuals
The 403 reviews under s37(1)(c) related to 371 individuals
The total of 2137 reviews under s37(1) related to 1260 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 2007/8, 2008/9, 2009/10, 2010/11 and 2011/12									
	<i>M</i>	<i>F</i>	<i>T</i>	<i>Adjourned</i>	<i>Withdrawn no jurisdiction</i>	<i>Appeal Dismissed</i>	<i>Dismissed and no further Appeal to be heard prior to next scheduled review</i>	<i>Discharged</i>	<i>Reclass to Voluntary</i>
Jul 07 - Jun 08	104	53	157	20	9	116	9	3	-
Jul 08- Jun 09	105	94	199	16	12	144	15	12	-
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

Note: * These determinations related to 639 individuals

Table 8

**Community Treatment Orders for declared mental health facilities made by the Tribunal
for the periods 2009/10, 2010/11 and 2011/12**

Health Care Agency	2009/10	2010/11	2011/12	Health Care Agency	2009/10	2010/11	2011/12
	Total CTOs	Total CTOs	Total CTOs		Total CTOs	Total CTOs	Total CTOs
Albury CMHS	21	19	10	James Fletcher Hospital	-	1	-
Auburn CHC	31	38	38	Kempsey CMHS	34	34	28
Bankstown MHS	116	148	144	Lake Illawarra Sector MHS	64	80	114
Bega Valley Counselling & MHS	3	17	26	Lake Macquarie MHS75	86	96	90
Blacktown	109	147	172	Leeton/Narrandera CHC	1	7	2
Blue Mountains MHS	87	90	93	Lismore MHOPS	49	89	88
Bondi Junction CHC	7	9	9	Liverpool MHS	101	96	118
Bowral CMHS	10	21	19	Macquarie Area MHS	46	42	72
Campbelltown MHS	110	166	188	Manly Hospital & CMHS	94	121	142
Camperdown	79	99	124	Maroubra CMH	194	202	217
Canterbury CMHS	116	125	111	Marrickville CMHS	146	155	147
Central Coast AMHS	244	297	265	Merrylands CHC	77	97	117
Clarence District HS	30	33	43	Mid Western CMHS	39	75	71
Coffs Harbour MHOPS	61	85	87	Mudgee MHS	4	9	2
Cooma MHS	8	9	5	Newcastle MHS	80	100	134
Cootamundra MHS	3	2	2	Northern Illawarra MHS	80	102	115
Croydon	133	122	151	Orange C Res/Rehab Services	33	33	19
Deniliquin District MHS	4	11	7	Parramatta	54	82	102
Dundas CHC	33	32	28	Penrith MHS	75	97	97
Eurobodalla CMHS	31	23	19	Port Macquarie CMHS	55	74	81
Fairfield MHS	154	138	158	Queanbeyan MHS	26	36	37
Far West MHS	29	42	48	Redfern CMHS	61	59	60
Goulburn CMHS	48	41	52	Royal North Shore H & CMHS	111	136	128
Granville	-	-	17	Ryde Hospital & CMHS	97	109	89
Griffith (Murrumbidgee) MHS	13	14	9	Shoalhaven MHS	28	45	42
Hawkesbury MHS	34	32	22	St George Div of Psychiatry & MH	201	221	253
Hills CMHC	33	51	55	Sutherland C Adult & Family MHS	81	91	111
Hornsby Ku-ring-gai Hospital & CMHS	95	103	92	Tamworth	-	-	5
Hunter	42	32	23	Taree CMHS	49	63	48
Hunter NE Mehi/McIntyre	17	20	21	Temora	6	9	11
Hunter NE Peel	41	26	24	Tumut	2	3	8
Hunter NE Tablelands	19	17	13	Tweed Heads	75	105	128
Hunter Valley HCA	30	44	53	Wagga Wagga CMHS	35	45	42
Inner City MHS	68	95	125	Young MHS	13	12	13

Total Number of Community Treatment Orders
Total Number of Community Treatment Orders
Total Number of Community Treatment Orders

2009-10 3956
2010-11 4694*
2011-12 4984**

* Includes 566 Community Treatment Orders made at mental health inquiries.

