

THE MENTAL HEALTH TRIBUNAL ANNUAL REPORT 2017 | 18



**Mental
Health
Tribunal**

Safeguarding and protecting the rights and dignity
of people being involuntarily treated for mental illness.



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28 September 2018

The Honourable Elise Archer Attorney-General
Level 10, 10 Murray Street
HOBART, TAS, 7000

Dear Minister,

I am pleased to present the Mental Health Tribunal's Annual Report in accordance with s 178 of the *Mental Health Act 2013* for the period 1 July 2017 to 30 June 2018.

Yours Sincerely

A handwritten signature in blue ink that reads "Yvonne Chaperon".

Yvonne Chaperon
President, Mental Health Tribunal

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PRESIDENT'S MESSAGE

I am pleased to present the annual report of the Mental Health Tribunal (the Tribunal) for the 2017–18 financial year. This report provides an outline of the purpose, key activities, performance and financial reports of the Tribunal during this period.

The Tribunal has had a challenging year, with continued growth in all aspects of our core functions. Last year's annual report flagged the significant work being done by the Tribunal and other stakeholders (particularly the Department of Health and Human Services' Mental Health Services group) to address issues and anomalies in the *Mental Health Act 2013* (the Act under which the Mental Health Tribunal is established).

The Amendment Bill was tabled and passed in Parliament on 17 November 2016, received Royal Assent on 6 December 2016 and came into effect on 1 July 2017. As reported last year, Tribunal staff needed to undertake an immense amount of work to be ready when the amendments 'went live' on 1 July 2017. Over 200 administrative tools used in our daily work had to be re-written; over 250 current Treatment Orders had to be heard by a three member panel to transition over to the amended legislation.

The amendments to the legislation have enabled the processes for patient assessment, treatment and care to be streamlined; improved the way all patients are provided with emergency 'urgent circumstances' treatment when needed; and extended the timeframes for the Tribunal's review of Treatment Orders.

As always, the patient's welfare remains at the core of the Tribunal's focus. Their rights and protection have not been removed or reduced by these changes.

A full list of the amendments are on page 16 of this report.

In keeping with the trend over the past several years, the Tribunal's workload has continued to increase steadily. Some key measures include:

- the introduction of section 47A readmission to prevent possible harm, the Tribunal held 93 section 47A hearings within the three-day mandated timeframe from the date of the patient's admission to hospital
- the Tribunal held 2933 civil hearings, which was 396 more than last year; and 102 forensic hearings, 20 more than last year.

However, with reviews of hearings now held every 60 days (instead of 30 days) and 180 days (instead of 90), the Tribunal has had 300 fewer mandated review hearings.

Other important facts from this year are:

- at civil hearings, 77% of presenting patients were not represented by a lawyer or advocate. Of those who were represented, the Legal Aid Commission represented 13% of patients and Advocacy Tasmania represented 10% of patients
- at forensic hearings, 39% of presenting patients were not represented by a lawyer or advocate. Of those who were represented, the Legal Aid Commission represented 61% of patients and Advocacy Tasmania did not represent any patients.

The Tribunal's systems for managing its functions and processes are continually being evaluated and upgraded. Due to an incredible amount of work undertaken by the Tribunal's Executive Officer and Registry staff, the current case management system now supports the Tribunal's civil and forensic functions and processes. For the past four years, Tribunal staff handled the Tribunal forensic matters manually. The new system (developed in conjunction with the Department of Justice's Information and Communication Technology Services) integrates all the Tribunal's processes into one. This very important change has enabled the Tribunal to more easily prepare for hearings and collate data that we can now report on.

In light of this change to our case management system, the Tribunal has been able to assist the Tasmania Law Reform Institute with one of its research projects: reviewing the defence of insanity contained in section 16 of the Criminal Code (Tas). The Tribunal was invited to participate on the Insanity and Fitness to Stand Trial Reference Group. With the assistance of the Department of Justice, the Tribunal was able to dedicate a senior legal officer to the project,

collating 18 years of forensic statistics. This was very labour intensive but worthwhile work, and we look forward to the publication of the Issues Paper.

This year the Tribunal, along with other stakeholders, began initial work on the *Mental Health Act 2013* sixth year review (mandated in the legislation). While the Act has had recent amendments that fixed some anomalies, the sixth year review will be a thorough review of the whole Act; it is expected that this review will take many months.

We also had a busy year on the human resources front. In May 2018, we farewelled two Tribunal members and at the end of this financial year the selection process was still ongoing. The Tribunal's 42 members (three full time and 39 sessional) have continued to provide the highest quality of service. I extend my personal thanks to them all for the significant commitment, wisdom and expertise they bring to our work. I would like to thank those members we farewelled for their dedication to the Tribunal over many years. Their commitment has been truly valued.

I would like to extend my thanks to Richard Grueber, Deputy President, for his ongoing expertise and support to the Tribunal and Registry.

The Tribunal's staff members have performed magnificently throughout this busy year. They all continue to work tirelessly. I thank them all for their dedication to the Tribunal, their professionalism and constant good humour.

I acknowledge the important work and support of the Legal Order Coordinators state-wide, who have the enormous task of coordinating the applications and orders within their services.

Lastly I would like to thank the Department of Justice for its continued support of the Tribunal, to enable it to meet its statutory functions under the *Mental Health Act 2013*.

In performing its functions, the Tribunal seeks to pursue the Objects and Service Delivery Principles of the *Mental Health Act 2013* and acknowledge the very significant role we play in so many vulnerable people's lives.

I am excited about what the next twelve months will bring. It is my aim to make further changes to

A handwritten signature in black ink, reading "Yvonne Chaperon". The signature is written in a cursive, flowing style.

Yvonne Chaperon

PRESIDENT

our communication processes, such as translating our fact sheets and other information into other languages, and simplifying the information contained on the website to enable better access to justice for all people subject to the Mental Health Act.





REGISTRAR'S REPORT

The 2017-18 year began as an incredibly busy period for the Mental Health Tribunal (the Tribunal) following the implementation of the 2017 amendments to the *Mental Health Act 2013*. Over 250 orders were transitioned in the first week of the year: and over 160 new and redeveloped forms, templates, letters and orders were implemented, plus associated processes and procedures.

An exciting achievement for the Tribunal was moving its forensic jurisdiction from paper-based files into the case management system, McGirr's Case Management System, following changes made to accommodate the amendments of the civil jurisdiction. This move will streamline the administration of the forensic files and provide easier and more accurate reporting. This new system continues to need improvement and updates going forward; but has improved operations for the Tribunal.

The annual member training day was held at Campbelltown in November 2017, with 34 members attending. Key presenter Rosalie Martin gave valuable insights into 'Understanding Communication Disorders', and others explained the Magistrates Court Diversion List and the office

of the Official Visitors. Other training topics included disclosure of confidential information, s194 directions, movements in discharge/revocation of Forensic Orders and Electroconvulsive therapy (ECT).

A public recruitment process was begun for the Tribunal member appointments ending in 2018, which was open to existing and new members. The process will finalise later in the year.

Opportunities to progress the Tribunal and to provide the most contemporary and best practice operation into the future included attending various training and conferences. The President and Registrar gained valuable insights from the annual national Council of Australasian Tribunals (COAT) conference, the Heads of Mental Health Tribunal forum; the President attended the Victorian COAT conference. Other training undertaken covered querulous litigants, mental health first aid, and aggression management.

We continued to focus on the work health and safety of our staff and clients, with hearing room safety audits undertaken in the north and northwest of the state; options are being explored for improvements in the Launceston venues. Room soundproofing, reception audio

and security camera/duress alarm system installation in the Tribunal office was completed. We are also proud of maintaining an excellent work health and safety culture, with zero injuries across the year for our members and staff.

Tribunal staff continued to participate in Department of Justice activities such as the Disability Action working group, the Gender Equity steering committee, the MCMS steering committee and the Health and Wellbeing committee.

The Tribunal continued to experience staffing instability for the majority of the year. However, this situation was resolved towards the later part of the year, and looks positive going into the second part of 2018: positions are now occupied either permanently or for longer than 12 month contracts. The benefits of this change are being seen in improved work productivity and streamlined processes; we are also completing additional project work due to retaining staff with long-term operational knowledge and developing deeper skills in our staff.

On another level, the improved team spirit and engagement was demonstrated through wellbeing activities that support staff health and raised funds to buy blankets for homeless Tasmanians and others needing help over the cold winter months.

I would like to thank and commend the Tribunal's staff for their highly professional work and outlook, and continued work serving the stakeholders of the Tribunal.

A handwritten signature in black ink, appearing to read 'V. Fenton', with a stylized flourish at the end.

Vanessa Fenton

REGISTRAR



OVERVIEW

ABOUT THE MENTAL HEALTH TRIBUNAL

The Mental Health Tribunal (the Tribunal) is an independent statutory body established under the *Mental Health Act 2013*. The Tribunal's primary function is to authorise and review the treatment of people with mental illness, who lack decision-making capacity to provide informed consent for treatment.

The Tribunal provides a vital level of safeguard, protecting the rights and dignity of people being involuntarily treated for mental illness.

The Tribunal commenced operations on 17 February 2014, replacing the previous Mental Health Tribunal and the Forensic Tribunal, which both operated under the *Mental Health Act 1996*.

OUR VISION

Ensuring the protection of rights, safety, inclusive participation and just outcomes for people with mental illness.

OUR GOALS

- To promote and enable persons with mental illness to live, work and participate in the community
- To facilitate maximum opportunity for participation of those with mental illness and their support networks in decision making
- To achieve a culture of best practice in the operations of the Tribunal
- To contribute effectively to the development of mental health legislation, policy and practice in Tasmania
- To recognise and be responsive to national and international trends, developments and advances in mental health law.

OUR VALUES

- Accessible
- Equitable
- Professional
- Inclusive
- Accountable



COMPOSITION OF THE MENTAL HEALTH TRIBUNAL

The Tribunal consists of at least six persons, including:

- at least one person who is an Australian lawyer with at least five years' experience as such;
 - at least one person who is a psychiatrist; and
 - at least four other members
- All members are appointed by the Governor, with one member being appointed as President and another as Deputy-President.

The President and Deputy President are appointed for a period of five years, while other members are appointed for a term not exceeding three years.

The Tribunal:

- may sit in divisions;
- acts by majority;
- may adjourn proceedings and make interim orders for the period of any adjournment;
- conducts proceedings with as little formality and as much expedition as appropriate for proper consideration; and
- is not bound by the rules of evidence.

MEMBERS

The President of the Tribunal, Ms Yvonne Chaperon, was appointed in January 2014 for a five year term and the Deputy President, Mr Richard Grueber, was appointed in December 2013 for a five year term.

At the end of the financial year, the Tribunal had 40 other permanent members who are all appointed for a period of up to three years. Of these, 10 are psychiatrists, 16 are legal members and 14 are general members.

Of the Tribunal members, the President is appointed on a full-time basis. Two other members are employed full-time by the Department of Justice and provide part-time service as Tribunal members to support the requirements of the Tribunal and the remaining members work on a sessional basis, hearing matters as required.

A list of current members appointed under the Act is at **Appendix A**.

REGISTRY

The operation of the Tribunal is supported by a Registrar appointed under the Act, two legal officers and four permanent administrative staff.



