



The Hon Carmel Tebbutt MP
Minister for Health
Minister for the Central Coast
Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Minister

I enclose the Annual Report of the Mental Health Review Tribunal, for the period from 1 July 2008 to 30 June 2009, as required by section 147 of the Mental Health Act 2007.

Yours sincerely



Hon Greg James QC
President

Contents

1. PRESIDENT'S REPORT - 1 July 2008 to 30 June 2009	1
2. FORENSIC DIVISION REPORT	6
3. CIVIL DIVISION REPORT	9
4. REGISTRAR'S REPORT	12
5. STATISTICAL REVIEW	19
5.1 Civil Jurisdiction	19
5.2 Financial Management	26
5.3 Forensic Jurisdiction	27
6. APPENDICES	33

TABLES

	page
A. Total number of hearings for 1991 - 2008/09	13
1. Summary of statistics relating to the Tribunal's civil jurisdiction under the Mental Health Act 2007 for the period 1 July 2008 to 30 June 2009	19
2. Summary of statistics relating to the Tribunal's civil jurisdiction under the Mental Health Act 2007 for the periods January to December 2006, July 2007 to June 2008 and July 2008 to June 2009	20
3. Flow chart showing progress of involuntary patients admitted during the period July 2008 to June 2009	21
4. Involuntary Patients reviewed by the Tribunal under the Mental Health Act 2007 for the period 1 July 2008 to 30 June 2009	22
5. Summary outcome of appeals by patients against a medical superintendent's refusal of or failure to determine a request for discharge (s44) during the periods 2007/08 and 2008/09	22
6. Community treatment orders for gazetted health care agencies made by the Tribunal for the calendar year 2006 and the financial years 2007/08 and 2008/09	23
7. Number of community counselling orders and Community Treatment Orders made by the Tribunal and by Magistrates for the period 1996 - 2008/09	24
8. Summary of outcomes for applications for Community Treatment Orders (s51) 2008/09	24
9. Tribunal determinations on ECT consent inquiries for voluntary patients for the period 2008/09	24
10. Tribunal determinations on ECT administration inquiries for patients for the periods 2007/08 and 2008/09	25
11. Summary of notifications received in relation to emergency surgery (s99) during the periods 2007/08 and 2008/09	25
12. Summary of Tribunal approvals of surgical operations and special medical treatments (ss101; 103) during the periods 2007/08 and 2008/09	25
13. Summary of statistics relating to the Tribunal's jurisdiction under the Protected Estates Act 1983 for the period July 2008 to June 2009	26
14. Combined statistics for Tribunal reviews of forensic patients under the Mental Health (Criminal Procedure) Act 1990 and the Mental Health (Forensic Provisions) Act 1990 for 2007/08 and 2008/09	27
15. Determinations following reviews held under the Mental Health (Criminal Procedure) Act 1990 and the Mental Health (Forensic Provisions) Act 1990 July 2008 to June 2009	28
16. Outcomes of reviews held under the Mental Health (Criminal Procedure) Act 1990 and the Mental Health (Forensic Provisions) Act 1990 July 2008 to June 2009	29
17. Determinations of the Mental Health Review Tribunal as to fitness to stand trial following reviews held under the Mental Health (Criminal Procedure) Act 1990 and the Mental Health (Forensic Provisions) Act 1990 for the periods 2007/08 and 2008/09	30

TABLES

	page
18. Location of forensic patients as at 30 June 2007, 30 June 2008 and 30 June 2009	31
19. Location of forensic hearings held during 2007/08 and 2008/09	32
20. Category of forensic patients as at 30 June 2008 and 30 June 2009	32
21. Number of forensic patients 1992 - 30 June 2009	32

APPENDICES

	page
1. Patient statistics required under MHA s147(s) concerning people taken to a mental health facility during the period July 2008 to June 2009	34
2. Tribunal's jurisdiction as at 30 June 2009	35-36
3. Mental Health Review Tribunal Members as at 30 June 2009	37
4. Tribunal organisational structure and staffing as at 30 June 2009	38
5. Financial Summary - Budget Allocation and Expenditure 2008/2009	39
6. Freedom of Information Act: Summary of Affairs of the Mental Health Review Tribunal as at 30 June 2009	40-41

MENTAL HEALTH REVIEW TRIBUNAL ANNUAL REPORT 2008-09

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

The Tribunal has some 42 heads of jurisdiction, considering the disposition and release of persons acquitted of crimes by reason of mental illness; determining matters concerning persons found unfit to be tried, and prisoners transferred to a mental health facility for treatment; reviewing the cases of detained patients (both civil and forensic), and long-term voluntary psychiatric patients; hearing appeals against an authorised medical officer's refusal to discharge a patient; making, varying and revoking community treatment orders; determining applications for certain treatments and surgery; and making orders for financial management where people are unable to manage their own financial affairs.

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

1. PRESIDENT'S REPORT - 1 July 2008 to 30 June 2009

The last 12 months have seen a continuation of the significant reforms process in mental health law and practice in NSW on which I reported last year. The Tribunal's focus then was on implementation of the reforms principally affecting civil patients effected by the Mental Health Act 2007 whereas this year the focus has been on implementation of the forensic reforms introduced through the Mental Health Amendments (Forensic Provisions) Act 2008, now contained in the Mental Health (Forensic Provisions) Act 1990.

A number of issues have been identified during the implementation period, as well as some matters not specifically dealt with in the reform process which I should address in this report. There have also been further developments in the civil area, the most significant being the legislative provision for the transfer of Magistrates mental health enquiries to the Tribunal, which warrant some comment in this report.

FORENSIC SYSTEM

I wish to acknowledge the assistance the Tribunal received from the Minister and her staff in ensuring that the hand over of responsibility for forensic decisions in relation to leave and release matters on 1 March 2009 went smoothly and particularly the assistance of Deputy President John Feneley and Team Leader Sarah Hanson who gave generously of their time to assist the Minister and her staff.

The key elements of the forensic mental health reforms include:

1. Transfer of the power to determine the care, detention and release of forensic patients, from the Minister or the Governor on the advice of the Executive Council to a special forensic panel of the Mental Health Review Tribunal (presided over by a judge or former judge when considering release matters).
2. A clear statement in the Act of the considerations to which the Tribunal must have regard when considering leave or release matters or making any other order.
3. A requirement for the Tribunal to have a report from an independent forensic psychiatrist when the Tribunal is considering release.
4. A distinction between forensic patients and inmates who require involuntary mental health care during their sentence or on remand. (The latter are now called correctional patients).
5. The provision for Community Treatment Orders in correctional centres and the capacity for those orders to follow release inmates into the community.

In addition to the legislative changes the capacity of the NSW Forensic Mental Health System has been greatly enhanced by the opening of the new Forensic Hospital run by Justice Health outside Long Bay Correctional Centre. A further enhancement is to be expected with the opening of additional facilities at Bloomfield Hospital early next year.

The Tribunal has worked very closely on implementation with all affected agencies and treating teams in particular. Generally, the implementation phase has worked well but there are a number of issues impacting on the forensic system which must be addressed in the coming year to achieve the best use of available specialist resources.

Between Correctional Centres and Mental Health Facilities

The new forensic legislation requires protocols to be entered into between NSW Health, Corrective Services and Juvenile Justice to allow for the transfer of inmates and patients and the sharing of information. Regrettably, the agencies had not reached agreement on the protocols when the provisions commenced on 1 March and had not done so by the end of the reporting period.

Treatment in Correctional Centres

On any one day there are many more prisoners and forensic patients within correctional centres requiring acute involuntary mental health treatment than there are secure declared mental health beds in which such treatment can lawfully be given. The only declared mental health facility within a correctional centre in NSW is Long Bay Hospital although acute care can also be offered outside Long Bay Correctional Centre at the new Forensic Hospital subject to it coming fully on line and developing policies which would allow the appropriate referral of patients. Currently the new Forensic Hospital is unable to offer much for correctional patients other than freeing up beds in the Long Bay Prison Hospital.

The system currently relies on patients being triaged through the mental health pods at the MRRC and Mulawa Women's Prison which are not mental health facilities. From a legal perspective, treatment imposed on inmates in such establishments who do not give free and informed consent and who are not subject to a Tribunal order for treatment, presents considerable problems.

The Tribunal acknowledges that the Justice Health doctors and nurses have done a remarkable job within the reporting period in managing the triage process in what are NSW Corrective Services facilities, not declared mental health facilities under the Mental Health Act 2007. That the beds within these pods are not within a declared mental health facility significantly inhibits the care lawfully available in them because:

- It means that patients requiring involuntary care and treatment must be transferred to a hospital which for practical purposes is either Long Bay Prison Hospital or the new Forensic Hospital. This is so even though the patient may only need a short stay in the hospital, for example to receive an involuntary injection.
- It also means that some vital treatment for psychotic illness, such as Clozapine, cannot be commenced at the pods even if the patient consents because protocols require the patient to be initially under observation in a mental health facility.

The appropriate legal and clinical course is to declare the pods as mental health facilities even if for limited purposes. The Tribunal does not understand that this would have any serious resource consequences since Justice Health has already assumed the care of these patients. The benefits would be significant including:

- Some prisoners who become correctional patients do not require long term care. For example, some respond quickly to an injection of anti psychotic medication and can be returned to the prison population. If the pods had some capacity for involuntary care it would reduce the number of patients who have to be held in the pods for lengthy periods pending availability of a bed at the Long Bay Hospital.
- It would reduce the strain on Long Bay Prison Hospital posed by short term patients.
- It would reduce the number of patient movements.
- It would improve bed vacancy rates at the pods and have the flow-on of reducing delays in the capacity to accept prisoners held in police cells who require mental health assessment before going into the prison population.
- It would facilitate the assessment of patients for forensic CTOs.

Forensic CTOs

The Act provides for forensic Community Treatment Orders (CTOs) which can reduce demand on acute beds and enable lawful treatment in correctional centres. Mentally ill prisoners often resent being transferred to hospital for treatment and forensic CTOs offer an opportunity for treating teams, backed by the Tribunal, to engage with this group about compliance with treatment. Forensic CTOs also provide a clear lawful mechanism for compelling a person to take medication, breaching them for refusal and if necessary having the medication involuntarily administered at a mental health facility without the usual scheduling and

admission procedure. Forensic CTOs can be carried into the community and assist a person to obtain parole and to have the benefit of a CTO and mental health support while on parole in the community. The Tribunal will continue to work closely with Justice Health and DCS to overcome barriers to the implementation of forensic CTOs.

The Cognitively Impaired or Not Mentally Ill

The Tribunal remains very concerned about the plight of cognitively impaired or otherwise not mentally ill forensic patients within correctional centres. Neither group fits within the existing forensic treatment and rehabilitation framework which caters primarily to the mentally ill. For example whilst we celebrate the opening of the new Forensic Hospital it does not cater for the cognitively impaired and the only services within the secure environment for them are short term services within correctional centres. Not surprisingly the cognitively impaired do not fair well in the robust environment of the prison system and often up being seen as difficult customers and with discipline problems. By comparison Victoria has a stand alone facility for the cognitively impaired.