** Includes 581 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 2000 to 2011/12													
	2000	2001	2002	2003	2004	2005	2006	2007	2007/8	2008/9	2009/10	2010/11	2011/12
Total MagistrateCCO/CTOs	676	1349	578	1159	2092	1542	1585	1460	1318	997	806	-	-
Mental Health Inquiry CTOs											10	566	581
Total TribunalCCO/CTOs	2578	2826	3220	3676	3992	4325	4661	4854	4706	4058	3956	4128	4426
Total CCO/CTOs made	3254	4175	3798	4835	6084	5867	6256	6314	6024	5055	4772	4694	5007

Table 10								
Summary of outcomes for applications for Community Treatment Orders (s51) 2011/12								
	M	F	Total	Adjourned	Withdrawn No Jurisdiction	Application Decline	CTO Made	
Application for CTO for a person on an existing CTO	1454	770	2224	48	10	25	2141	
Application for a CTO for a person detained in a mental health facility	755	562	1317	73	8	14	1222	
Application for a CTO not detained or on a current CTO	789	367	1156	61	6	26	1063	
Totals	2998	1699	4697*	182	24	65	4426	

Note: * These determinations related to 3220 individuals

Table 11	
Tribunal determinations of ECT consent inquiries for voluntary patients for period 2011/12	
Adjourned	1
Capable and has consented	2
Incapable of consent	9
Total	12

Table 12

**Tribunal determinations of ECT administration inquiries for civil patients
for the periods 2008/09, 2009/10, 2010/11 and 2011/12**

Outcome	2008/09	2009/10	2010/11	2011/12
Capable and has consented	37	46	28	24
Incapable of giving informed consent	-	1	-	-
ECT approved	562	608	584	581
ECT not approved	32	24	23	11
No jurisdiction/withdrawn	6	5	7	13
Adjourned	29	32	38	42
Totals	666	716	680	671*

Note: * These determinations related to 399 individual patients

Table 13

**Summary of notifications received in relation to emergency surgery (s99) during the
periods 2009/10, 2010/11 and 2011/12**

	<i>M</i>	<i>F</i>	<i>T</i>	<i>Lung/ Heart</i>	<i>Pelvis/ Hip/ Leg</i>	<i>Tissue/ Skin</i>	<i>Hernia</i>	<i>Caesar- ian</i>	<i>Thyroid</i>	<i>Gastro</i>	<i>Prostate/ Rectal</i>	<i>Brain</i>
2009/10*	5	2	7	0	0	1	1	1	1	2	1	-
2010/11	1	1	2	1	1	0	0	0	0	0	0	-
2011/12**	3	5	8	4	-	1	-	-	-	1	-	1

Note: * Includes emergency surgery for three forensic patients.

** Includes emergency surgery for one forensic patient.

Table 14

**Summary of outcomes for applications for consent to surgical procedures (s101) and
special medical treatments (s103) for the period 2011/12**

	<i>M</i>	<i>F</i>	<i>T</i>	<i>Approved</i>	<i>Refused</i>	<i>Adjourned</i>	<i>No Jurisdiction</i>
Surgical procedures	8	6	14	10	-	2	2
Special medical treatment	-	-	-	-	-	-	-

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 2011 to June 2012

Section of Act	Description of Reviews	Reviews			Adjournments	With-drawn no jurisdiction	Order made	No Order made	Interim Order under s20	Revocation Approved	Revocation Declined	Legal Repres.
		M	F	T								
s44	At a Mental Health Inquiry	27	26	53	19	3	23	8	-	-	-	48
s45	Forensic patients	5	-	5	-	-	5	-	-	-	-	5
s46	On application to Tribunal for Order	67	67	134	24	8	67	30	5	-	-	124
s48	Review of interim FM order	-	-	-	-	-	-	-	-	-	-	-
s88	Revocation of Order	15	17	32	3	-	-	-	-	25	4	17
Total		114	110	224	46	11	95	38	5	25	4	194

5.3 FORENSIC JURISDICTION

Table 16

Combined statistics for Tribunal reviews of forensic patients under the Mental Health (Forensic Provisions) Act 1990 for 2010/11 and 2011/12

