

ANNUAL REPORT 2022

NSW MENTAL HEALTH REVIEW TRIBUNAL

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The Honourable Bronnie Taylor MLC

Minister for Mental Health
Parliament House
Macquarie Street
Sydney NSW 2000

29 October 2022

Dear Minister,

I enclose the Annual Report of the NSW Mental Health Review Tribunal for the period 1 July 2021 through 30 June 2022 as required by section 147 of the *Mental Health Act 2007*.

Yours sincerely,



Judge Paul Lakatos SC
President

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THE VALUES WE BRING TO OUR WORK

The NSW Mental Health Review Tribunal is an independent Tribunal which plays an important role in safeguarding the civil rights of persons under the *Mental Health Act 2007 (MHA)* and in ensuring that people living with mental illness receive the least restrictive care that is consistent with safe and effective care.

In exercising its functions and its jurisdiction under the law, the Tribunal adopts the following values:

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

THE WORK THAT WE DO

The Tribunal has 47 heads of jurisdiction covering:

- the disposition and release of persons found not criminally responsible by reason of mental illness;
- determining matters concerning persons found unfit to be tried and prisoners transferred to a mental health facility for treatment;
- reviewing the cases of detained patients (both civil and forensic) and long-term voluntary psychiatric patients;
- hearing appeals against an authorised medical officer's refusal to discharge a patient;
- making, varying and revoking community treatment orders;
- determining applications for certain treatments and surgery; and
- making orders for financial management where people are unable to manage their own financial affairs.

In performing its role, the Tribunal actively seeks to pursue the objects of the *Mental Health Act 2007* including delivery of the best possible kind of care to each person in the least restrictive environment.

The Tribunal also has regard to the objects set out in s 69 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* which provides, amongst other things, for the protection of the safety of victims and members of the public, and for appropriate care for forensic patients.

The Tribunal also seeks to meet the requirements of the *United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care*, including the requirement that 'the treatment and care of every patient shall be based on an individually prescribed plan, discussed with the patient, reviewed regularly, revised as necessary and provided by qualified professional staff'

The destabilising effect of the Covid-19 pandemic has continued to be challenging for staff, members and participants of the Tribunal.

Remarkably, through the goodwill and forbearance of our staff, the Tribunal maintained all hearings during extended lockdowns of July – October 2021. Additionally, the Tribunal was able to reduce the need for utilising the provisions of the *Covid-19 Legislation Amendment (Emergency Measures) Act 2020 No 1*, which permitted the Tribunal, among other actions, to extend specified statutory time limits for reviews.

Nevertheless, it was not possible to return to the mental health facilities in which inquiries and reviews would normally take place. Those facilities were required to exercise care to ensure that their vulnerable cohorts were not exposed to the potentially serious effects of the Covid-19 virus. The Tribunal also had to consider the health and safety of its members and it became necessary to suspend in-person hearings at Gladesville.

Accordingly, the work of the Tribunal continued via AVL hearings and reviews. These mechanisms are not a perfect substitute for face-to-face reviews and interactions but were necessary to ensure that the oversight function of the Tribunal continued.

COVID IMPACT

As noted in the last Annual Report, the effect of Covid-19 on mental health facilities limited the capacity of patients to exercise leave in the usual fashion and to have visits by their family and friends, although this varied according to the prevalence of the virus in the community.

Regrettably there were significant restrictions on the liberty of forensic patients, and those in correctional centres, in order to limit cross infection with Covid-19. This resulted in delays on applications for transfer and access to leave as a result. An unfortunate consequence was the impact on the mental health of those Forensic patients, with a number of deteriorations connected to the limitations imposed on activities. The Tribunal observed an increase in re-admissions to hospital as a result.

Ongoing Covid-19 restrictions also meant that the Tribunal continued to approve, in appropriate cases, overnight leave of up to 7 nights for forensic patients detained in medium secure units. Mental health facilities were presented with the dilemma that, due to potential Covid-19 transmissions, a patient returning to the facility after exercising lesser periods of overnight leave posed a significant risk to other patients. Consequently, shorter leave was difficult to implement with safety.

As the Forensic Division Report notes, Covid-19 issues exacerbated existing problems in relation to delays in the transfer of forensic patients to beds in appropriate mental health facilities.

CASE LOAD

The Registrar's Report sets out in greater detail the breakdown of the work done by the Tribunal. For present purposes it is salient to note that in the financial year 2022, the Tribunal conducted 19,142 hearings (about 3% higher than the 2021 figures). Those hearings involved 11,463 individuals which is a similar variation from 2021 (11,958 individuals). The Tribunal held 5,966 mental health inquiries which was a drop of about 3% on 2021 figures. The number of forensic hearings increased slightly (1%) from 1,669 to 1,680.

The need to resort to the emergency measures brought about by the Covid legislation was minimal. By way of example, mental health inquiries conducted by telephone were utilised on only two occasions during the relevant period.

That the Tribunal was able to in many respects carry on "business as usual" was in no small part due to the efforts of members and staff. I particularly wish to express my gratitude on behalf of the Executive Team to the members and staff who have worked diligently to ensure that the legislative protections of those with mental illnesses continued during this period.

MENTAL HEALTH AND COGNITIVE IMPAIRMENT FORENSIC PROVISIONS ACT 2020

2021/22 was the first full year of the *Mental Health & Cognitive Impairment Forensic Provisions Act 2020* (MHCIFPA) operation and the Tribunal transitioned with no negative impact to listings.

The Tribunal was involved with the co-development of Forensic Information Sheets which will be available next financial year for publication on websites. These sheets provide introductory information about the forensic system for consumers, carers, victims, clinicians and the public. It was also pleasing to see that a review of the *Forensic Policy* has begun.

Some of the challenges the Tribunal experienced included fluctuating NDIS plans for forensic patients which led to last minute, and unfortunately disruptive, changes of living arrangements. This experience reinforces the need for a strategic plan for forensic patients with a cognitive disability. Additionally, issues surrounding interstate transfer arrangements remain unaddressed.

RECRUITMENT

The Tribunal has put forward two experienced and capable judicial officers for the position of part-time Deputy President and is awaiting the approval of Cabinet in relation to those appointments. Recruiting for the positions of lawyer members, psychiatrists and other qualified members, has been completed and the recommendations submitted to the Minister for approval.

STAFF AND MEMBERS

One is drawn to say that this year was a year for generational change in the membership of the Tribunal. The Deputy President (Forensic Division), Ms Anina Johnson left the Tribunal after a decade of service. She brought to her work a breadth of knowledge, experience and empathy which contributed to the standing in which the Tribunal is held by consumers, their carers and the other relevant stakeholders. Speaking personally, Ms Johnson allowed me as President, to function effectively and she often filled in the significant gaps in my knowledge and experience. I was thankful to work with her and am sure that members and staff of the Tribunal share the same sentiments.

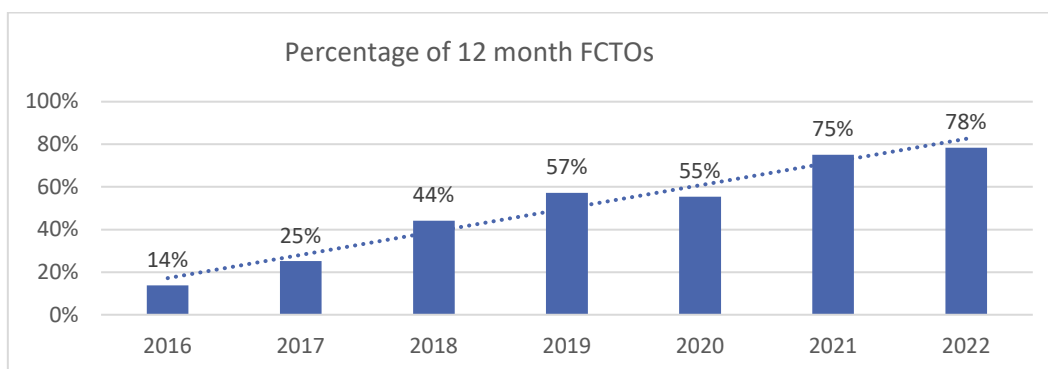
Additionally, twenty members finished their duties with the Tribunal, with seven of those members having served for thirty years or over (Ms Carol Abela, Ms Diane Barnetson, Ms Carol McCaskie, Ms Elizabeth Barry, Ms Susan Johnston, Dr Dorothy Kral and Ms Rowan Squirchuk); two members for twenty years or over (Mr Thomas Kelly and Dr Rosemary Howard) and seven members for ten years or over (Dr Rob McMurdo, Dr Karryn Koster, Ms Felicity Reynolds, Ms Anne Scahill, Dr Michael Giuffrida, Dr Paul Thiering and Deputy President, Ms Anina Johnson). In addition, Associate Professor Kimberlie Dean, Dr Frank Lumley and Dr Sidney Williams tendered their resignations. I regret to say that Ms Scahill passed away in the course of 2022, causing considerable grief to those who had worked with her.

The enormity of the contribution of all of these members should be measured by reference to the length of their service as compared to for example, my own tenure at this Tribunal (a little over three years) and more particularly, the quality of skill, learning and empathy that each of these members brought to their tasks. I wish to reiterate my thanks to each of them for the substantial contribution they have made to those suffering with mental illness and their families in New South Wales.

Judge Paul Lakatos SC
President

PATIENTS AND THEIR WHEREABOUTS

At 30 June 2022, there were 485 forensic patients, 38 correctional patients¹, and 175 consumers on forensic community treatment orders (FCTOs). The number of forensic patients increased by 3.4% from 2021 (469). FCTO applications increased by 19% from 2021, and over the past five years have increased by 9%. *See Appendix 2 Table 21.* Of the FCTOs made this year, 78% were 12-month orders, which was comparable with last year (75%). This has steadily increased over the past 7 years.



This year the Tribunal conditionally released 27 forensic patients into the community (2021: 31 conditional releases) and 23 forensic patients were unconditionally released (2021: 22 unconditional releases). Two patients had their conditional release revoked during this period (2021: 8 revocations). *See Appendix 2 Table 9.*

The Tribunal granted an extension of review period of up to 12 months for 59 patients. This was fewer than last year (78 extensions granted) however this figure does fluctuate (60 in 2020: 73 in 2019).

At 30 June 2022, 284 consumers lived in the community (including 214 forensic patients), 215 were detained in hospitals (206 forensic patients) and 199 were detained in custody (including in Long Bay Hospital; 65 forensic patients).

LOCATION	NUMBER OF PATIENTS AT 30 JUNE 2022			
	Forensic Patient	Forensic CTO	Correctional Patient ¹	Total
Bloomfield Hospital	27	0	0	27
Community	214	68	0	284
Concord Hospital	7	0	0	7
Cumberland Hospital	31	0	0	31
Forensic Hospital	99	0	9	108
Juvenile Justice Centre	0	0	0	0
Long Bay Correctional Complex	37	20	2	59
Long Bay Hospital	8	14	23	45
Macquarie Hospital	4	0	0	4
Metropolitan Remand and Reception Centre	11	26	3	40
Morisset Hospital	29	0	0	29
Silverwater Women's Correctional Centre	0	8	0	8
Other Community Hospitals	9	0	0	9
Other Correctional Centres	9	37	1	47
TOTAL	485	175	38	698

¹ As defined by s73 MHCIFP Act 2020

COVID-19

In the Forensic Division, hearings continued with minimal interruption throughout this reporting period, despite the extended lockdown from July to October 2021. During the Omicron wave in early 2022, a small number of forensic patient hearings were adjourned to a new review date without a hearing. This was in consultation with the forensic patient's lawyer and treating team. Additionally, the timeframe to review correctional patients was extended to within six weeks of the patient's admission to a mental health facility and some FCTO review hearings were temporarily delayed. All hearings were conducted via AVL and are planned to return live in the next reporting period.

As a result of Covid-19, detained consumers experienced greater restrictions in most settings. It was reported to the Tribunal that consumers in correctional centres were locked in their cells for extensive periods, predominantly during the Covid-19 waves, to reduce cross infection of the virus and due to unprecedented staff shortages.

Many forensic patients detained in mental health facilities had their access to leave heavily reduced or ceased altogether, particularly during the lockdown of July to October 2021. This was to reduce the chance of a returning patient transmitting Covid-19 at the facility after exercising their leave. Conversely, the Tribunal continued to approve, in appropriate cases, where the Tribunal was satisfied that the safety of the consumer, any registered victims and members of the public was not compromised, overnight leave of up to 7 nights per week (for a specified period of time). These "7 night orders" were made for forensic patients who were successfully accessing 6 nights of leave per week to avoid the associated risk of Covid-19 transmission from their return to the facility for one night per week.

As leave has a rehabilitative function, the reduced access to leave during Covid-19 appeared to slow the rehabilitative progress of many forensic patients. With reduced access to leave it was also harder to arrange accommodation and services to support conditional release applications. With forensic patients staying longer in medium and low secure settings, there was a delay in forensic patients exiting the Forensic Hospital, which in turn delayed admissions to the Forensic Hospital from custody. At the peak of this backlog in January 2022, there were 46 forensic patients in custody awaiting a more appropriate placement in a mental health facility.

Forensic patients in the community were also impacted by Covid-19 this reporting period. Many community services experienced staffing shortages, which limited the frequency of contact and support provided to some patients. It was the anecdotal experience of the Tribunal that the deterioration in mental state of a number of forensic patients during this period was connected to the impact of the restrictions and the limitations imposed on activities and support.

Twenty-one forensic patients were admitted under the MHA as voluntary or involuntary patients during this reporting period (2021: 14 and 2020: 10). Conversely, the Tribunal saw a reduction in "breach orders" - orders issued by the Tribunal for a breach of a condition or a deterioration in mental state (2022: 18 breach orders; 2021: 24 breach orders; 2020: 29 breach orders).

MENTAL HEALTH & COGNITIVE IMPAIRMENT FORENSIC PROVISIONS ACT 2020

This year was the first full year of operation for the MHCIFP Act 2020, which commenced on 27 March 2020. Overall, the impact of the MHCIFP Act 2020 on Tribunal practices in 2022 was minimal with the transition having been made successfully in 2021.

As a result of the MHCIFP Act 2020 court processes for dealing with fitness to stand trial were streamlined as the court no longer referred defendants found unfit and unlikely to become fit to the Tribunal. Accordingly, fitness referrals to the Tribunal were substantially reduced in this reporting period (2022: 29; 2021: 77; 2020: 86). *See Appendix 2 Table 6.* This significant fall in fitness referrals may also have reflected a reduction in fitness inquiries at court as a result of Covid-19.

The number of limiting term patients referred to the Tribunal by the court in this reporting period was more than double than in earlier years (2022: 23; 2021: 11; 2020: 6; 2019: 10; 2018: 6). *See Table 8.* Under the transitional provisions of the MHCIFP Act 2020, it is possible that courts elected to postpone matters so as to utilise the more streamlined processes of the new Act – any delayed matters will be referred to the Tribunal in the new reporting period.

With the introduction of the MHCIFP Act 2020, a forensic patient can receive a special verdict of "act proven but not criminally responsible" (APNCR), previously "not guilty by reason of mental illness", due to a mental health impairment,

cognitive impairment (new verdict) or both (new verdict). The Tribunal received 25 referrals from the court for forensic patients who received a special verdict of APNCR due to a mental health impairment, two patients due to a cognitive impairment, and two patients due to both.

The Tribunal continues to collect data to report to a multi-agency Forensic Working Group for the purposes of monitoring and evaluating the operation of the MHCIFP Act 2020.

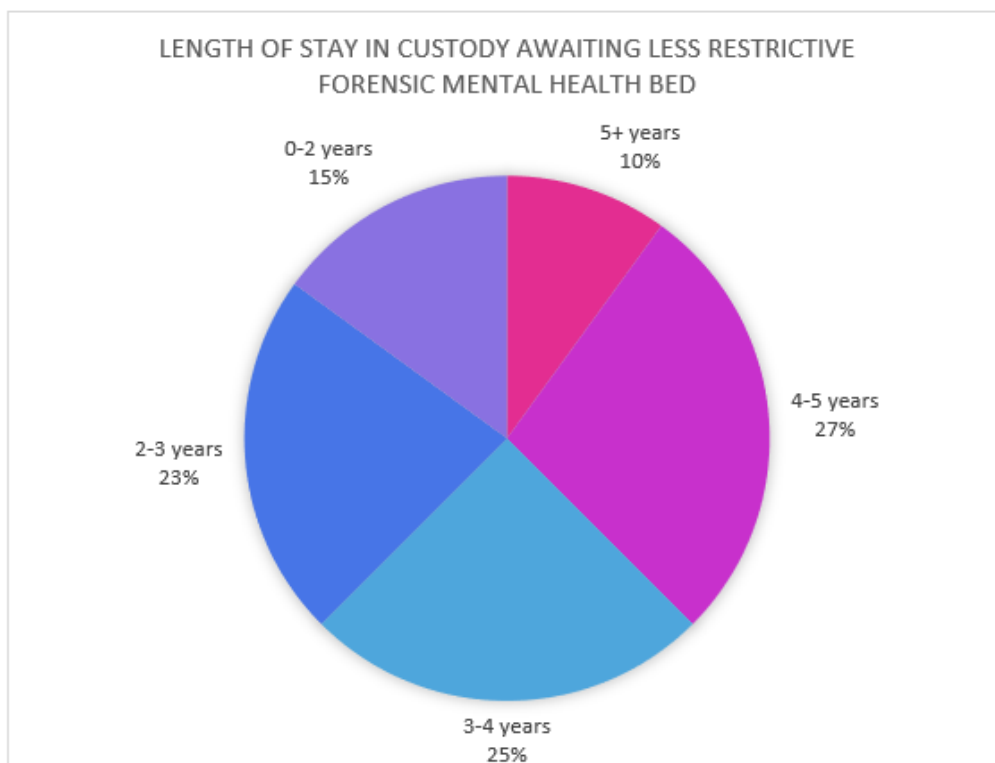
TIMEFRAMES FOR ADMISSION TO LESS RESTRICTIVE FORENSIC MENTAL HEALTH FACILITIES

The importance of the appropriate placement of forensic patients is highlighted by s 70(2) of the MHCIFP Act 2020 which states:

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

On 30 June 2022, there were 46 forensic patients awaiting placement in a mental health facility. Of those, one female and six male forensic patients were waiting in the Forensic Hospital for a medium secure bed, the same number as the previous year. Thirty-nine male forensic patients were waiting in custody for a bed in the Forensic Hospital and one male patient in custody awaited a medium secure unit bed. The number of patients in custody awaiting a bed increased 5% from the previous year (37 patients), and 44% from FY2021 (27 patients).