Nor do either the cognitively impaired or otherwise not mentally ill readily fit in to the Corrective Services classification system. These factors lead to a situation where individuals in either group remain in prison without easy access to a rehabilitation pathway to prepare them for possible release. The Tribunal has raised its concerns with the relevant Departments and is willing to work closely with Corrective Services and Justice Health and DADHC in the next year to try to address these issues.

CIVIL SYSTEM ISSUES

Increasingly the adjustment problems in consequence of the 2007 Act coming into effect have been overcome. The Tribunal has undertaken an exhaustive educational programme as well as providing case by case assistance to facilities and case workers. Most of the difficulties have been ironed out, although there is still some discontinuity particularly where the civil and forensic jurisdictions overlap. Nonetheless, the staff of the Tribunal and staff of mental health facilities are to be congratulated on how well they have managed the change.

Mental Health Inquiries

The most significant change in the last 12 months has been the legislation providing for the transfer of the Magistrates' mental health inquiry function to the Tribunal. Magistrates have performed a critical service to the community by undertaking thousands of mental health inquiries each year. Moving this function to the Tribunal will see one body responsible for the oversight of the involuntary patient regime in NSW. This will provide an opportunity to ensure improved oversight and consistent standards from the outset of the involuntary patient process.

The success of this initiative will depend upon the Tribunal having sufficient funds to implement the reform appropriately. At the end of the reporting period the negotiations were still underway between the Department of Health and the NSW Attorney General's Department on funding issues.

CTO Standards

A major area of activity for the Tribunal is in dealing with applications for CTOs. The significance of the role played by community agencies in case managing people on CTOs cannot be understated. In the Tribunal's experience many case managers across NSW work tirelessly in trying to ensure that individuals on CTOs remain well in the community. The Tribunal has been concerned to ensure that there are clear standards in relation to the care and treatment individuals should receive when they are under a CTO. The Tribunal believes that if these standards are clearly promulgated it will be easier for community mental health agencies to plan client care and train staff. It will also assist the Tribunal when considering applications for CTOs to ensure it has an appropriate expectation about the required standard of care. The Tribunal is

working with the Department of Health to assist the early provision of a Policy Statement and the development of the necessary standards.

Video Facilities

In last year's Annual Report I noted that the Tribunal had received funding from the Department of Health to provide video-conferencing units for 10 mental health facilities in Sydney which had been without these units. In the absence of video conferencing it had not been unusual for some of these mental health facilities to ask the Tribunal to consider urgent applications by telephone. The new video-conferencing units came online within in the reporting year and have further reduced the need for the Tribunal to rely on telephone hearings and will be available for wide use for Tribunal hearings.

TRIBUNAL STANDARDS

Members

Just as the Tribunal is concerned to ensure that their appropriate standards are maintained within the Forensic and Civil mental health systems, it is also conscious that it must ensure that it maintains its own high standards. To this end the Tribunal is taking steps to institute from the beginning of 2010 a new professional development and performance appraisal system for Tribunal members.

The appraisal system proposed is based on a set of competency standards and performance indicators drawing on the Tribunal's existing standards and from the "Competence Framework for Chairman and Members of Tribunals" (2002) and the "Fundamental Principles and Guidance for Appraisals in Tribunals and Model Scheme" (2003) published by the Judicial Studies Board (UK). This is consistent with the approach taken by other Australian Tribunals.

In addition the Tribunal endorses the Guide to Standards of Conduct for Tribunal Members published by the Administrative Review Council.

Publications

The Tribunal has for some years published a Civil Hearing Kit. The kit provides guidance to treating teams and others appearing before the Tribunal about the Tribunal's requirements for applications under the Mental Health Act 2007. The Kit was updated this year and is available on the Tribunal's website. A Forensic Hearing Kit is also being developed and will be available on the Tribunal's website for use by treating teams and clinicians.

MEMBERS

The Tribunal was saddened by the passing of two of our much loved and highly respected long term former members – Helen Brennan and Bridget Gilling both of whom died during the year. Bridget and Helen both made enormous contributions to the work of the Tribunal over many years.

New Recruitment

An extensive external recruitment process was carried out in 2008. Fifteen new part time members were appointed and the terms of 50 current part time members were extended for a further four year term. A number of ad hoc appointments were also made during 2008/09 to appoint a number of new psychiatrist members and one part time legal member. The Tribunal was also very pleased that in February 2009 it was able to appoint two new part time Deputy Presidents - the Hon Mahla Pearlman AO, the Hon Ken Shadbolt both of whom have held former judicial office and are now involved in forensic and civil hearings. The Forensic Provisions Act requirements for judicial or former judicial officers are now able to be met, at least for the present. Appointments to the Tribunal appear likely to fit in well to take up the mental health inquiry role.

I would also like to thank the following members whose terms of appointment expired during 2008/09: Dr John Ellard; Mr Arthur Glass; Mr Ken Hale; Ms Danae Harvey; Dr John Hookey; Ms Hilary Kramer; Associate Professor Michael McDaniel; Ms Kim Ross and Ms Margaret White.

OPERATIONAL MATTERS

Deputy President Bisogni in respect of Civil matters and Deputy President Feneley in respect of Forensic matters and their respective Team Leaders, will report on the operations of the Tribunal's Civil and Forensic jurisdictions and issues specific to each area. The Registrar's report contains a review of operations including an update on the Tribunal's administration and caseload.

I am deeply grateful to the members and staff of the Tribunal for the dedication and professionalism they have shown in performing so well the enormous and delicate duties our legislation requires of us. The statistics provided by the Registrar show the increased efficiency of the Tribunal's operation, the communications to me from Ministers, MP's, professionals and members of the public have been overwhelmingly complimentary. For all of us, overall, It has been a most energetic but good year.

Hon Greg James QC
President

FORENSIC DIVISION REPORT

Mental Health (Forensic Provisions) Act 1990

On 1 March 2009 the Mental Health (Forensic Provisions) Act 1990 came into effect. This legislation was the culmination of a lengthy and extensive review and consultation process, and implemented the majority of the recommendations contained in the review of the New South Wales Forensic Mental Health Legislation.

The key reform implemented by this legislation was the creation of the Forensic Division of the Mental Health Review Tribunal. The Forensic Division replaces the previous system of executive decision making by the Governor-in-Council on the advice of the Minister for Health and is now the determinative authority in relation to the care, treatment and detention of forensic and correctional patients, and the leave and release of forensic patients, as well as the authority in relation to ordering the apprehension of forensic patients should they breach a condition of leave or release.

The Act provides that in making any order for forensic and correctional patients the Tribunal is to consider the appropriate level of care, treatment and control required having regard to the patient's continuing condition. The Tribunal must specifically consider whether there is any risk of serious harm to either the patient or any other member of the public whenever there is an application for leave or release. In addition, when release (either conditionally or unconditionally) is being applied for, the Tribunal must consider a report by an independent forensic psychiatrist as to the risk posed to the patient and the community should release be granted, and the forensic panel of the Tribunal must be presided over by a current or former judicial officer.

Both the Minister for Health and the Attorney-General have a right to appear or to make submissions to the Tribunal when there is an application for leave or release. The Minister for Health has a general right of appeal on a question of law or any other question from the determinations of the Tribunal, and the Attorney-General has a right of appeal on a question of law in relation to determinations of the Tribunal concerning the release of forensic patients.

The Act also recognises the concerns registered victims may hold in relation to the grant of leave or conditional release of forensic patients. The new legislation therefore provides that registered victims may seek to have non association and/or place restriction conditions be placed on leave or conditional release.

Recognising the different security and management needs of those who develop a mental illness whilst in custody (either on remand or whilst serving a sentence) the Act also introduces the term correctional patient to apply to those previously referred to as 'transferee' forensic patients. This group of patients will continue to be reviewed by the Tribunal in relation to their care and treatment and placement in a mental health facility. However, the Tribunal is unable to order leave for correctional patients, but may recommend leave to the Commissioner of the Department of Corrective Services. The Tribunal also cannot order the release (either conditionally or unconditionally) of a correctional patient but may order the person be released from DCS custody to be detained as an involuntary patient in a mental health facility, if the correctional patient is in the last six months of their term of imprisonment.

To further support the care and treatment needs of those with a mental illness who are in custody, the Act also now provides for forensic Community Treatment Orders for compulsory treatment in correctional centres. These orders can be made by the Tribunal for forensic patients, correctional patients and inmates.

Implementation of the Legislation

The Tribunal has been working with the Department of Health, Justice Health, Area Health Services, the Department of Corrective Services, and the Department of Ageing, Disability and Home Care to ensure that the necessary administrative framework and processes are in place for the new Act to operate effectively.

The Tribunal has run a series of education sessions concerning the new legislation and the practical implications of the amendments. Sessions have been held with all key forensic facilities, area health service and Justice Health staff, those involved in providing services to victims, and other agencies involved in the care and treatment of forensic patients such as the Department of Ageing, Disability and Home Care. The Tribunal will provide follow-up sessions after the legislation has been in operation for six months. The Tribunal is also currently revising its Procedural Note for treating teams to support this education program, and hopes to relaunch a Forensic Hearing Kit in the coming months.

As the Act has only been in effect for a few months, insufficient time has passed for any trends in the review of forensic and correctional patients, or the flow of patients through the forensic mental health system, to be identified. However, the delay in both the opening of the Forensic Hospital and the agreement of security and information protocols between the Department of Corrective Services and the Department of Health has limited the number of beds available for both forensic and correctional patients. This necessarily has led to the flow of patients through the system being slower than expected.

In addition, there has been a delayed uptake of the new forensic Community Treatment Order provisions of the Act. The Tribunal is currently working with both Justice Health and the Department of Corrective Services to ensure that appropriate mechanisms are in place for those detained in correctional centres to be provided with appropriate care and treatment.

The Tribunal is also awaiting advice on the progress of recommendations 22 and 23 from the review of the New South Wales Forensic Mental Health Legislation in relation to forensic patients detained in correctional centres, most of whom have an intellectual disability or some other form of cognitive impairment. As the forensic mental health system is unable to provide appropriate care and treatment for this patient group, the Tribunal is working with the Department of Corrective Services, Justice Health, and the Department of Ageing, Disability and Home Care to identify other programs and services to provide care and treatment, and to aid in the management and rehabilitation of these forensic patients.

Restructure of the Forensic Division

In 2007 an independent review of the operations of the Forensic Executive Support Unit (FESU) was commissioned by Justice Health. As part of the implementation of the recommendations of this review it was agreed that a number of the functions then carried out by FESU would be transferred to the Tribunal along with the resources necessary to perform them. This transfer of responsibilities was completed in September 2008.

The combined effect of the new legislation and the additional responsibilities from the devolution of FESU represented a significant increase in workload and responsibility for the Tribunal's Forensic Division. To support these changes, the staffing and administrative processes of the Forensic Division of the Tribunal have been revised.

The Forensic Division now consists of two teams overseen by the Forensic Team Leader. The corrections team is responsible for the processes related to the review of patients detained in correctional centres, juvenile detention centres, Long Bay Prison Hospital, and the Forensic Hospital, while the Community Team is responsible for all processes related to the review of patients detained in any other mental health facility and conditionally released forensic patients. Each team is led by a Principal Forensic Officer and supported by two Senior Forensic Officers and one or 1.4 Administrative Officers.