<i>Description of Review</i>	<i>2010/11 Reviews</i>			<i>2011/12 Reviews</i>		
	<i>M</i>	<i>F</i>	<i>T</i>	<i>M</i>	<i>F</i>	<i>T</i>
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))	-	-	-	5	-	5
Regular review of forensic patients (s46(1))	552	63	615	585	66	651
Application to extend period of review of forensic patients (s46(4))	-	-	-	1	-	1
Regular review of correctional patients (s61(1))	25	6	31	26	3	29
Review of a forensic patient following their apprehension due to an alleged breach of a condition of leave or release (s68(2))	8	2	10	21	6	27
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)	11	-	11	8	-	8
Initial review of person transferred from prison to MHF (s59)	64	9	73	65	7	72
Review of person awaiting transfer from prison (s58)	34	11	45	22	6	28
Application for a forensic community treatment order (s67)	4	-	4	7	1	8
Regular review of person subject to a forensic community treatment order and detained in a correctional centre (s61(3))	-	-	-	-	1	1
Appeal against decision of Director-General (s76F)	-	-	-	-	-	-
Application for ECT (s96) ¹	5	7	12	3	3	6
Application for surgical operation (s101)	-	-	-	-	-	-
Application for access to medical records (s156)	-	-	-	-	-	-
Application to allow publication of names (s162)	-	-	-	2	-	2
Total	726	99	825	771	99	870
Determinations						
Fitness s16	38	2	40	40	5	45
Following limiting term s24	5	-	5	13	-	13
Total	43	2	45	53	5	58
Combined Total	769	101	870	824	104	928

¹ In 2011/12 the Tribunal approved the administration of ECT for forensic patients on six occasions.

Table 17**Determinations following reviews held under the
Mental Health (Forensic Provisions) Act 1990 for the periods 2010/11 and 2011/12**

	2010/11			2011/12		
	M	F	T	M	F	T
Forensic Community Treatment Order	3	-	3	7	1	8
Variation to Forensic CTO	-	-	-	-	1	1
Revocation of Forensic CTO	-	-	-	-	-	-
Determination under s 59 person IS a mentally ill person who should continue to be detained in a mental health facility	57	7	64	60	7	67
Determination under s 59 person IS NOT a mentally ill person who should continue to be detained in a mental health facility	2	1	3	1	-	1
Classification as an involuntary patient	11	5	16	5	1	6
Determination under s76F appeal against Director-General's failure or refusal to grant leave allowed, leave granted	-	-	-	-	-	-
Approval for publication of name under s162	-	-	-	1	-	1
Adjournments	1	-	1	3	-	3
Total	74	13	87	77	10	87

Table 18**Outcomes of reviews held under the Mental Health (Forensic Provisions) Act 1990
for the periods 2010/11 and 2011/12**

	2010/11			2011/12		
	M	F	T	M	F	T
No change in conditions of detention	372	43	415	407	48	455
Transfer to another facility	82	11	93	70	15	85
Revocation of order for transfer to a mental health facility	2	1	3	-	-	-
Grant of leave of absence	52	9	61	69	10	79
Revocation of leave of absence	-	-	-	2	-	2
Conditional release	13	1	14	7	1	8
No change to conditional release	124	11	135	125	9	134
Variation of conditions of release	27	2	29	35	2	37
Revocation of conditional release	1	1	2	5	1	6
Unconditional release	9	2	11	5	2	7
Non-association or place restriction on leave or release (s76)	9	-	9	8	-	8
Extend review period to 12 months ¹	21	4	25	36	2	38
Adjournments	16	4	20	27	6	33
Decision not forwarded/completed due to change in circumstances	6	2	8	7	1	8
Total	734	91	825	803	97	900

¹ Under s 46(5)(b) the Tribunal may extend the review period of forensic and correctional patients from 6 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 change 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 2010/11 and 2011/12