Fifteen forensic patients had been waiting in custody for more than four years for admission to the Forensic Hospital and a further nine forensic patients had been waiting in custody for more than three years.



The length of the waiting list can be partly attributed to the impact of the Covid-19 pandemic, however, the Tribunal has reported since 2009 on the delays in transferring forensic patients to a bed in an appropriate mental health facility. The impact of these delays on the mental health and recovery of the forensic patients waiting in custody is significant.

When the clinical evidence suggests that the transfer of a forensic patient to a less restrictive environment would be appropriate, the Tribunal retains the power to make an order that a forensic patient be transferred within a specified timeframe (“a time-limited order”). Only one time-limited order was made in the past year (2021: 10 orders). This

reduction may be partly explained by the impact of Covid-19 restrictions on transfers, as outlined above. However, the Justice Health and Forensic Mental Health Network (the Network) also held monthly meetings to consider the reprioritisation of patients who had been flagged for a time-limited order. As a result of these meetings, forensic patients could be reprioritised on the waitlist due to their clinical needs, which may have satisfied the Tribunal not to make a time-limited order.

This year, concerns were again raised to the Network about the increasing number of forensic patients awaiting a more appropriate placement in a mental health facility. The Network committed to exploring the issue and the Tribunal understands their Board will be briefed in the next reporting period. The Tribunal will also review its approach to these matters in the coming year.

PLANNING FOR THE CARE OF FORENSIC PATIENTS

A review of the NSW Health Policy for Forensic Mental Health Services commenced during financial year 2022. The Policy outlines the standards and governance arrangements for mental health services responsible for forensic patients. Tribunal representatives were members of an Expert Advisory Group involved in providing feedback for the new Policy. This work will continue in the coming reporting period.

The Justice Health and Forensic Mental Health Network Strategic Plan has been in discussion for a number of years. The Tribunal was consulted during the draft phase and anticipates the release of the final Plan in the next reporting period.

Tribunal representatives have continued to be involved in the Cognitive Impairment Sub-committee of the Forensic Working Group. The Tribunal was consulted on a draft NSW Framework for Forensic Patients with Cognitive Impairment, a joint publication by the Department of Communities and Justice and NSW Health that is expected to be finalised next reporting period.

Unfortunately, there has been a delay in identifying a lead agency to fund service gaps which are not covered by the NDIS, previously covered by the Department of Ageing, Disability and Home Care. The issue has been raised by the Tribunal's representatives on the Cognitive Impairment Sub-committee of the Forensic Working Group for more than three years. The issue of which government agency should be responsible for managing and funding the care of people with a cognitive impairment in the criminal justice system is persistent and remains a significant and troubling gap in the forensic mental health system in NSW.

This year there continued to be issues with finding options for the safe and least restrictive placement of forensic patients who have cognitive impairments. There are no NSW government places of detention for forensic patients with cognitive impairments and the availability of accommodation and support services depends upon adequate NDIS funding being approved.

Inadequate or fluctuating NDIS funding for forensic patients has led to some disruptive changes to living arrangements, as demonstrated in the case study on page 13. If the Tribunal considers that the proposed supports are not safe for a forensic patient, its options are limited. The Tribunal can refuse to grant conditional release, which usually means that the forensic patient remains detained in custody. If the patient is living in the community without appropriate supports (and supports cannot be obtained), the Tribunal is limited to either detaining the patient in a mental health facility or custody.

These challenges have made it difficult for the Tribunal to properly exercise its statutory functions and were originally documented by the Law Reform Commission (Report 138: People with Cognitive & Mental Health Impairments in the Criminal Justice System – Criminal Responsibility and Consequences) in 2013.

WORKING WITH STAKEHOLDERS AND RESEARCH

In collaboration with Professor Kimberlie Dean and Professor Tony Butler at UNSW, the Tribunal and its members have continued to contribute to research regarding the outcomes for forensic patients and those with mental illness in custody.

The Tribunal has also led a multi-agency group to develop a range of Forensic Information Sheets which will be available for publication in the coming year. The Information Sheets provide introductory information about the forensic system for consumers, carers, victims, clinicians, and the public.

Each year, the Tribunal continues to build on its strong relationships with stakeholders including the Specialist Victims Support Service (SVSS), consumer and carer organisations, Ministry of Health, Department of Communities and Justice, Justice Health and Forensic Mental Health Network, and Legal Aid NSW. It was due in large part to the commitment and dedication of these stakeholders that the work of the Tribunal continued smoothly when impacted by Covid-19 restrictions during the past year.

INTERSTATE ARRANGEMENTS

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

WITH THANKS

Staff and members were faced again this year with a range of challenges arising from Covid-19. It is due to the exceptional efforts of staff in the Forensic Division that hearings continued uninterrupted throughout the extended lockdown from July to October 2021. I am grateful for their resilience and dedication.

As noted in the Presidential report, the Forensic Division farewelled Deputy President Anina Johnson. I know I speak for members and staff of the Forensic Division when I say that the past 10 years would not have been the same without Ms Johnson's steady leadership. She consistently advocated for the best outcomes for consumers, carers, and victims. On a personal note, I would like to thank her for sharing her considerable knowledge with me and guiding me through my years at the Tribunal.

Pending the appointment of a new full time Deputy President, the Tribunal was very fortunate to have Mr John Feneley step temporarily into the role. Mr Feneley is a past full time Deputy President, a current and very active part time Deputy President and was the inaugural Mental Health Commissioner of NSW. Mr Feneley assisted the Forensic Division enormously both with his ready knowledge and expertise but also with operations more generally. We are very grateful for his contribution – it was a pleasure to work with him again.

On behalf of the Forensic Division staff and members, I also wish to thank Judge Paul Lakatos SC. We will miss his humility and good humour in the office. From his term as President, his compassionate and fair approach guides our future work. We look forward to meeting the new President and Deputy in the year ahead.

Nadia Sweetnam
Team Leader

FORENSIC CASE STUDY

A forensic patient with a cognitive impairment was detained in custody. An application was made to the Tribunal to conditionally release the patient to supported accommodation provided by an NDIS service provider, with case management by the Community Safety Program (CSP). However, NDIS funding for a 24-hour care Supported Independent Living (SIL) package was declined for the patient. An appeal against the refusal of NDIS to fund the SIL package was subsequently made to the Administrative Appeals Tribunal (AAT).

At the conditional release hearing, the Tribunal heard that the patient would require an intensive level of support to be safely managed in the community, particularly during his initial transition out of custody. The Tribunal determined to grant conditional release on the condition that funding for the high level of support would be available prior to his release.

To cover the funding gap, 13 weeks of support was provided by the Community Safety Fund (CSF), a temporary fund established to cover the gap between what is funded by the NDIS and the State.

The Tribunal conditionally released the forensic patient, who was safely transitioned to the supported accommodation. Unfortunately, the AAT hearing was scheduled 7 months after the patient's release from custody. In the meantime, various agencies advocated for an extension of the CSF funding. Further funding was not approved, and instead, alternative accommodation was proposed for the patient within the means of his existing NDIS package.

At the next Tribunal hearing, the NDIS Support Coordinator advised that the package would fund 30 hours of drop-in support by the service provider. Whilst the Tribunal did not consider the support was ideal, the forensic patient was now fully occupied with work 6 days a week, in addition to increased support from family. The Tribunal, therefore, approved the changed arrangements.

However, following the hearing, the service provider did not agree that the funded amount was equivalent to 30 hours per week, but rather 8 hours per week. An urgent application was made for additional drop-in support, but this was unsuccessful.

Two months prior to the AAT appeal, the service provider advised that the accommodation was not viable due to his inadequate funding package. The Tribunal was advised that the forensic patient would be evicted in two weeks. There were no remaining NDIS funds for additional practitioners to provide input into sourcing or assessing alternative accommodation. If alternative accommodation could not be found, the forensic patient appeared to be imminently homeless or returned to custody.

Alternative accommodation was not secured until the day before the eviction, when the Tribunal conducted a hearing and approved the change in accommodation.

COVID-19

As has been the case since the start of Covid-19, the Civil Division continued to conduct hearings via audio visual link (AVL) over the reporting period. Unfortunately, several attempts to return to in person hearings were disrupted by repeated Covid-19 waves. Plans have again been made for a staged return to single member mental health inquiries, followed later by 3-member panel hearings in the new financial year.

Reassuringly, with the exception of mental health inquiries, all hearings were conducted as per the Tribunal's pre-Covid-19 roster. Due to the need to absorb all Tribunal hearings into an AVL format, it was necessary to hold inquiries up to between 14 and 28 days after admission rather than the standard 7 – 14 days.

This may explain an increase in appeals against the authorised medical officer's failure to discharge (see below). As noted in the President's report, the Tribunal's success in meeting its hearing obligations was due to the hard work and dedication of Tribunal members and staff.

AMENDMENTS TO THE MENTAL HEALTH ACT

Urgent amendments made to the Mental Health Act 2007 at the beginning of the pandemic, which had permitted extending statutory review periods and other measures, were automatically repealed on 26 March 2021.

One measure that was retained was the ability of accredited persons to conduct s 27 mental health examinations by AVL (s 203). Additional amendments, which took effect on 30 June 2022, made this change permanent.

The amendments also permitted AVL examinations to be undertaken in the same facility. This means that these functions no longer depend on Covid-19 circumstances.

KEY STATISTICS

Statistics over the reporting year indicate that the number of hearings in the Civil Division remained largely stable. There were 17,462 civil hearings as compared with 16,872 in the previous year, representing an overall increase of 3%.

There was a decrease in mental health inquiries to 5,966 (compared with 6,156 in the previous year) representing a decrease of 3 %.

There were 94 financial management order hearings, up from 81 in the previous year, representing a 16 % increase.

Appeals against the authorised medical officer's refusal to discharge increased by 45 to 1,036, that is a 5% increase from the previous year. Of these, 770 (74%) were dismissed which is comparable to the previous year, in which 76% were dismissed. There were 17 orders for discharge, the same number as the previous year.

There was a 16% increase in appeals heard by a single member at a mental health inquiry (589 as compared with 506 in the previous year).

The number of Community Treatment Order (CTO) applications increased by 679 or 12% to 6,556, in relation to 4,985 individuals. In total, 6,767 CTOs were made, representing an increase of 356 (or 6 % from the previous year). Of these, 896 CTOs were made at mental health inquiries. The percentage of CTOs made for more than 6 months decreased by 4 percent and were made in 10% of cases, as compared with 14% in the previous year.

There were 804 ECT administration hearings (of which 8 related to forensic patients) in relation to 579 individuals. This represents an increase of hearings by 2% and an increase of the number of individuals by 78 or 16 %. ECT was approved in 90 % of cases.

RECRUITMENT AND INDUCTION OF NEW MEMBERS

During the financial year 2022, the Tribunal appointed 32 new Members. As part of their induction, new Members undertook hearing observations in late 2021, with their formal sittings commencing in January 2022.

For the first time, new Members were assigned a mentor – an experienced member of the same category - whom they could readily contact and communicate with during their induction period and throughout this reporting period. The feedback from new Members and mentors was that this was a beneficial and worthwhile initiative.

Another initiative was to commence our induction session on the MHA with a presentation by both a carer and a consumer, sharing their perspectives on Tribunal hearings. Tribunal Members, Ms Jenny Learmont, carer, and Ms Irene Gallagher, consumer, generously shared their perspectives. The Tribunal is grateful for their very valuable insights.

CONTINUOUS IMPROVEMENT

For a number of years now, Tribunal panels have been able to bring to the Tribunal's Executive's attention individual or systemic issues that cannot be readily or appropriately addressed in hearings. The lack of NDIS funding or the underfunding of NDIS packages have been longstanding themes and these continued to feature during the reporting period.

Case Study 1 (page 17) highlights the impact of Covid-19 on hospital resources and the Tribunal's role in advocating for more appropriate treatment and residential options for the consumer. Case Study 2 (page 17) illustrates the impact that the lack of appropriate funding can have on a consumer's ability to reside and receive care in less restrictive circumstances.

KEY RELATIONSHIPS AND LIAISON

Maintaining close relationships with key Tribunal stakeholders has been particularly important during the pandemic, during which time consumers unfortunately faced some curtailment of their rights. This included disruptions to the conduct and timing of Tribunal hearings and legal representatives having to obtain instructions from consumers and appear before the Tribunal by AVL. Often carers were involved by AVL or telephone, adding another layer of complexity to hearings.

During the pandemic the Tribunal maintained close contact with consumer and carer groups, as well as with Local Health District heads, mental health clinicians and the Legal Aid Commission to make hearings as accessible as possible and to minimise any impact on the rights of carers and consumers.

The Tribunal is also able to raise any issues of concern with the Official Visitors Program and vice versa. During the year, Ms Maria Bisogni conducted a Webinar for Official Visitors on the application of the MHA to their role.

The Tribunal is also part of the NSW Civil and Administrative Tribunal's (NCAT) Guardianship Division's User Group.

CARERS AND CONSUMERS

Unfortunately, plans for the Tribunal to recruit a Consumer and Carer Engagement Officer, and to consequently develop a Consumer and Carer Advisory Group, were placed on hold as the Tribunal prioritised the return to the Tribunal's usual hearing roster. However, this new position remains a key goal and will be taken up again in early 2023.

As noted in last year's annual report, the Tribunal now records if carers have been notified and involved in hearings in order to monitor if the statutory obligations to give notice have been met. Anecdotally, the evidence is that clinicians are giving notice to designated carers and in cases where they have been notified and chosen not to attend, clinicians are setting out the reasons for their non-attendance.

This is encouraging, as the MHA clearly requires notices to be given in the expectation that carers are aware of what takes place at a hearing and other information which may assist in supporting their loved ones.

The Tribunal participates on the Mental Health Carers NSW (MHCN) Steering Committee in relation to the 'Carers and Mental Health Act Information Project'. The project aims to develop information sheets for carers about the nature of Tribunal orders and the information that they may access in their carer role. This work is ongoing.

STRATEGIC PRIORITIES 2021-2025

The reporting year saw the finalisation of the Tribunal’s inaugural Strategic Plan. Its value is in focusing on the current and future needs of the Tribunal so that the Tribunal performs to the highest professional standards, is transparent in its direction, and is accountable. Work on the Strategic Plan commenced in the preceding year.

Both Tribunal Members and staff were consulted during the process. The Strategic Plan sets out the key priorities over a 4-year period. It is anticipated that future annual reports will document the progress made in respect of the goals included in the Plan. It is a living document that may change over time. It is included in this Report (Appendix 7 – page 62).

PROFESSIONAL DEVELOPMENT EVENTS

Four professional training events are held each year for Tribunal members. A diverse range of topics were covered over the reporting year, including “A conversation about borderline personality disorder” from a consumer with lived experience and the perspectives of her treating clinician. In addition, there were sessions on “trauma informed virtual hearings” and the latest research on “functional recovery” and its critical role in meeting the hopes of people with mental illness to live a full and meaningful life.

A number of training sessions were provided to treating clinicians in relation to the Mental Health Act and the Tribunal’s practice and procedure.

Ms Danielle White of the Civil Team continued her work on the MHRT Waiting Room Committee at Cumberland Hospital, which meets monthly, and she also provided training in relation to an overview of the Mental Health Act, 2007 to the volunteers involved in this initiative.

STAFF

There were a number of changes to staff in the Civil Team during this period, with the team welcoming new Registry Officers and some internal transfers offering development and promotional opportunities for our staff.

The continued flexibility of staff across all areas of the Tribunal ensured that we continued to deliver administrative support to the coordination and running of Tribunal hearings.

The advent of Covid-19 and the transition to wholly remote hearings continued to require exceptional coordination and planning. The Civil Team continued to respond to the many challenges with dedication and professionalism, as each new wave appeared.

The Tribunal remains indebted to its hardworking and diligent staff and to its Tribunal Members who bring to their roles the highest levels of professionalism, integrity and expertise to their work.

Maria Bisogni
Deputy President

Danielle White
Team Leader

CASE STUDY 1

The Tribunal reviewed Ms Jones (not her real name) and determined that she remained a mentally ill person and set an early review date for 3 months later.

The Tribunal panel expressed concerns that Ms Jones was at baseline, that is, her condition was unlikely to improve, but needed drug and alcohol treatment which she was unable to access in the ward where she was being detained.

The doctor who presented at the hearing considered that Ms Jones should be moved to a ward that provided drug and alcohol treatment and that there needed to be a complex care meeting to assess the impact on her mental health of being kept in an inappropriate ward.

The Tribunal later contacted the Hospital's social worker to enquire as to whether there had been any developments in relation to transferring Ms Jones to a less restrictive ward. The Tribunal was told that Ms Jones was not able to be moved to a less restrictive ward as the relevant cottages had to be used to isolate Covid patients, and that the cottages in fact had to be made into Covid Wards.

The social worker contacted Ms Jones's doctor about the Tribunal's concerns. The doctor advised that the ongoing Covid situation prevented a move to a more open ward. There was an attempt to transfer Ms Jones to a Drug and Alcohol Ward (D & A), but she was refused a transfer on the basis that the Ward could only offer services to its residents. Ms Jones had also had many 'failed' admissions to the D & A Ward.

The Clinical Nurse Consultant from the D & A Ward had been attending to Ms Jones in her current ward but felt limited as to what he could do. The social worker conceded that Ms Jones was not getting 'nearly as much' intervention as she needed. Ms Jones was having some escorted leave on the campus and no unescorted leave.