The key challenge for both members and staff of the Forensic Division under the Act is to further develop an ongoing case management model given the Tribunal's new responsibilities. This will continue to see an increased emphasis in Tribunal hearings on the future management of forensic and correctional patients, as

well as a review of the past and current care and treatment received. The introduction of the Notice of Intent process whereby treating teams indicate the application being sought prior to Tribunal reviews and a new follow-up system for issues between Tribunal hearings is representative of this new emphasis, and the more intensive management of the review process by the Forensic Division of the Tribunal under the new legislation.

Victims Register

As part of the transfer of responsibilities from the FESU to the Tribunal, the management of the Forensic Patient Victims Register was returned to the Mental Health Review Tribunal. Part of the function of the register is to provide notifications to registered victims about a variety of matters. Registered victims may elect to be notified about Tribunal hearings, Tribunal decisions, orders made by the Director-General of Health concerning transfer between mental health facilities or emergency leave, or if the patient absconds/ breaches their conditions of leave or release.

As a result of the new Notice of Intent system, all notifications of hearings now include what application will be made by the treating team or the forensic patient at the hearing, or alternatively if no change to the forensic patient's current order is being proposed. Now that this information is available, registered victims may elect only to be notified when a significant change (such as leave or release) is being applied for at a Tribunal hearing. The Tribunal understands that the six monthly review cycle can be stressful and upsetting for registered victims. It is hoped that this new system will reduce any anxiety relating to the routine review of a forensic patient's care and treatment where no change to the person's detention or release is under consideration.

The Tribunal is currently revising the information regarding the forensic mental health system provided to registered victims in light of legislative amendments and hopes to have a new information package available in the second half of 2009. The Tribunal will continue to consult with representatives of victims concerning information provided to registered victims, and the role of registered victims in the review of forensic patients.

John Feneley
Deputy President

Sarah Hanson
Team Leader

CIVIL DIVISION REPORT

Hearing statistics

This report is written at a time when the Mental Health Act 2007 (MHA) has been in operation for approximately 18 months and some discernible trends are evident. As noted in the Registrar's report in 2008/09 the Tribunal conducted 8% fewer hearings which appears to be in part attributable to 12.1% of Community Treatment Orders (CTOs) being made for in excess of six months (usually 12 months) although there has been an underlying decrease of CTO hearings. Another significant contributing factor was the decrease of hearings under the Protected Estates Act 1983 down from 461 to 169, representing a 63% decrease.

The introduction of an appeal right against an authorised medical officer's refusal to discharge exercisable by persons from the date of detention as opposed to the position under the 1990 Act, where they were only available after a person had involuntary patient status, appears to be responsible for an increase in appeal hearings by 27% from 157 to 199. In 12 of those matters the patient was ordered to be discharged. There was also an increase in appeals against magistrate CTOs up from three in the previous year to 13. Of the 13 CTOs appealed two were for periods of 12 months. In the only appeal that was not dismissed by the Tribunal the order was varied to six months by the Tribunal.

ECT applications in respect of involuntary patients have remained virtually static with 666 applications being made, an increase of six applications since 2007/08. The 2007 Act allows for determinations of more than 12 treatments if the Tribunal is satisfied having regard to the special circumstances of the case, a higher number is justified. In only 6.2% of cases (32 out of 519) were more than 12 treatments approved.

In relation to ECT for voluntary patients, where the Tribunal's role is limited to a determination as to the person's capacity to give an informed consent, the number of hearings increased from three to six.

There were no applications for consent to special medical treatment. The previous year there was one such application and only three applications for consent to surgery, representing a decrease of 14 from the previous year. This may in part be explained by the 2007 Act limiting the Tribunal's role to making such decisions to involuntary patients. This appears to have been the result of legislative oversight as the 1990 Act had made provision for the Tribunal to provide consent to surgery for detained patients. It is likely that consents were obtained for detained persons who had yet to be made involuntary patients by a magistrate by reference to the Guardianship Act of 1987. At the time of writing we have sought amendments restoring the Tribunal's function in relation to this class of patient.

Amendments to the Mental Health Act 2007

The Tribunal made submissions for further refinements to the 2007 Act with the result being that changes to the Mental Health Act 2007 came into effect on 1 March 2009 with the commencement of the Mental Health Amendment (Forensic Provisions) Act 2009. Key changes were made to the notice provisions for CTOs removing the necessity to provide the 14 days notice for persons subject to existing orders; removing the requirement that a person must have a previous history of refusing to accept appropriate treatment before a further CTO could be made; and replacing this with a new test of being satisfied that the person is likely to continue in or to relapse into an active phase of mental illness if the order is not granted. In addition, the requirement that persons not be detained or placed on CTOs unless no other care of a less restrictive kind is appropriate and reasonably available was qualified by the words that it had to be of a less restrictive kind which was "consistent with safe and effective care". Another change to the Tribunal's functions arose because of the amendment requiring a person detained after a breach of a CTO to be brought before the Tribunal at least every three months. The Tribunal was also given the power to classify a person as an

involuntary patient after the person has been detained following the breach of their CTO as well as the power to revoke a CTO on its own motion.

Prior to the commencement of the amendments, the 2007 Act introduced formal notice requirements for all CTO applications thereby requiring staff to scrutinise all applications to ensure compliance as well as ensuring that applications were properly generated by persons authorised to do so under the Act. The new Act allowed primary carers and medical practitioners familiar with the clinical history of the patient to be applicants for the first time. The vast majority of orders continued to be sought by directors and authorised medical officers of mental health facilities.

The 2007 Act and the recent amendments have meant that the Civil Team has had to deal with new legislation which is far more exacting in terms of procedural and legal requirements for particular orders, thereby increasing the complexity of the tasks performed by them.

The additional responsibilities arising from the new Act were absorbed by the two year appointment of a Senior Registry Officer, and allowed the team to continue to provide high quality administrative and support to the Tribunal panels, mental health professionals, patients and carers throughout the year.

Internal and External Training

The 2007 Act introduced for the first time principles of care and treatment which emphasised the right of persons subject to the Act to access treatment that addressed their vocational, social and cultural aspirations and recognises their right to be involved in treatment decisions and care plans. At the beginning of 2009 the Tribunal introduced and circulated a template and guidelines for CTOs with the goal of encouraging applicants to draw up holistic plans that were individualised for each patient, starting with a statement of the goals of treatment. Another aim was to ensure that plans presented to the Tribunal complied with the legal criteria for making orders so as to promote a consistent approach. The beginning of 2009 was taken up with disseminating the new template and guidelines for use by health care facilities followed by extensive education sessions. The opportunity to explain the philosophy underpinning the new Act as well as the basis upon which Tribunal orders were made proved to be useful, as was feedback about Tribunal hearings and its processes.

There have been four professional development sessions for Tribunal members, of which three were devoted to civil topics and one to a forensic session. The range of topics included risk assessment of civil patients, a paper on ECT, and a demonstration of ECT and services and initiatives by DADHC for patients with mental illness and intellectual disability.

An essential aspect of the Tribunal's work is to update members on legislative changes and developments as well as ensuring as far as possible consistency in decision making. To this end all members were this year issued with comprehensive information packages containing Tribunal circulars, policy positions and practice directions. The Civil Hearing Kit was also updated and reprinted. Individual panels on a day to day basis may also access a Presidential member at any time for clarification or advice.

The Tribunal also conducted a number of induction sessions of new members at the beginning of 2009.

The Tribunal made submissions to the Community Relations Commission and the National Alternative Dispute Resolutions Advisory Council and collaborated with the Institute of Psychiatry in relation to the Mental Health Act Guidebook the Institute has been commissioned by NSW Health to update.

Ongoing internal training of staff is critical to providing an effective service and sessions have been held in respect of: stress management; understanding mental illness; navigating the Mental Health Act 2007; CTO notice provisions; breaches of CTOs; surgery and special medical treatment; Financial Management Orders; Cross Border CTOs and involuntary patient order.

The Civil Team had fortnightly meetings with the Team Leader to address any training and development needs. The meetings also act as a feedback mechanism to ensure the team is functioning at full capacity. Each staff member also develops an individual coaching and performance plan to identify goals both personal and work related. The Civil Team also underwent a team building session over three meetings with a view to implementing strategies to meet the Tribunal's objectives.

The key challenge ahead for the Civil Division is the need to ensure that bodies interacting with the Tribunal understand the changed emphasis of the 2007 Act and the legal framework within which the Tribunal operates. The Tribunal strives to ensure that applicants seeking orders for detention or care and treatment in the community receive high quality service with fair, efficient, timely, accessible and transparent decision making.

Maria Bisogni
Deputy President

Danielle White
Team Leader

REGISTRAR'S REPORT

REPORT CONTENT AND PERIOD

As noted in the President's report this Annual Report provides for the reporting on the first full year of the Tribunal's operations following the introduction of the Mental Health Act 2007 and the first full year in which the Tribunal is required to report on a financial year basis rather than a calendar year. The format of this report differs from that used in previous years in that it includes separate reports from the Deputy Presidents and Team Leaders primarily responsible for the Forensic and Civil Divisions of the Tribunal. These reports are set out on pages 6 and 9 respectively.

There are a number of matters set out in s147 of the Act which are required to be included in the Report. Each of the following matters are reported on in Appendix 1 of this Report:

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

So far, the Regulations make no provision for additional matters to be included nor has the Minister given any relevant direction.

OPERATIONS

Caseload

In 2008/09 the Tribunal conducted 8752 hearings. This was 765 fewer hearings than it conducted in 2007/08 (an 8% decrease). This decrease was largely attributable to the full year impact of s53(6) of the Mental Health Act 2007 which extended the maximum period which could be set for a Community Treatment Order to 12 months, as opposed to a maximum of six months under the former Mental Health Act 1990. Of the 4058 orders made during 2008/09, 489 were made for a period of longer than six months, usually 12 months. This has a direct impact on the number of hearings held by the Tribunal and is discussed further in the report from the Civil Division.

There was also a significant decrease in the number of hearings held for Protected Estates Act matters in 2008/09 (down from 461 in 2007/08 to 169 in 2008/09 – a 63% decrease). This decrease was due in part to a decrease in the number of Protected Estates Act matters referred to the Tribunal by Magistrates (down from 90 in 2007/08 to only 21 in 2008/09), but most significantly it was a result of change in the way Protected Estates Act "hearings" were counted in relation to Forensic patients. In 2008/09 the consideration of a forensic patient's capability of managing their financial affairs was considered as part of the regular forensic hearing, rather than being counted as a separate matter and hearing as had been the case in previous years. This change reduced the number of such hearings from 150 in 2007/08 to nil in 2008/09 as there were no Protected Estates Act orders made for forensic patients in 2008/09.

The number of hearings held by the Forensic Division in 2008/09 remained much the same as in the previous year (771 in 2008/09 compared in 764 in 2007/08). The full impact in terms of number of hearings of the Mental Health (Forensic Provisions) Act 1990 which came into effect on 1 March 2009 will be known in subsequent years. However, it is anticipated the actual number of hearings held by the Tribunal will not be significantly affected. This is discussed further in the report from the Forensic Division.

Table A shows the number of hearings conducted each year since the Tribunal's first full year of operation in 1991 when it conducted a total of 2232 hearings.