	2010/11			2011/12		
	M	F	T	M	F	T
S16 person WILL become fit to stand trial on the balance of probabilities within 12 months	4	-	4	8	1	9
S16 person WILL NOT become fit to stand trial on the balance of probabilities within 12 months	29	2	31	28	4	32
S24 person is mentally ill	2	-	2	9	-	9
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	1	-	1	1	-	1
S24 person is neither mentally ill nor suffering from a mental condition	2	-	2	1	-	1
S45 person has not become fit to stand trial and will not become fit within 12 months	-	-	-	5	-	5
S47 person has become fit to stand trial	6	-	6	14	1	15
S47 person has not become fit to stand trial and will not become fit within 12 months	36	3	39	48	3	51
Adjournments	5	-	5	5	-	5
TOTAL	85	5	90	120	9	129

Table 20			
Location of forensic and correctional patients as at 30 June 2010, 30 June 2011 and 30 June 2012			
	30 June 2010	30 June 2011	30 June 2012
Bankstown Hospital	1	1	-
Bathurst Correctional Centre	1	-	2
Blacktown Hospital	-	-	1
Bloomfield Hospital	-	5	12
Blue Mountains Hospital	-	-	1
Cessnock Correctional Centre	-	-	1
Community	89	98	92
Concord Hospital	4	5	8
Cumberland Hospital - Bunya Unit	39	36	34
Forensic Hospital	83	98	103
Goulburn Correctional Centre	1	3	6
High Risk Management Correctional Centre	-	-	1
Junee Correctional Centre	-	2	1
Juvenile Justice Centre	-	1	1
Kenmore Hospital	2	1	-
Lithgow Correctional Centre	-	1	-
Liverpool Hospital	-	-	2
Long Bay Prison Hospital	41	37	42
Macquarie Hospital	7	10	7
Metropolitan Remand and Reception Centre	38	36	28
Metropolitan Special Programs Centre	6	5	6
Morisset Hospital	31	30	32
Nepean Hospital	-	-	1
Parklea Correctional Centre	-	1	-
Parramatta Correctional Centre	1	-	-
Shellharbour	-	-	2
Silverwater Womens Correctional Centre	3	4	3
Wellington Correctional Centre	1	-	-
Wyong	-	-	1
TOTAL	348	374	387

Table 21**Location of hearings held for forensic and correctional patients during 2009/10, 2010/11 and 2011/12**

	2009/10	2010/11	2011/12
Bloomfield Hospital	-	-	3
Concord Hospital	8	13	-
Cumberland Hospital - Bunya Unit	86	86	94
Forensic Hospital	158	199	224
Goulburn Gaol	5	-	-
Kenmore Hospital	5	-	-
Long Bay Prison Hospital	139	134	142
Macquarie Hospital	9	11	11
Metropolitan Remand and Reception Centre	86	90	85
Morriset Hospital	68	73	69
Silverwater Womens Correctional Centre	8	4	3
Tribunal Premises	252	260	297
TOTAL	824	870	928

Table 22**Category of forensic and correctional patients as at 30 June 2011 and 30 June 2012**

Category	Male		Female		Total	
	June 11	June 12	June 11	June 12	June 11	June 12
Not Guilty by Reason of Mental Illness	249	269	28	30	277	299
Fitness	27	23	2	2	29	25
Limiting Term	20	24	5	1	25	25
Correctional Patients	34	32	8	2	42	34
Forensic CTO	1	2	-	1	1	3
Norfolk Island NGMI	-	1	-	-	-	1
Total	331	351	43	36	374	387