The Tribunal then prepared a briefing note for the next Tribunal panel suggesting that an application could be explored for Ms Jones to have NDIS Supported Independent Living (SIL) accommodation and for the NDIS to fund appropriate D & A interventions in her current placement as a way of progressing her to less restrictive care.

At the next review, the Tribunal was advised that there had been no change in Ms Jones's mental state. However, there had been a complex case review and Ms Jones was having increased periods of supervised leave that were going well and were funded by the NDIS. Treatment and accommodation support in the community were being explored and were not finalised. The panel determined that Ms Jones was to remain in hospital as there was no safe discharge plan in place and premature discharge would result in a relapse of her illness and homelessness.

CASE STUDY 2

Mr Smith (not his real name) had a long history of mental illness and polysubstance abuse. He had been detained in hospital for over two years after efforts to manage his condition in the community by way of a Community Treatment Order had failed. Mr Smith was also under a Guardianship order for services and accommodation.

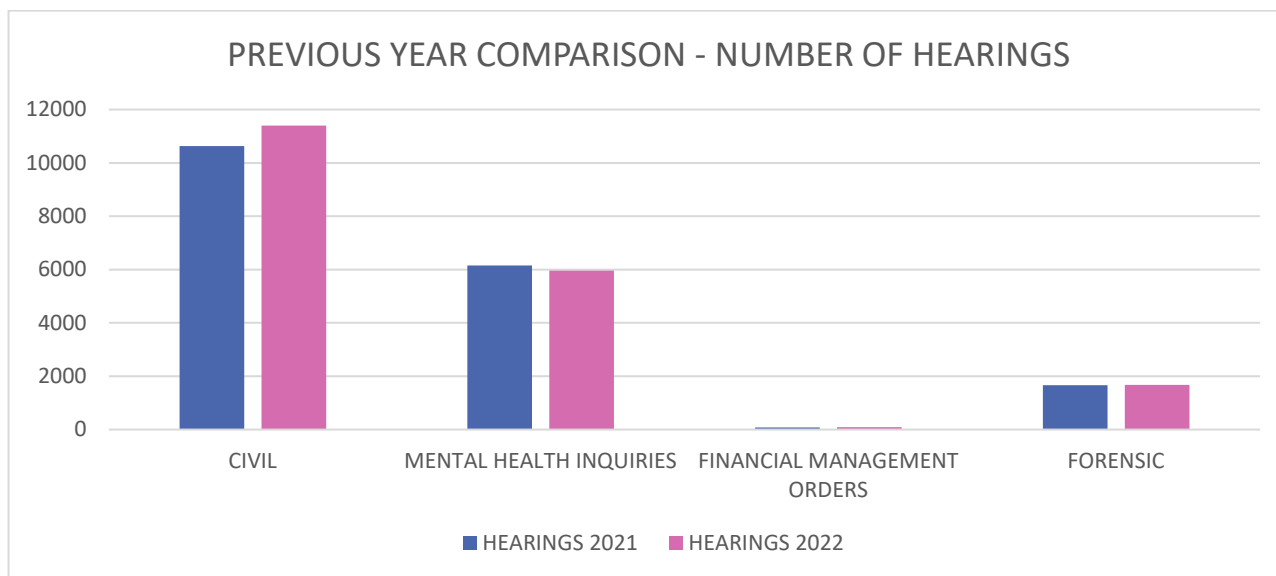
At the Tribunal review of Mr Smith, the Tribunal determined that he must remain in hospital as an involuntary patient. There was evidence given that the NDIS had approved SIL accommodation, but that Mr Smith was unable to access it as it was for shared accommodation. The NDIA had subsequently refused SIL accommodation funding and this was now the subject of an appeal.

The evidence at the hearing was that Mr Smith had improved with the introduction of Clozapine medication which had resulted in his having more insight and a greater willingness to accept care. He continued to have mood fluctuations and persecutory delusions and he was said to be at 'baseline', that is, his condition was unlikely to further improve. He was ready for discharge but the medical reports at the hearing make it clear that Mr Smith was unsuitable for shared accommodation and that an individual SIL was needed.

The financial year 2022 was significantly marked by the impact of the Covid-19 pandemic. The swift rise of Delta and Omicron cases meant that the Tribunal was unable to return to ordinary face-to-face hearings at any time. Our staff and members adapted as required and the Tribunal continued to provide full services throughout the period.

CASE LOAD SUMMARY

The Tribunal conducted 19,142 hearings in the financial year 2022 involving 8,711 individuals representing an overall movement of 3% in the number of hearings from 2021 (18,541 hearings; 8,962 individuals). A decrease of 3% was reflected in individual persons presenting to the Tribunal.



The Tribunal saw a 7% increase in Civil hearings and an increase of 16% for financial management orders. Mental Health Inquiries decreased by 3% and Forensic matters remained very similar to 2021 with only a 1% variation.

CATEGORY	HEARINGS 2021	HEARINGS 2022	MOVEMENT	INDIVIDUALS 2021	INDIVIDUALS 2022	MOVEMENT
CIVIL	10635	11402	7%	5925	5929	0%
MENTAL HEALTH INQUIRIES	6156	5966	-3%	5188	4727	-9%
FINANCIAL MANAGEMENT ORDERS	81	94	16%	62	72	16%
FORENSIC	1669	1680	-1%	783	735	-6%
Grand Total	18541	19142	3%	11958	11463	-4%
Total Actual Individuals¹:				8962	8711	-3%

¹ Individuals are counted in each category in which they have appeared. The total number of individuals brought before the Tribunal was 8,711.

Over the past 10 years the number of civil hearings has increased by an average of 3% per year, forensic hearings by 8% per year and inquiries by 3% per year.

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

Hearings 1991-2022						
Year	Mental Health Inquiries	Civil Hearings	Financial Management Hearings	Forensic Hearings	Total	% Variation from previous year
1991		1986	61	185	2232	-
1992		2252	104	239	2595	16%
1993		2447	119	278	2844	10%
1994		2872	131	307	3310	16%
1995		3495	129	282	3906	18%
1996		4461	161	294	4916	26%
1997		5484	183	346	6013	22%
1998		4657	250	364	5271	-12%
1999		5187	254	390	5831	11%
2000		5396	219	422	6037	4%
2001		6151	304	481	6936	15%
2002		6857	272	484	7613	10%
2003		7787	309	523	8619	13%
2004		8344	331	514	9189	7%
2005		8594	293	502	9389	2%
2006		9522	361	622	10505	12%
2007		8529	363	723	9615	-
2007-08		8440	313	764	9517	-1%
2008-09		7757	224	771	8752	-8%
2009-10	43	8041	193	824	9101	4%
2010-11	4447	7966	221	870	13504	48%
2011-12	4910	8591	219	928	14648	8%
2012-13	6321	9189	225	943	16678	14%
2013-14	6232	9184	191	972	16579	-1%
2014-15	6633	9402	170	1017	17222	4%
2015-16	6887	9709	168	1186	17950	4%
2016-17	6757	9832	169	1340	18098	1%
2017-18	6806	10098	144	1490	18538	2%
2018-19	6787	10219	121	1541	18668	1%
2019-20	6467	10382	110	1612	18571	-1%
2020-21 ¹	6156	10635	81	1669	18541	0%
2021-2022	5966	11402	94	1680	19142	3%
Variation from 2010	38%	34%	-63%	92%	37%	
Variation from previous year	-3%	7%	16%	1%	3%	
Average yearly variation since 2010	3%	3%	-6%	8%	3%	

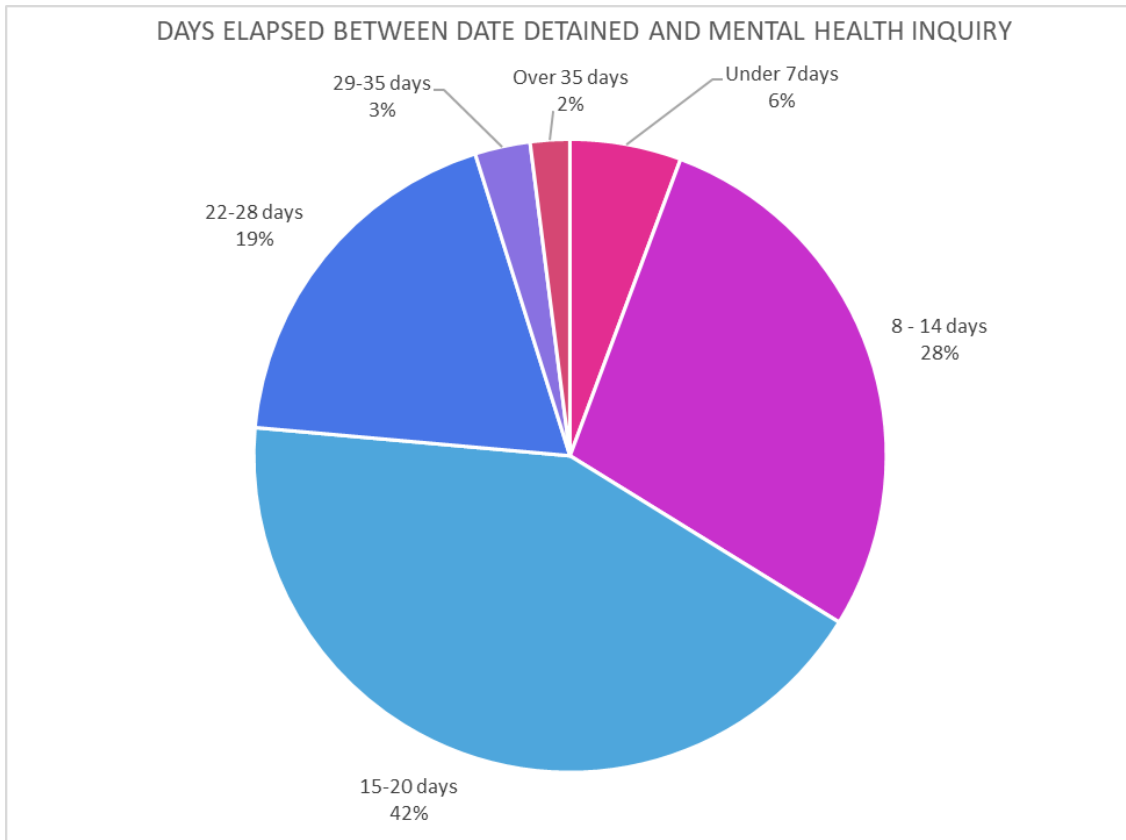
1 Mental Health Forensic Provisions Act 1990 – 1,254 hearings
Mental Health and Cognitive Impairment Forensic Provisions Act 2020 – 415 hearings

COVID-19

Under pandemic response procedures, throughout the 2022 financial year, the Tribunal did not hold face-to-face hearings at mental health facilities, correctional facilities or the Gladesville premises. Forensic and Civil matters remained remote for the financial year due to the resurgence of the Delta and Omicron variants across NSW.

IMPACT ON MENTAL HEALTH INQUIRIES

In response to the pandemic impact on staffing both within the Tribunal and across facilities more generally, for two short periods during the financial year, the Tribunal considered that persons should be brought before the Tribunal after 21 days from the date of admission. Assessable persons were therefore seen within 21 to 35 days after admission (ordinarily 7 – 14 days). Note that assessable persons could still be presented for earlier inquiries if they lodged an appeal (s 44) or the treating team was seeking to discharge on a CTO (s 35(5)(b)).



DAYS ELAPSED BETWEEN DATE DETAINED AND MENTAL HEALTH INQUIRY		
ELAPSED DAYS	INQUIRIES	PERCENTAGE OF INQUIRIES
Under 7days	306	6%
8 - 14 days	1514	28%
15-20 days	2294	43%
22-28 days	1008	19%
29-35 days	152	3%
Over 35 days	109	2%
Total Inquiries:	5383	

S147 MENTAL HEALTH ACT 2007 – PRESCRIBED REPORTS

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

S147(2)(a) THE NUMBER OF PERSONS TAKEN TO A MENTAL HEALTH FACILITY AND THE PROVISIONS OF THE ACT UNDER WHICH THEY WERE SO TAKEN				
MHA	METHOD OF REFERRAL	ADMITTED	NOT ADMITTED	TOTAL
S19	CERTIFICATE OF DOCTOR	7283	137	7420
S20	AMBULANCE OFFICER	1445	560	2005
S22	APPREHENSION BY POLICE	1731	1314	3045
S23 VIA S19	AUTHORISED DOCTOR'S CERTIFICATE	418	13	431
S24 / S33	MHCPA COURT ORDER	127	35	162
S26	REQUEST BY PRIMARY CARER/RELATIVE/FRIEND	1066	1	1067
S58	BREACH OF COMMUNITY TREATMENT ORDER	61	14	75
TOTAL		12131	2074	14205
RECLASSIFIED FROM VOLUNTARY TO INVOLUNTARY		498	13	511
TOTAL		498	13	511

S147(2)(b) CLASSIFICATION OF PERSONS DETAINED	
CLASSIFICATION	INDIVIDUALS
MENTALLY ILL	8668
MENTALLY DISORDERED	2651
VOLUNTARY PATIENTS ADMITTED	1310
TOTAL	12629

S147(2)(c) MENTAL HEALTH INQUIRIES	
NUMBER OF INQUIRIES	5966
NUMBER OF INDIVIDUALS	4727

OUTCOME OF MENTAL HEALTH INQUIRIES CONDUCTED	HEARINGS
INVOLUNTARY PATIENT ORDER	4,136
RECLASSIFY FROM VOLUNTARY TO INVOLUNTARY	0
DISCHARGE OR DEFERRED DISCHARGE	57
COMMUNITY TREATMENT ORDER	896
ADJOURNED OR WITHDRAWN	570
DECLINED TO DEAL WITH OR NO JURISDICTION	8
DISCHARGED OR MADE VOLUNTARY PRIOR TO HEARING	0
TOTAL	5667

S147(2)(d) PERSONS TAKEN INVOLUNTARILY TO A MENTAL HEALTH FACILITY OR RECLASSIFIED FROM VOLUNTARY TO INVOLUNTARY	
CLASSIFICATION	INDIVIDUALS
ADMITTED AS A VOLUNTARY PATIENT	1310
DETAINED AS A MENTALLY DISORDERED OR MENTALLY ILL PERSON	11319
NOT ADMITTED	2087
TOTAL	14716

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

MENTAL HEALTH INQUIRIES

This was the twelfth full year of the Tribunal’s jurisdiction to conduct mental health inquiries under s 34 of the Act. Until 21 June 2010, this role had been carried out by Magistrates. During the financial year 2022, the Tribunal held 5,966 inquiries relating to 4,727 individuals (2021: 6,156 inquiries – 5,188 individuals).

INVOLUNTARY PATIENT ORDERS

Of the mental health inquiries conducted in financial year 2022, 4,136 (72.98%) resulted in an involuntary patient order being made. This decrease from 2021 (4,611 – 74.9%) reflects the impact of Covid-19 provisions which extended the period before which a patient can be brought before the Tribunal after admission for a significant period of the year. This later presentation meant more time for the patient’s condition to stabilise and for community options to be explored.

COMMUNITY TREATMENT ORDERS AT MENTAL HEALTH INQUIRIES

The number of Community Treatment Orders made at a mental health inquiry increased to 896 (2021: 868) and represented 15.8% of inquiries.

DEFERRED DISCHARGE

One hundred and thirty-three orders were made for a deferred discharge (2.6%). These orders included 2 patients discharged into the care of their designated carer and 91 patients discharged to a community treatment order.

SUMMARY OF OUTCOMES

s34 OUTCOMES	FEMALE	MALE	TOTAL	% OF INQUIRIES
INVOLUNTARY PATIENT ORDER	1940	2196	4136	73.0%
DISCHARGED	6	7	13	0.2%
DEFERRED DISCHARGE	18	17	35	0.6%
DISCHARGED TO CTO	310	495	805	14.2%
DEFERRED DISCHARGE TO CTO	30	61	91	1.6%
DISCHARGED TO CARER	1	1	2	0.0%
DEFERRED DISCHARGE TO CARER	3	4	7	0.1%
ADJOURNED	263	295	558	9.8%
DECLINED TO DEAL WITH MATTER	4	4	8	0.1%
WITHDRAWN OR NO JURISDICTION	4	8	12	0.2%
RECLASSIFIED TO VOLUNTARY	0	0	0	0.0%
TOTAL MENTAL HEALTH INQUIRIES	2579	3088	5667	-
INDIVIDUALS AFFECTED	2137	2590	4727	-

DAYS TO MENTAL HEALTH INQUIRY FROM DATE DETAINED

In the financial year 2022, 5.7% of inquiries were commenced in the first week of a person’s detention (2021: 8.2%), 28.1% during the second week (2021: 30.9%), 42.6% in the third week (2021: 31.8%) and 18.7% in week four (2021: 18.7%).

In 4.8% of cases, the inquiry was commenced after four weeks (2021: 10.5%). Each of these cases is reviewed and, where appropriate, followed up with the facility involved. These cases involved patients who were AWOL or on approved leave or were too unwell to come before the Tribunal at the time they were due.

DAYS TO HEARING FROM DATE DETAINED	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total	%
Under 7 Days	33	28	30	30	22	29	23	19	26	18	21	27	306	5.7%
8 - 14 Days	275	104	137	139	123	117	64	104	129	91	108	123	1514	28.1%
15 - 21 Days	170	176	198	188	230	218	118	130	234	208	204	220	2294	42.6%
22 - 28 Days	27	79	75	85	87	64	98	109	107	99	81	97	1008	18.7%
29 - 35 Days	8	10	10	10	8	3	27	33	11	13	10	9	152	2.8%
Over 35 Days	10	6	13	7	6	7	19	8	8	7	4	14	109	2.0%
Grand Total	523	403	463	459	476	438	349	403	515	436	428	490	5383	-

Other than for some minor variations these figures have been relatively consistent for the last seven or eight years and reflect the Tribunal's expectation that assessable persons are presented for a mental health inquiry within three weeks of the person being detained in a mental health facility (76.4% of patients during the financial year 2022; 70.9% in 2021).