Table A					
Total number of hearings 1991 - 2008/09					
	<i>Civil Patient Case Reviews</i>	<i>Protected Estates Act Reviews</i>	<i>Forensic Patient Case Reviews</i>	<i>Totals per year</i>	<i>% Increase over previous year</i>
1991	1986	61	185	2232	%
1992	2252	104	239	2595	+16.26%
1993	2447	119	278	2844	+9.60%
1994	2872	131	307	3310	+16.39%
1995	3495	129	282	3906	+18.01%
1996	4461	161	294	4916	+25.86%
1997	5484	183	346	6013	+22.31%
1998	4657	250	364	5271	-12.34%
1999	5187	254	390	5831	+10.62%
2000	5396	219	422	6037	+3.48%
2001	6151	304	481	6936	+14.8%
2002	6857	272	484	7613	+9.8%
2003	7787	309	523	8619	+13.2%
2004	8344	331	514	9189	+6.6%
2005	8594	293	502	9389	+2.2%
2006	9522	361	622	10505	+11.9%
2007	8529	363	723	9615	-8.5%
2007-8	8440	313	764	9517	N/A
2008-09	7757	224	771	8752	-8.1%

In 2008/09 the Tribunal conducted:

	2008/09
Civil Patient hearings (for details see Table 3)	7757
Protected Estates Act hearings (for details see Tables 16 and 17)	224
Forensic Patient reviews (for details see Tables 18 - 27)	771
	<hr/> 8752

Details for each area of jurisdiction of the Tribunal are provided in the various statistical tables contained in this report. The Tribunal has a regular roster for both its civil and forensic hearing panels and in addition to the hearings held at the Tribunal's premises in Gladesville, in person hearings were conducted at 39 venues across the Sydney metropolitan area and regional New South Wales in 2008/09.

Although the Tribunal has a strong preference for conducting its hearings in person at a mental health facility or other venue convenient to the patient and other parties, this is not always practical or possible. The Tribunal has continued its use of telephone and video-conference hearings where necessary and conducted hearings by telephone and/or video-conference to 215 venues across New South Wales. In 2008/09, 4195 hearings were conducted in person (47.9%), 2823 by video (32.3%) and 1734 by telephone (19.8%). The numbers and percentages varied slightly from 2007/08, when 4585 hearings were conducted

in person (48%), 2541 by video (27%) and 2391 by telephone (25%). The most significant change was a decrease in the number of hearings conducted by telephone and a corresponding increase in the number of video-conference hearings. This is a very pleasing direct consequence of the video-conference project discussed below whereby the Tribunal facilitated the purchase and instillation of new video-conference equipment at 10 major hospital sites. Telephone hearings are only used where an in person hearing is not practicable and no video-conference facilities are available. The vast majority of telephone hearings related to Community Treatment Orders (63.3%), most often for people in the community on an existing Community Treatment Order.

Ethnic Affairs Priority Statement (EAPS)

Due to the small size of the Tribunal it does not prepare its own Ethnic Affairs Priority Statement and relies on that prepared by the Department of Health. However, both the Mental Health Act 2007 and the Mental Health (Forensic Provisions) Act 1990 contain specific provisions designed to promote and protect the principles of access and equity.

Persons appearing before the Tribunal have a right under the Act to be assisted by an interpreter if they are unable to communicate adequately in English. During 2008/09 interpreters in 36 different languages were used in a total of 400 hearings. The most common languages were Vietnamese, Arabic, Mandarin, Greek and Cantonese.

The Tribunal plans that during the next year it will arrange for some of its publications to be available from its website in other languages.

Representation and Attendance at Hearings

All persons appearing before the Tribunal have a right under s154 of the Act to be represented. Representation is usually provided through Legal Aid by the Mental Health Advocacy Service (MHAS), although a person can choose to be represented by a private legal practitioner (or other person with the Tribunal's consent) if they wish. Due to funding restrictions the Mental Health Advocacy Service has advised the Tribunal that they are not able to automatically provide representation for all categories of matters heard by the Tribunal. In addition to all forensic cases representation through the MHAS is usually provided for all reviews of involuntary patients during the first 12 months of detention; appeals against a medical superintendent's refusal to discharge a patient and all applications for financial management orders. Representation is also provided for some applications for Community Treatment Orders and some applications for revocation of financial management orders, however, this may be on a means and merits test. Representation was provided in 33.5% of all hearings in the Tribunal's civil jurisdiction (see table 1) and 93% of all forensic hearings.

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 that they are aware of the application being made and of all evidence that is being presented about them. This attendance and participation in hearings can be in person or by way of video or telephone. In civil matters the person the hearing is about attended in 78% of all hearings. In forensic matters where there is a general requirement that the person attend unless excused from doing so by the Tribunal the rate was much higher at 94%.

Appeals

Section 163 of the Mental Health Act 2007 and Section 77A of the Mental Health (Forensic Provisions) Act 1990 provide for a right of appeal against decisions of the Tribunal to the Supreme Court of NSW.

During 2008-09 three appeals were lodged with the Supreme Court. Two of these related to appeals against the making of Community Treatment Orders and the other matter related to a forensic patient. In the only

one of these appeals that has been finalised the appeal was upheld and the Tribunal's Community Treatment Order was set aside following agreement being reached for "consent orders" by the appellant (who was the person subject of the Community Treatment Order) and the Community Health Centre responsible for implementing the order.

Another appeal which was lodged in 2007 has also yet to be finalised. This appeal relates to the ongoing detention of an involuntary patient in a mental health facility.

Data Collection – Involuntary Referral to Mental Health Facilities and Magistrate's Inquiries

The Tribunal is required under the Act to collect information concerning the number of involuntary referrals, the provisions of the Act under which they were taken to hospital and admitted and the number of Magistrate's inquiries.

The Regulations to the Mental Health Act 2007 stipulates that these details are collected by means of two forms which all in-patient mental health facilities are required to forward to the Tribunal with respect to each involuntary referral and Magistrates inquiry.

The collection and data entry of these returns from all in-patient mental health facilities remains a huge workload for the Tribunal. Unfortunately, there are also compliance issues with some facilities being unreliable with submitting their returns. This could, in turn, have some affect on the reliability of the statistical data taken from these returns.

Information from this data is contained in Tables 3 and 7 as well as in Appendix 1.

Official Visitor Program Relocation

The Official Visitor Program is an independent statutory program under the Mental Health Act reporting to the Minister for Health and the Minister Assisting the Minister for Health (Mental Health). The Program is headed by the Principal Official Visitor, Ms Jan Roberts and supported by two staff positions. In March 2008 the Official Visitor Program relocated to share premises with the Tribunal at Gladesville and became administratively reportable to the Registrar of the Tribunal.

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

Although the Program is now administratively supported by the Registrar and staff of the Tribunal, it remains completely independent of the Tribunal in terms of its statutory role. Official Visitors and the Principal Official Visitor continue to report directly to the Minister. The program is appreciative of the ongoing support and advice provided by the Mental Health and Drug and Alcohol Office in the Department of Health.

Premises

The Tribunal continues to conduct its business from our premises in the grounds of Gladesville Hospital. These premises include three modern hearing rooms all fitted with audio recording equipment and video-conferencing facilities. The video-conference equipment in all three hearings rooms was updated during 2007/08.

There are two separate waiting areas for use by people attending hearings and rooms available for advocates and representatives to meet with their clients prior to hearings.

Renovations were carried out to the Tribunal's premises in 2008 to allow for accommodation to be made available for the Official Visitor Program and also to cater for new staffing positions in the Forensic Division.

One of the Tribunal's hearing rooms continues to be made available for use by the Northern Territory Mental Health Review Tribunal two-three times per week for the conduct of their hearings by video-conference using psychiatrist members located in New South Wales.

Video-Conference Equipment

The Tribunal has strongly advocated for the instillation and availability of video-conferencing equipment at all in-patient and community mental health facilities. While most non-metropolitan facilities seem to have access to video-conferencing equipment, this had not been the case for metropolitan sites and the Tribunal was forced to conduct many hearings by telephone as this was the only available option. This unsatisfactory situation was identified in the Administrative Review, particularly in the case of hearings relating to the administration of ECT.

The Tribunal was very pleased in April 2008 to receive funding from the Mental Health Drug and Alcohol Office to facilitate the purchase of 10 video-conference units at identified mental health facilities. The facilities identified were mainly those venues where the Tribunal has been required to conduct ECT hearing by telephone or where it was impracticable for the Tribunal to continue to hold in person hearings due to the small number of hearings required. The new video-conference facilities were delivered in late June 2008 and came into operation in the following months.

The availability of video-conference facilities at key sites for Tribunal hearings has had a very positive impact by reducing the number of matters needing to be heard by telephone and also allowing the Tribunal to be more flexible and responsive in the scheduling of matters that may otherwise have needed to wait for an in person hearing when the Tribunal next visited a particular venue.

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. Nevertheless, the Tribunal is frequently constrained by the limited resources and facilities available at mental health facilities and correctional centres. Most venues do not have an appropriate waiting area for family members and patients prior to their hearing. There are safety and security concerns at a number of venues, with panels utilising hearing rooms without adequate points of access or ventilation. Essential resources such as telephones with speaker capacity are sometimes unavailable in some venues.

Community Education and Liaison

During 2008/09 the Tribunal conducted a number of community education sessions to inpatient and community staff. These sessions were used to explain the role and jurisdictions of the Tribunal and the application of the new Mental Health Act. The Tribunal was also involved in training for psychiatric registrars through the Institute of Psychiatry.

Staff and full time members of the Tribunal also attended and participated in a number of external conferences and events. In March 2009 the President of the Tribunal attended the annual meeting of the heads of Mental Health Review Board's and Tribunal's. This meeting was held in Adelaide and was attended by representatives of the relevant Boards or Tribunal's in Victoria, Queensland, Tasmania, South Australia,

Western Australia, the Australian Capital Territory and Northern Territory. The meeting discussed key issues common to all mental health jurisdictions around the country.

OUR STAFF AND TRIBUNAL MEMBERS

Staff

Although the number of hearings conducted by the Tribunal has increased more than fourfold since the Tribunal's first full year of operation in 1991 staffing levels have until recently remained relatively the same. In recent years the increased workload has been absorbed through internal efficiencies and the increased use of information technology. However, it would not have been possible for the operations of the Tribunal to continue without the hard work and dedication of our staff.

In recognition of the increased workload the Tribunal was assisted by appointments to two temporary positions during 2006. These positions have continued and were supplemented in May 2008 when 4.4 additional staffing positions were approved. The need for these positions was identified as part of the Administrative Review to assist with the Tribunal's increased workload and to make provision for the additional responsibilities from the new Forensic legislation and Forensic Division. Recruitment for these additional positions was completed during 2008/09 and has allowed the Tribunal to cope with its increased responsibilities and expanding jurisdiction.

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

Appendix 4 shows the organisational structure and staffing of the Tribunal as at 30 June 2009.

Tribunal Members

Appendix 3 provides a list of the members of the Tribunal as at 30 June 2009 and notes those members whose terms expired in 2008/09. The Tribunal's membership as at 30 June 2009 reflects a sound gender balance with 56 female part time members and 62 male. There are a number of members who have indigenous or culturally diverse backgrounds. A number of our part time members bring a valuable consumer focus to the Tribunal's hearings and general operations. These members sit on a roster of hearings 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 experience, expertise and dedication of these members is enormous. They are often required to attend and conduct hearings in very stressful circumstances at inpatient and community mental health facilities, correctional centres and other venues.