Table 23**Number of forensic and correctional patients 1994 - 30 June 2012**

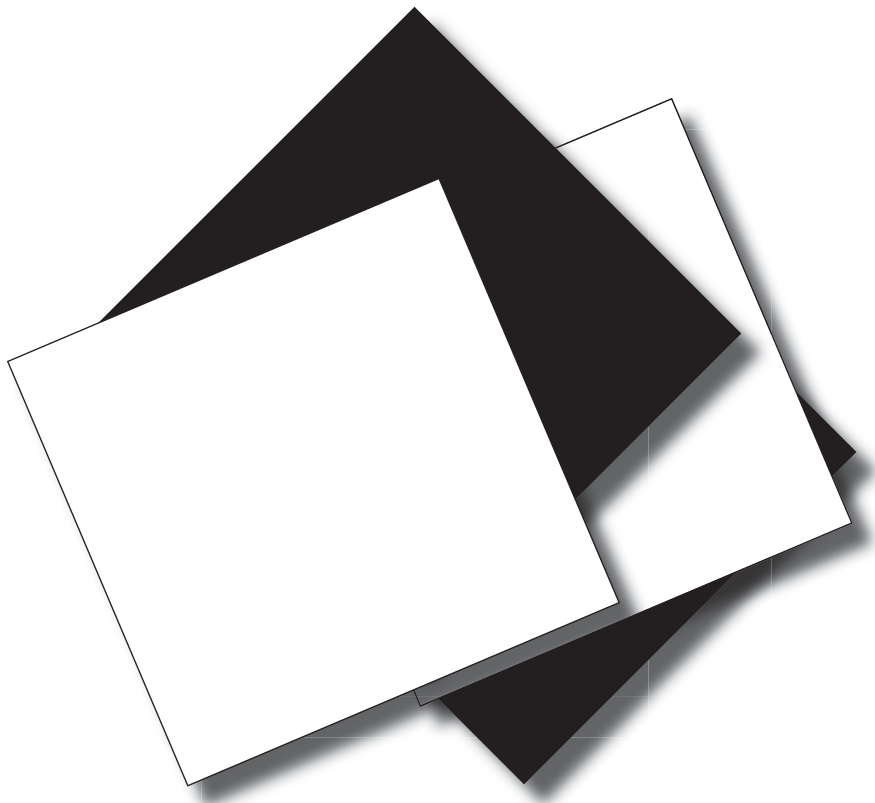
Year	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Forensic Patients	102	123	122	126	144	176	193	223	247	279	277	284	310	309	315	319	348	374	387

NOTE: Figures for 1994-2001 taken from MHRT Annual Reports as at 31 December of each year. Figures from 2002 - 2012 were taken as at 30 June of these years. Figures for 2009, 2010, 2011 and 2012 include correctional patients.



Mental Health
Review Tribunal

APPENDICES



APPENDIX 1

Patient statistics required under MHA s147(2) concerning people taken to a mental health facility during the period July 2011 to June 2012.

(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.

	<i>Method of referral</i>	<i>Admitted</i>	<i>Not Admitted</i>	<i>Total</i>
MHA90/MHA07				
s19	Certificate of Doctor	9862	228	10090
s22	Apprehension by Police	2150	968	3118
s20	Ambulance Officer	742	272	1014
s142/s58	Breach Community Treatment Order	119	18	137
s23/s26	Request by primary carer/relative/friend	977	-	977
s25/s24	Order of Court	246	66	312
s23 via s19	Authorised Doctor's Certificate	114	3	117
Total Admissions		14210	1555	15765
Reclassified from Voluntary to Involuntary		1602	200	1802
TOTAL		15812	1755	17567

(2) s147(2)(b)

Persons were detained as mentally ill persons on 10620 occasions and as mentally disordered persons on 3711 occasions. 1481 persons were admitted as voluntary patients.

(3) s147(2)(c)

A total of 4910 mental health inquiries were commenced relating to 4130 individuals.

Outcome of mental health inquiries conducted 1 July 2011 - 30 June 2012

	MHRT
Adjourned	344
Discharge or deferred discharge	77
Reclassify from involuntary to voluntary	1
Involuntary patient order	3895
Community treatment order	581
Declined to deal with	12
TOTAL	4910

(4) s147(2)(d)

In 2011/12 of the 17567 persons taken involuntarily to a mental health facility or reclassified from voluntary to involuntary: 1755 were not admitted; 1481 people were admitted as a voluntary patient and 14331 were detained as either a mentally ill or mentally disordered person - a total of 15812 admissions (including 1602 of the 1883 people who were reclassified from voluntary to involuntary).