MENTAL HEALTH TRIBUNAL ORGANISATIONAL STRUCTURE

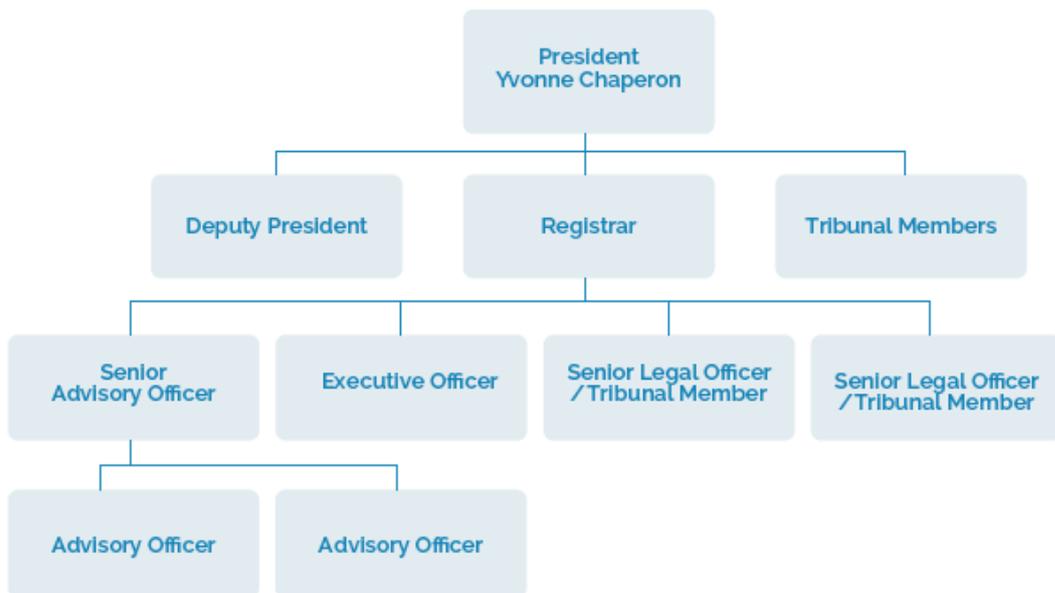


Chart 1. Mental Health Tribunal Organisational Structure



THE LEGISLATIVE FRAMEWORK

The current *Mental Health Act 2013* (the Act) replaced the *Mental Health Act 1996*. It was initiated to address issues raised by consumers, clinicians and other stakeholders throughout a significant consultation process.

The Act enables individuals with capacity to make their own treatment choices, while facilitating treatment for individuals who lack decision-making capacity and who need treatment for their own health or safety, or for the safety of others. The Act represents a significant improvement in the protection of the rights of mental health consumers in Tasmania to its predecessor. It balances consumer rights with the need for treatment, while also recognising the important role played by carers and family members of people with a mental illness.

The previous framework was unnecessarily complex and principally allowed a person to be treated without consent, and for a person to be detained without being treated. A comprehensive review was conducted and this

regime was considered contrary to the rights of persons with a mental illness and was deemed inconsistent with a human rights approach. These concerns were addressed in the current Act.

Key features of the Act in relation to the Tribunal are:

- decision-making capacity is a key threshold criterion for determining whether or not the Act will apply. On this basis the legislation does not enable a person with decision-making capacity to be assessed, treated or detained against their will
- establishment of a single independent Tribunal with authority to make decisions about both treatment and treatment setting, in the hospital and/or community
- a streamlined and simplified treatment pathway and clarified protective custody, assessment and treatment pathways
- all Treatment Orders made by the independent Tribunal are required to be regularly reviewed within mandated timeframes

Other important aspects of the Act include:

- establishment of the statutory office of the Chief Civil Psychiatrist and the Chief Forensic Psychiatrist
- the Chief Civil Psychiatrist and Chief Forensic Psychiatrist are able to intervene directly with respect to the assessment, treatment and care of patients and may issue standing orders and clinical guidelines to guide the Act's interpretation and utilisation
- the responsibilities of clinicians and the rights of consumers and their families/carers are clearly outlined and
- the legislation contains provisions for the appointment, role and function of Official Visitors, for the approval of facilities and statutory officers and the management of forensic patients.

Since the commencement of the Act concerns have been raised about several aspects of the legislation's operation. As a result, the legislation has been amended. The implementation date of the amended Act was 1 July 2017 and the amendments are outlined in the next section of this report.

The Act is due to be fully reviewed six years after its enactment.





THE YEAR IN REVIEW

AMENDMENTS TO THE *MENTAL HEALTH ACT 2013*

A Snapshot of July 2017 Amendments to the *Mental Health Act 2013*.

ASSESSMENT ORDERS

An application for an assessment order can now be made verbally or in writing.

The applicant still has to be satisfied that the prospective patient has or might have a mental illness and that a reasonable attempt to have the prospective patient assessed with informed consent has failed or that it would be futile or inappropriate to make such an attempt.

A medical practitioner no longer has to be in possession of an application to make an assessment order.

When making an assessment order a medical practitioner must: Have examined the patient in the 24 hour period before making the order, and

Be satisfied from the examination that the person needs to be assessed against the assessment criteria, and

Be satisfied that a reasonable attempt to have the person assessed, with informed consent, has

failed or that it would be futile or inappropriate to make such an attempt.

URGENT CIRCUMSTANCES TREATMENT (*SECTIONS 55 AND 87*)

An Approved Medical Practitioner (AMP) can now authorise urgent circumstances treatment if the practitioner has concluded, from an examination of the patient, that the patient meets certain criteria, as outlined in the *Mental Health Act 2013*.

The AMP does not need to have received an application for urgent circumstances treatment, and a separate examination by another AMP is not required.

The AMP no longer needs to be the Chief Civil Psychiatrist or his/her delegate.

TREATMENT PLANS

A treatment plan is no longer required to be provided to the Tribunal as part of the application for a treatment order.

A medical practitioner is no longer required to give a copy of documentation varying a treatment plan to the Tribunal.

A treatment plan still needs to be completed for every involuntary patient.

TREATMENT ORDERS

The Tribunal can now make treatment orders which provide for a combination of treatment settings and for a patient's admission and re-admission to those settings (sections 38 and 39).

People on a treatment order which provides for a combination of treatment settings and for a patient's admission and re-admission to those settings can now be admitted, or readmitted, to an approved hospital to prevent possible harm (section 47A).

Please note this is different from re-admission of a patient to hospital for failure to comply with a treatment order. Processes for readmission in those circumstances have not changed.

REVIEW OF ORDERS

The mandatory review timeframes for treatment orders have changed.

The Tribunal must now review a treatment order within 60 days (previously 30 days) of it being made and at 180 day (previously 90 day) intervals thereafter.

A person who is subject to a treatment order can ask the Tribunal to review the Order at any time.

A new section, 192A, has been inserted into the *Mental Health Act 2013*. This regulates the review by the Tribunal of the authorisation of treatment for forensic patients.

Under this section, the Tribunal is required to review the authorisation of treatment for a forensic patient within 60 days and 180 days thereafter.

This is consistent with the review timeframes applying to involuntary patients under section 181.

A forensic patient can ask the Tribunal to review the authorisation at any time.

See Table 1 for a summary of the changes in each section of the Act.

| SECTION OF THE MENTAL HEALTH ACT | SUBJECT | NATURE OF THE CHANGE |
|----------------------------------|-------------------------------------|--|
| 12 & S13 | Act's scope — 'care' | The word 'care' has been removed from the Act's scope. Previously 'care' was not defined, and this led to confusion about the Act's scope around matters such as post-discharge accommodation for people with mental illness. While the Act refers to matters of care in some minor respects, the intention is not to regulate decisions about someone's longer-term accommodation needs, general health care, dental care, or estate. These decisions will continue to be made by the Guardianship and Administration Board. |
| 24 | Assessment orders: Application | The doctor making an assessment order no longer needs to be in receipt of an application for assessment order. Not having this application does not invalidate the assessment order. This application can still be made by a doctor, nurse, mental health officer, police officer, guardian, parent or support person. |
| 26(d)(e) & (ea) | Assessment orders: Form and content | An assessment order no longer needs to: <ul style="list-style-type: none"> • identify the person who applied for it • state how the patient meets the assessment criteria • recommend a treatment setting. An assessment order must now: <ul style="list-style-type: none"> • affirm that the patient needs to be assessed against the assessment criteria • specify the treatment setting • specify if it authorises the admission and detention of the patient in an approved hospital. |
| 27 | Assessment orders: Effect | Clarifies the custody and escort provisions. Clarifies that an assessment order is not authority for a patient to be given treatment. |
| 35(2) | Assessment orders: Discharging | A doctor can now only discharge an assessment order if they have examined the patient, and are satisfied from this examination that the patient does not meet the assessment criteria. If they have not examined the patient, they must be satisfied on other reasonable grounds that the patient does not meet the assessment criteria. The Act does not define: <ul style="list-style-type: none"> • how the doctor should satisfy themselves of these matters • what 'other reasonable grounds' are; however, it's likely these might be information provided by another doctor or nurse about the patient's mental health. |
| 37(5)(b) | Treatment orders: Application | Explains the documents that must accompany an application for a treatment order. An application for a treatment order no longer needs to be accompanied by a proposed treatment plan. A treatment order is no longer based on a treatment plan. |
| 38 (2)(b) and (2A) | Interim treatment order | Clarifies that an interim treatment order may now provide for: <ul style="list-style-type: none"> • a combination of treatment settings/facilities • the admission, re-admission and detention of a patient who is subject to an interim treatment order into those settings. |

| SECTION OF THE MENTAL HEALTH ACT | SUBJECT | NATURE OF THE CHANGE |
|----------------------------------|------------------------------------|---|
| 39 | Treatment orders: Determination | <p>Clarifies that in order to make a treatment order, the Mental Health Tribunal must be satisfied that:</p> <ul style="list-style-type: none"> the patient meets the treatment criteria a treatment plan has been prepared the requirements of section 53(2) (which outlines the obligations the doctor must take into account when preparing a treatment plan) have been met. |
| 41 | Treatment orders: Form and content | <p>Clarifies that to be valid, a treatment order must specify:</p> <ul style="list-style-type: none"> a treatment setting and if it authorises the admission and detention of the patient in an approved hospital. |
| 42 | Treatment orders: Effect | <p>The treatment order is the single authorising document for:</p> <ul style="list-style-type: none"> the treatment that may be given to a patient the actions that may be taken for anyone subject to a treatment order. <p>If the patient:</p> <ul style="list-style-type: none"> fails to comply with the treatment order or requires re-admission to hospital from the community <p>then the patient's treatment order has the authority to admit or detain them in an approved facility, until:</p> <ul style="list-style-type: none"> either the treatment order is varied to provide for a different treatment setting, or the treatment order ceases to have effect under the Act. <p>If the patient is admitted to an approved facility under this section, the Mental Health Tribunal must be notified. Custody and escort provisions will apply.</p> <p>Once notified, the Mental Health Tribunal must review the matter within three days by a panel of three Tribunal members. This does not need to involve a hearing.</p> <p>There is no longer a link between the treatment order and the treatment plan.</p> |
| 47A | Admitting patients | <p>This new section:</p> <ul style="list-style-type: none"> regulates the admission or re-admission of a patient subject to a treatment order that provides for a combination of treatment settings establishes the criteria that must be met before a patient may be admitted or re-admitted to an approved hospital. <p>Once notified, the Mental Health Tribunal must review the matter within three days by a panel of three Tribunal members. This does not need to involve a hearing.</p> |
| 54 | Treatment plans: Variation | <p>A doctor will no longer need to give the Mental Health Tribunal a treatment plan when they are varying treatment that is not more restrictive than the treatment order.</p> |
| 55 | Urgent circumstances treatment | <p>There is no longer the need for:</p> <ul style="list-style-type: none"> the Chief Civil Psychiatrist (or delegate) to authorise urgent circumstances treatment: an approved medical practitioner may do so an application to be made before the authorisation may be given an approved medical practitioner to have assessed the patient and drawn conclusions from this assessment. |