INVOLUNTARY PATIENT REVIEWS

The Tribunal held 2,335 hearings (1,641 individuals) for the review of involuntary patients during the financial year 2022 a 1% decrease on hearings (2021: 2,369) but a 15% increase in the number of individuals reviewed (2021: 1,426). This reflects the impact of Covid on patient discharge rates.

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

1. On or before the end of the patient's initial period of detention ordered at a mental health inquiry under s 37(1)(a)
2. Once every three months for the first 12 months that the person is an involuntary patient under s 37(1)(b)
3. Once every six months while the person continues to be detained as an involuntary patient under s 37(1)(c).
4. At any other time necessary under s 37(1A)

During 2022, the Tribunal held 1,135 initial reviews under s37(1)(a) (affecting 969 individuals) demonstrating a 12% decrease from 2021 (1,235 reviews - 1,101 individuals). A moderate increase of 4% for s 37(1)(b) reviews (2022:675 / 2021:648) and 7% for s 37(1)(c) reviews (2022: 518 / 2021: 485) was noted.

Outcomes for involuntary patient reviews									
SECTION	DESCRIPTION	GENDER	INDIVIDUALS AFFECTED	TOTAL HEARINGS	CONTINUED DETENTION AS AN INVOLUNTARY PATIENT	DISCHARGED OR MADE VOLUNTARY	DISCHARGED TO CTO	ADJOURNED	WITHDRWN OR NO JURISDICTN
S37(1)(a)	Review prior to expiry order for detention as a result of a mental health inquiry.	FEMALE	438	517	412	7	1	71	26
		MALE	531	618	512	8	1	69	28
		TOTAL	969	1135	924	15	2	140	54
S37(1)(b)	Review at least once every 3 months while a person is an involuntary patient during the first 12 months	FEMALE	141	252	220	4	3	24	1
		MALE	234	423	367	7	0	41	8
		TOTAL	375	675	587	11	3	65	9
S37(1)(c)	Review at least once every 6 months while person is an involuntary patient after first 12 months.	FEMALE	105	188	177	0	1	9	1
		MALE	189	330	308	5	1	14	2
		TOTAL	294	518	485	5	2	23	3
S37(1A)	Review at any other time.	FEMALE	1	1	1	0	0	0	0
		MALE	2	6	0	0	0	3	3
		TOTAL	3	7	1	0	0	3	3
S37(1) TOTAL:			1641	2335	1997	31	7	231	69
Percentage of hearings by outcome:					86%	1%	<1%	10%	3%

See also Appendix 1 – Tables 1, 2 and 3

APPEALS AGAINST A REFUSAL TO DISCHARGE

The number of hearings held under s44 of the Act, to consider an appeal against an authorised medical officer's refusal to discharge a patient, increased by 5% to 1,036 (2021: 991) representing 802 individuals. Of these hearings, 770 were dismissed (74%) of which 16 were subject to an order of no further right of appeal before the next review. The patient was ordered to be discharged on 17 occasions (2%) and the remaining appeals were either adjourned, withdrawn or the Tribunal had no jurisdiction to deal with the matter.

Outcomes for appeals against refusal to discharge									
FIN. YEAR	GENDER	INDIVIDUALS	TOTAL APPEALS	APPEAL DISMISSED	DISMISSED WITH NO FURTHER APPEAL	RECLASSIFY TO VOLUNTARY	DISCHARGE	ADJOURNED	WITHDRAWN OR NO JURISDICTION
2022	FEMALE	359	456	334	6	0	11	35	70
	MALE	443	580	436	10	1	6	36	91
	TOTAL	802	1,036	770	16	1	17	71	161
	% of hearings by outcome:			74%	2%	<1%	2%	7%	16%
2021	FEMALE	359	469	329	21	2	10	42	65
	MALE	422	522	392	16	0	7	34	73
	TOTAL	781	991	721	37	2	17	76	138
2020	FEMALE		367	598	15	0	24	67	93
	MALE		430						
	TOTAL		797						
2019	FEMALE		287	468	18	0	18	53	72
	MALE		342						
	TOTAL		629						
2018	FEMALE		294	559	15	1	12	43	55
	MALE		391						
	TOTAL		685						
2017	FEMALE		286	533	21	1	16	60	59
	MALE		404						
	TOTAL		690						

Regulation 16(3) of *Mental Health Regulation 2019* allows for appeals lodged by persons other than involuntary patients to be heard by the President, a Deputy President or a member qualified for appointment as a Deputy President. This means that an appeal lodged by an assessable person (a person who has not yet had a mental health inquiry) is able to be heard by an experienced single legal member of the Tribunal. During the financial year 2021, 589 appeals were heard by a single member (57% of the total number of appeals held).

See also Appendix 1 – Tables 2 and 3

COMMUNITY TREATMENT ORDERS

The Tribunal considered 6,556 applications for CTO's under s51 of the Act during the financial year 2022 relating to 4,985 individuals, a 12% increase in hearings and an 18% increase in individual consumers from 2021 (5,857 hearings – 4,227 individuals).

The number of CTO's made by the tribunal at mental health inquiries increased by 3% to 896 (2021: 868) and at other hearings by 6% to 5,871 (2021: 5,543).

SECTION	APPLICATION TYPE	GENDER	INDIVIDUALS AFFECTED*	HEARINGS	CTO MADE	CTO MADE DISCHARGE DEFERRED	ADJOURNED	DECLINED OR NOT RENEWED	WITHDRAWN OR NO JURISDICTION
S51	Application for a CTO for a person on an existing CTO	FEMALE	1032	1476	1313	3	54	102	4
		MALE	1786	2592	2360	4	80	139	9
		TOTAL	2818	4068	3673	7	134	241	13
S51	Application for a CTO for person detained in mental health facility	FEMALE	533	609	483	52	25	43	6
		MALE	801	910	710	99	32	63	6
		TOTAL	1334	1519	1193	151	57	106	12
S51	Application for a CTO for a person not detained or on a current CTO	FEMALE	266	299	259	7	17	11	5
		MALE	567	570	565	8	47	40	10
		TOTAL	833	969	824	15	64	51	15
Total S51 Outcomes			4985	6556	5690	173	255	398	40

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

Under s 56(2) of the Act, the maximum duration of a CTO is 12 months. During the financial year 2022, 10% of CTO's were made for 7 - 12 months, 89% for 3 – 6 months and less than 1% for less than 3 months. Despite the impact of the Covid-19 pandemic, the majority of orders continue to be made for periods of six months or less. *See also Appendix 1 - Tables 2, 3 and 5*

ELECTRO CONVULSIVE THERAPY (ECT)

Under s 96 of the Act, the Tribunal held 804 hearings to consider the administration of ECT to involuntary patients, including 8 hearings concerning forensic patients. This is a marginal increase of 2% from 2021 (785 hearings - 4 forensic).

ECT was approved in 723 hearings (90%) and of these approvals, 22 patients (3%) were found to be capable of consent.

ECT ADMINISTRATION INQUIRIES UNDER S96(2)								
Outcome	INDIVIDUALS		TOTAL HEARINGS		CIVIL		FORENSIC	
	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE
Capable of consent - ECT approved	16	6	17	6	17	6	0	0
Capable of consent - ECT not approved	0	0	0	0	0	0	0	0
Incapable of consent - ECT approved	275	199	409	288	409	280	0	8
Incapable of consent - ECT not approved	15	11	15	11	15	11	0	0
Adjourned	20	15	20	15	20	15	0	0
Withdrawn or no jurisdiction	10	7	11	7	11	7	0	0
Total	336	238	472	327	472	319	0	8

ECT administration hearings were held for 579 individual patients – 1 of whom were under the age of 16 years.

ECT ADMINISTRATION INQUIRIES UNDER S96(3A) - PERSONS UNDER 16 YEARS				
Outcome	Voluntary Patient		Involuntary Patient	
	FEMALE	MALE	FEMALE	MALE
Capable of consent - ECT approved	0	0	0	0
Capable of consent - ECT not approved	0	0	0	0
Incapable of consent - ECT approved	0	0	3	0
Incapable of consent - ECT not approved	0	0	0	0
Adjourned	0	0	1	0
Withdrawn or no jurisdiction	0	0	1	0
Total	0	0	5	0

The Tribunal was not called to conduct any ECT consent inquiries under s96(1) during financial year 2022 to consider a voluntary patient's capacity to give informed consent to the administration of ECT.

See also Appendix 1 – Tables 1 and 2

FINANCIAL MANAGEMENT HEARINGS

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

1. After a mental health inquiry if ordering that a person is to be detained in a mental health facility (s44 of the *TAG Act*);
2. After reviewing a forensic or correctional patient if ordering that a person is to be detained in a mental health facility (s 45 of the *TAG Act*), and
3. On application for a patient in a mental health facility (s 46 of the *TAG Act*).

The Tribunal is also able to review interim Financial Management Orders under s 48 of the *TAG Act* and to consider applications to revoke financial management orders, made under the *TAG Act* or under the former *Protected Estates Act 1983*, or under s 88 of the *TAG Act*.

During the financial year 2022, the Tribunal conducted 94 hearings (2021: 105 hearings) in relation to financial management and made a total of 33 Financial Management Orders (2021: 38 orders) including 10 Interim Financial Management Orders (2021: 7 interim orders) and revoked 20 orders (2020: 24 revocations).

SECT	DESCRIPTION	GENDER	INDIVIDUALS AFFECTED	TOTAL HEARINGS	LEGAL REPRESENT PRESENT	ORDER MADE	NO ORDER MADE	REVOCATION APPROVED	REVOCATION DECLINED	ADJOURNED	WITHDRAWN OR NO JURISDICTION
S44	Application for order at a mental health inquiry	FEMALE	5	7	6	3	1	-	-	2	1
		MALE	14	19	17	10	2	-	-	4	3
		TOTAL	19	26	23	13	3	-	-	6	4
Sh(1) (9)	Referral for order from Magistrate	FEMALE	0	0	0	0	0	-	-	0	0
		MALE	0	0	0	0	0	-	-	0	0
		TOTAL	0	0	0	0	0	-	-	0	0
S46	On application to the Tribunal for an order (Forensic patient)	FEMALE	0	0	0	0	0	-	-	0	0
		MALE	0	0	0	0	0	-	-	0	0
		TOTAL	0	0	0	0	0	-	-	0	0
S46	On application to the Tribunal for an order (Civil patient)	FEMALE	8	9	5	4	2	-	-	2	1
		MALE	21	31	18	15	4	-	-	8	4
		TOTAL	29	40	23	19	6	-	-	10	5
S48	Review of an interim order (Forensic patient)	FEMALE	0	0	0	0	0	-	-	0	0
		MALE	0	0	0	0	0	-	-	0	0
		TOTAL	0	0	0	0	0	-	-	0	0
S48	Review of an interim order (Civil patient)	FEMALE	0	0	0	0	0	-	-	0	0
		MALE	1	1	1	1	0	-	-	0	0
		TOTAL	1	1	1	1	0	-	-	0	0
S88	Revocation of an order (Forensic patient)	FEMALE	0	0	0	-	-	0	0	0	0
		MALE	1	2	0	-	-	1	0	1	0
		TOTAL	1	2	0	-	-	1	0	1	0
S88	Revocation of an order (Civil patient)	FEMALE	8	8	0	-	-	7	0	1	0
		MALE	16	17	0	-	-	12	2	2	1
		TOTAL	24	25	0	-	-	19	2	3	1
TOTAL		FEMALE	21	24	11	7	3	7	0	5	2
		MALE	53	70	36	26	6	13	2	15	8
		TOTAL	74	94	47	33	9	20	2	20	10

EMERGENCY SURGERY & SPECIAL MEDICAL TREATMENT

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

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

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

² Involuntarily admitted and awaiting assessment under s 27 of the MHA or admitted on a breach of a CTO

³ Involuntarily admitted and assessment carried out under s 27 of the MHA but before the Mental Health Inquiry

⁴ Involuntarily detained after the Mental Health Inquiry

⁵ 'Surgical treatment' is defined in the MHA as 'a surgical procedure, a series of related surgical operations or surgical procedures, and the administration of an anaesthetic for the purpose of medical investigation' (s 98).

During the financial year 2022, the Tribunal held 9 hearings under s 101 for the provision of non-urgent surgical procedures (6 were approved). No special medical treatment hearings or emergency surgery hearings were required.

SEC	DESCRIPTION	GENDER	INDIVIDUALS AFFECTED	TOTAL HEARINGS	APPROVED	REFUSED	ADJOURNED	WITHDRAWN OR NO JURISDICTION
S99	Emergency Surgery	FEMALE	0	0	0	0	0	0
		MALE	0	0	0	0	0	0
		TOTAL	0	0	0	0	0	0
S101(1)	Non-urgent Surgical Procedures	FEMALE	4	4	2	2	0	0
		MALE	4	5	4	1	0	0
		TOTAL	8	9	6	3	0	0
S101(3)	Non-urgent Surgical Procedures (Forensic Patients)	FEMALE	0	0	0	0	0	0
		MALE	0	0	0	0	0	0
		TOTAL	0	0	0	0	0	0
S103	Special Medical Treatments	FEMALE	0	0	0	0	0	0
		MALE	0	0	0	0	0	0
		TOTAL	0	0	0	0	0	0
S102	Special Medical Treatments (Forensic Patients)	FEMALE	0	0	0	0	0	0
		MALE	0	0	0	0	0	0
		TOTAL	0	0	0	0	0	0

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

FORENSIC HEARINGS

The Tribunal held a total of 1,680 hearings during the financial year 2022, representing 735 individuals. This demonstrates a minimal variation of 1% on previous year activity (2021: 1,669 hearings – 783 individuals). The forensic jurisdiction has seen an average of 4% increase each year for the past 5 financial years.

Approximately 11% of hearings in 2022 were for the Tribunal to consider an application for a Forensic Community Treatment Order (FCTO). Applications have averaged at around 184 per year for the past five years. The Tribunal is required to conduct three monthly reviews of each person subject to a FCTO who is detained in a correctional centre. During the 2022 financial year, 115 such hearings were conducted (2021: 99).

The Tribunal ordered the conditional release of 27 forensic patients (2021: 31 patients) and the unconditional release of 23 forensic patients (2021: 22 patients), including 19 patients for whom a CTO was also made to have effect on the date of unconditional release (2021: 20 patients). The Tribunal made 2 orders revoking conditional release of a forensic patient (2021: 8).

FORENSIC HEARINGS – DETERMINATIONS & REVIEWS

SEC	DESCRIPTION	GENDER	2021/22	2020/21	2019/20	2018/19	2017/18
Mental Health Act 2007							
S96(1)&(2)	Application for ECT	FEMALE	0	0	0	2	0
		MALE	8	4	6	2	2
		TOTAL	8	4	6	4	2
S101 & s102	Application for surgical operation	FEMALE	0	0	0	0	0
		MALE	0	1	1	0	0
		TOTAL	0	1	1	0	0
S162	Application to allow publication of names	FEMALE	0	0	0	0	0
		MALE	0	1	0	4	2
		TOTAL	0	1	0	4	2
Total Mental Health Act 2007		FEMALE	0	0	0	2	0
		MALE	8	5	7	6	4
		TOTAL	8	5	7	8	4
NSW Trustee & Guardian Act 2009							
S88	Application to revoke Financial Management Order	FEMALE	0	1	1	0	1
		MALE	2	1	0	1	2
		TOTAL	2	2	1	1	3
Total NSW Trustee & Guardian Act 2009		FEMALE	0	1	1	0	1
		MALE	2	1	0	2	2
		TOTAL	2	2	1	2	3
Births Deaths & Marriages Registration Act 1995							
S31D	Approval of change of name	FEMALE	0	0	0	2	0
		MALE	0	3	1	2	4
		TOTAL	0	3	1	4	4

Section, Act	DESCRIPTION	GENDER	2021/22	2020/21	2019/20	2018/19	2017/18
Fitness referral							
S78(b) MHCIFPA	First review following fitness referral from court	FEMALE	2	3	0	0	0
		MALE	27	12	0	0	0
		TOTAL	29	15	0	0	0
S16 MHFPA ¹	First review following fitness referral from court	FEMALE	0	8	11	3	9
		MALE	0	54	75	66	65
		TOTAL	0	62	86	69	74
Totals		FEMALE	2	11	11	3	9
		MALE	27	66	75	66	65
		TOTAL	29	77	86	69	74
First Review after Limiting Term							
S78(a) MHCIFPA	First review after limiting term imposed	FEMALE	2	0	0	0	0
		MALE	21	3	0	0	0
		TOTAL	23	3	0	0	0
S45(1)(b) MHFPA	First review after limiting term imposed	FEMALE	0	1	1	1	3
		MALE	0	7	5	9	3
		TOTAL	0	8	6	10	6
Totals		FEMALE	2	1	1	1	3
		MALE	21	10	5	9	3
		TOTAL	23	11	6	10	6
First Review after APNCR							
S78(c) MHCIFPA	First review following special verdict of act proven but not criminally responsible	FEMALE	7	2	0	0	0
		MALE	26	4	0	0	0
		TOTAL	33	6	0	0	0
S44 MHFPA	First review following special verdict of not guilty by reason of mental illness	FEMALE	0	0	5	3	8
		MALE	0	26	32	27	25
		TOTAL	0	26	37	30	33
Totals		FEMALE	7	2	5	3	8
		MALE	26	30	32	27	25
		TOTAL	33	32	37	30	33
Forensic Patient Reviews							
S78(d) MHCIFPA	Review of forensic patient (6 monthly)	FEMALE	100	21	0	0	0
		MALE	745	181	0	0	0
		TOTAL	845	202	0	0	0
S79 MHCIFPA	Forensic patient review at any time	FEMALE	17	5	0	0	0
		MALE	179	27	0	0	0
		TOTAL	196	32	0	0	0
S46(1) MHFPA	Review of forensic patient	FEMALE	0	95	118	109	89
		MALE	0	658	843	804	781
		TOTAL	0	753	961	913	870
Totals		FEMALE	117	121	118	109	89
		MALE	924	866	843	804	781
		TOTAL	1041	987	961	913	870