There were 4910 mental health inquiries commenced with 3895 involuntary patient orders made. Of these only 928 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 2967 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 2012 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

Mental Health Review Tribunal Members as at 30 June 2012

Full-Time Members	Professor Dan Howard SC (President)	Ms Maria Bisogni (Deputy President)	Mr John Feneley (Deputy President)
Part-Time Deputy Presidents	The Hon John Dowd AO QC	Mr Richard Gulley AM RFD	The Hon Ken Taylor RM RFD

	Lawyers	Psychiatrists	Other
Part-Time Members	Ms Carol Abela	Dr Clive Allcock	Ms Lyn Anthony
	Ms Diane Barnetson	Dr Stephen Allnutt	Ms Elisabeth Barry
	Mr Peter Braine	Dr Dinesh Arya	Mr Peter Bazzana
	Ms Catherine Carney	Dr Jenny Bergen	Mr Ivan L Beale
	Ms Jenny D'Arcy	Dr Brian Boettcher	Ms Diana Bell
	Ms Linda Emery	Dr Barbara Burkitt	Ms Christine Bishop
	Ms Helen Gamble	Dr Andrew Campbell	Mr Gerald Cheung
	Mr Anthony Giurissevich	Dr Jonathan Carne	Ms Gillian Church
	Ms Yvonne Grant	Dr Shailja Chaturvedi	Dr Leanne Craze
	Mr Robert Green	Dr June Donsworth	Mr Phillip French
	Ms Eraine Grotte	Dr Charles Doutney	Ms Michelle Gardner
	Mr David Hartstein	Dr Michael Giuffrida	Mr Michael Gerondis
	Mr Hans Heilpern	Dr Robert Gordon	Mr John Haigh
	Ms Catherine Henry	Prof David Greenberg	Ms Corinne Henderson
	Mr John Hislop	Prof James Greenwood	Ms Sunny Hong
	Mr Christopher Hogg	Dr Jean Hollis	Ms Lynn Houlahan
	Ms Barbara Hughes	Dr Rosemary Howard	Ms Susan Johnston
	Ms Julie Hughes	Dr Peter Klug	Dr Timothy Keogh
	Ms Carolyn Huntsman	Dr Karryn Koster	Ms Janet Koussa
	Mr Thomas Kelly	Dr Dorothy Kral	Ms Rosemary Kusuma
	Mr Dean Letcher	Dr Lisa Lampe	Mr Gordon Lambert
	Ms Monica MacRae	Dr William E Lucas	Ms Jenny Learmont
	Ms Carol McCaskie	Dr Rob McMurdo	Ms Leonie Manns
	Mr Lloyd McDermott	Dr Sheila Metcalf	Dr Meredith Martin
	Dr Yega Muthu	Dr Janelle Miller	Mr Shane Merritt
	Ms Anne Scahill	Dr Olav Nielssen	Ms Tony Ovadia
	The Hon Ken Shadbolt	Dr Geoffrey Rickarby	Mr Alan Owen
	Ms Tracy Sheedy	Dr Anthony Samuels	Mr Rob Ramjan
	Mr Jim Simpson	Dr Peter Shea	Ms Felicity Reynolds
	Ms Rohan Squirchuk	Dr John Spencer	Mr Andy Robertson
	Mr Bill Tearle	Dr Victor Storm	Ms Robyn Shields
	Mr Charles Vandervord	Prof Christopher Tennant	Ms Alice Shires
	Mr Herman Woltring	Dr Paul Thiering	Assoc Prof Meg Smith
		Dr Susan Thompson	Dr Suzanne Stone
	Dr Andrew Walker	Ms Bernadette Townsend	
	Dr Rosalie Wilcox	Ms Pamela Verrall	
	Dr Anthony Williams	Ms Anne Whaite	
	Dr John Woodforde	Dr Ronald Witton	
	Dr Rasia Yuvarajan	Assoc Prof Stephen Woods	