| SECTION OF THE MENTAL HEALTH ACT | SUBJECT | NATURE OF THE CHANGE |
|----------------------------------|---|---|
| 59 | Transferring involuntary patients between approved hospitals | Clarifies that: <ul style="list-style-type: none"> • in an emergency, a transfer direction may be given verbally • any direction (whether verbal or in writing) is to be confirmed by the Chief Civil Psychiatrist as soon as practicable after it is given. |
| 61 | Patient absence from an approved hospital | When a patient is absent from an approved hospital without leave, their doctor must alert the Mental Health Tribunal. |
| 65A | Treatment orders: Renewal for patients in the Secure Mental Health Unit | An application for renewing a treatment order for a patient admitted to the Secure Mental Health Unit can now specify a treatment setting other than the Unit. |
| 79(3) | Leave of absence: Extension, variation and cancellation | The Mental Health Tribunal and the Secretary (Corrections) have new obligations for extending or varying conditions of any leave of absence granted to a forensic patient who is subject to a restriction order. An application for extension of leave must now be lodged at least 20 days before the leave expires. |
| 87 | Urgent circumstances treatment of a forensic patient | There is no longer the need for: <ul style="list-style-type: none"> • the Chief Civil Psychiatrist (or delegate) to authorise urgent circumstances treatment: an approved medical practitioner may do so • an application to be made before the authorisation may be given • an approved medical practitioner to have assessed the patient and drawn conclusions from this assessment. |
| 172 | Interim determinations of adjournment | There is no longer a limit on the number of times the Mental Health Tribunal may adjourn proceedings. |
| 179 | Mental Health Tribunal: Review functions | The Mental Health Tribunal can now review the authorisation of treatment for a forensic patient. |
| 181 (1)(a), (b) and (c) | Treatment orders: Reviews | The Mental Health Tribunal must now: <ul style="list-style-type: none"> • review the order within 60 days after it is made, if it is still in effect • review the order again, within 180 days after it is made, if it is still in effect • after this second review, further review the order at intervals not exceeding 180 days, for so long as it remains in effect. |
| 191 | Leave of absence: Review | Clarifies the maximum continuous period that, on review, the Mental Health Tribunal may: grant leave to an involuntary patient, or direct that an involuntary patient may be granted leave. |

| SECTION OF THE MENTAL HEALTH ACT | SUBJECT | NATURE OF THE CHANGE |
|----------------------------------|--|---|
| 192A | Review of forensic patient's treatment authorisation | The Mental Health Tribunal can review the treatment authorisation for a forensic patient at 60 days, 180 days and further 180 day intervals. |
| 224A | Errors affecting orders | The Mental Health Tribunal (a 3 member panel that need not conduct a hearing) can correct an error in an order, determination, direction or other Tribunal document if the error affects the validity of this document. |
| 226 | Service of documents | This new section regulates how notices and other documents are given or served under the Act. It defines 'give' as causing the notice/document to be given. This section works with sections 11 and 37 of the Act. |





IMPLEMENTATION

MCMS DATABASE UPGRADE

In early 2017, a project group was created to amend and update the Mental Health Tribunal's client management system, MCMS, to accommodate the legislative changes that were to be implemented by 1 July 2017. This involved a team of Project Managers, IT specialists, System Manager and the Mental Health Tribunal staff to work with the software company in a focussed effort to review the current business processes and make the necessary changes to meet the deadline and avoid operational issues.

This included changes to 200 workflows, over 150 document templates, application forms, and orders. It also was an opportunity to include the previously manual process of the forensic matters into the operating system. Once these changes were completed, concentrated training

for all users was undertaken, as many of the Registry processes had been changed.

The database has continued to be updated and improved during the 2017-18 financial year.

TRANSITIONING OF CURRENT ORDERS

With the changes to section 41 (d) (da) of the Act, the Tribunal was required to transition all active Treatment Orders. Specifically to specify on all orders the treatment setting and if the order authorises the patient's admission to and, if necessary, detention in an approved hospital.

To do this, the registry undertook to list all 260 current orders for a 3 Member variation hearing, applying the following rules to each order:

| LAST EVENT BEFORE 1 JULY 2017 | NEXT EVENT AFTER 1 JULY 2017 | NOTES/CONSIDERATIONS |
|--|---|--|
| Application for Treatment Order Hearing (up to 30 days before 1 July – i.e. from 2 June) | List for 60 day hearing | 60 days from Treatment Order date |
| 30 Day Review Hearing (up to 30 days before 1 July – i.e. from 2 June) | List for 60 day hearing | 60 days from Treatment Order date |
| 1st 90 Day Review Hearing | List for 1st Renewal as per current process | 6 months from Treatment Order date (unless expiry is less than 6 months) |
| 1st Renewal Hearing | List for 2nd Renewal | |
| 1st 90 Day Review Hearing after 1st Renewal | List for 2nd Renewal | |
| 2nd Renewal Hearing | List for 180 review | 180 days from 2nd Renewal date |
| 1st 90 Day Review Hearing after 2nd Renewal | List for 180 day review | 180 days from 2nd Renewal date |
| 2nd and 3rd 90 Day Review Hearing after 2nd Renewal | List for 3rd Renewal | |

Table 2: Rules for Transitioning Orders 1 July 2017

FORENSIC STUDY

As mentioned in the President’s report, the Tribunal has been able to assist the Tasmania Law Reform Institute (TLRI) with one of their research projects. The TLRI is reviewing fitness to stand trial provisions and the insanity defence and have established an Insanity and Fitness to Stand Trial Reference Group. The Tribunal was invited to be part of the group. The TLRI has sought to identify information in relation to cases where unfitness to stand trial and insanity are raised. One aim of the TLRI is to compare outcomes for those who are made subject to forensic orders to those who plead guilty to, or who are found guilty of, offences.

In March 2018, with the assistance of funding from the Department of Justice, the Tribunal commenced a project to capture, review and analyse information regarding those with a mental impairment or other condition or disability, who have been made subject to forensic orders by the Supreme Court pursuant to Criminal Justice Mental Impairment Act 1999 (the Act). Information requested from TLRI included:

- The number of individuals reviewed by the Tribunal on forensic orders
- The offence(s) to which the order relates
- The length of time that individuals are subject to forensic orders

- The number of certificates issued under the Act by the Tribunal for forensic orders.

The project involved the full time dedication of a senior legal officer to conduct a review of all forensic patients, capturing information about every hearing event for each patient since 2005, to enable ongoing use of the information collated beyond the information required by TLRI. Information gathered on each hearing event included:

- Order type
- Start date
- End date (if applicable)
- Applicable legislation
- Type of hearing
- Tribunal determination
- Patient diagnosis
- Index Offence(s)
- Patient comorbidities

Once collated, the Tribunal had discussions with TLRI Research Fellow, Dr Rebecca Bradfield and shared data for analysis, to contribute to the TLRI Issues Paper regarding the fitness to stand trial and insanity provisions of the Criminal Justice Mental Impairment Act 1999. In addition, the data collated is central to the work of the Tribunal as a comprehensive resource and an ongoing database for analysis of forensic hearings and outcomes in the future. The Tribunal appreciates the assistance

of the Department of Justice in funding this valuable project.

COUNCIL OF AUSTRALASIAN TRIBUNAL CONFERENCE 2018

The conference, held in Canberra on 7 and 8 June 2018, was attended by the President and Registrar. The theme of the conference was **Toward the Horizon – Tribunals of the Future.**

The focus of the conference was on features of the broader community, future trends within Australasia and the impact they will have on the work of Tribunals, including advances in technology in order to inform the development of future practices. The conference also focused on security of Tribunals. While most Tribunals aim to be informal and accessible, they have the responsibility to maintain a level of safety for all users. This is an issue that we place a lot of importance on, so it was pertinent to learn about key risk and mitigation strategies being implemented by Tribunals around the nation.

We attended sessions regarding skills that Tribunal members need to have (or obtain) in order to do their work successfully - such as preparing and delivering ex tempore decisions (decisions handed down straight after the hearing) and identifying and dealing with conflicts of interest. The Mental Health Tribunal undertakes training for our members on an annual basis. Attending skills presentations assists us in preparing up to date and dynamic training.

We also attended a half-day Heads of Mental Health Tribunals meeting. The states and territories represented this year were Tasmania, New South Wales, Victoria, Queensland, ACT and the Northern Territory.

Each Tribunal President presented a jurisdictional report outlining workload, work pressures and challenges. It was a fabulous opportunity to network, problem solve and share resources.

MEMBER TRAINING

Professional development is an important part of the Tribunal's operation to ensure that all Members are up to date with the legislation, occupational work health and safety, practice directions, topics relevant to the mental health jurisdiction and opportunities for reflective practice. Training occurs throughout the year via practice direction updates, the President's Topic of the Month and an annual Training Day.

This year the Training Day was held at The Grange Conference Centre in Campbell Town with the majority of members from around the state in attendance. The guest speaker was Rosalie (Rosie) Martin who is a speech pathologist, Tasmanian Australian of the Year 2017 and founder of Chatter Matters Tasmania – a charity that builds awareness and skill in human communication.

Rosie Martin works with people with communication challenges, such as autism and literacy acquisition disorders. She runs a literacy program for people with skills low on the literacy continuum and spoke about her literacy and communication projects at the Risdon Prison. Rosie's presentation to our members was on the topic of "Understanding Communication Disorders" which provided important insights for Tribunal Members in the context of the low levels of literacy in Tasmania.



REGISTRY – TIMELY RESPONSE IN A DYNAMIC ENVIRONMENT

The Mental Health Tribunal Registry is a team of dedicated staff who work within tight timeframes to facilitate the operation of the Tribunal. The Registry is responsible for the monitoring, maintenance, distribution and actioning of all incoming applications, tribunal files, correspondence, enquiries and administration of the Tribunal.

As the statutory timeframes for some matters are very short, such as the timeline between the receipt of an Application for Treatment Order and the time of expiry, the staff are required to be responsive to all incoming correspondence.

The urgency mentioned above refers to the legislated timeframes from the *Mental Health Act 2013* for actioning Applications and documents received by the Mental Health Tribunal.

AN EXAMPLE OF REGISTRY OPERATIONS

An Application for Treatment Order (ATO), is received by the Registry at 9:00 am. If the patient is admitted to a hospital, there will be an Assessment Order attached to the ATO that allows the Doctors to treat the patient until an Interim Treatment Order is determined by the Tribunal, unless the Assessment Order time lapses.

24 hours: The Assessment Order allows for involuntary treatment in an approved facility for 24 hours.

24 - 72 hours: If the Assessment Order is affirmed within 24 hours then it allows for further involuntary treatment and can be extended for up to 72 hours.

This process provides for a maximum of **96 hours** of urgent involuntary treatment.

If the Approved Medical Practitioner decides that involuntary treatment is required beyond 96 hours they must apply to the Tribunal for an Interim Treatment Order. In the short timeline from the Registry's receipt of the Application to determination by the President, Senior Legal Officer or Tribunal Member there are a number of actions that require a timely response. The Registry have to check the time that the Assessment Order was made and more importantly, the time that this expires. The clock starts ticking from the time the Application is received by the Registry. For example:

- An Application is received at 9:00 am.
- The Assessment Order was made 93 hours ago.
- It is going to expire in 3 hours.
- The Interim Treatment Order application has to be heard and determined by the Tribunal within 3 hours or it will expire.
- The Registry staff check each Application and the attached documents to assess their validity. This includes cross-checking of approved signatures, dates, information provided to ensure the Application is complete and complies with the provisions of the *Mental Health Act 2013*.
- If the documentation is incomplete or missing a form the staff email, and/or telephone the Legal Orders Coordinator and request the relevant documentation.
- The delay between such requests and receipt of the documentation once again shortens the timeline.

- Once the documentation is received and the Application is valid, the Registry staff will enter all information into a database which usually takes between 15 – 25 minutes depending on a number of different factors.
- What was 3 hours until the expiry of the Assessment Order has now become 90 minutes. At that point the file is transferred to the Senior Legal Officers who have only 90 minutes to consider the application and make a determination. Talk about cutting it fine! These tight timeframes are compounded each Friday when a high volume of Applications often arrive concurrently requiring all hands on deck.

In the 2017-18 financial year, the Registry received, processed, uploaded and distributed

3378 Tribunal determinations. There were 1890 Leave of Absence documents processed, all of which require checking for validity consistent with the legislation.

A total of 7126 documents were processed and sent by the Registry via email and post to various stakeholders together with processing and uploading 1150 additional information documents within the MCMS database. This workload coexists with the general administration of the Registry such as reception, rostering, copying, scanning, filing and monitoring the phones.