¹ Mental Health (Forensic Provisions) Act 1990

Section, Act	DESCRIPTION	GENDER	2021/22	2020/21	2019/20	2018/19	2017/18
Forensic Patient review after apprehension							
S109(4) MHCIFPA	Review of forensic patient apprehended under S109	FEMALE	6	0	0	0	0
		MALE	47	22	0	0	0
		TOTAL	53	22	0	0	0
S68(2) MHFPA	Review of a forensic patient apprehended under S68	FEMALE	0	9	11	16	7
		MALE	0	34	62	38	45
		TOTAL	0	43	73	54	52
Totals		FEMALE	6	9	11	16	7
		MALE	47	56	62	38	45
		TOTAL	53	65	73	54	52
Registered Victims – Place restriction and non-association applications							
S146 MHCIFPA	Application by Registered Victim for non-association or place restriction	FEMALE	0	0	0	0	0
		MALE	7	2	0	0	0
		TOTAL	7	2	0	0	0
S76 MHFPA	Application by Registered Victim for non-association or place restriction	FEMALE	0	0	2	1	0
		MALE	0	2	2	11	5
		TOTAL	0	2	4	12	5
Totals		FEMALE	0	0	2	1	0
		MALE	7	4	2	11	5
		TOTAL	7	4	4	12	5
Reviews of persons awaiting transfer to a mental health facility							
S89 MHCIFPA	Limited review of a person awaiting transfer from a correctional centre to a mental health facility	FEMALE	0	0	0	0	0
		MALE	22	1	0	0	0
		TOTAL	22	1	0	0	0
S58 MHFPA	Limited review of a person awaiting transfer from a correctional centre to a mental health facility	FEMALE	0	0	4	4	3
		MALE	0	24	47	25	17
		TOTAL	0	24	51	29	20
Totals		FEMALE	0	0	4	4	3
		MALE	22	25	47	25	17
		TOTAL	22	25	51	29	20
First Review of Correctional Patients							
S90 MHCIFPA	First review following transfer from a correctional centre to a mental health facility	FEMALE	11	3	0	0	0
		MALE	110	35	0	0	0
		TOTAL	121	38	0	0	0
S59 MHFPA	First review following transfer from a correctional centre to a mental health facility	FEMALE	0	5	5	11	11
		MALE	0	71	69	80	94
		TOTAL	0	76	74	91	105
Totals		FEMALE	11	8	5	11	11
		MALE	110	106	69	80	94
		TOTAL	121	114	74	91	105

Section, Act	DESCRIPTION	GENDER	2021/22	2020/21	2019/20	2018/19	2017/18
Subsequent Reviews of Correctional Patients							
S91(b) MHCIFPA	Review of correctional patient (6 monthly)	FEMALE	1	1	0	0	0
		MALE	9	2	0	0	0
		TOTAL	10	3	0	0	0
S93 MHCIFPA	Review of correctional patient at any time	FEMALE	1	1	0	0	0
		MALE	1	0	0	0	0
		TOTAL	2	1	0	0	0
S61(1) MHFPA	Review of correctional patient	FEMALE	0	2	0	1	0
		MALE	0	9	16	11	7
		TOTAL	0	11	16	12	7
Totals		FEMALE	2	4	0	1	0
		MALE	10	11	16	11	7
		TOTAL	12	15	16	12	7
FCTO Applications							
S99 MHCIFPA	Application for an FCTO	FEMALE	10	2	0	0	0
		MALE	177	53	0	0	0
		TOTAL	187	55	0	0	0
S67 MHFPA	Application for an FCTO	FEMALE	0	7	17	28	11
		MALE	0	161	137	154	162
		TOTAL	0	168	154	182	173
Totals		FEMALE	10	9	17	28	11
		MALE	177	214	137	154	162
		TOTAL	187	223	154	182	173
FCTO Reviews							
S78(e) MHCIFPA	Review of forensic patient subject to FCTO in correctional centre	FEMALE	0	0	0	0	0
		MALE	2	2	0	0	0
		TOTAL	2	2	0	0	0
S100 MHCIFPA	Review of person subject to FCTO in a correctional centre (NOT a forensic patient)	FEMALE	3	0	0	0	0
		MALE	110	32	0	0	0
		TOTAL	113	32	0	0	0
S61(3) MHFPA	Review of person subject to FCTO in correctional centre	FEMALE	0	1	8	12	10
		MALE	0	64	125	96	115
		TOTAL	0	65	133	108	125
Totals		FEMALE	3	1	8	12	10
		MALE	112	98	125	96	115
		TOTAL	115	99	133	108	125
MHFPA matters not heard under MHCIFPA							
S24 MHFPA	Review following limiting term	FEMALE	0	0	1	3	2
		MALE	0	7	7	16	8
		TOTAL	0	7	8	19	10
S45(1)(a) MHFPA	Review after detention imposed under s17 following finding of unfitness	FEMALE	0	0	0	0	0
		MALE	0	0	0	0	1
		TOTAL	0	0	0	0	1
TOTAL REVIEWS & DETERMINATIONS		FEMALE	160	166	183	192	153
		MALE	1483	1493	1420	1337	1328
		TOTAL	1643	1659	1603	1529	1481

See also Appendix 2, Tables 6-23.

HEARING LOCATIONS AND TYPES

The Tribunal has regular rosters for its mental health inquiries and civil and forensic hearing panels. Due to Covid-19 restrictions, no in-person hearings were held at the Tribunal's premises in Gladesville. 250 in-person hearings were conducted at 18 venues across the Sydney metropolitan area and regional New South Wales in the financial year 2022.

While the preference for conducting hearings is always in-person at a mental health facility, or other venue convenient to the patient and other parties, this is not always practical or possible. The Tribunal also holds telephone and video-conference hearings where necessary. Covid-19 restrictions necessitated the use of video more broadly than ordinary practice. During 2022, 1,307 telephone and 16,957 video conference hearings were held for 67 inpatient or community venues across New South Wales.

During the 2022 financial year, 250 (1%) hearings and mental health inquiries were conducted in person (2021: 1,844 - 10%), 16,957 (89%) by video (2021: 14,607 - 79%) and 1,307 (7%) by telephone and 628 (3%) hearings 'on the papers' (2021: 2,090 - 11% by phone and papers combined). The increase in video hearings and consequent decrease in face-to-face hearings is directly attributable to the Covid-19 impact. During a significant period of this financial year, 100% of hearings were held by video, telephone or on the papers.

JURISDICTION	LIVE	VIDEO	PHONE	PAPERS	TOTAL
CIVIL	37 (<1%)	9,611 (84%)	1,288 (11%)	466 (4%)	11,402 (60%)
FMO	0 (0%)	89 (95%)	2 (2%)	3 (3%)	94 (<1%)
FORENSIC	0 (0%)	1,506 (90%)	15 (1%)	159 (9%)	1,680 (9%)
MHI	139 (2%)	5,825 (98%)	2 (<1%)	0 (0%)	5,966 (31%)
Grand Total	250 (1%)	16,957 (89%)	1,307 (7%)	628 (3%)	19,142

The vast majority of civil hearings conducted by telephone or on the papers related to CTOs (97% of telephone hearings and 91% of hearings on the papers). This is commonly for persons in the community on an existing CTO. A significant proportion (84% of CTO related hearings on the papers) were to vary the conditions of existing CTOs. The majority of these hearings involved varying the order to reflect a change in treatment team following a change of address by the client. All forensic hearings conducted 'on the papers' were adjournments, procedural matters or variations of forensic CTOs.

Mental health inquiries are conducted 'in person' at most metropolitan and a number of rural mental health facilities. Under ordinary Tribunal conditions, video conferencing is only used at those facilities where in person inquiries are not practical. Of the 5,966 mental health inquiries this year, 2% were held in person (2021: 28%) and 98% by video (2021: 72%). The variation reflects the impact of the Covid-19 pandemic restrictions.

NUMBER OF CLIENTS

As at 30 June 2022 there were 1,170 people for whom the Tribunal had made an involuntary patient order either at a mental health inquiry or at a subsequent review (2020: 994). The negative variation from previous year figures is directly attributable to the Covid-19 provisions under which s 9, s 37(1)(b) and s 37(1)(c) hearings were not scheduled during the period July - September 2020. However, it should be noted that a number of these patients may, without reference to the Tribunal, have been discharged or reclassified as voluntary patients since the last Tribunal hearing.

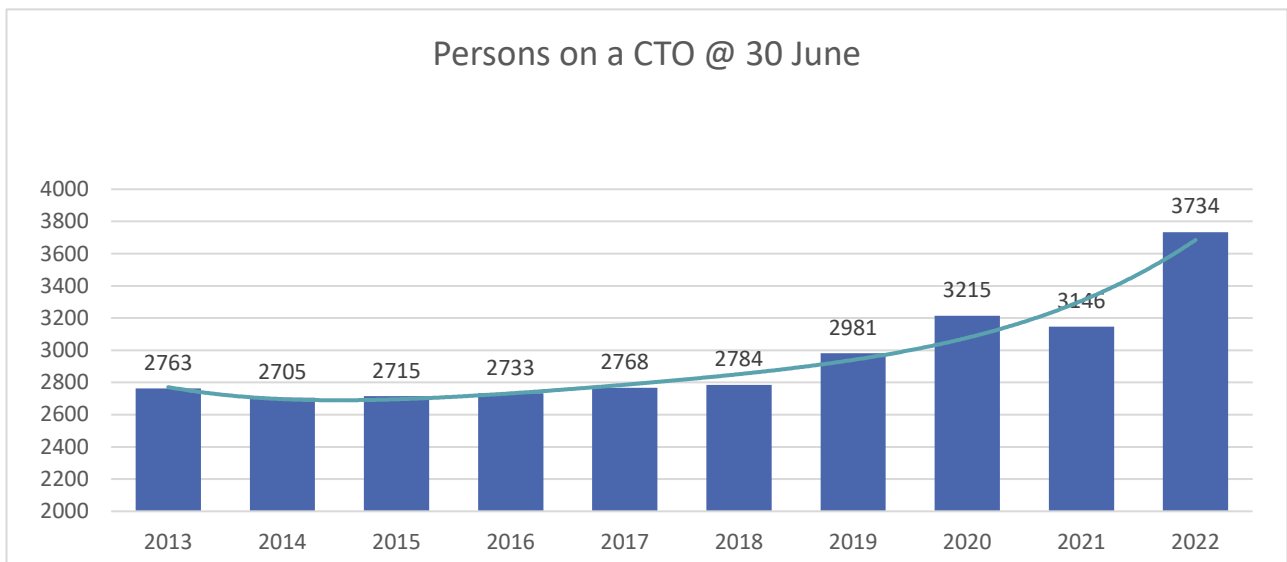
There were six individuals who had been voluntary patients for more than 12 months and had been reviewed by the Tribunal (2020: 28) – again, these figures are distorted by the lack of s 9 hearings under Covid-19 provisions. A number of these people may have been discharged or reclassified since their last Tribunal review.

Hospital	INVOLUNTARY						VOLUNTARY	Grand Total
	S34	S37(1)(a)	S37(1)(b)	S37(1)(c)	S37(1A)	Total	S9	
ALBURY	4					4		4
BANKSTOWN	10	2				12		12
BLACKTOWN	6	10	2	5		23		23
BLOOMFIELD	12	10	11	24		57	1	58
BLUE MOUNTAINS	2	3				5		5
BRAESIDE	4	3				7		7
BROKEN HILL	1					1		1
BYRON BAY	1	1				2		2
CAMPBELLTOWN	19	2				21		21
COFFS HARBOUR	4	4	1			9	1	10
COMMUNITY	3	1	1			5	1	6
CONCORD	38	27	20	34		119	5	124
CUMBERLAND	36	13	11	31		91	27	118
DUBBO	2					2		2
FORENSIC	1	1	5	7		14		14
GOSFORD	10	3		1		14		14
GOULBURN	7	3				10		10
GREENWICH	8	3				11		11
HORNSBY	13	7	3	2		25		25
JAMES FLETCHER	2		2			4		4
JOHN HUNTER	1	1				2		2
KENMORE	2					2		2
LISMORE	11	1		1		13		13
LIVERPOOL	14	13	4	5		36	1	37
MACQUARIE	4	10	13	72		99	24	123
MAITLAND	4	4				8		8
MATER	52	9	8	15		84	1	85
MORISSET	2	4	9	27		42	1	43
NEPEAN	9	1	1			11		11
NORTHERN BEACHES	7	1				8		8
PORT MACQUARIE	1	1	1			3		3
PRINCE OF WALES	25	11	9	2		47		47
PROFESSOR MARIE BASHIR	27	16	1	1		45		45
ROYAL NORTH SHORE	13	5	1	1		20		20
SHELLHARBOUR	4	6	1	1		12		12
SOUTH EAST REGIONAL	1					1		1
ST GEORGE	20	7	3	1		31	1	32

Hospital	INVOLUNTARY						VOLUNTARY	Grand Total
	S34	S37(1)(a)	S37(1)(b)	S37(1)(c)	S37(1A)	Total	S9	
ST. JOSEPH'S	4	1	2			7		7
ST. VINCENT'S	11	7	1			19		19
SUTHERLAND	7	7	2			16	1	17
SYDNEY CHILDREN'S		1				1		1
TAMWORTH	10	7	1	2		20		20
TAREE	6	2	1			9		9
THE TWEED	5	3	1			9		9
TWEED VALLEY	1					1		1
WAGGA WAGGA	13	2		1		16		16
WESTMEAD	4	3				7		7
WESTMEAD ADULT	4	1				5		5
WESTMEAD CHILD/ADOLESCENT	1					1		1
WOLLONGONG	12	3				15		15
WYONG	17	4	2	1		24		24
Total for FY2022	475	224	117	234	0	1050	64	1114
Total for FY2021	533	289	191	157	157	1170	6	1176
Variation	-11%	-22%	-39%	49%	-100%	-10%	967%	-5%

The Tribunal is responsible for making and reviewing all involuntary patient orders and all CTOs (apart from a small number of orders made by Magistrates under s 20 of the *MHCIFPA*). This means that the Tribunal is now able to provide a reasonably accurate picture of the actual number of people subject either to an involuntary patient order or to a CTO at any given time.

At 30 June 2022, 3,734 individuals were subject to an order made by the Tribunal (2021: 3,146). While a small number of these orders may have been revoked by the Director of the declared community mental health facility responsible for implementing the order, this should be a fairly accurate count of the number of people subject to a CTO at that point in time.



REPRESENTATION AND ATTENDANCE AT HEARINGS

All persons appearing before the Tribunal have a right under s 152 and s 154 of the Act to be represented, notwithstanding their mental health issues. Representation is usually provided through the Legal Aid Commission of NSW by the Mental Health Advocacy Service (MHAS), although a person can choose to be represented by a private legal practitioner (or other person with the Tribunal's consent) if they wish.

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

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

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

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

Representation was provided in 52% of hearings in the Tribunal's civil jurisdiction (2021: 57%) and 81% of forensic hearings (2021: 81%).

MATTER TYPE	Represented	Total	%
CIVIL			
s101(1) Application for a Surgical Operation Involuntary Patient	5	9	56%
s103 Application for special medical treatment	0	0	-
s151(4) Procedural Order	3	5	60%
s154(3) Application to be represented by a person other than an Australian legal practitioner	0	1	0%
s156 Procedural Hearing: Access to documents	2	3	67%
s37(1)(a) Initial Review of Involuntary Patient	960	1135	85%
s37(1)(b) Review of Involuntary Patient	599	675	89%
s37(1)(c) Review of Involuntary Patient	147	518	28%
s37(1A) Review of an involuntary Patient - at any other time	1	7	14%
s44 Appeal Refusal to Discharge	788	1037	76%
s51 Community Treatment Order - existing CTO	44	4068	1%
s51 Community Treatment Order - Mental Health Facility	370	1519	24%
s51 Community Treatment Order - no current CTO	45	969	5%
s63 Review of detained person under CTO	6	7	86%
s65 Revocation of CTO	1	19	5%
s65 Variation of (Forensic) CTO	3	88	3%
s65 Variation of CTO	1	476	0%
s9 Review of Voluntary Patient	6	70	9%
s96(1) ECT Consent Inquiry - Voluntary patient	0	0	-
s96(2) ECT Administration Inquiry - Involuntary patient	576	791	73%
s96(3A)(a) ECT for person under 16 - Involuntary patient	4	5	80%
s96(3A)(b) ECT for person under 16 - Voluntary patient	0	0	-
CIVIL Total	3561	11402	31%
FINANCIAL MANAGEMENT ORDERS			
s44 Consideration of Financial Management at a mental health inquiry	23	26	88%
s46 Application for Financial Management Order	23	40	58%
s48 Review of Interim Financial Management Order	1	1	100%
s88 Application for revocation of a Financial Management Order	0	27	0%
FINANCIAL MANAGEMENT ORDERS Total	24	68	35%

FORENSIC			
s78(a) First review following nomination of limiting term	22	23	96%
s78(b) First review following fitness referral from court	28	29	97%
s78(c) First review following special verdict of act proven but not criminally responsible	32	33	97%
s78(d) Review of forensic patient (6 monthly)	783	845	93%
s78(e) Review of forensic patient subject to FCTO in correctional centre	2	2	100%
s79 Forensic patient review at any time	172	196	88%
s89 Limited review of person awaiting transfer to a mental health facility	1	22	5%
s90 First review following transfer from correctional centre to a mental health facility	110	121	91%
s91(b) Review of correctional patient (6 monthly)	9	10	90%
s93 Review of correctional patient at any time	1	2	50%
s96(2) ECT Administration Inquiry - Involuntary patient	8	8	100%
s99 Application for a FCTO	132	187	71%
s65 Application to vary or revoke a Forensic CTO	0	29	0%
s100 Review of person subject to a FCTO in correctional centre (not forensic patient)	5	113	4%
s109(4) Review of person apprehended under s109	48	53	91%
s146 Application of Registered Victim for non association or place restriction	7	7	100%
s151(4) Application for procedural order/s	0	0	-
FORENSIC Total	1360	1680	81%
MENTAL HEALTH INQUIRIES			
s34 Mental Health Inquiry - Review of Assessable Person	5527	5966	93%
MENTAL HEALTH INQUIRIES Total	5527	5966	93%
Grand Total	10495	19142	55%

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

This attendance and participation in hearings can be in person or by way of video or telephone. During the financial year 2022, the subject of civil hearings attended in 81% of cases (2021: 86%). Included in this figure are mental health inquiries which under ordinary conditions require the patient to attend in order for the inquiry to proceed. During the financial year 2022, the rate of client attendance at mental health inquiries was 98% (2021: 98%). The mental health inquiry is ordinarily adjourned if the patient is not able to attend.