In 2008/09 the Tribunal continued its program of regular professional development sessions for its members. These sessions are conducted out of hours and no payment is made for members' attendance. The Tribunal is encouraged and appreciative of the high rate of attendance by members at these sessions. Topics covered in this period included Community Treatment Orders; ECT; alcohol and other drugs - mental health issues; dual diagnosis – services and initiatives; risk assessment and suicide. Sessions also included consultation and training about the Mental Health (Forensic Provisions) Act, 1990 and the Mental Health Act, 2007.

FINANCIAL REPORT

The Tribunal recorded a budget surplus of \$14,795 for the 2008/09 financial year. See Appendix 5.

The Tribunal is most appreciative of the support provided by the Minister and the Department of Health to ensure the Tribunal is able to meet the obligations of its core business in the statutory review of patients under the Mental Health Act and the Mental Health (Forensic Provisions) Act.

THANK YOU

I take this opportunity to thank the staff and members of the Tribunal for their continued flexibility, dedication and enthusiasm for the very important work that we do. The introduction of the Mental Health Act 2007 and the Mental Health (Forensic Provisions) Act 1990 along with the other changes experienced over the last 12 months has made this a particularly challenging period for the Tribunal. The Tribunal's staff and members have met these challenges with much hard work and extraordinary commitment.

Rodney Brabin
Registrar

5. STATISTICAL REVIEW

5.1 CIVIL JURISDICTION

Table 1								
Summary of statistics relating to the Tribunal's civil jurisdiction under the Mental Health Act 2007 for the period 1 July 2008 to 30 June 2009								
<i>Section of Act</i>	<i>Description of Review</i>	<i>Reviews (Including Adjudgments)</i>			<i>% Reviewed by Sex</i>		<i>Number Legally Represented</i>	<i>% Legally Represented</i>
		<i>M</i>	<i>F</i>	<i>Total</i>	<i>M</i>	<i>F</i>		
s9	Review of voluntary patients	39	20	59	66.1	33.9	5	8.5
s37(1)(a)	Initial review of involuntary patients prior to expiry of magistrate's order	547	452	999	54.8	45.2	873	87.4
s37(1)(b)	3 monthly review of involuntary patients after initial 12 month period	413	228	641	64.4	35.6	574	89.5
s37(1)(c)	Continued review of involuntary patients after initial 12 month period	416	220	636	65.4	34.6	96	15.1
s44	Appeal against medical superintendent's refusal to discharge	105	94	199	52.8	47.2	134	67.3
s51	Community treatment orders	2787	1560	4347	64.1	35.9	784	18.0
s63	Review of affected persons detained under a community treatment order	13	1	14	92.9	7.1	9	64.3
s65	Revocation of a community treatment order	1	-	1	100	-	1	100
s65	Variation of a community treatment order	99	67	166	59.6	40.4	0	0
s67	Appeal against a Magistrate's community treatment order	8	5	13	61.5	38.5	2	15.4
s96(1)	Review of voluntary patient's capacity to give informed consent to ECT	3	3	6	50	50	0	0
s96(2)	Application to administer ECT to an involuntary patient with or without consent	239	427	666	35.9	64.1	118	17.7
s99	Review report of emergency surgery involuntary patient	8	4	12	66.7	33.3	0	0
s101	Application to perform a surgical operation	6	4	10	60	40	3	30
s103	Application to carry out special medical treatment	-	-	-	-	-	-	-
TOTAL		4684	3085	7769	894.2	505.8	2599	33.5

Table 2

Summary of statistics relating to the Tribunal's civil jurisdiction under the Mental Health Act 1990/Mental Health Act 2007 for the periods January to December 2006, July 2007 to June 2008 and July 2008 to June 2009

	2006	2007/8	2008/9
Reviews of persons detained in a mental health facility for involuntary treatment	2565	2315	2276
Appeal against medical superintendent's refusal to discharge (s69/44)	164	157	199
Applications for orders for involuntary treatment in a community setting (s131, 118/s51)	5858	4995	4347
Variation and Revocation of Community Treatment Orders (s148/s65)	276	218	167
Review of those persons detained in a mental health facility following a breach of the Community Treatment Order (s143/s63)	6	6	14
Appeal against a Magistrate's Community Treatment Order (s151/s67)	7	3	13
Review of those in a mental health facility receiving voluntary treatment who have been in the facility for more than 12 months (s63/s9)	61	52	59
Notice of Emergency Surgery (s203/s99)	15	2	12
Consent to Surgical Operation (s205(i)/s101)	26	17	10
Consent to Special Medical Treatment (s205(ii)/s103)	-	1	-
Review voluntary patient's capacity to consent to ECT (s185/s96(1))	2	3	6
Application to administer ECT to an involuntary patient	557	660	666
TOTALS	9537	8429	7769

Table 3

Flow chart showing progress of involuntary patients admitted during the period July 2008 to June 2009

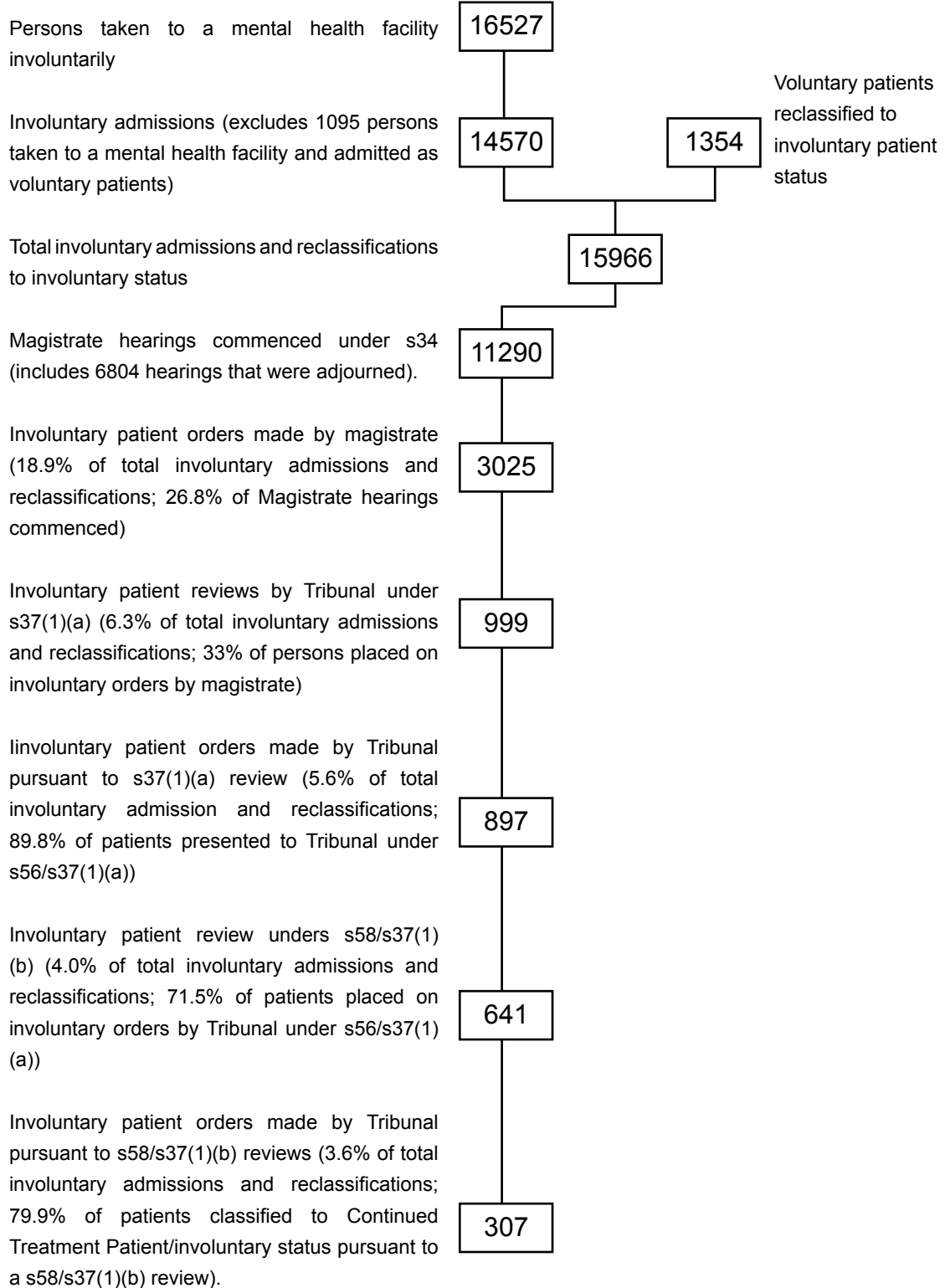


Table 4									
Involuntary Patients reviewed by the Tribunal under the Mental Health Act 2007 for the period 1 July 2008 to 30 June 2009									
		<i>M</i>	<i>F</i>	<i>T</i>	<i>Adjourn</i>	<i>Withdrawn No Jurisdic- tion</i>	<i>Discharge/ voluntary</i>	<i>Discharge on CTO/ CCO</i>	<i>Continued detention as involuntary patient</i>
s37(1)(a)	Review prior to expiry magistrates order for detention as a result of a mental health enquiry	547	452	999	85	1	11	5	897
s37(1)(b)	Review at least once every 3 months during first 12 months person is an involuntary patient	413	228	641	49	1	6	3	582
s37(1)(c)	Review at least once every 6 months while person is an involuntary patient after first 12 months	416	220	636	33	1	1	1	600
Total		1376	900	2276	167	3	18	9	2079

Table 5								
Summary outcome of appeals by patients against a medical superintendent's refusal of or failure to determine a request for discharge (s44) during the period 2007/8 and 2008/09								
Major Mental Health Facilities	<i>Tribunal Reviews under s69</i>			<i>Determination by Tribunal</i>				
	<i>M</i>	<i>F</i>	<i>T</i>	<i>Adjourned</i>	<i>Withdrawn no jurisdiction</i>	<i>Appeal Dismissed</i>	<i>Discharged</i>	<i>Dismissed and no further Appeal to be heard prior to next scheduled review</i>
Magistrate CCOs								
Jul 07 - Jun 08	104	53	157	20	9	116	3	9
Jul 08- Jun 09	105	94	199	16	12	144	12	15

Table 6

Community treatment orders for gazetted health care agencies made by the Tribunal for the calendar year 2006 and the financial years 2007/08 and 2008/09