The Registry are the interface between the Tribunal and stakeholders, primarily the patients. The Registry Staff operate seamlessly under pressure in a busy environment where no two days are ever the same.

REGISTRY WORKLOAD SNAPSHOT



Table 3. A Snapshot of Registry Workload



OUTPUT

CIVIL

The Tribunal has experienced an increase in the volume of its work each year since the *Mental Health Act 2013* (the Act) was implemented in 2014. A total of 2933 civil hearings were held during the reporting period 2017-18. The Tribunal received 568 Treatment Order applications with 457 matters proceeding to hearing by a three member panel. The Tribunal continued to effectively operate within statutory timeframes.

There was a significant increase in workload with the amendments to the legislation.

TRANSITION OF TREATMENT ORDERS

The amendments to the Act resulted in additional hearings on commencement for the transition of pre amendment Treatment Orders to post amendment Treatment Orders, as the amendments allowed for authorisation of a combination of treatment settings and for a streamlined process for admission or readmission of the patient to approved facilities.

VARIATIONS TO TREATMENT ORDERS

The Tribunal varies Treatment Orders when a patient has been discharged from or re-admitted to hospital or authorised treatment needs changing. These variations to orders are usually determined by a single Tribunal member hearing. The number of variation hearings increased significantly this financial year.

RE-ADMISSION TO APPROVED FACILITY AND FAILURE TO COMPLY WITH TREATMENT ORDER

With the implementation of the amendments to the the Act from 1 July 2017, patients readmitted to an approved facility required a one member variation hearing to change the treatment setting. These variation hearings occurred prior to listing the matter for a three member panel to consider the reason for re-admission by way of either a Failure to Comply Application or an Admission to Prevent Possible Harm Application under section 47 and 47A of the Mental Health Act.

This had significant impact on the number of hearings held during the year. In 2016-17 there were 8 Failure to Comply hearings and no

Admission to Prevent Possible Harm hearings (as no hearing was required prior to 1 July 2017) compared to 2017-18 which saw an increase to 45 Failure to Comply hearings and an additional 93 hearings for Admission to Prevent Possible Harm. These changes also increased the one member variations by 138 hearings for the year.

RENEWAL OF TREATMENT ORDERS

The number of Applications to renew Treatment Orders continues to increase reflecting the cohort of patients with long term illness who do not have capacity to consent to treatment.

FREQUENCY OF REVIEW

The amendments to the Act also brought changes to how often the Tribunal reviews

Treatment Orders. The pre amendment 30 and 90 day reviews were replaced with an initial review at 60 days and 180 day reviews for the life of the Treatment Order. The increase in 30 to 60 day reviews in this period can be attributed to the transitioning of orders. Due to the timing of the implementation of the amendments to the Act, some orders had both 30 day reviews and 60 day reviews.

In the 2017-18 financial year, there was a reduction in mandatory reviews overall. Please see the Key Civil Statistics Overview Table for details. The effects of the amendments will become clearer in 2018-19 reporting.



KEY CIVIL STATISTICS OVERVIEW

| KEY CIVIL STATISTICS OVERVIEW | | | |
|--|-------------|-------------|-------------|
| CIVIL HEARINGS LISTED | 2015-16 | 2016-17 | 2017-18 |
| Interim Treatment Order Hearing | 495 | 486 | 543 |
| Treatment Order Hearings | 400 | 426 | 457 |
| 60 Day Review Hearing | x | x | 388 |
| 30 Day Review Hearing ¹ | 248 | 291 | 0 |
| 90 Day Review Hearing ¹ | 382 | 516 | 0 |
| Renewal of Treatment Order | 161 | 217 | 277 |
| 180 Day Review Hearing | x | x | 119 |
| Admission to Prevent Possible Harm | x | x | 93 |
| Failure to Comply | x | 8 | 45 |
| Application for Involuntary Transfer - SMHU - Civil | x | x | 3 |
| Application for Variation for 1 Member Tribunal | x | x | 540 |
| Application for Variation Hearing for 3 Member Tribunal | 439 | 507 | 52 |
| Discretionary Review Hearing | 30 | 19 | 26 |
| Out of Session Hearings - Own Motion Reviews | x | x | 64 |
| Out of Session - Review of Treatment Order Hearing | x | x | 15 |
| Relisted from Adjournments | 41 | 67 | 51 |
| Treatment Order Transition Hearings - 3 Member Tribunal ² | x | x | 260 |
| TOTAL HEARINGS LISTED⁴ | 2196 | 2537 | 2933 |

| CIVIL HEARING DECISIONS | 2015-16 | 2016-17 | 2017-18 |
|--|----------|----------|-------------|
| Interim Treatment Orders Made | x | 486 | 435 |
| Treatment Orders Made | 371 | 394 | 429 |
| Treatment Orders Affirmed at Review Hearings | x | x | 321 |
| Treatment Orders Renewed (old) | 150 | 199 | n/a |
| Treatment Orders Renewed - 1st | x | x | 98 |
| Treatment Orders Renewed - Further | x | x | 141 |
| Treatment Orders Varied ³ | 605 | 678 | 753 |
| Applications Refused | x | x | 8 |
| Own Motion Reviews Completed | x | x | 64 |
| Treatment Orders Transitioned ² | x | x | 260 |
| Treatment Orders Discharged at Hearing | x | x | 50 |
| Adjournments | 41 | 67 | 51 |
| TOTAL DECISIONS⁴ | x | x | 2559 |

| CIVIL ORDERS ENDED | 2015-16 | 2016-17 | 2017-18 |
|--|----------|----------|------------|
| Treatment Orders Discharged by Medical Team | x | x | 381 |
| Treatment Orders Allowed to Expire | x | x | 337 |
| Treatment Orders Discharged (Patient Deceased) | x | x | 2 |
| TOTAL ORDERS ENDED⁴ | x | x | 720 |

Table 4. Key Civil Statistics Overview

¹ At 1 July 2017 30 and 90 day reviews were replaced by 60 and 180 day reviews when the amendments to the MHA Act were implemented.
² At 1 July 2017 Treatment Orders were amended to provide for accommodation of Treatment Settings in line with the amendments to the MHA Act.
³ Orders can be varied at any hearing – not just variation hearings and therefore this figure will not match the number of variation hearings listed.
⁴ Orders can be discharged by the Treating Team at any stage of the life of a Treatment Order – including prior to hearings already listed.
⁵ Therefore the total number of hearings less outcomes and discharges will not calculate to zero.
⁶ Not previously reported.

CIVIL HEARINGS HELD

In 2017-18, the Tribunal heard a total of 2933 civil matters. These were conducted by a combination of one and three member panels. A breakdown of the matters that went to a three member hearing can be seen in Figure 2.

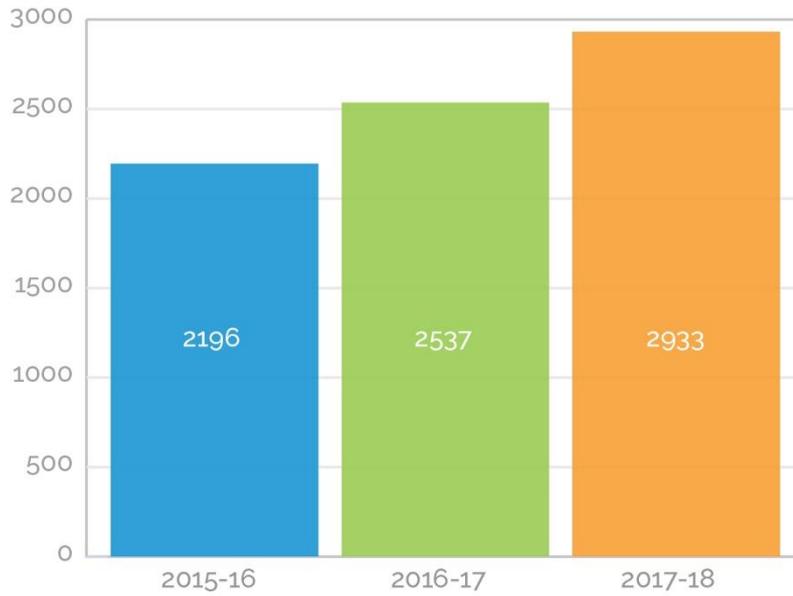


Figure 1 Total Civil Hearings

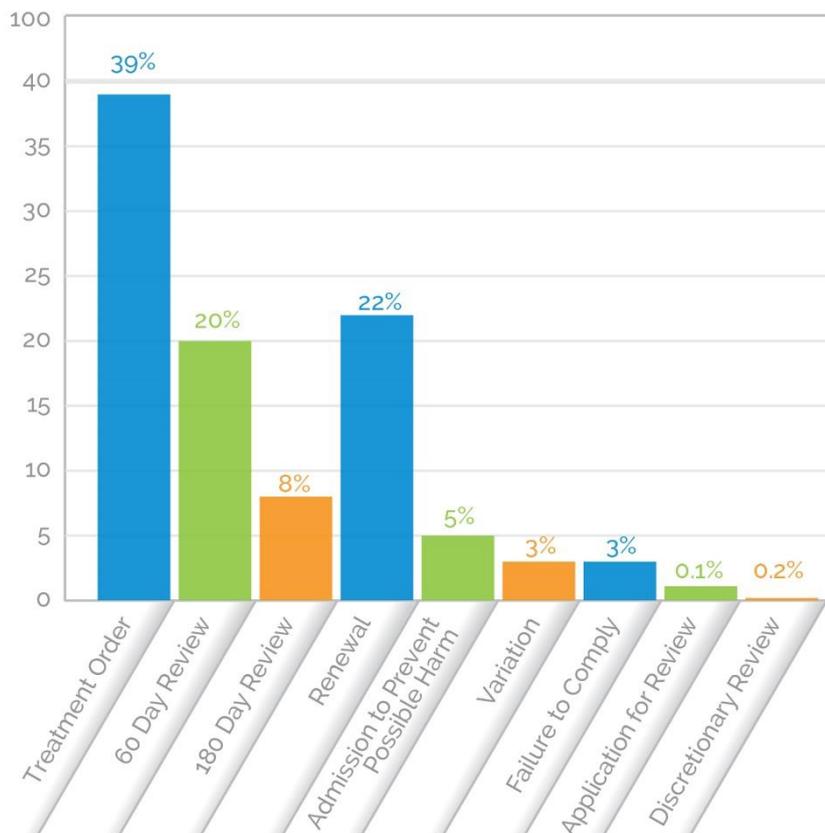


Figure 2 Civil Hearings Held by a three Member Tribunal 2017-18

DURATION OF TREATMENT ORDERS

An initial Treatment Order, unless sooner discharged under section 49 or section 181 of the Act, cannot be made for a period greater than 6 months. Applicants request a 6 month order in the majority of applications.

A large percentage of initial Treatment Orders continue to be in place for 2 – 6 months. A renewal of a Treatment Order can be made for up to 6 months (first renewal) and subsequent renewals for up to 12 months. 82% of Treatment Orders are renewed at 1st renewal hearing.

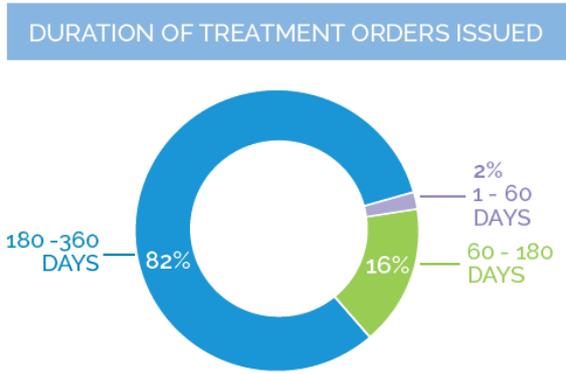


Figure 3. Duration of Treatment Orders Issued

CIVIL PATIENT ATTENDANCE AT HEARINGS

Patient attendance at Civil hearings has increased slightly this financial year (from 2016–2017), but has remained at an average attendance rate of 63% over the last three years.