In forensic matters, where there is a general requirement that the person attend unless excused from doing so by the Tribunal, attendance was 86% (2021: 83%). Of the hearings where the forensic patient did not attend, 44% were reviews of FCTOs which, with the agreement of the forensic patient, were often conducted 'on the papers'.

HEARINGS PROCEEDINGS IN THE ABSENCE OF THE PATIENT

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

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

The Tribunal may conduct hearings in the absence of the patient only if it is satisfied that the patient is too unwell to attend the hearing or they refuse to attend the hearing within a reasonable period and that it is desirable for the safety

and welfare of the patient that the hearing proceed. In making its determination the Tribunal is required to consider the views (if known) of the patient, any representative, the designated carer and the principal care provider.

During the 2022 financial year, two applications were received from authorised medical officers to proceed in the absence of the patient. Of these one was a s37 review of an involuntary patient during which the patient was detained. The other was an s 96 ECT hearing at which the application to proceed was denied.

HEARINGS HELD IN THE ABSENCE OF THE PATIENT							
Act	MATTER DESCRIPTION	Patient did not attend	Total Hearings	% of Hearings in Absence	Approvals	Applications	% Approved in Absence
S37	Reviews of involuntary patients	182	2335	8%	1	1	100%
S63	Review of affected persons detained under a CTO	1	7	14%	0	0	0%
S96	Applications to administer ECT	64	804	8%	0	1	0%
Total		247	3146	8%	1	2	50%

APPEALS

Section 163 MHA and s135 MHCIFPA provide for appeals by leave against decisions of the Tribunal to be brought to the Supreme Court of NSW. An appeal as to the release of a forensic patient may be made to the Court of Appeal.

No appeals were lodged in the financial year 2022.

Section 50 of the *NSW TAG Act 2009* provides for appeals to be made to NCAT against estate management orders made by the Tribunal. There were no such appeals lodged during 2022.

MULTICULTURAL POLICIES AND SERVICES

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

Persons appearing before the Tribunal have a right under s 158 of the Act to be assisted by an interpreter if they are unable to communicate adequately in English. During 2022, interpreters in 45 different languages assisted a total of 448 hearings (2021: 39 languages - 422 hearings). The ten most common languages interpreted were Mandarin (70), Arabic (61), Vietnamese (48), Cantonese (47), Korean (38), Italian (18), Farsi (12), Greek (12), Turkish (11) and Serbo-Croat (10). Together, these languages constitute 73% of the hearings in which an interpreter was required.

In August 2009 the Tribunal entered into a Memorandum of Understanding with Multicultural NSW on the provision of translation services concerning the Tribunal's official forensic orders. There were no forensic orders translated in the financial year 2022.

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

GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009

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

There was one request for disclosure of information from the Tribunal's client files during the financial year 2022. All requests were met within the terms of the *GIPA Act*.

PUBLIC INTEREST DISCLOSURES ACT 1994

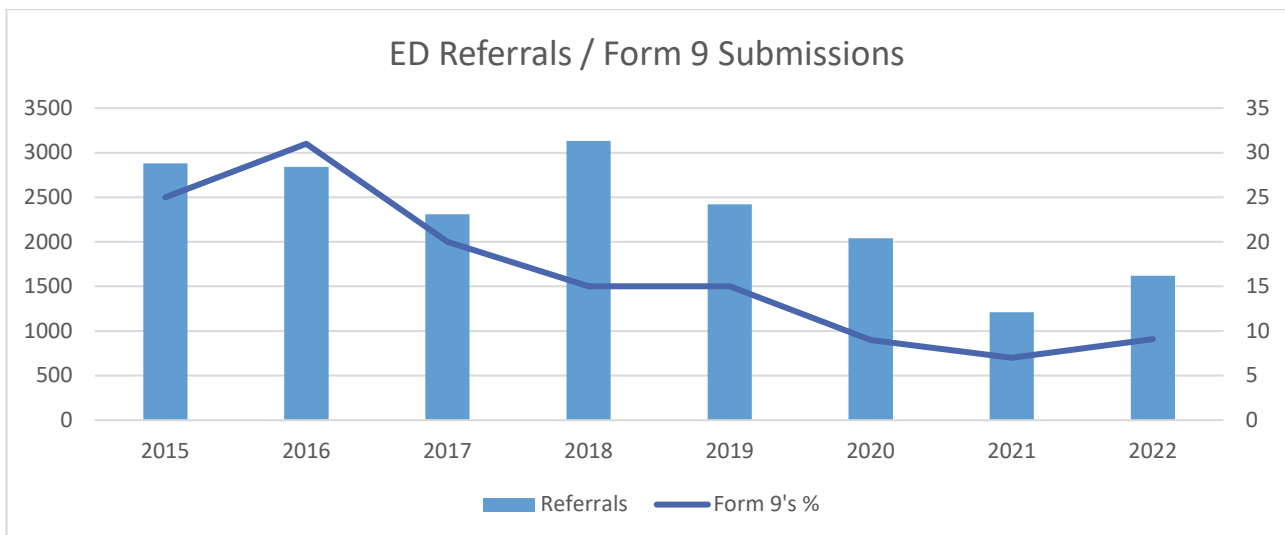
Public Authorities in New South Wales are required to report annually on their obligations under the *Public Interest Disclosures Act 1994*. There were no Public Interest Disclosures received by the Tribunal during the reporting period.

DATA COLLECTION – INVOLUNTARY REFERRAL TO MENTAL HEALTH FACILITIES

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

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

Despite some improvement in reporting from ED's over time, a sufficient level of compliance is yet to be achieved. During the financial year 2022, 5 of the 55 gazetted ED's (9%) returned the Form 9s (2021: 4 of 55 -7%).



Five ED's made 1,620 involuntary referrals during the financial year 2022, indicating that there remains a significant number of persons taken to emergency assessment mental health facilities who are not being recorded through this process. It is possible that some are being recorded on Form 9s submitted by the mental health facilities within the same hospital, however this is not quantifiable.

OFFICIAL VISITORS PROGRAM

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

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

A Memorandum of Understanding was entered into by the Tribunal and the Official Visitors Program in 2009 setting out the agreed systems for raising issues identified by the Tribunal or the Official Visitors Program in relation to the other body. Two matters were referred to the Official Visitors Program by the Tribunal during financial year 2022 for follow up by Official Visitors.

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

PREMISES

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

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

VENUES

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

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

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

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

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

COMMUNITY EDUCATION AND LIAISON

During the financial year 2022 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 MHA and the MHCIFPA.

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

STAFF

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

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

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

Appendix 4 shows the organisational structure and staffing of the Tribunal as at 30 June 2022. Including the President and two full time Deputy President positions, the Tribunal’s permanent establishment totals 30.4 positions, all of which are filled.

See also Appendix 4

TRIBUNAL MEMBERS

As at 30 June 2022, the Tribunal had a President, one full time Deputy Presidents, eleven part time Deputy Presidents and 137 part time members. Members of the Tribunal sit on hearings in accordance with a roster drawn up to reflect members’ availability, preferences and the need for hearings. Most members sit between two and four times per month at regular venues.

The Tribunal’s membership reflects an equitable gender balance. As at 30 June 2022, including Presidential members, there were 81 female and 69 male members. Several members have indigenous or culturally diverse backgrounds as well as a number who have a lived experience of mental illness, bringing a valuable consumer or carer’s focus to the Tribunal’s hearings and general operations.

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

NEW MEMBERS

The Tribunal welcomed 32 new members in the financial year 2022.

Name	Appointment	Date Appointed
Hon Jennifer Boland AM	Deputy President	1/12/2021
Mr Terry Sheahan AO	Deputy President	1/12/2021
Mr Adam Booker	Lawyer	1/09/2021
Mr Paul Dixon	Lawyer	1/09/2021
Ms Mary-Beth McFarlane	Lawyer	1/09/2021
Prof Jenni Millbank	Lawyer	1/09/2021
Ms Jillian Moir	Lawyer	1/09/2021
Ms Jean-Anne Searson	Lawyer	1/09/2021
Ms Frances Simmons	Lawyer	1/09/2021
Mr Mark Turnbull	Lawyer	1/09/2021
Mr John Weir	Lawyer	1/09/2021
Dr Neelya Agalawatta	Psychiatrist	1/09/2021
Dr Megan Alle	Psychiatrist	1/09/2021
Dr Deidre Horne	Psychiatrist	1/09/2021
Dr Megan Kalucy	Psychiatrist	1/12/2021
Dr Adam Martin	Psychiatrist	1/09/2021
Dr Ganapathi Murugesan	Psychiatrist	1/09/2021
Dr Stephanie Oak	Psychiatrist	1/09/2021
Dr Peter O'Brien	Psychiatrist	1/09/2021
Dr Peter Vaux	Psychiatrist	1/09/2021
Dr Brent Waters	Psychiatrist	1/12/2021
Dr Angela Argent	Community Member	1/09/2021
Dr Ameer Baird	Community Member	1/09/2021
Ms Susan Daly	Community Member	1/09/2021
Mr Wayne Hunt	Community Member	1/09/2021
Ms Katherine McKernan	Community Member	1/09/2021
Ms Kimia Randall	Community Member	1/09/2021
Ms Marjorie Anne Rauch	Community Member	1/09/2021
Dr Hannah Rose	Community Member	1/09/2021
Mr Peter Shmigel	Community Member	1/09/2021
Ms Melinda Smith	Community Member	1/09/2021

RESIGNATIONS

During the financial year 2022 we said farewell to full time Deputy President Anina Johnson. Anina contributed an enormous and much valued body of work for the Tribunal over more than 10 years and she will be very much missed. The Tribunal would also like to acknowledge the extraordinary contributions made by the following members who retired during the past year.

Name	Appointment	Years of Service
Ms Carol Abela	Lawyer	32
Ms Diane Barnetson	Lawyer	32
Mr Thomas Kelly	Lawyer	26
Ms Carol McCaskie	Lawyer	32
Ms Rohan Squirchuk	Lawyer	30
Associate Professor Kimberlie Dean	Psychiatrist	9
Dr Michael Giuffrida	Psychiatrist	14
Dr Rosemary Howard	Psychiatrist	20
Dr Karryn Koster	Psychiatrist	17
Dr Dorothy Kral	Psychiatrist	30
Dr Frank Lumley	Psychiatrist	6
Dr Rob McMurdo	Psychiatrist	18
Dr Paul Thiering	Psychiatrist	14
Dr Sidney Williams	Psychiatrist	6
Ms Elisabeth Barry	Community Member	31
Ms Susan Johnston	Community Member	30
Ms Felicity Reynolds	Community Member	17

The Tribunal would like to take this opportunity to honour the memory of the late Ms Anne Scahill – a Community Member of more than 17 years standing. Ms Scahill was a highly respected and dedicated person who will be greatly missed.

PROFESSIONAL DEVELOPMENT

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

During the financial year 2022, the Tribunal continued its program of regular professional development sessions for its members. These sessions involve presentations from Tribunal members and staff as well as guest speakers.

Topics covered during the reporting period included:

- A Conversation About Borderline Personality Disorder with Dr Sathya Rao and Ms Mahlie Jewell
- Virtual Hearings – Trauma Informed Approach & Procedural Fairness with Dr Carolyn McKay & Mr Hugh Dillon
- Functional Recovery with Professor Eóin Killackey
- Seclusion – What Questions Should the Tribunal Be Asking? with Dr Calum Smith

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

FINANCIAL REPORT

The Tribunal is funded directly from the Finance Branch of the Ministry. The budget allocation for 2021/2022 was \$8,114,141. Total net expenditure for the year was \$8,001,562 – a budget variation of \$112,577 (1.4%) which is primarily driven by the drop in travel expenses during the Covid pandemic.

A Treasury adjustment of \$800,000 was provided to the Ministry of Health being the agreed amount transferred for the Department of Attorney General and Justice to fund the Mental Health Inquiries role. The actual expenditure related to this role for the financial year was \$1,578,693. This included the cost of additional three-member Tribunal panels required for the increased number of appeals lodged by patients against an authorised medical officer's refusal to discharge.

See also Appendix 5

THANK YOU

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

We are very fortunate at the Tribunal in the high calibre of our staff and our members and this has never been more evident than during the Covid-19 response. I would like to take this opportunity to thank the many people who have worked both for and with the Tribunal during the 2022 financial year and to acknowledge their skill, competence and dedication in conducting more than 19,000 hearings. The successful operation of the Tribunal would not have been possible without their ongoing co-operation and support.

Alisa Kelley
Registrar

APPENDIX 1 – CIVIL STATISTICS

TABLE 1 – INVOLUNTARY PATIENT FLOW CHART

Flow Chart showing progress of involuntary patients admitted during the period July 2021 through June 2022

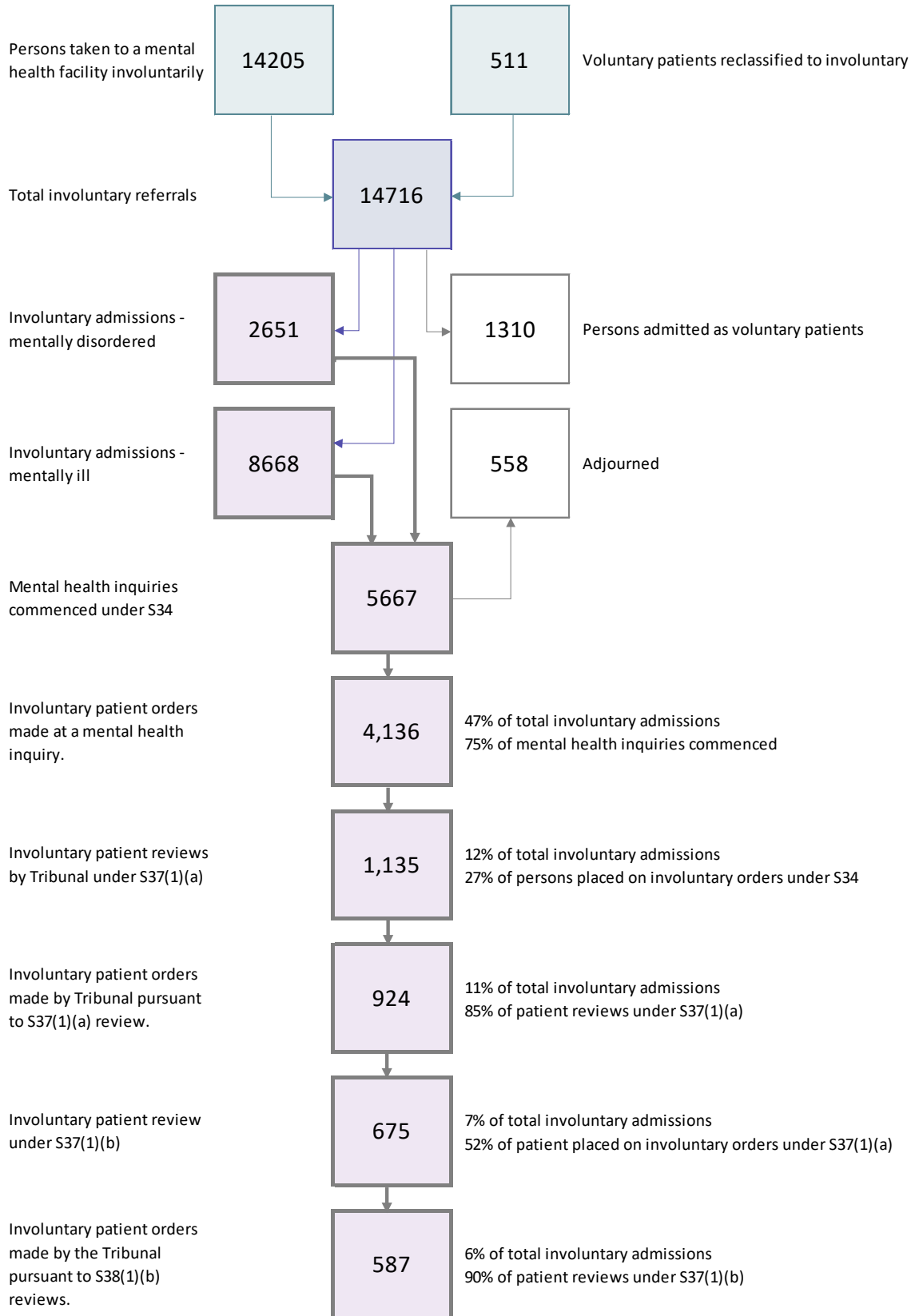


TABLE 2 – CIVIL HEARINGS – TOTAL BY GENDER & MATTER DESCRIPTION

Matter	MALE		FEMALE		Total
	Hearings	%	Hearings	%	
s9 Review of Voluntary Patient	31	44%	39	56%	70
s34 Mental Health Inquiry - Review of Assessable Person	2713	45%	3253	55%	5966
s37(1)(a) Initial Review of Involuntary Patient	517	46%	618	54%	1135
s37(1)(b) Review of Involuntary Patient	252	37%	423	63%	675
s37(1)(c) Review of Involuntary Patient	188	36%	330	64%	518
s37(1A) Review of an involuntary Patient - at any other time	1	14%	6	86%	7
s44 Appeal Refusal to Discharge	456	44%	581	56%	1037
s51 Community Treatment Order - existing CTO	1476	36%	2592	64%	4068
s51 Community Treatment Order - Mental Health Facility	609	40%	910	60%	1519
s51 Community Treatment Order - no current CTO	299	31%	670	69%	969
s63 Review of detained person under CTO	2	29%	5	71%	7
s65 Revocation of CTO	5	26%	14	74%	19
s65 Variation of (Forensic) CTO	3	3%	85	97%	88
s65 Variation of CTO	175	37%	301	63%	476
s96(1) ECT Consent Inquiry - Voluntary patient	0	-	0	-	0
s96(2) ECT Administration Inquiry - Involuntary patient (incl forensic patients)	472	60%	319	40%	791
s96(3A)(a) ECT for person under 16 - Involuntary patient	5	100%	0	0%	5
s96(3A)(b) ECT for person under 16 - Voluntary patient	0	-	0	-	0
s101(1) Application for a Surgical Operation Involuntary Patient	4	44%	5	56%	9
s103 Application for special medical treatment	0	-	0	-	0
s151(4) Procedural Order	3	60%	2	40%	5
s154(3) Application to be represented by a person other than an Australian legal practitioner	1	100%	0	0%	1
s156 Procedural Hearing: Access to documents	1	33%	2	67%	3
Grand Total	7213	42%	10155	58%	17368