<i>Health Care Agency</i>	<i>2006 Total CTOs</i>	<i>2007/8 Total CTOs</i>	<i>2008/9 Total CTOs</i>	<i>Health Care Agency</i>	<i>2006 Total CTOs</i>	<i>2007/8 Total CTOs</i>	<i>2008/9 Total CTOs</i>
Albury CMHS	29	26	17	Inner City MHS	99	103	90
Armidale MHS	10	-	-	James Fletcher Hospital	1	-	1
Ashfield CMHS	3	-	-	Kempsey CMHS	24	16	24
Auburn CHC	35	36	28	Lake Illawarra Sector MHS	67	87	80
Bankstown MHS	138	152	109	Lake Macquarie MHS	73	75	72
Barwon MHS	3	-	-	Leeton/Narrandera CHC	8	8	13
Batemans Bay DHC & MHS	40	-	-	Lismore MHOPS	57	51	39
Bega Valley Counselling & MHS	11	10	12	Lithgow MHS	19	11	-
Blacktown	160	180	120	Liverpool MHS	19	115	102
Blue Mountains MHS	75	86	86	Macquarie Area MHS	30	36	31
Bondi Junction CHC	12	15	20	Manly Hospital & CMHS	96	114	90
Bowral CMHS	45	14	7	Maroubra CMH	165	220	183
Campbelltown MHS	138	161	141	Marrickville CMHS	177	182	108
Camperdown	97	91	77	Merrylands CHC	98	91	99
Canterbury CMHS	130	88	100	Mid Western CMHS	38	33	24
Central Coast AMHS	200	246	246	Mudgee MHS	5	6	4
Clarence District HS	38	35	31	Newcastle MHS	82	89	66
Coffs Harbour MHOPS	96	100	81	Northern Illawarra MHS	103	89	77
Cooma MHS	9	1512	100	Orange CHC	21	11	-
Cootamundra MHS	9	12	5	Orange C Res/Rehab Services	15	18	46
Croydon	122	123	114	Parramatta	52	52	51
Deniliquin District MHS	6	8	5	Penrith MHS	124	101	84
Dundas CHC	58	57	45	Penrith/Hawkesbury MHS	5	-	-
Eurobodalla CMHS	-	39	37	Port Macquarie CMHS	80	84	75
Fairfield MHS	131	138	134	Queanbeyan MHS	23	32	24
Far West MHS	24	38	28	Redfern/Newtown CMHS	54	76	57
Glebe CMHS	2	5	-	Royal North Shore H & CMHS	150	149	113
Glen Innes	9	-	-	Ryde Hospital & CMHS	96	126	106
Goulburn CMHS	47	47	48	Shoalhaven MHS	44	44	29
Griffith (Murrumbidgee) MHS	13	9	13	St George Div of Psychiatry & MH	205	217	207
Hawkesbury MHS	19	15	23	St Josephs Hospital CMACPU	1	1	-
Hills CMHC	28	48	45	Sutherland C Adult & Fam MHS	112	113	100
Hornsby Ku-ring-gai Hospital & CMHS	122	126	98	Tamworth CMHS	36	-	-
Hunter	88	103	79	Taree CMHS	105	71	45
Hunter NE Mehi/McIntyre	4	21	21	Temora	-	-	3
Hunter NE Peel	5	47	43	Tumut	5	11	4
Hunter NE Tablelands	11	28	31	Tweed Heads	68	61	103
Hunter Valley HCA	57	38	25	Wagga Wagga CMHS	65	63	43
Illawarra Psychiatric Services	14	1	-	Young MHS	16	14	7
Inverell	7	-	-				

Total Number of Community Treatment Orders 2006 4611
Total Number of Community Treatment Orders 2007-8 4706*
Total Number of Community Treatment Orders 2008-9 4058

**NB Figures in 2007 and 2007-8 also include Community Counselling Orders 15 CCOs in 2007-8*

Table 7**Number of community counselling orders and community treatment orders made by the Tribunal and by Magistrates for the period 1996 to 2008/09**

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2007/8	2008/9
Magistrate CCOs	7	8	4	4	3	60	15	563	36	7	6	8	3	-
Tribunal CCOs	167	178	82	66	69	88	54	70	62	53	50	43	15	-
Totals CCOs	174	186	86	70	72	148	69	133	98	60	56	51	18	-

Magistrate CTOs	365	747	747	844	673	1289	563	1096	2056	1535	1579	1452	1315	997
Tribunal CTOs	2095	2840	2059	2325	2509	2738	3166	3606	3930	4272	4611	4811	4691	4058
Total CTOs	2460	3587	2806	3169	3182	4027	3729	4702	5986	5807	6190	6263	6006	5055

Total MagistrateCCO/ CTOs	372	755	751	848	676	1349	578	1159	2092	1542	1585	1460	1318	997
Total TribunalCCO/ CTOs	2262	3018	2141	2391	2578	2826	3220	3676	3992	4325	4661	4854	4706	4058
Total CCO/CTOs made	2634	3773	2892	3239	3254	4175	3798	4835	6084	5867	6256	6314	6024	5055

Table 8**Summary of outcomes for applications for Community Treatment Orders (s51) 2008/09**

	M	F	Total	Adjourned	Withdrawn No Jurisdiction	Application Decline	CTO Made
Application for CTO for a person on an existing CTO	1429	812	2241	50	4	43	2144
Application for a CTO for a person detained in a mental health facility	647	400	1047	57	6	37	947
Application for a CTO not detained or on a current CTO	711	348	1059	40	7	45	967
Totals	2787	1560	4347	147	17	125	4058

Table 9**Tribunal determinations on ECT consent inquiries for voluntary patients for period 2008/09**

Capable and has consented	1
Incapable of consent	5
Total	6

Table 10

Tribunal determinations on ECT administration inquiries for patients for the periods 2007/08 and 2008/09

Outcome	2007/8	2008/09
Capable and has consented	49	37
Incapable of giving informed consent	2	-
ECT approved	566	562
ECT not approved	18	32
No jurisdiction/withdrawn	6	6
Adjourned	31	29
Totals	672	666

Table 11

Summary of notifications received in relation to emergency surgery (s99) during the periods 2007/08 and 2008/09

	<i>M</i>	<i>F</i>	<i>T</i>	<i>Lung</i>	<i>Pelvis/ Hip</i>	<i>Tissue/ Skin</i>	<i>Gall- stones</i>	<i>Blood Trans- fusion</i>	<i>Thyroid</i>	<i>Gastro</i>	<i>Prostrate</i>
2007/8	-	2	2	-	-	1	1	-	-	-	-
2008/9	8	4	12	2	3	4	-	-	1	1	1
Total	8	6	14	2	3	5	1	-	1	1	1

Table 12

Summary of Tribunal approvals of surgical operations and special medical treatments (ss101; 103) during the periods 2007/08 and 2008/09

				<i>Refused</i>	<i>Adjourned</i>	<i>Surgical</i>						<i>Spec Med</i>	
	<i>M</i>	<i>F</i>	<i>T</i>			<i>Dental</i>	<i>Gastro</i>	<i>Heart</i>	<i>Resp</i>	<i>Skin/ Tissue</i>	<i>MRI</i>	<i>Other</i>	
2007/8	5	11	16	5	2	1	1	1	3	3	-	-	0
2008/9	6	4	10	1	-	-	2	1	4	-	1	2	-
Total	11	15	26	6	2	1	3	2	7	3	1	2	-

5.2 FINANCIAL MANAGEMENT

Table 13

Summary of statistics relating to the Tribunal's jurisdiction under the Protected Estates Act 1983 for the period July 2008 to June 2009

Section of Act	Description of Reviews	Reviews			Adjournments	With-drawn no jurisdiction	Order made	No Order made	Interim Order under s20	Revocation Approved	Revocation Declined	Legal Repres.
		M	F	T								
s.17	Referred to Tribunal by Magistrate	11	15	26	5	1	9	11	-	-	-	20
s.19	On application to Tribunal for Order	81	62	143	28	3	83	24	5	-	-	113
s.36	Revocation of Order	31	24	55	13	-	-	-	-	35	7	12
Total		123	101	224	46	4	92	35	5	35	7	145

5.3 FORENSIC JURISDICTION

Table 14

Combined statistics for Tribunal reviews of forensic patients under the Mental Health (Criminal Procedure) Act 1990 and the Mental Health (Forensic Provisions) Act 1990 for 2007/8 and 2008/09

<i>Description of Review</i>	<i>2007/8 Reviews</i>			<i>2008/9 Reviews</i>		
	M	F	T	M	F	T
Review after finding of not guilty by reason of mental illness (s41/s44)	12	3	15	35	7	42
Review after detention or bail imposed under s17 MHCPA following finding of unfitness (s42(1)(a)/s45(1)(a)) ¹	-	-	-	-	-	-
Review after limiting term imposed following a special hearing (s42(1)(b)/s45(b))	6	-	6	14	-	14
Regular review of forensic patients (s43/s46(1))	-	-	-	661	64	725
Regular review of correctional patients (s61(1))	-	-	-	3	-	3
Regular review of forensic and correctional patients (s43/s46(1) and s61(1)) ²	516	57	573	664	64	728
Review of a forensic patient following their apprehension due to an alleged breach of a condition of leave or release (s68(2)) ³	-	-	-	1	0	1
Application by a victim of a forensic patient for the imposition of a non contact or place restriction condition on the leave or release of the forensic patient (s76) ³	-	-	-	3	0	3
Initial review of person transferred from prison to MHF (s46/s59)	101	12	113	109	22	131
Review of person awaiting transfer from prison (s54/s58)	10	2	12	3	1	4
Application for a forensic community treatment order (s67) ³	-	-	-	2	0	2
Regular review of person subject to a forensic community treatment order and detained in a correctional centre (s61(s)) ³	-	-	-	1	0	1
Application for ECT (s96)	6	1	7	8	5	13
Application for surgical operation (s101)	-	-	-	-	-	-
Appeal against decision of Director-General (s72/s76F)	3	-	3	-	-	-
Total	654	75	729	840	99	939
Determinations						
Fitness s16	45	4	49	36	2	38
Following limiting term s24	10	-	10	9	-	9
Total	55	4	59	45	2	47
Combined Total	709	79	788	885	101	986

¹ On the Mental Health (Forensic Provisions) Act 1990 coming into effect on 1 March 2009, the requirement to review of those released on bail under s17 of the Act was removed.

² On the Mental Health (Forensic Provisions) Act 1990 coming into effect on 1 March 2009, those transferred from a correctional centre to a mental health facility while on remand or serving a sentence of imprisonment were no longer defined as forensic patients, but rather a separate category of 'correctional patient' was established.

³ This provision only came into effect with the Mental Health (Forensic Provisions) Act 1990 on 1 March 2009.