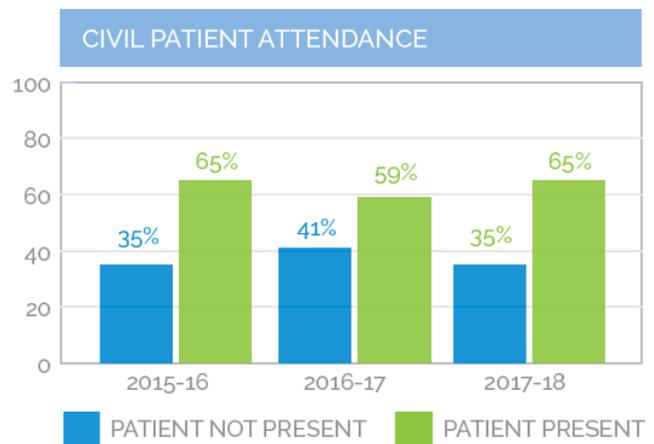


Figure 4. Civil Patient Attendance Comparison at Hearings 2015-16, 2016-17 and 2017-18

CIVIL PATIENT REPRESENTATION AT HEARINGS

The percentages indicate representation of Legal Aid Commission and Advocacy Tasmania at patient hearings and the percentage of those patients who did not request these services. 77% of civil patients were not represented in 2017-18; of those who were represented, Legal Aid Commission represented 13% of patients and Advocacy Tasmania represented 10% of patients.

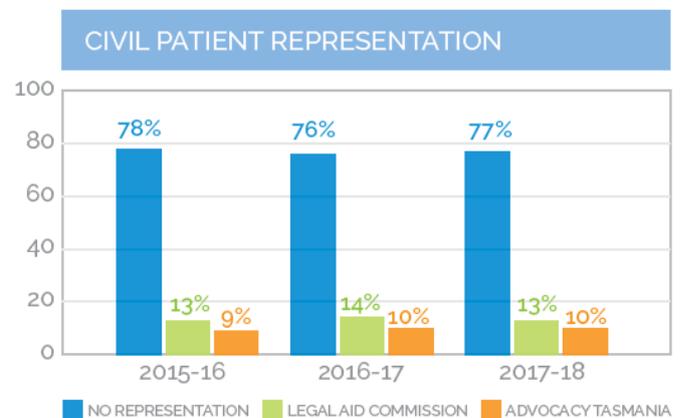


Figure 5. Civil Patient Representation Comparison 2015-16, 2016-17 and 2017-18

GENDER OF CIVIL PATIENTS

In 2017-18 civil patients were more likely to be male (57%) compared to female (43%).

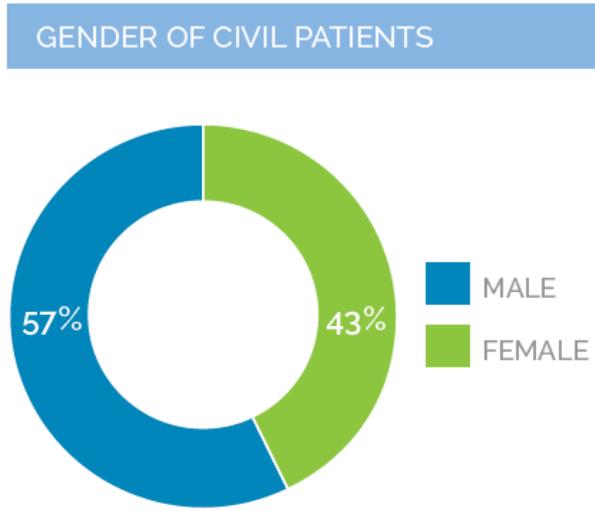


Figure 6. Gender of Civil Patients in 2017 - 2018

AGE OF CIVIL PATIENTS

The statistics in Figure 7 below shows that the majority of civil patients (62%) on Treatment Orders in Tasmania are aged between 31 and 50.

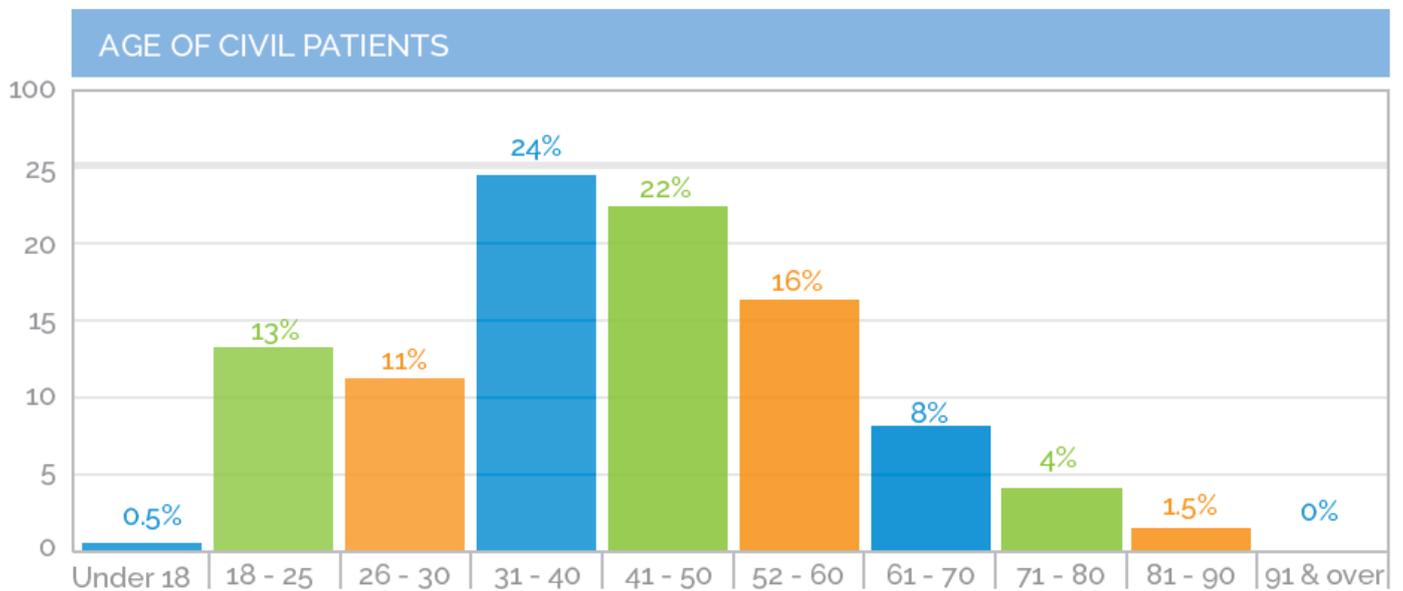


Figure 7. Age Range of Civil Patients in 2017-18

PRIMARY DIAGNOSIS – CIVIL PATIENTS

The percentages in Figure 8 indicate the primary diagnosis of patients who had Tribunal hearings in 2017–18. Schizophrenia continues to be the most prevalent mental illness affecting 54% of civil patients within the financial year. This is an increase of 11% as evident from the comparison in Figure 9.

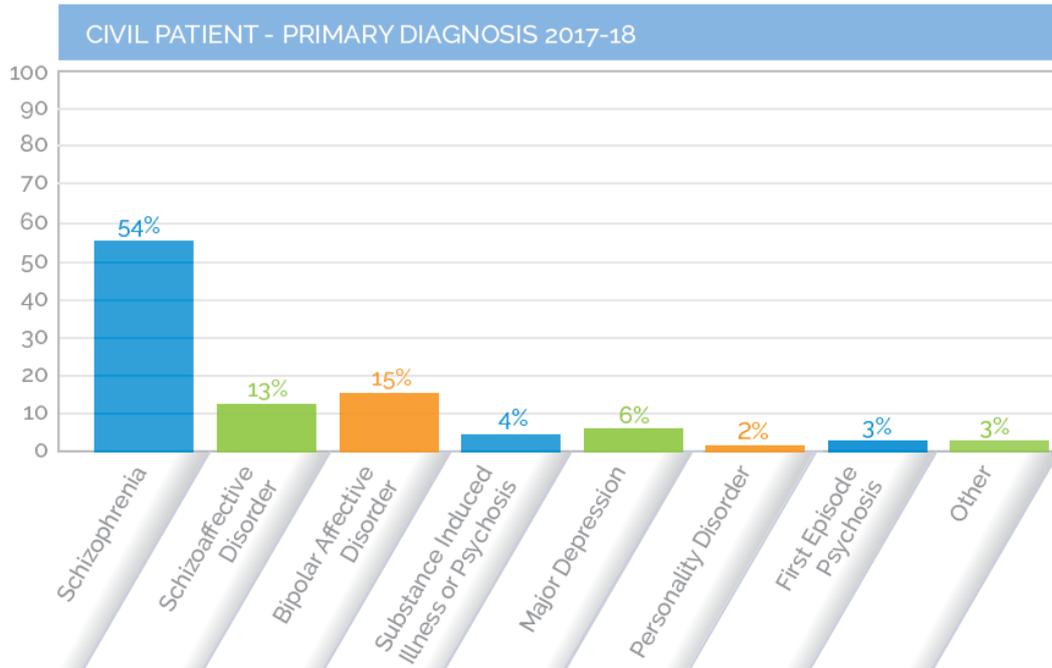


Figure 8. Civil Patient Primary Diagnosis 2017-18

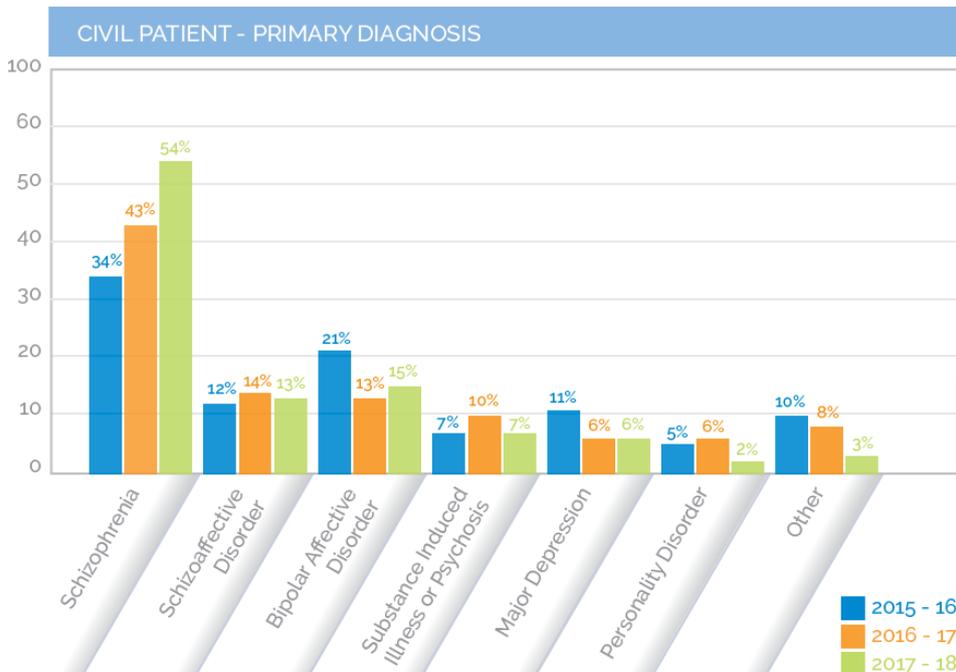


Figure 9. Civil Patients Primary Diagnosis Comparison 2015-16, 2016-17 and 2017-18

Examples of "other" include cerebral haemorrhage, head injury, hyperthyroidism, kidney failure, autistic spectrum, acquired brain injury, intellectual disability and polysubstance abuse.

COMORBID CONDITIONS - CIVIL PATIENTS

The presence of one or more conditions, disorders or substance use co-occurring with the primary mental illness diagnosis is common. 78% of civil patients had a comorbid condition in 2017-2018. Substance Use continues to be the most common comorbidity (Figure 11).