TABLE 3 – CIVIL MATTERS BY TYPE OVER 5 YEARS

ACT	MATTER DESCRIPTION	2021-22	2020-21	2019-20	2018-19	2017-18	2016-17
S9	Review of those detained in a mental health facility receiving voluntary treatment for more than 12 months	70	48	64	79	79	98
S34	Mental Health Inquiry - Review of Assessable Person	5966	6156	6467	6787	6806	6757
S37	Reviews of persons detained in a mental health facility for involuntary treatment	2335	2369	2325	2727	2831	2725
S44	Appeal against an authorised medical officer's refusal to discharge	1037	991	797	629	685	690
S51	Community Treatment Orders	6556	5853	5915	5519	5357	5331
S63	Review of affected persons detained following a breach of a Community Treatment Order	7	14	13	8	15	7
S65	Variation and revocation of Community Treatment Orders *	583	536	405	432	299	248
S96(1)	Review of voluntary patient's capacity to give informed consent to ECT	0	2	4	2	4	3
S96(2)	Application to administer ECT to an involuntary patient with or without consent	791	781	822	810	810	719
S96(3A)	Application to administer ECT to a person under 16 years	5	1	1	0	1	0
S101	Application for a Surgical Operation	9	6	10	7	10	9
S103	Application for special medical treatment	0	2	1	0	1	1
S151-S156	Procedural Orders	9	2	4	5	2	1
S162	Application to publish or broadcast names	0	0	0	1	1	0
S202(4)	Covid-19 special provisions	-	4	21	0	0	0
TOTAL		17368	16765	16849	17006	16901	16589

*includes forensic

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

HEALTH CARE AGENCY	2021/22	2020/21	2019/20	2018/19	2017/18
Albury Community Mental Health Service	27	42	29	38	30
Auburn Community Mental Health Team	76	68	42	65	46
Bankstown-Lidcombe Mental Health Service	178	152	140	133	149
Bathurst and Region Community Mental Health and Drug and Alcohol Service	14	-	-	-	-
Bega Valley Mental Health Service	33	22	27	28	28
Blacktown and Mt. Druitt Psychiatry Service	299	262	292	292	246
Blue Mountains Mental Health Service	50	52	63	50	59
Bondi Junction Community Mental Health Service	10	11	6	9	6
Bowral Community Mental Health Service	21	20	10	15	11
Byron Mental Health Services	28	29	29	21	15
Campbelltown Mental Health Service	162	166	150	133	169
Camperdown Community Mental Health Service	198	177	169	169	158
Canterbury Community Mental Health Service	151	144	113	119	100
Central Coast Area Mental Health Service	456	449	460	441	401
Coffs Harbour District Hospital Outpatient Service	94	100	77	99	93
Cooma Community Mental Health Service	6	14	19	13	24
Cooma and Queanbeyan Community Mental Health Service	20	-	-	-	-
Cootamundra Community Mental Health Service	1	-	-	-	-
Croydon Community Mental Health Service	259	215	264	241	236
Deniliquin Mental Health Service	20	19	20	31	29
Dubbo and Region Community Mental Health and Drug and Alcohol Service	42	-	-	-	-
Dundas Community Mental Health Service	0	0	3	2	25
Eurobodalla Community Mental Health Service	43	6	44	25	32
Fairfield Mental Health Service	105	100	124	147	156
Far West Mental Health Service	20	23	22	17	20
Goulburn and Yass Community Mental Health Service	38	37	35	56	37
Grafton Mental Health Service	41	32	26	37	37
Granville Community Rehabilitation Service	78	78	77	49	25
Griffith Community Mental Health Service	53	46	51	53	38
Hawkesbury Mental Health Service	27	25	11	25	20
Hills (The) Community Mental Health Centre	63	59	54	55	47
Hornsby Ku-ring-gai Community Mental Health Service	157	156	186	152	152
Hunter Psychiatric Rehabilitation Service	0	0	2	0	1
Hunter Valley Health Care Agency	0	0	0	104	82
Hunter New England Mehi/McIntyre Mental Health Service	41	0	36	38	29
Hunter New England Tablelands Mental Health Service	32	18	14	24	20
Hunter New England Peel Mental Health Service	31	29	28	32	39
Hunter Valley Mental Health Service	79	71	86	0	0
Hunter Valley Child and Adolescent Mental Health Service	1	0	0	0	0
Illawarra Community Mental Health Services	131	107	114	120	139
Inner City Mental Health Service	93	58	64	81	73

HEALTH CARE AGENCY	2021/22	2020/21	2019/20	2018/19	2017/18
Kempsey Mental Health Service	36	48	43	49	43
Lake Illawarra Sector Mental Health Service	0	0	2	1	0
Lake Macquarie Mental Health Service	94	101	90	77	70
Lake Macquarie Child and Adolescent Mental Health Service	4	1	2	0	0
Lismore Mental Health Services	107	85	110	114	112
Lithgow Mental Health Service	11	10	5	7	5
Liverpool Mental Health Service	224	208	178	147	127
Macquarie Area Mental Health Services	58	77	81	88	81
Manly Hospital & Community Health Service	0	1	0	68	140
Maroubra Mental Health Service	199	201	193	183	185
Marrickville Community Mental Health Service	119	102	135	114	121
Merrylands Community Health Service	39	25	15	28	74
Mid Western Community Mental Health Service	60	103	112	118	123
Mudgee and Region Community Mental Health and Drug and Alcohol Service	13	10	13	17	11
Newcastle Mental Health Service	226	219	228	183	209
Newcastle Child & Adolescent Mental Health Service	0	3	2	0	0
Northern Illawarra Sector Mental Health Service	0	1	2	0	0
Northern Beaches Community Mental Health Service	155	142	163	144	0
Orange and Region Community Mental Health and Drug and Alcohol Service	42	-	-	-	-
Orange Community Health Team Orange Health Centre	1	-	-	-	-
Orange Community Residential/Rehab. Service	5	7	7	6	5
Parramatta Community Health Service	87	142	151	134	98
Penrith Mental Health Service	36	47	55	73	78
Penrith - Child and Youth Mental Health Service	3	0	1	0	0
Port Macquarie Community Mental Health Service	76	61	53	47	30
Queanbeyan Mental Health Service	0	15	31	36	34
Redfern Community Mental Health Service	67	74	67	55	36
Royal North Shore Community Health Centre (Mental Health)	135	135	135	0	0
Royal North Shore Hospital and Community Health Services	37	41	31	199	157
Ryde Community Mental Health Service	188	156	141	139	135
Shoalhaven Community Mental Health Services	57	54	59	77	72
Springwood Mental Health Service	16	8	9	17	8
St George Community Mental Health Centre	202	200	197	0	0
St Marys Mental Health Service	51	45	43	59	59
St George Div. of Psychiatry & Mental Health	0	0	0	208	221
St George Child & Adolescent Mental Health Service	0	1	1	0	0
Sutherland Hospital and Community Mental Health Service	118	110	93	85	80
Tamworth Community Mental Health Service	0	2	3	6	10
Taree Community Mental Health Service	46	38	54	65	70
Temora Community Mental Health	12	13	15	11	10
Tumut Community Mental Health Service	7	9	11	12	8
Tweed Mental Health Service	88	72	94	108	106

HEALTH CARE AGENCY	2021/22	2020/21	2019/20	2018/19	2017/18
Wagga Wagga Community Mental Health Service	52	53	49	47	57
Young Community Mental Health Service	14	13	7	11	20
CTO's made at Mental Health Inquiries & reviews	896	875	671	416	335
TOTAL	6759	6295	6239	6063	5702

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

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

Year	Magistrate ~	Mental Health Inquiries	Tribunal Hearings	Total Orders Made
2021/22	4	896	5863	6759
2020/21	3	875	5423	6295
2019/20	12	671	5586	6239
2018/19	13	416	5647	6063
2017/18	0	335	5367	5702
2016/17	0	362	5406	5768
2015/16	0	336	5050	5386
2014/15	0	336	4806	5142
2013/14	0	360	4824	5184
2012/13	0	339	4882	5221
2011/12	0	581	4426	5007
2010/11	2	566	4128	4696
2009/10	806	10	3956	4772
2008/09	997	0	4058	5055

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

APPENDIX 2 – FORENSIC STATISTICS

TABLE 6 – S78(B): FIRST REVIEW FOLLOWING FITNESS REFERRAL FROM COURT

MHCIFPA - S78(b) FIRST REVIEW FOLLOWING FITNESS REFERRAL FROM COURT	INDIVIDUALS	HEARINGS
Person is FIT for trial	8	8
Person is not fit and will not become fit within 12 months	9	9
Court Order for detention is replaced by Tribunal order	0	0
Transfer to another facility	0	0
Adjourned	9	11
TOTAL	26	28
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	19	28
Total number of individuals and hearings for S78(b) reviews:		

TABLE 7 – S78(C) FIRST REVIEW FOLLOWING SPECIAL VERDICT OF ACT PROVEN BUT NOT CRIMINALLY RESPONSIBLE

MHCIFPA – S78(c) FIRST REVIEW FOLLOWING SPECIAL VERDICT OF ACT PROVEN BUT NOT CRIMINALLY RESPONSIBLE	INDIVIDUALS	HEARINGS
Court order for conditional release replaced by Tribunal order	7	7
Court order for detention replaced by Tribunal order	4	4
Transfer to another facility	17	17
Grant leave of absence	1	1
Release conditional	0	0
Adjournment	4	4
TOTAL	33	33
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	29	32
Total number of individuals and hearings for S78(c) reviews:		

TABLE 8 – S78(A) FIRST REVIEW FOLLOWING NOMINATION OF LIMITING TERM

MHCIFPA – S78(a) FIRST REVIEW FOLLOWING NOMINATION OF LIMITING TERM	INDIVIDUALS	HEARINGS
Person is FIT for trial	1	1
Court order for detention replaced by Tribunal order	7	7
Person is unfit for trial	6	7
Transfer to another facility	5	5
Adjourned	3	3
TOTAL	22	23
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	14	17
Total number of individuals and hearings for S78(a) reviews:		

TABLE 9 – S78(D) & 79: REVIEW OF FORENSIC PATIENTS

MHCIFPA – S78(d) & 79 REVIEW OF FORENSIC PATIENTS	INDIVIDUALS	HEARINGS
Current order for apprehension to continue	0	0
Current order for conditional release to continue	117	142
Current order for detention to continue	173	259
Current order for transfer and detention to continue	35	46
Variation to current order for detention	6	6
Variation to current order for transfer and detention	12	12
Extension of period of review granted	59	60
Extension of period of review NOT granted	3	3
Person is fit to be tried	1	1
Person is not fit to be tried	23	30
Release conditional	27	27
Release conditions varied	127	171
Release unconditional under a CTO	19	19
Release unconditional	4	4
Revocation of conditional release and order detention	1	1
Transfer to another facility	22	22
Transfer to another facility - time limited order	0	0
Leave of absence granted	97	128
Leave of absence revoked	1	1
Financial Management Order made	2	2
Adjourned	78	98
TOTAL	807	1032
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	457	906
Total number of individuals and hearings for S78(d) & 79 reviews:		

TABLE 10 –S89: LIMITED REVIEW OF THOSE AWAITING TRANSFER TO A MENTAL HEALTH FACILITY

MHCIFPA - S89 LIMITED REVIEW OF THOSE AWAITING TRANSFER TO A MENTAL HEALTH FACILITY	INDIVIDUALS	HEARINGS
Transfer to another facility	10	12
Revoke order for transfer to a mental health facility	2	2
Patient transferred prior to hearing	1	1
Patient released prior to hearing	1	1
Hearing not required	1	1
Adjournment	5	5
TOTAL	20	22
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	16	19
Total number of individuals and hearings for S89 reviews:		

TABLE 11 – MHFPA - S59 / MHCIFPA S90: FIRST REVIEW FOLLOWING TRANSFER FROM A CORRECTIONAL CENTRE TO A MENTAL HEALTH FACILITY

MHCIFPA - S90 FIRST REVIEW FOLLOWING TRANSFER FROM A CORRECTIONAL CENTRE TO A MENTAL HEALTH FACILITY	INDIVIDUALS	HEARINGS
Person is a mentally ill person - continue in a mental health facility	83	86
Person is a mentally ill person - appropriate care is available in a correctional centre under an FCTO	24	24
Classified as an Involuntary Patient – Correctional patient status expires	1	1
Person has a treatable condition, continue in mental health facility	2	2
Patient released prior to hearing	1	1
Financial Management Order made	0	0
No Financial Management Order made	2	2
Tribunal has no jurisdiction	1	1
Adjourned	4	4
TOTAL	118	121
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	109	117
Total number of individuals and hearings for S90 reviews:		

TABLE 12 – S99: APPLICATION FOR A FORENSIC CTO

MHCIFPA - S99 APPLICATION FOR A FORENSIC CTO	INDIVIDUALS	HEARINGS
Forensic CTO made	164	166
Forensic CTO not made	3	3
CTO made to have effect on date of unconditional release	16	16
Adjourned	1	1
TOTAL	184	186
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	183	186
Total number of individuals and hearings for S67 reviews:		

TABLE 13 – MHA - S65 APPLICATION TO VARY A FORENSIC CTO

MHA - S65 APPLICATION TO VARY OR REVOKE A FORENSIC CTO	INDIVIDUALS	HEARINGS
Variation approved to order	100	100
Variation not approved	1	1
FCTO revoked	1	1
FCTO not renewed or revoked by Health Care Agency	8	8
Patient discharged prior to hearing	1	1
Adjournment	6	6
TOTAL	117	117
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	104	108
Total number of individuals and hearings for S65 reviews:		

TABLE 14 –SS91(B) & 93: REVIEW OF CORRECTIONAL PATIENTS

MHCIFPA - S91(b) & 93 REVIEW OF CORRECTIONAL PATIENTS	INDIVIDUALS	HEARINGS
Current order for detention to continue	4	5
Classified as involuntary patient - correctional patient status expires	2	2
Transfer to another facility - CTO made	2	2
Adjourned	1	1
TOTAL	9	10
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	8	10
Total number of individuals and hearings for S91(b) reviews:		

TABLE 15 – S100: REVIEW OF PERSON IN CUSTODY SUBJECT TO A CTO

MHCIFPA – S100 REVIEW OF PERSON IN CUSTODY SUBJECT TO A CTO	INDIVIDUALS	HEARINGS
Forensic CTO to Continue	87	104
Forensic CTO varied by Civil panel to community HCA	2	2
Forensic CTO Revoked	6	6
Adjourned	1	1
TOTAL	96	113
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	90	111
Total number of individuals and hearings for S100 reviews:		

TABLE 16 – S109(4): REVIEW OF PERSON APPREHENDED UNDER BREACH OF ORDER FOR LEAVE OR RELEASE

MHCIFPA – S109(4) REVIEW OF PERSON APPREHENDED UNDER BREACH OF ORDER FOR LEAVE OR RELEASE	INDIVIDUALS	HEARINGS
Confirm order for conditional release	12	12
Revocation of Conditional Release and Order Detention	0	0
Confirm order for detention and grant leave of absence	4	4
Interim order following breach granting leave of absence	0	0
Transfer to another facility	1	1
Adjourned	20	24
Deceased	1	2
TOTAL	38	43
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	23	49
Total number of individuals and hearings for S109(4) reviews:		

TABLE 17 –MHCIFPA S146: APPLICATION OF REGISTERED VICTIM FOR NON-ASSOCIATION OR PLACE RESTRICTION

MHCIFPA – S146 APPLICATION OF REGISTERED VICTIM FOR NON-ASSOCIATION OR PLACE RESTRICTION	INDIVIDUALS	HEARINGS
Impose non-association and/or place restriction condition	5	6
Vary non-association and/or place restriction condition	0	0
Decline to make a non-association and/or place restriction condition	1	1
TOTAL	6	7
<i>NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.</i>	6	7
Total number of individuals and hearings for S146 reviews:		

TABLE 18 PROCEDURAL HEARINGS – MHA S162 APPLICATION TO PUBLISH OR BROADCAST NAME / BDMA S31D APPROVAL OF CHANGE OF NAME

PROCEDURAL HEARINGS	INDIVIDUALS	HEARINGS
S162 APPLICATION TO PUBLISH OR BROADCAST NAME		
Application granted	0	0
TOTAL	0	0
S31D APPROVAL OF CHANGE OF NAME		
Application granted	0	0
TOTAL	0	0
S151(4) APPLICATION FOR A PROCEDURAL ORDER		
Application granted	0	0
TOTAL	0	0
TOTAL PROCEDURAL HEARINGS	0	0

TABLE 19 FORENSIC PATIENTS, CORRECTION PATIENTS & FCTOS BY LOCATION AT 30 JUNE 2022

LOCATION	NUMBER OF PATIENTS AT 30 JUNE					
	2022	2021	2020	2019	2018	2017
Bloomfield Hospital	27	23	24	23	18	21
Community	284	230	216	193	182	186
Concord Hospital	7	6	6	8	8	7
Cumberland Hospital	31	32	30	31	31	32
Forensic Hospital	108	108	116	110	109	119
Juvenile Justice Centre	0	0	0	0	4	0
Long Bay Correctional Complex	59	15	15	14	18	16
Long Bay Hospital	45	45	51	51	57	46
Macquarie Hospital	4	3	5	5	9	9
Metropolitan Remand and Reception Centre	40	91	89	79	83	70
Morisset Hospital	29	30	29	28	31	27
Silverwater Women's Correctional Centre	8	6	8	15	7	5
Other Community Hospitals	9	11	11	10	13	9
Other Correctional Centres	47	35	34	51	48	19
TOTAL	698	635	634	618	618	566

TABLE 20 – LOCATION OF HEARINGS HELD FOR FORENSIC PATIENTS, CORRECTIONAL PATIENTS & FCTOS

LOCATION OF HEARINGS HELD FOR FORENSIC AND CORRECTIONAL PATIENTS OVER 4 YEARS					
LOCATION	2021/22 ³	2020/21 ²	2019/20 ¹	2018/19	2017/18
BLOOMFIELD HOSPITAL	0	0	22	44	46
CONCORD HOSPITAL	0	0	0	14	15
CUMBERLAND HOSPITAL	0	0	86	117	95
FORENSIC HOSPITAL	0	0	182	269	281
LONG BAY HOSPITAL	0	0	180	253	251
MACQUARIE HOSPITAL	0	0	0	14	19
METROPOLITAN REMAND & RECEPTION CENTRE	0	0	98	119	133
MORISSET HOSPITAL	0	0	46	62	54
TRIBUNAL PREMISES GLADESVILLE	1515	1671	998	651	599
TOTAL	1515	1671	1612	1543	1493

¹ Hearings were held entirely on site at Gladesville during the financial year 2022 due to Covid-19 restrictions.