Table 15**Determinations following reviews held under the Mental Health (Criminal Procedure) Act 1990 and the Mental Health (Forensic Provisions) Act 1990 July 2008 to June 2009**

	Reviews		Approvals	Not Approved	Not Consid- ered	Pending N/A
	M	F				
Forensic Community Treatment Order ¹	-	-	-	2	-	2
Variation to Forensic CTO ¹	-	-	-	1	-	1
Revocation of Forensic CTO ¹	-	-	-	-	-	-
Determination under s46/59 person IS a mentally ill person who should continue to be detained in a mental health facility	44	4	48	45	10	55
Determination under s46/59 person IS NOT a mental ill person who should continue to be detained in a mental health facility	2	-	2	1	-	1
Classification as an involuntary patient	4	2	6	4	1	5
Determination under s72/s76F appeal against Director-General's failure or refusal to grant leave allowed, leave granted	3	-	3	-	-	-
Adjournments	-	-	-	2	-	2
Total	53	6	59	55	11	66

¹ Forensic Community Treatment Orders were only introduced with the Mental Health (Forensic Provisions) Act 1990 on 1 March 2009

Table 16**Outcomes of reviews held under the Mental Health (Criminal Procedure) Act 1990 and the Mental Health (Forensic Provisions) Act 1990 July 2008 to June 2009**

	Reviews			Recommendations to the Minister/Governor ¹			Tribunal Determinations ²
	M	F	T	Approved	Not Approved	Not Considered ³	
No change in conditions of detention ⁴	287	31	318	57	-	31	97
Transfer to another facility	29	-	29	5	-	2	22
Grant of leave of absence	50	6	56	12	3	26	15
Revocation of leave of absence	1	-	1	-	-	1	-
Conditional release	25	3	28	2	3	12	11
No change to conditional release ⁴	130	15	145	2	2	7	47
Variation of conditions of release	20	2	22	10	1	6	5
Revocation of conditional release	2	-	2	1	-	-	1
Unconditional release	12	-	12	-	3	2	7
Non-association or place restriction on leave or release (s76) ⁵	3	-	3	-	-	-	3
Adjournments	36	7	43	-	-	-	-
Decision not forwarded/ completed due to change in circumstances	24	3	27	-	-	-	-
Total	619	67	686	89	12	87	208
Totals 2007/08	620	70	690	87	6	193	-

¹ Recommendations to the Minister/Governor only apply to matters heard under the Mental Health (Criminal Procedure) Act 1990. That is matters heard prior to 1 March 2009.

² The Tribunal became the Determinative Authority at the time that the Mental Health (Forensic Provisions) Act 1990 came into effect.

³ All recommendations not considered at the time that the Mental Health (Forensic Provisions) Act 1990 came into effect (other than those for conditional or unconditional release) were considered to be orders of the Tribunal under the savings and transitional arrangements.

⁴ Recommendations for no change to detention or to the conditions of release in cases where no contentious issues were raised were not required to be sent to the Minister. No response from the Minister or the Executive Government was therefore required in those cases.

⁵ While the Tribunal had routinely recommended non-association and/or place restriction conditions to be included in leave or release, the Mental Health (Forensic Provisions) Act 1990 specifically provided for victims of the patient to apply for these conditions under s76. The figures above therefore only reflect applications made after 1 March 2009.

Table 17

Determinations of the Mental Health Review Tribunal as to fitness to stand trial following reviews held under the Mental Health (Criminal Procedure) Act 1990 and the Mental Health (Forensic Provisions) Act 1990 for the period 2007/08 and 2008/09

	2007/8			2008/9		
	M	F	T	M	F	T
S16 person IS FIT to be tried	4	1	5	-	-	-
S16 person WILL become fit to stand trial on the balance of probabilities within 12 months	1	-	1	4	-	4
S16 person WILL NOT become fit to stand trial on the balance of probabilities within 12 months	22	2	24	22	2	24
S24 person is mentally ill	5	0	5	4	-	4
S24 person is suffering from a mental condition and DOES object to being detained in a mental health facility	-	-	-	-	-	-
S24 person is suffering from a mental condition and DOES NOT object to being detained in a mental health facility	2	-	2	1	-	1
S24 person is neither mentally ill nor suffering from a mental condition	1	-	1	2	-	2
S42/45 person has not become fit to stand trial and will not become fit within 12 months	4	2	6	6	-	6
S44/47 person has become fit to stand trial	4	1	5	5	-	5
S44/47 person has not become fit to stand trial and will not become fit within 12 months	27	6	33	25	5	30
Adjournments	20	1	21	13	-	13
TOTAL	90	13	93	82	7	89

Table 18			
Location of forensic patients as at 30 June 2007, 30 June 2008 and 30 June 2009			
	30 June 2007	30 June 2008	30 June 2009
Bankstown	-	1	1
Bathurst	-	-	1
Cessnock Correctional Centre	1	1	1
Community	86	92	90
Concord (Rozelle) Hospital	7	5	7
Cumberland Hospital	35	41	38
Dilwynia Correctional Centre	-	-	1
Forensic Hospital	-	-	55
Grafton Correctional Centre	-	1	-
Goulburn Correctional Centre	3	3	4
Junee Correctional Centre	-	1	-
Juvenile Justice Centre	2	3	2
Kempsey Correctional Centre	-	1	-
Kenmore Hospital	3	3	3
Lismore	1	1	1
Lithgow Correction Centre	1	1	-
Long Bay Prison Hospital	98	79	34
Macquarie Hospital	5	8	7
Metropolitan Remand and Reception Centre	35	37	35
Metropolitan Special Programs Centre	2	2	4
Morisset Hospital	23	31	30
Silverwater - PMS	-	-	-
Silverwater Womens Ccorrectional Centre	5	4	5
Windsor	1	-	-
Yasmar	1	-	-
TOTAL	309	315	319

Table 19**Location of forensic hearings held during 2007/08 and 2008/09**

	2007/8	2008/9
Concord Hospital	11	9
Cumberland Hospital	94	103
Dilwynia Correctional Centre	-	1
Forensic Hospital	-	15
Goulburn Gaol	1	2
Kenmore Hospital	6	5
Long Bay Prison Hospital	281	185
Macquarie Hospital	15	19
Metropolitan Remand and Reception Centre	82	100
Morisset Hospital	65	73
Parklea PMS	-	2
Prince of Wales	-	2
Silverwater Womens Correctional Centre	4	10
Tribunal Premises	229	245
TOTAL	788	771

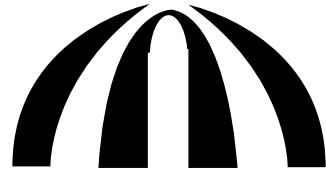
Table 20**Category of forensic patients as at 30 June 2008 and 30 June 2009**

Category	Male		Female		Total	
	June 08	June 09	June 08	June 09	June 08	June 09
Not Guilty by Reason of Mental Illness	199	228	18	25	217	253
Fitness	40	17	4	2	44	19
Limiting Term	15	16	4	4	19	20
Correctional Patients	26	24	9	3	35	27
Total	280	285	35	34	315	319

Table 21**Number of forensic patients 1992 - 30 June 2009**

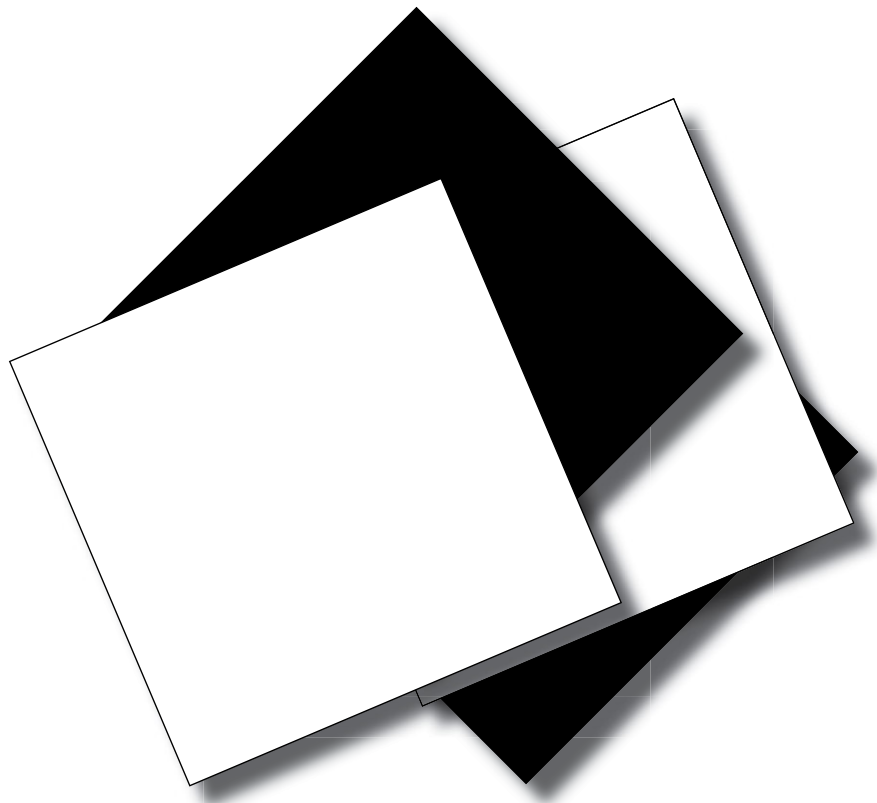
Year	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Forensic Patients	86	90	102	123	122	126	144	176	193	223	247	279	277	284	310	309	315	319

NOTE: Figures for 1992-2001 taken from MHRT Annual Reports as at 31 December of each year. Figures for 2002, 2003, 2004, 2005, 2006, 2007, 2008 and 2009 were taken as at 30 June of these years.



Mental Health
Review Tribunal

APPENDICES



APPENDIX 1

Patient statistics required under MHA s147(s) concerning people taken to a mental health facility during the period July 2008 to June 2009.

(1) s147(2)(a)

The number of persons taken to a mental health facility and the provisions of the Act under which they were so taken.

	<i>Method of referral</i>	<i>Admitted</i>	<i>Not Admitted</i>	<i>Total</i>
MHA90/MHA07				
s19	Certificate of Doctor	10175	169	10344
s22	Apprehension by Police	2712	682	3394
s20	Ambulance Officer	263	4	267
s142/s58	Breach Community Treatment Order	122	13	135
s23/s26	Request by primary carer/relative/friend	928	-	928
s25/s24	Order of Court	203	57	260
s23 via s19	Authorised Doctor's Certificate	167	1	168
Total Admissions		14570	926	15496
Reclassified from Informal to Involuntary		1396	20	1416
TOTAL		15966	946	16912

(2) s147(2)(b)

Persons were detained as mentally ill persons on 10915 occasions and as mentally disordered persons on 3956 occasions. 1095 person were admitted as voluntary patients.

(3) s147(2)(c)

A total of 11209 magistrate's inquiries were commenced and 4486 of these inquiries were concluded.

Outcome of mental health inquiries conducted by magistrates 1 July 2008 - 30 June 2009

Adjourned	6804
Discharge or deferred discharge	87
Reclassify from involuntary to voluntary	377
Involuntary patient order	3025
Community treatment order	997
TOTAL	11290

(4) s147(2)(d)

In 2008/9, 15966 persons were detained as involuntary patients. Of these, only 999 remained detained in a mental health facility and were reviewed by the Tribunal on the expiry of the Magistrate's order (usually three months in length). Therefore, approximately 14967 persons were detained as involuntary patients for three months or less.