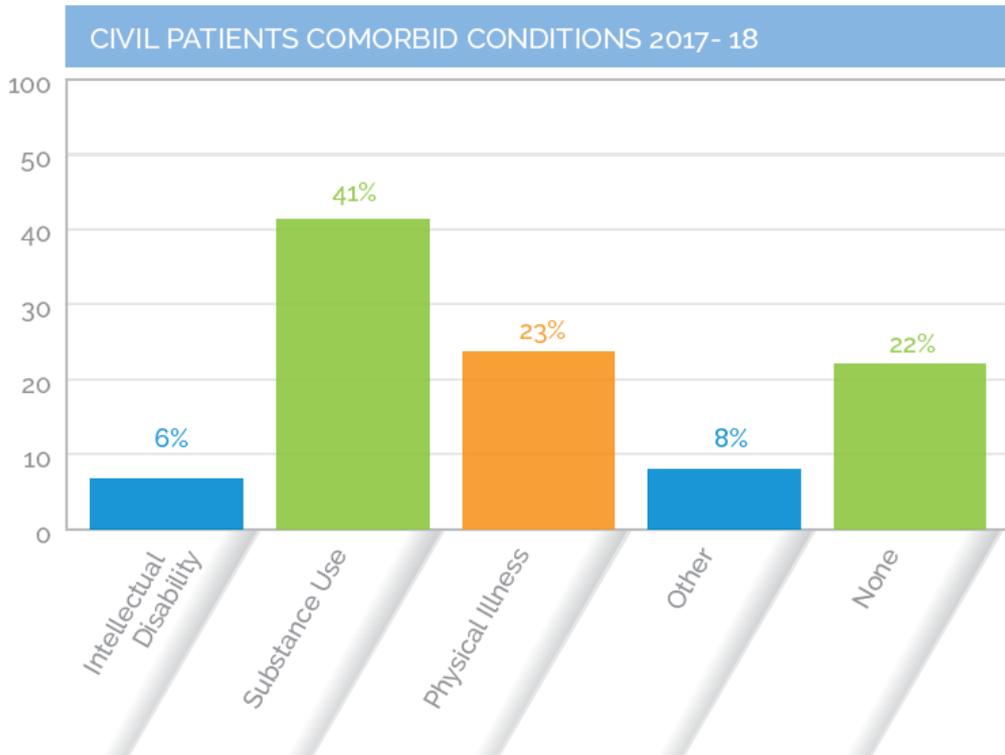


Figure 10. Civil Patients Comorbid Conditions 2017-18

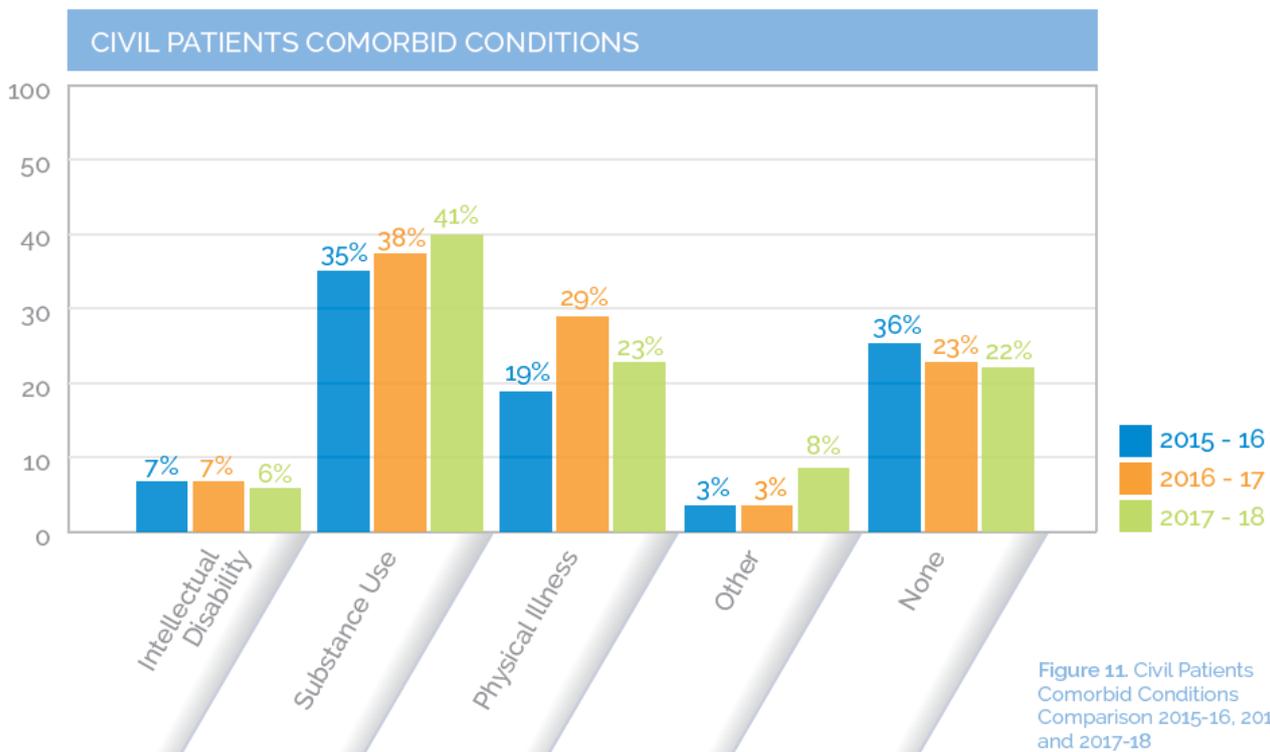


Figure 11. Civil Patients Comorbid Conditions Comparison 2015-16, 2016-17 and 2017-18

Examples of "other" include cerebral haemorrhage, head injury, hyperthyroidism, kidney failure, autistic spectrum, acquired brain injury, intellectual disability and polysubstance abuse.

ELECTRO-CONVULSIVE THERAPY (ECT) REQUESTED – CIVIL PATIENTS

During 2017-18, 5.37% of applications requested ECT as a treatment option. 28% of requests were refused.

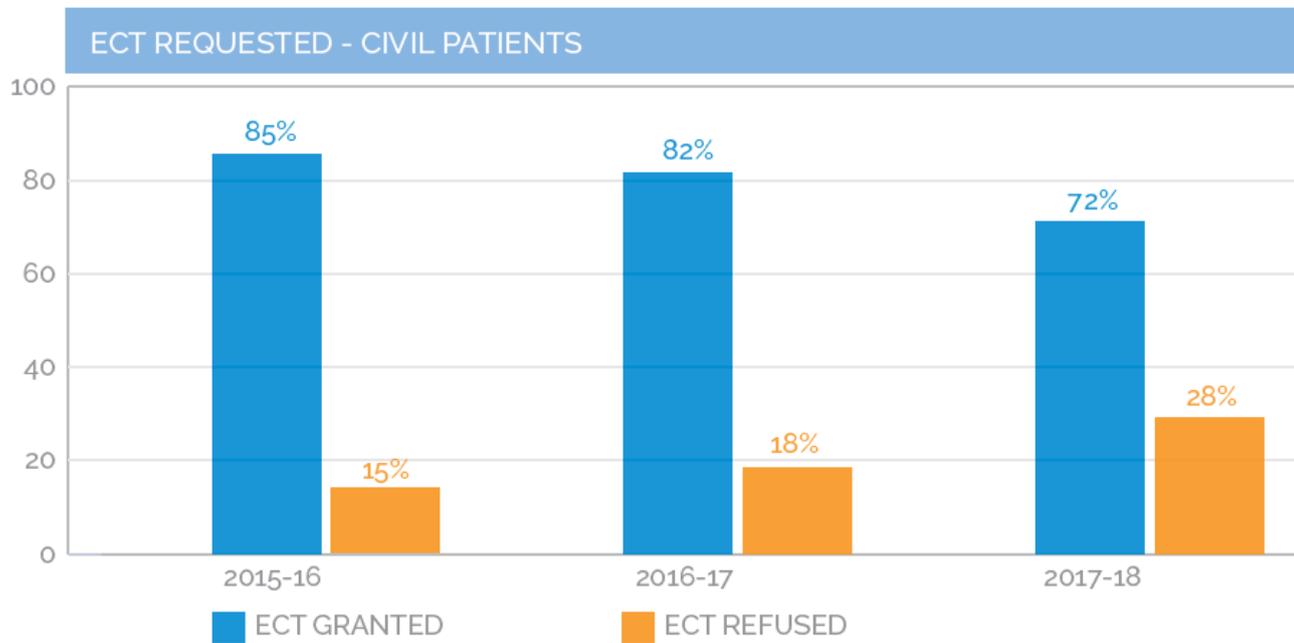


Figure 12. Electro-Convulsive Therapy (ECT) Requested for Civil Patients Comparison 2015-16, 2016-17 and 2017-18



FORENSIC

This 2017/2018 year saw an increase in the total number of forensic hearings. This increase is attributable to a number of factors. There was an increase in the number of applications for Authorisation of Treatment for Forensic Patients. Also, each Authorisation of Treatment now requires review at 60 and 180 days from the initial authorisation. The Tribunal has streamlined processes for capturing data within the case management system which allows more detailed analysis of forensic hearing output.

SUPERVISION ORDERS HEARINGS

The Tribunal issued 10 certificates to allow patients on Supervision Orders to apply to the Supreme Court for revocation of their order. Two patients made application to the Supreme Court and both applications were successful.

RESTRICTION ORDER HEARINGS

This year the Tribunal issued no certificates to allow forensic patients on Restriction Orders to apply to the Supreme Court for discharge of their order. The number of applications for leave increased and in all cases the Tribunal granted the leave.

KEY FORENSIC STATISTICS OVERVIEW

| KEY FORENSIC STATISTICS OVERVIEW | | | |
|---|-----------|-----------|------------|
| FORENSIC HEARINGS LISTED | 2015-16 | 2016-17 | 2017-18 |
| Review of Restriction Order Hearing | 12 | 9 | 8 |
| Review of Supervision Order Hearing | 28 | 31 | 27 |
| Interim Authorisation of Treatment Hearing | x | 11 | 11 |
| Authorisation of Treatment Hearing | 3 | 12 | 16 |
| Authorisation of Treatment - 60 Day Review Hearing | na | na | 2 |
| Authorisation of Treatment - 180 Day Review Hearing | na | na | 9 |
| Authorisation for Detention Hearing | x | 13 | 3 |
| Extension of Detention Hearing | x | x | 4 |
| Review of Prisoner Transfer to SMHU | X | x | 11 |
| Leave of Absence Hearings | 12 | 6 | 11 |
| TOTAL LISTED HEARINGS* | 55 | 82 | 102 |
| Relisted from Adjournment | 4 | 2 | 9 |

| FORENSIC HEARINGS DECISIONS | 2015-16 | 2016-17 | 2017-18 |
|---|----------|----------|-----------|
| Restriction Order Warranted | x | x | 8 |
| Certificate Issues - Restriction Order | 2 | 2 | 0 |
| Supervision Order Warranted | x | x | 15 |
| Certificate Issues - Supervision Order | 11 | 13 | 10 |
| Authorisation for Detention in SMHU | x | x | 3 |
| Extension of Detention Authorised | x | x | 4 |
| Interim Authorisations Made | x | 11 | 11 |
| Application for Authorisation of Treatment - Refused | x | x | 3 |
| Application for Authorisation of Treatment - Authorised | x | x | 11 |
| Authorisation of Treatment - 60 Day Review - Varied | x | x | 0 |
| Authorisation of Treatment - 60 Day Review - Affirmed | x | x | 2 |
| Authorisation of Treatment 180 Day Review - Varied | x | x | 2 |
| Authorisation of Treatment 180 Day Review - Affirmed | x | x | 7 |
| Leave of Absence - Extended | x | x | 1 |
| Leave of Absence - Granted | x | x | 8 |
| Leave of Absence - Varied | x | x | 2 |
| Admission to SMHU Affirmed | x | x | 11 |
| TOTAL DECISIONS* | x | x | 98 |
| Adjournments | 4 | 2 | 9 |

| FORENSIC ORDERS ENDED/SUSPENDED* | 2015-16 | 2016-17 | 2017-18 |
|--|----------|----------|----------|
| Restriction Orders Revoked | 2 | 0 | 0 |
| Supervision Orders Revoked | 0 | 4 | 2 |
| Supervision Orders Suspended while in Prison - Depending on the 'Type' | x | x | 2 |
| TOTAL ORDERS ENDED OR SUSPENDED* | 2 | 4 | 4 |

Table 5. Key Forensic Statistics Overview

FORENSIC HEARINGS HELD

In 2017-18, the Tribunal heard 102 forensic matters that were conducted by a combination of one and three member panels which is an increase from 2016-17 by 18 hearings. This can be attributed to the additional 60 and 180 day reviews of Authorisation of Treatment that are now required after the 1 July 2017 amendments. A breakdown of the hearing types for three member hearings can be found in Figure 14.