² Hearings were held entirely on site at Gladesville during the financial year 2021 due to Covid-19 restrictions.

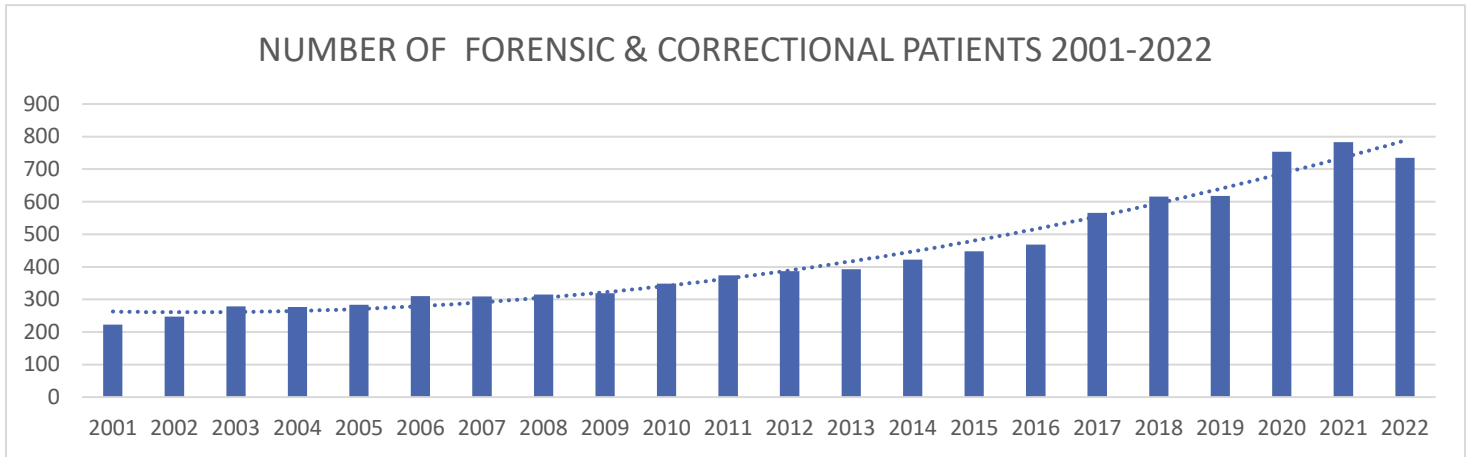
³ Hearings were held entirely on site at Gladesville during the period April-June 2020 due to Covid-19 restrictions.

TABLE 21 – CATEGORY OF FORENSIC PATIENTS, CORRECTIONAL PATIENTS & FCTOS

CATEGORY OF FORENSIC AND CORRECTIONAL PATIENTS OVER 4 YEARS BY GENDER						
CATEGORY	GENDER	2021/22	2020/21	2019/20	2018/19	2017/18
ACT PROVEN NOT CRIMINALLY RESPONSIBLE	FEMALE	51	47	-	-	-
	MALE	361	361	-	-	-
	TOTAL	412	408	-	-	-
NOT GUILTY BY REASON OF MENTAL ILLNESS	FEMALE	-	-	50	48	47
	MALE	-	-	349	350	339
	TOTAL	-	-	399	398	386
FITNESS / FITNESS BAIL	FEMALE	2	3	8	3	1
	MALE	23	21	55	34	39
	TOTAL	25	24	63	37	40
LIMITING TERM	FEMALE	1	0	2	3	3
	MALE	30	22	21	28	22
	TOTAL	31	22	23	31	25
EXTENSION / INTERIM EXTENSION ORDERS	FEMALE	1	1	1	1	0
	MALE	16	13	10	10	10
	TOTAL	17	14	11	11	10
CORRECTIONAL PATIENTS	FEMALE	5	3	5	3	1
	MALE	35	52	42	45	29
	TOTAL	40	55	47	48	30
FORENSIC COMMUNITY TREATMENT ORDERS	FEMALE	11	7	6	12	10
	MALE	162	115	85	81	115
	TOTAL	173	122	91	93	125
TOTAL	FEMALE	71	61	72	70	62
	MALE	627	584	562	548	554
	TOTAL	698	645	634	618	616

TABLE 22 – NUMBER OF FORENSIC & CORRECTIONAL PATIENTS 2001-2022

NUMBER OF FORENSIC AND CORRECTIONAL PATIENTS 2001-2022																					
2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
223	247	279	277	284	310	309	315	319	348	374	387	393	422	448	468	566	616	618	754	783	735



NOTES

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

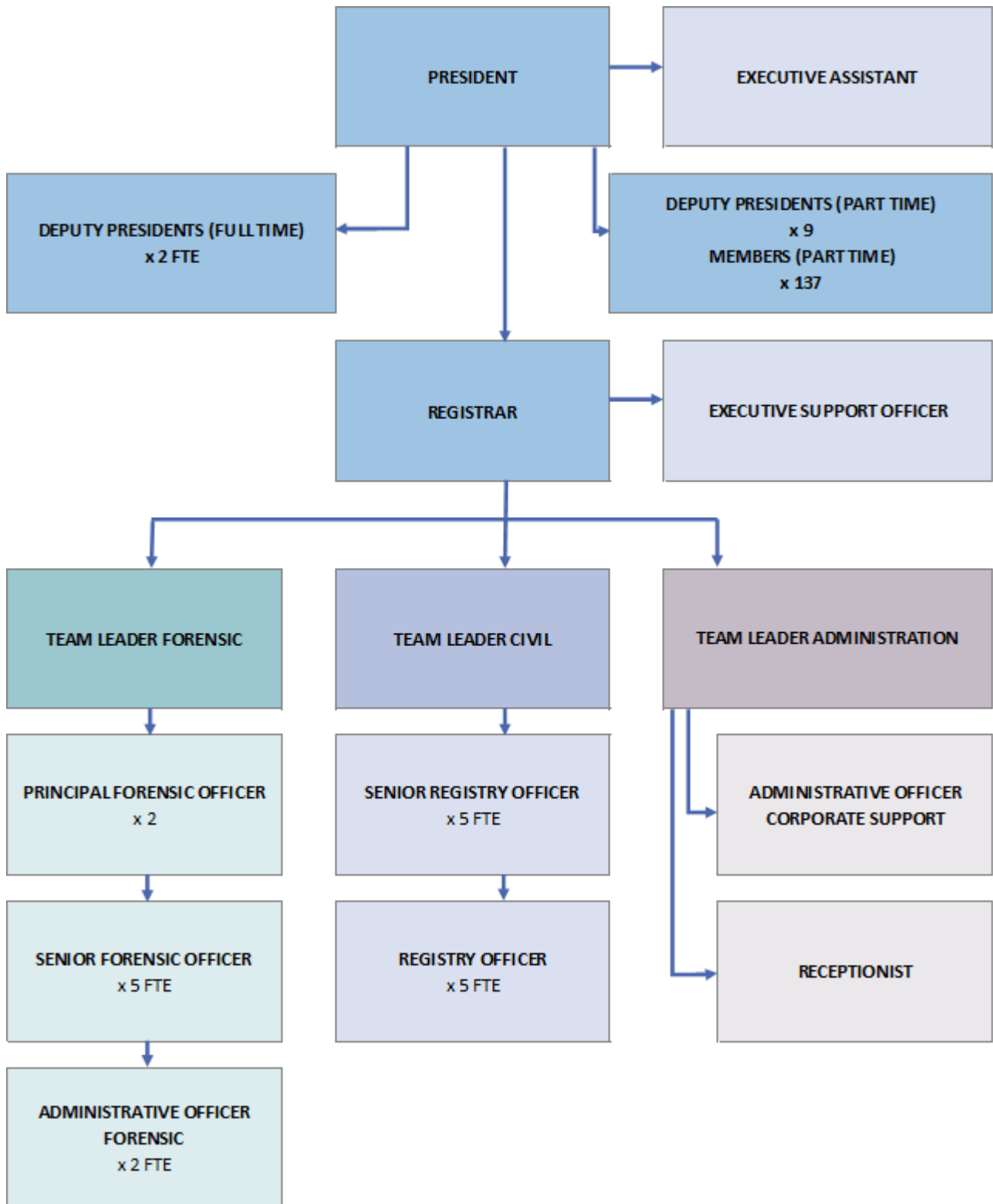
APPENDIX 3 – THE JURISDICTION OF THE TRIBUNAL AS AT 30 JUNE 2022

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

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

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

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



APPENDIX 5 – FINANCIAL SUMMARY

Account Details	Sum of Net Movement
Income	-\$5,161.82
Subpoena Fees	-\$90.00
Consulting Fees	-\$5,071.82
Expense	\$8,001,252.45
Salaries & Wages	\$7,725,465.21
Consultants	\$11,802.95
HR	\$15,802.92
Training & Education	\$3,849.10
Travel	\$48,019.97
IT	\$28,839.43
Consumables	\$8,010.83
Catering	\$1,276.75
Legal Services	\$850.00
Maintenance	\$21,255.39
Postage & Freight	\$13,505.50
Printing & Stationery	\$21,483.99
Records Management	\$20,979.45
Telephony & Internet	\$6,144.32
Utilities & Services	\$72,247.87
Subscriptions & Memberships	\$2,038.22
Sundries	-\$319.45
Grand Total	\$7,996,090.63

Variation from budget **\$112,577**

The full year underspend of \$112,577 reflected a drop in travel and courier expenses as a result of the move to remote hearings during the Covid pandemic.

APPENDIX 6 – TRIBUNAL MEMBERS AT 30 JUNE 2022

PRESIDENT
Judge Paul Lakatos SC

FULL TIME DEPUTY PRESIDENTS
Ms Maria Bisogni

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

PART TIME MEMBERS		
LAWYERS	PSYCHIATRISTS	OTHER
Ms Barbara Adamovich	Dr Neelya Aglawatta	Ms Lyn Anthony
Ms Rhonda Booby	Dr Clive Allcock	Dr Angela Argent
Mr Adam Booker	Dr Megan Alle	Dr Ameer Baird
Mr Peter Braine	Dr Josephine Anderson	Mr Peter Bazzana
Ms Catherine Carney	Dr Karen Arnold	Mr Ivan L Beale
Ms Jennifer Conley	Dr Uldis Bardulis	Ms Diana Bell
Ms Janice Connelly	Assoc Prof John Basson	Ms Christine Bishop
Ms Elaine Connor	Dr Jennifer Bergen	Mr Mark Coleman
Mr Martin Culleton	Dr Philip Boyce	Ms Felicity Cox
Mr Shane Cunningham	Dr Andrew Campbell	Ms Sarah Crosby
Ms Jenny D'Arcy	Dr Raphael Chan	Ms Susan Daly
Ms Pauline David	Dr Gerald Chew	Ms Irene Gallagher
Mr William de Mars	Dr Charles Doutney	Mr Michael Gerondis
Mr Paul Dixon	Dr Tolulope Fajumi	Mr John Hageman
Mr Phillip French	Associate Prof Jagmohan Gilhotra	Ms Corinne Henderson
Ms Michelle Gardner	Dr Robert Gordon	Ms Sunny Hong
Mr Bruno Gelonesi	Dr Adrienne Gould	Ms Lynn Houlahan
Mr Anthony Giurissevich	Prof James Greenwood	Mr Wayne Hunt
Ms Yvonne Grant	Dr Frances Joy Herron	Ms Rosemary Kusuma
Mr Robert Green	Dr Jean Hollis	Mr John Laycock
Ms Athena Harris Ingall	Dr Deidre Horne	Mr John Le Breton
Mr David Hartstein	Dr Greg Hugh	Ms Jenny Learmont AM
Mr Hans Heilpern	Dr Mary Jurek	Ms Robyn Lewis
Mr John Hislop	Dr Megan Kalucy	Ms Ann MacLochlainn
Ms Julie Hughes	Dr Kristin Kerr	Dr Meredith Martin
Mr Brian Kelly	Dr Varun Kumar	Ms Maz McCalman
Mr Dean Letcher Q.C.	Dr Lisa Lampe	Ms Katherine McKernan
Mr Michael Marshall	Dr Adam Martin	Ms Elizabeth McEntyre
Ms Mary-Beth McFarlane	Dr Fiona McGregor	Dr Sally McSwiggan
Ms Karen McMahon	Dr Janelle Miller	Mr Francis Merritt
Prof Jenni Millbank	Dr Ganapathi Murugesan	Assoc Prof Katherine Mills
Ms Jillian Moir	Dr Stephanie Oak	Dr Susan Pulman
Mr Mark Oakman	Dr Peter O'Brien	Mr Rob Ramjan
Ms Lynne Organ	Dr Enrico Parmegiani	Ms Kimia Randall

PART TIME MEMBERS		
LAWYERS	PSYCHIATRISTS	OTHER
Ms Jean-Anne Searson Ms Frances Simmons Mr Bill Tearle Mr Mark Turnbull Mr John Weir Mr Gregory West	Dr Martyn Patfield Dr Daniel Pellen Dr Sadanand Rajkumar Dr Vanessa Rogers Professor Alan Rosen Dr Satya Vir Singh Dr Sarah-Jane Spencer Dr Gregory Steele Dr Victor Storm Dr Susil Stephen Prof Christopher Tennant Dr Susan Thompson Dr Jennifer Torr Dr Peter Vaux Dr Brent Waters Dr Yvonne White Dr Rosalie Wilcox Dr Rasiah Yuvarajan	Ms Marjorie Anne Rauch Ms Vanessa Robb Dr Hannah Rose Ms Pamela Rutledge Ms Jacqueline Salmons Mr Peter Santagelo Ms Alice Shires Mr Peter Shmigel Assoc Prof Meg Smith Ms Melinda Smith Ms Bernadette Townsend Ms Pamela Verrall Ms Kathryn Worne

The Tribunal offers its appreciation to the following members whose appointments ended during 2020/2021		
Ms Carol Abela Ms Elisabeth Barry Ms Rohan Squirchuk Dr Rob McMurdo Dr Michael Giuffrida Dr Frank Lumley	Ms Diane Barnetson Ms Susan Johnston Mr Thomas Kelly Dr Karryn Koster Dr Paul Thiering Dr Sidney Williams Ms Anina Johnson	Ms Carol McCaskie Dr Dorothy Kral Dr Rosemary Howard Ms Felicity Reynolds A/Prof Kimberlie Dean Dr John Spencer

The Tribunal would also like to acknowledge the tremendous contribution made by the late Anne Scahill, a valued and respected member of the Tribunal for over 17 years.

Mental Health Review Tribunal

Strategic Plan 2022-2025

Our Vision

To operate a fair and effective Tribunal that is accessible and inclusive.

Our Mission

To safe-guard the civil and human rights of consumers, with a focus on high quality care and treatment that promotes consumer and carer participation, is culturally responsive, trauma-informed, recovery focused and balances issues of public safety, in accordance with the provisions, objects and principles of the MHA and the MHCIFPA.

Our Values

- Fairness
- Accessibility
- Respect
- Participation
- Recovery Focus
- Integrity



OUR STRATEGIC PRIORITIES

Ensure fair and legal hearing outcomes

We will work to continuously to maintain and improve our capacity to deliver fair and legal outcomes by:

- ◆ Implementing the COAT Tribunal Excellence Framework and peer to peer evaluation
- ◆ Engaging our members and staff in an effective professional development program informed by their concerns and interests and changes in law and services
- ◆ Developing a body of decisions to promote consistency and safeguard against risk to public safety
- ◆ Engaging with clinicians about the Tribunal's role

Positive relationships

We will work with stakeholders to improve the accessibility and user experience of Tribunal hearings by:

- ◆ Establishing a Carer and Consumer Advisory Group (CCAG) coordinated by a CCAG Engagement Officer
- ◆ Prioritizing live hearings in regional NSW and
- ◆ Recruitment of regional, culturally diverse & lived experience members
- ◆ Focusing on the access needs of First Nations people
- ◆ Constructive participation in Government and NGO stakeholder groups

Accountability & innovation

We will strive to improve our efficiency, accessibility, accuracy and responsiveness by:

- ◆ Digitizing Tribunal records in keeping with NSW Health and government
- ◆ Transitioning to electronically available records for Tribunal hearing and reducing risk of transporting hard copy files
- ◆ Enabling members to conduct hearings remotely where necessary
- ◆ Explore options for a new case management system & website