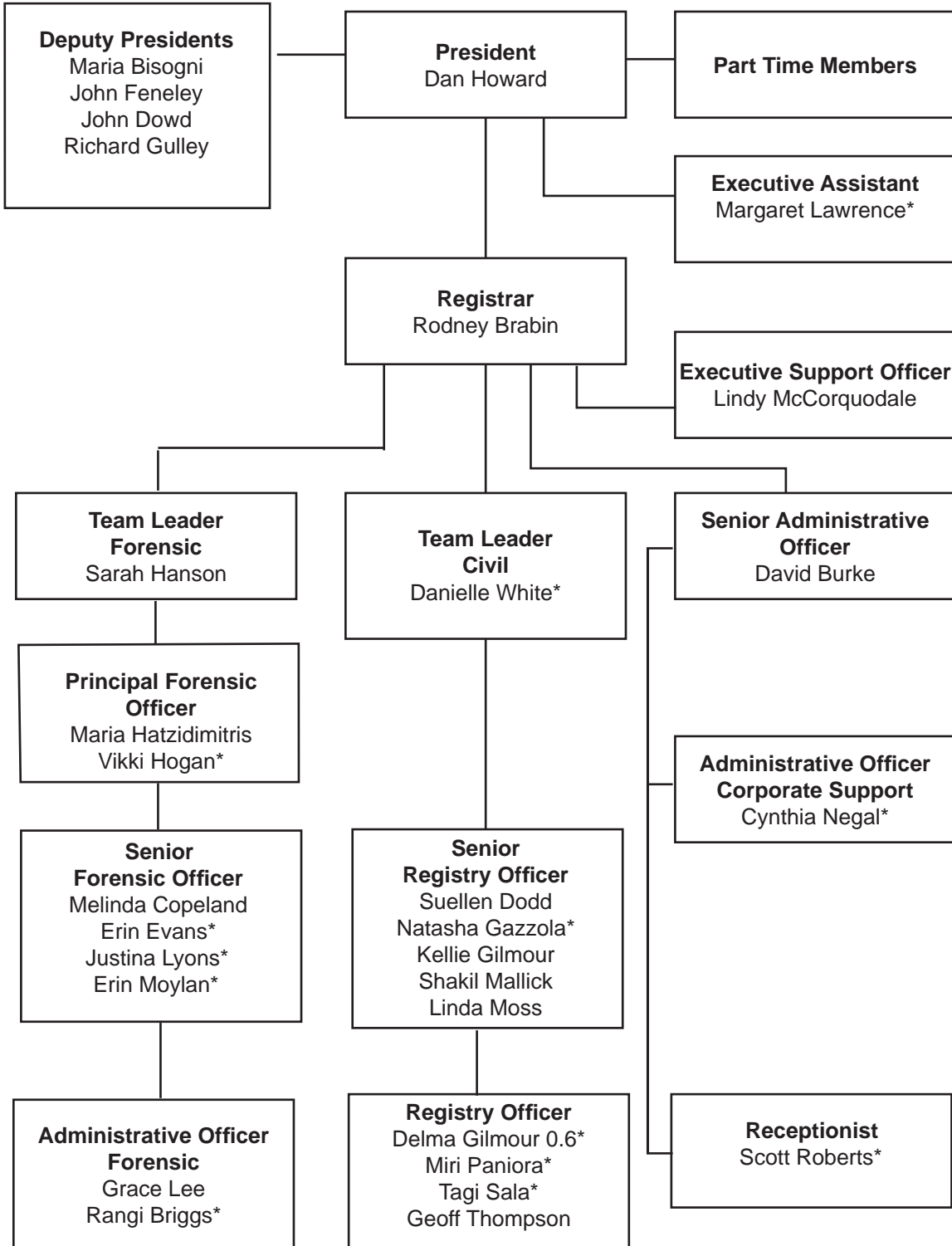
The Tribunal notes with appreciation the contributions of the following members who passed away during 2011/12:

The Hon Mahla Pearlman AO
The Hon Frank Walker QC

The Tribunal also notes its appreciation to the Hon Greg James QC whose appointment as President ended on 1 May 2012.

MENTAL HEALTH REVIEW TRIBUNAL

Organisational Structure and Staffing as at 30 June 2012



* Acting or temporary appointment

FINANCIAL SUMMARY

Expenditure 2011/12

Expenditure for 2011/12 was directed to the following areas:

Salaries and Wages	2,772,412
Goods and Services	*3,002,029
Equipment, repairs and maintenance	44,642
Depreciation	<u>27,465</u>
Expenditure	**5,846,548
Less Revenue	<u>10,850</u>
Net Expenditure	<u>\$5,835,698</u>

* Includes \$2,555,220 for payment of part-time member fees.

** Includes expenditure of \$735,555 on the Mental Health Inquiries program.