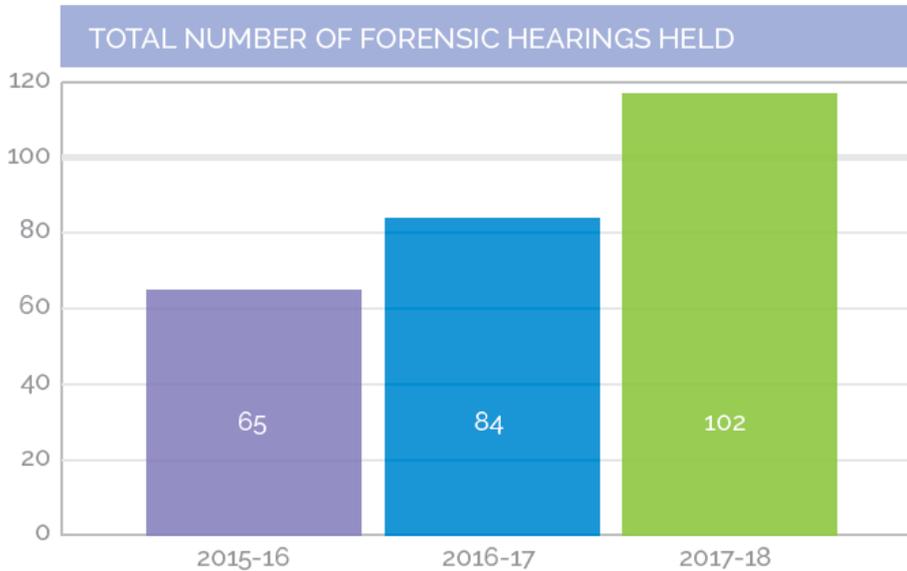


Figure 13. Total Number of Forensic Hearings Held Comparison 2015-16, 2016-17 and 2017-18

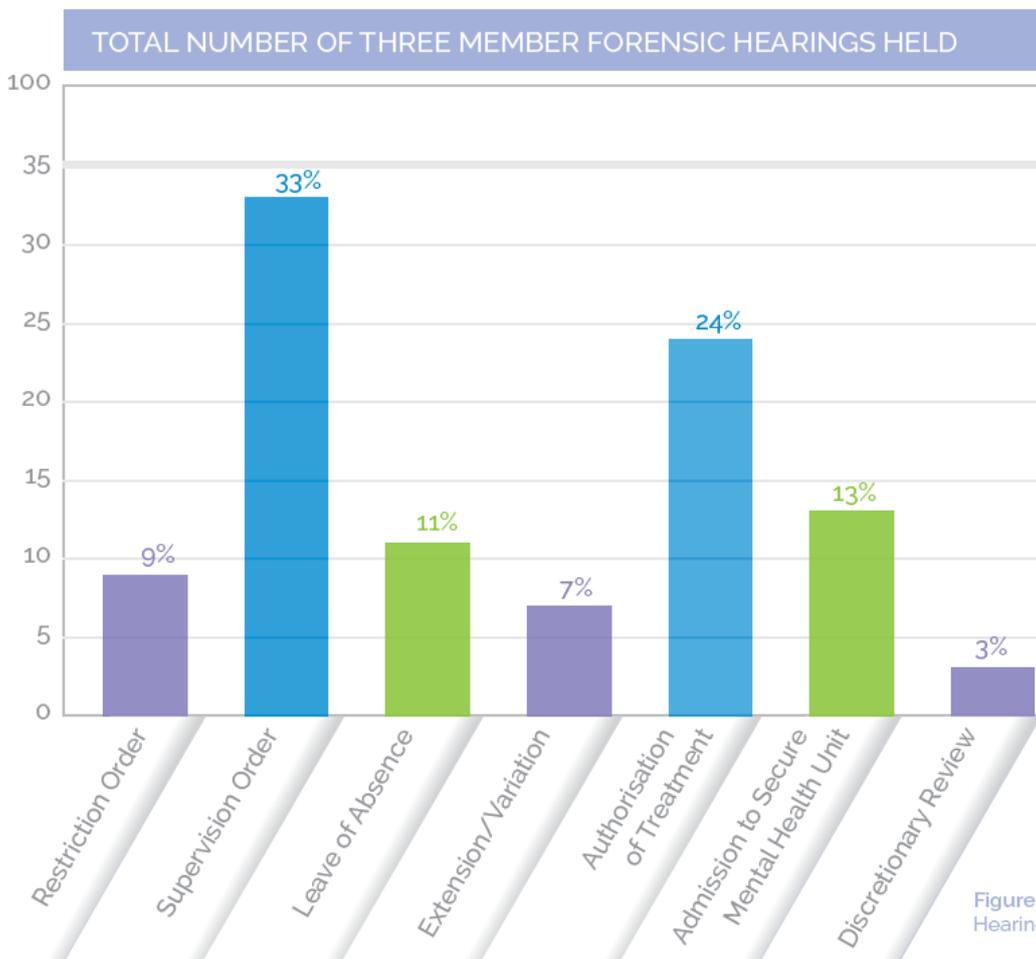


Figure 14. Three Member Forensic Hearing Types Held 2017-18

FORENSIC PATIENT ATTENDANCE AT HEARINGS

In 2017–18, 80% of forensic patients attended their hearings.

FORENSIC PATIENT ATTENDANCE 2017-18

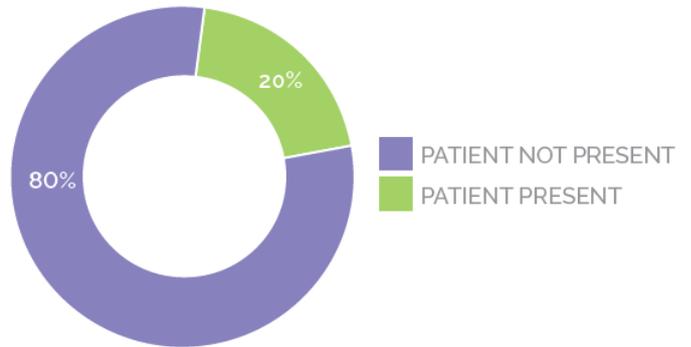


Figure 15. Forensic Patient Attendance 2017-18

FORENSIC PATIENT REPRESENTATION AT HEARINGS

The percentages in Figure 16 indicate representation of Legal Aid Commission and Advocacy Tasmania at forensic patient hearings and the percentage of those patients who did not request these services.

61% of forensic patients were represented by Legal Aid Commission at their hearing and Advocacy Tasmania did not represent any forensic patients during 2017-18.

FORENSIC PATIENT REPRESENTATION

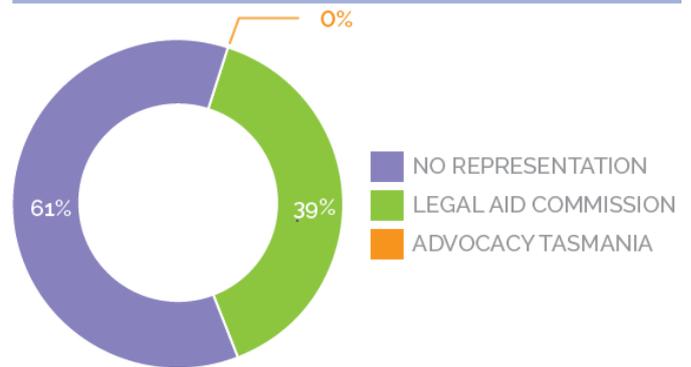


Figure 16. Forensic Representation at Hearings 2017-18

GENDER OF FORENSIC PATIENTS

In 2017-18, 95% of forensic patients were male, 5% were female.

GENDER OF FORENSIC PATIENTS

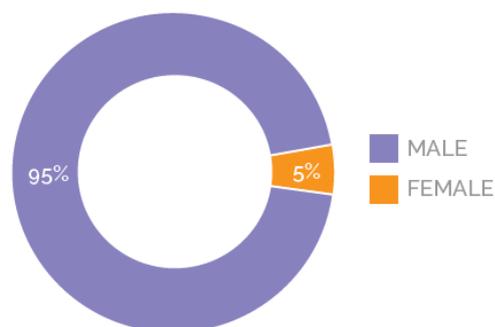


Figure 17. Gender of Forensic Patients 2017-18

AGE OF FORENSIC PATIENTS

The percentages in Figure 18 show that the majority of patients on forensic orders (76%) in Tasmania during 2017-18 are aged between 31 and 50.

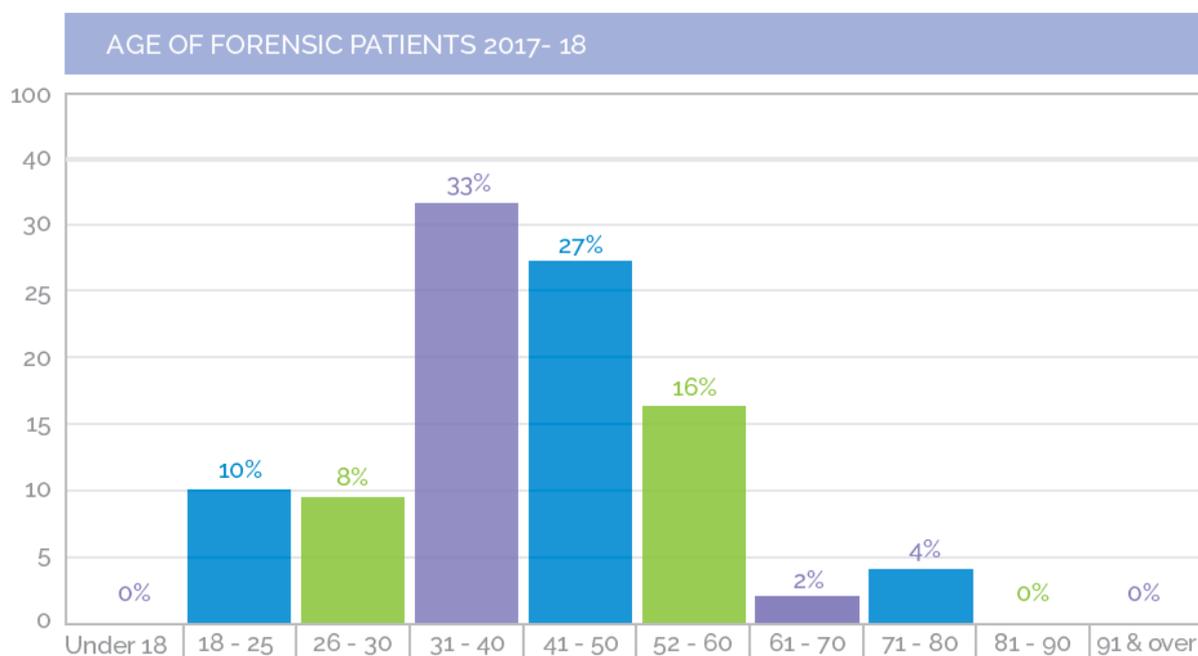


Figure 18. Age of Forensic Patients 2017-18

PRIMARY DIAGNOSIS – FORENSIC PATIENTS

The percentages in Figure 19 indicate the primary diagnosis of forensic patients who had Tribunal hearings in 2017-18. Schizophrenia was the most prevalent mental illness affecting 63% of forensic patients.