The jurisdiction of the Tribunal as at 30 June 2009 as set out in the various Acts under which it operates is as follows:

Mental Health Act 2007 Matters

- Review of voluntary patients s9
- Initial review of involuntary patients s37(1)(a)
- Review of involuntary patients during first year s37(1)(b)
- Continued review of involuntary patients s37(1)(c)
- Appeal against medical superintendent's refusal to discharge s44
- Making of community treatment orders s51
- Review of affected persons detained under a community treatment order s63
- Variation of a community treatment order s65
- Revocation of a community treatment order s65
- Appeal against a Magistrate's community treatment order s67
- Review of voluntary patient's capacity to give informed consent to ECT s96(1)
- Application to administer ECT to an involuntary patient (including forensic patients) with or without consent s96(2)
- Inspect ECT register s97
- Review report of emergency surgery involuntary patient s99(1)
- Review report of emergency surgery forensic patient s99(2)
- Application to perform a surgical operation on an involuntary patient s101(1)
- Application to perform a surgical operation on a voluntary patient or a forensic patient not suffering from a mental illness s101(4)
- Application to carry out special medical treatment on an involuntary patient s103(1)
- Application to carry out prescribed special medical treatment s103(3)

Protected Estates Act 1983 Matters

- Order for management s17,18,19
- Interim order for management s20
- Revocation of order for management s36

Mental Health (Forensic Provisions) Act 1990 Matters

- Determination of certain matters where person found unfit to be tried s16
- Determination of certain matters where person given a limiting term s24
- Initial review of persons found not guilty by reason of mental illness s44
- Initial review of persons found unfit to be tried s45
- Further reviews of forensic patients s46(1)
- Review of forensic patients subject to forensic community treatment orders s46(3)
- Application to extend the period of review for a forensic patient s46(4)
- Application for a grant of leave of absence for a forensic patient s49
- Application for transfer from a mental health facility to a correctional centre for a correctional patient s57
- Limited review of persons awaiting transfer from a correctional centre to a mental health facility s58
- Initial review of persons transferred from a correctional centre to a mental health facility s59
- Further reviews of correctional patients s61(1)
- Review of those persons (other than forensic patients) subject to a forensic community treatment order s61(3)
- Application to extend the period of review for a correctional patient s61(4)
- Application for a forensic community treatment order s67
- Review of person following apprehension on an alleged breach of conditions of leave or release s68(2)
- Requested investigation of person apprehended for a breach of a condition of leave or release s69
- Application by victim of a patient for a non association or place restriction condition to be imposed on the leave or release of the patient s76
- Appeal against Director-General's refusal to grant leave s76F

Mental Health Review Tribunal Members as at 30 June 2009

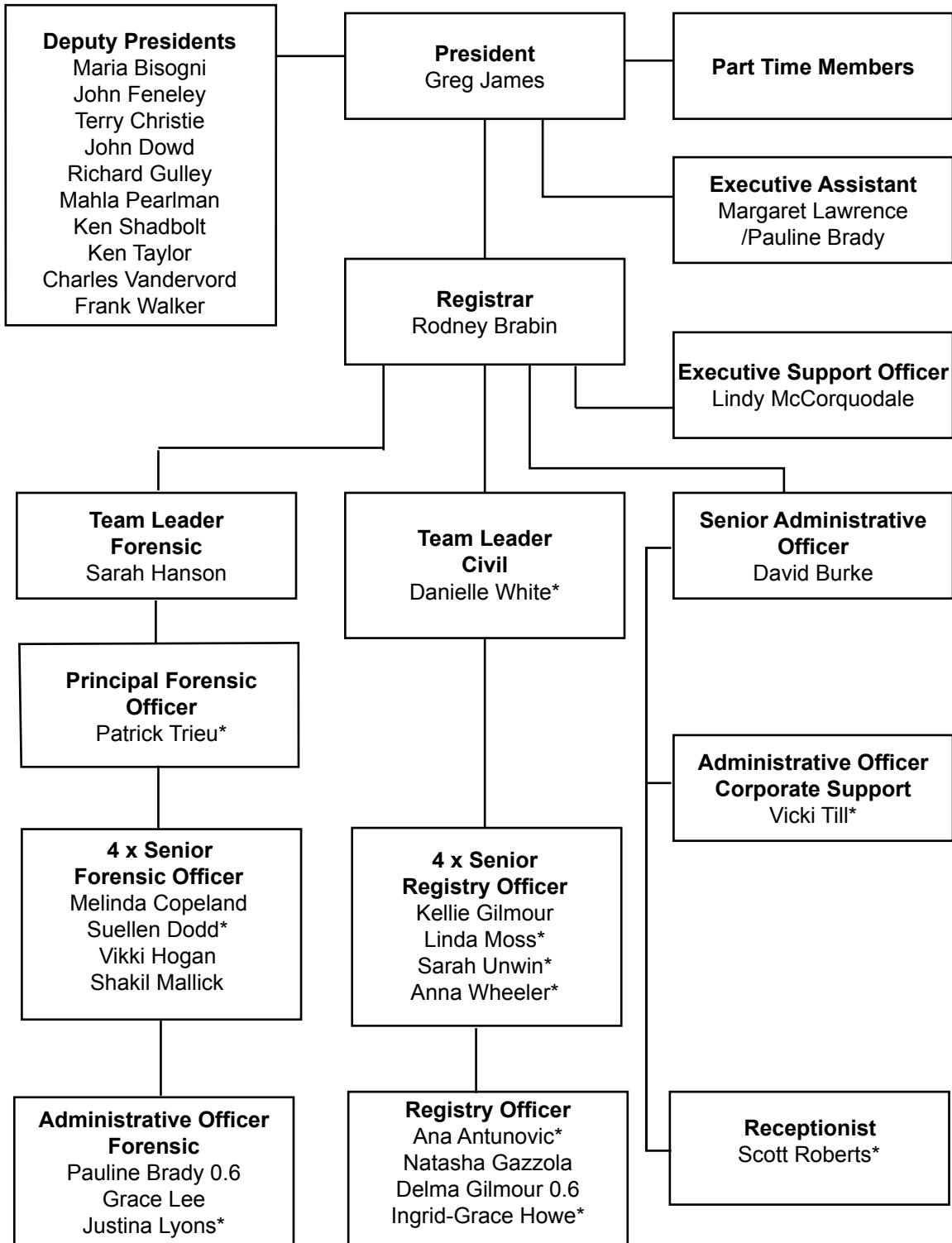
Full-Time Members	The Hon Greg James QC (President)	Ms Maria Bisogni (Deputy President)	Mr John Feneley (Deputy President)
Part-Time Deputy Presidents	The Hon Terry Christie QC Mr Richard Gully Judge Ken Taylor QC RFD The Hon Mahla Pearlman AO	The Hon John Dowd AO QC Mr Charles Vandervord The Hon Frank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

The terms of the following members expired during 2008/09. Their contribution as members is acknowledged and appreciated.

Lawyers	Psychiatrists	Other
Mr Arthur Glass	Dr John Ellard	Assoc Prof Michael McDaniel
Mr Ken Hale		
Ms Danae Harvey		
Dr John Hookey		
Ms Hilary Kramer		
Ms Kim Ross		
Ms Margaret White		

MENTAL HEALTH REVIEW TRIBUNAL

Organisational Structure and Staffing as at 30 June 2009



* Acting or temporary appointment

FINANCIAL SUMMARY**Budget Allocation and Expenditure 2008/2009**

The Tribunal ended the 2008/2009 financial year with a budget surplus of \$14,795. Expenditure during the year was directed to the following areas:

Tribunal Budget		\$4,490,590
Revenue		<u>*75,309</u>
		4,565,899
Salaries and Wages	2,128,381	
Goods and Services **	2,335,539	
Equipment, repairs and maintenance	66,486	
Depreciation	<u>20,698</u>	
Expenditure	4,551,104	<u>4,551,104</u>
Budget Surplus		-14,795

*Includes \$65,775 insurance refund

** Includes salaries paid to part-time members of the Tribunal

FREEDOM OF INFORMATION

The provisions of the *Freedom of Information Act 1989* (hereafter FOI Act) do not apply to the judicial functions of the Tribunal (see sections 19(2)(a) and 19(2)(b)).

Parties to proceedings before the Tribunal, however, may obtain a copy of the record of the hearing proceedings to which they are a party. If the Tribunal is of the opinion that sufficient cause is shown to warrant the transcription or copy of the audio recording relating to the matter being provided, the President of the Tribunal may direct that a copy of the audio recording or transcription be made and copies also provided in certain other circumstances required by law.

The administrative and policy functions of the Tribunal are, however, covered by the FOI Act. The Tribunal received no applications under the FOI Act during 2008-9 that related to its administration or policy functions.

FREEDOM OF INFORMATION ACT 1989, SECTION 14(1)B AND (3) SUMMARY OF AFFAIRS of the MENTAL HEALTH REVIEW TRIBUNAL

AS AT 30 JUNE 2009

INTRODUCTION

The Mental Health Review Tribunal is a quasi-judicial body whose jurisdiction is cast in broad terms by the Mental Health Act 2007 and the Mental Health (Forensic Provisions) Act 1990 and related legislation covering some 33 areas. A summary of the Tribunal's full jurisdiction, its goals and objectives may be found in its Annual Report. The Mental Health Review Tribunal's office is located at

Buiding 40, Digby Road
Gladesville Hospital
GLADESVILLE NSW 2111
(PO Box 2019, BORONIA PARK NSW 2111).
Telephone: (02) 9816 5955
Facsimile: (02) 9817 4543
E-mail: mhrt@doh.health.nsw.gov.au
Website: www.mhrt.nsw.gov.au

DESCRIPTION OF DOCUMENTS HELD BY TRIBUNAL

SOUND RECORDINGS

- Pursuant to Section 159 of the Mental Health Act 2007. Proceedings of the Tribunal are to be recorded. Accordingly, the Tribunal audio records hearings and these recordings are stored for a minimum of twelve months.
- The Tribunal can provide a copy of the audio recording, and may provide a transcript of a hearing under certain circumstances, (as outlined in the Tribunal's policy/practice note) upon payment of the prescribed fee.

APPENDIX 6

COMPUTER DATA BASE

- The Tribunal maintains a computer database for both administrative purposes and in order to meet its statutory reporting obligations.

Access to the database is restricted due to the confidential nature of some of the information contained therein.

A brief description of the contents of the Tribunal database is provided below:-

1. CIVIL PATIENT REGISTER

Contains details of all civil patients who have appeared before the Tribunal.

2. CIVIL PATIENT REVIEWS

Contains details of the section(s) under which each civil patient review was held and the determination(s) made in each case.

3. FORENSIC PATIENT REGISTER

Contains details of all forensic patients who have appeared before the Tribunal.

4. FORENSIC PATIENT REVIEWS

Contains details of the section(s) under which each forensic patient review was held and the determination(s) made.

5. FORMS 10 and 11 DATA COLLECTION

In accordance with clause 48 and 49 of the Mental Health Regulation 2007, mental health facilities are required to provide advice to the Tribunal of all people admitted to a mental health facility involuntarily, and those who are presented to a Magistrate pursuant to a mental health enquiry.

PATIENT FILES

- The Tribunal currently maintains approximately 23,400 patient files for both Civil and Forensic matters. Files are identified by a patient's name and a file number. The file contains some information about each patient's clinical history, eg. copies of medical reports and details of each review.

ADMINISTRATIVE FILES

- The Tribunal currently has 560 administrative files in existence. These relate to a wide range of procedural, policy and general matters.

PUBLICATIONS

- The Tribunal publishes an Annual Report covering each financial year. The Tribunal also publishes ad hoc documents including practice notes, information brochures, hearing kits. The Tribunal also maintains a website www.mhrt.nsw.gov.au which contains these publications.

REGISTERS

- Electronic Registers are maintained for forensic and administrative files, Form 10s and 11s and incoming mail.

BOOKS

- The Tribunal maintains its own small reference library.