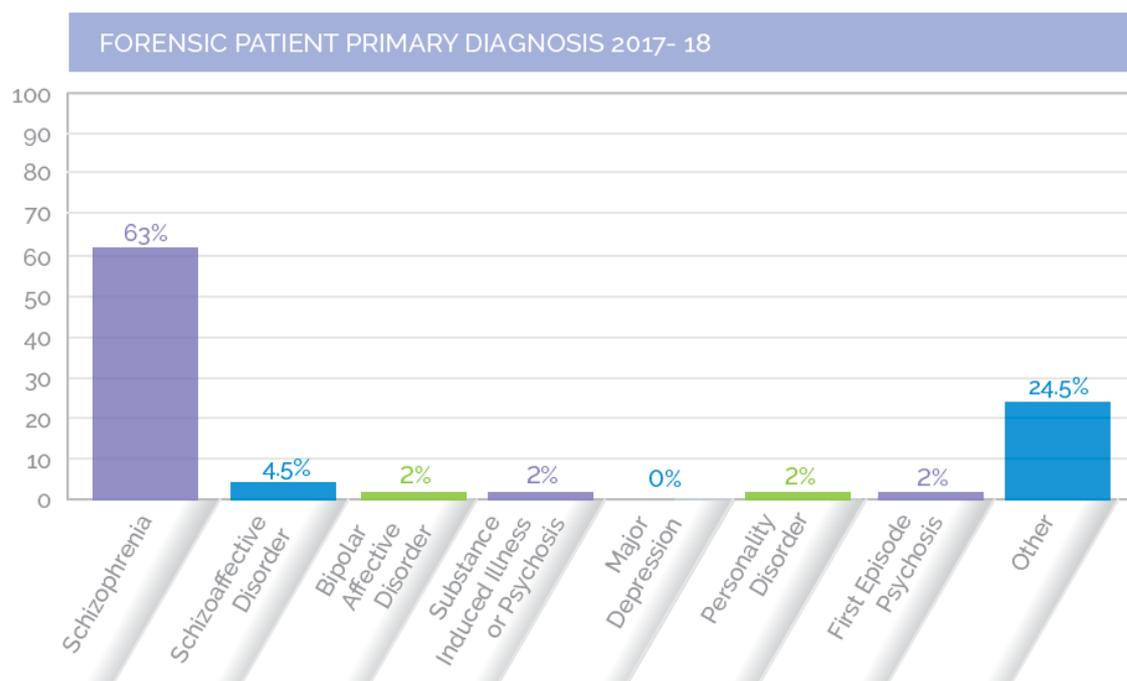


Figure 19. Forensic Patients' Primary Diagnosis 2017-18

COMORBID CONDITIONS – FORENSIC PATIENTS

The presence of one or more conditions, disorders or substance use co-occurring with the primary mental illness diagnosis is common. A comorbid condition was present in 54% of forensic patients.

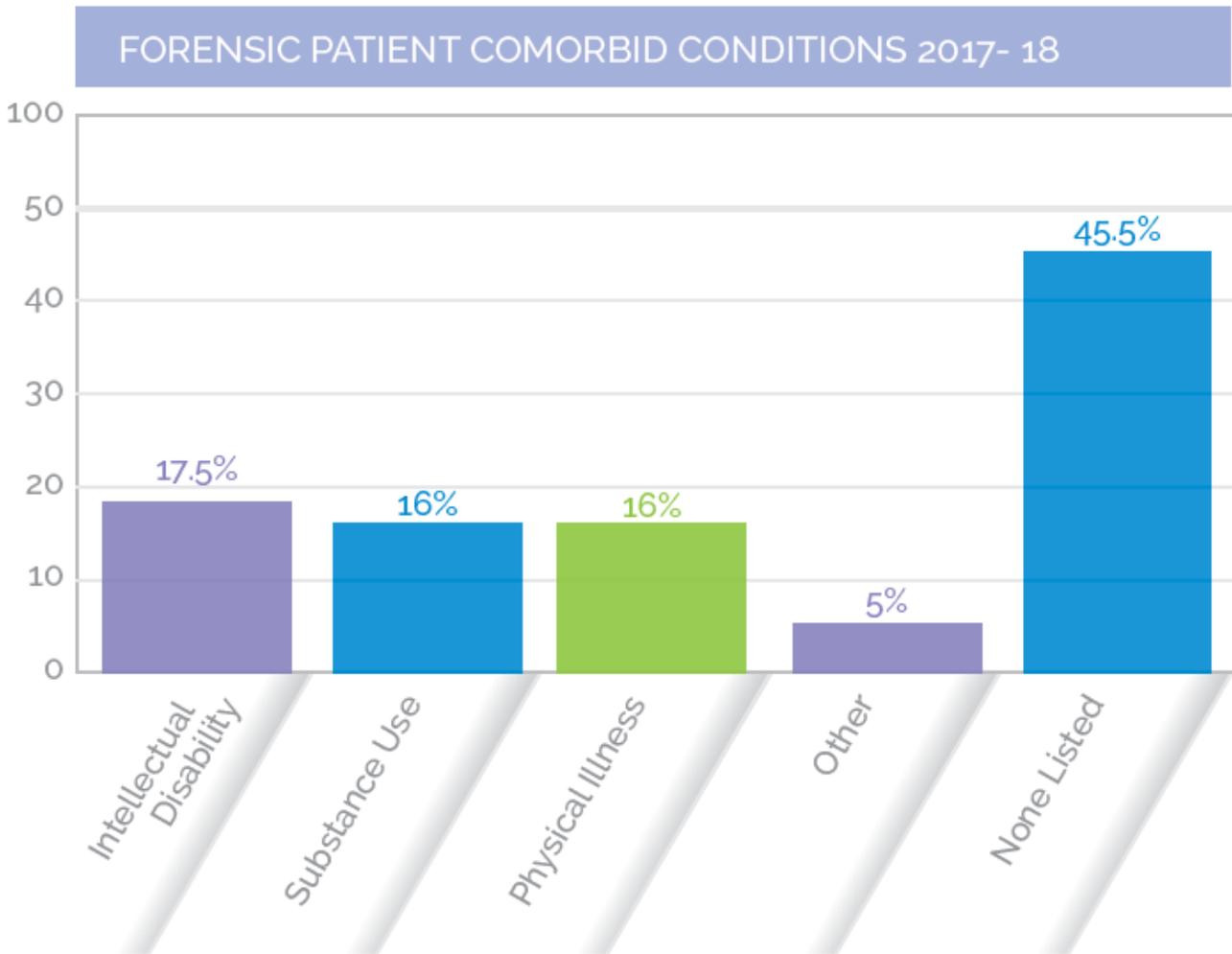


Figure 20. Forensic Patients' Comorbid Conditions 2017-18

Examples of "other" include cerebral haemorrhage, head injury, hyperthyroidism, kidney failure, autistic spectrum, acquired brain injury, intellectual disability and polysubstance use.

ELECTRO-CONVULSIVE THERAPY (ECT) REQUESTED – FORENSIC PATIENTS

During 2017-18 there were no requests for ECT as a treatment option for forensic patients.



FINANCIALS

The 2017-18 budget allocation for the Tribunal was \$1.532 million^[1]. The Tribunal's operating costs were \$1.774 million, resulting in a deficit of \$241,936.

Approximately 85 per cent of the Tribunal's expenses (\$1.44 million out of total expenses of \$1.7 million) relate to salaries for staff, and fees and associated sitting costs for Tribunal members. In detail, this is:

- salaries for the President, two Senior Legal Officers, a Registrar, an Executive Officer and three Registry staff
- fees for the Tribunal members who sit sessionally on eight to nine sitting sessions a week and for writing statement of reasons under Chapter 5, Schedule 4, Part 6 of the Mental Health Act 2013.

A steady rise in salary costs has been experienced since the implementation of the *Mental Health Act 2013*, as a result of the continuing increase in workload.

The 1 July 2017 amendments projected a decrease in some hearing types (such as the 30 day and 90 day reviews), potentially predicting savings in hearing numbers and therefore costs. However, the introduction of other hearing types saw this offset and potential savings were not realised. The introduction of the three-member panel hearing for 'admission to prevent possible harm' and of 60 and 180 day review hearings in the forensic jurisdiction increased the number of hearings and associated expenditure. The 1 July 2017 amendments saw a slight increase in hearing costs early in 2017-18 as over 250 orders were transitioned by three-member panel hearing sessions.

During the year, there were low permanent staff levels, due to staff leaving or transferring to other areas of the Department of Justice. To address this, the Tribunal engaged temporary/contract staff, which resulted in increased salary expenditure (see 'other expenses' in Table 6). These low staff levels have at times reduced our capacity to progress a

number of necessary projects: for example, the documentation of policies and procedures, information management systems (including capturing corporate information and a retention and disposal system), website redevelopment, and a Tribunal best practice framework. Significant disruption has occurred to the Tribunal's work, in policy and procedural documentation where the Tribunal has a number of key-person dependencies.

Changes as a result of the 1 July 2017 amendments to the McGirr's case management system saw many Tribunal processes streamlined. While this resulted in a decrease in staff turnover (due to improved manageable workloads), the Tribunal remains at risk by continuing to operate with low resourcing levels as a consequence of the Tribunal's budget allocation.

Other expenses (see Table 6) included educational material for stakeholders for the 1

July 2017 amendments; security cameras and duress alarms to improve the security and safety of the Tribunal; additional temporary staff; and workers compensation insurance premiums.

The current budget allocation for the Tribunal enables the minimum level of service the Tribunal should provide. The present resources allow the Tribunal to meet its statutory obligations. However, further investment will enable the Tribunal to provide education and develop information for stakeholders, develop an excellence framework for the Tribunal, and ensure the *Mental Health Act 2013* achieves its objectives relevant to the Tribunal's involvement.

[1] In 2017-18, the Tribunal's budget allocation was increased to meet costs in line with increases in the Consumer Price Index.

| | 2015-16 | | 2016-17 | | 2017-18 | |
|---------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| | BUDGET | ACTUAL | BUDGET | ACTUAL | BUDGET | ACTUAL |
| Salaries | 848,969.00* | 774,558.39* | 849,984.00* | 812,430.93* | 858,959.00 | 867,006.66 |
| Tribunal member fees | 450,000.00 | 464,064.67 | 450,000.00 | 563,419.96 | 572,000.00 | 569,386.25 |
| Employee related expenses | 2,300.00* | 12,152.30* | 8,500.00* | 8,539.19* | 8,500.00 | 13,892.59 |
| Information technology | 38,000.00 | 38,008.39 | 50,150.00 | 35,612.17 | 35,820.00 | 42,849.85 |
| Office expenses | 14,000.00 | 19,342.94 | 11,550.00 | 15,824.14 | 12,600.00 | 25,092.77 |
| Travel expenses | 18,600.00 | 23,676.74 | 20,600.00 | 24,270.78 | 26,380.00 | 34,380.72 |
| Property expenses | 87,500.00 | 89,474.52 | 94,000.00 | 105,547.40 | 106,320.00 | 107,734.72 |
| Other expenses | 18,970.00 | 101,754.02* | 8,608.00 | 130,323.99* | 62,417.00 | 114,299.27 |
| BUDGET DEFICIT | x | x | x | x | -150,290 | -241,939 |
| TOTAL | 1,478,339.00 | 1,523,031.97 | 1,493,392.00 | 1,695,968.56 | 1,532,706.00 | 1,774,642.83 |

Table 6. Financial Summary

*Figures updated from previous reporting, not affecting totals.

x Not previously reported.



FUNCTIONS & PROCEDURES

The Tribunal's primary functions are established under the *Mental Health Act 2013* and include:

- to make, vary, renew and discharge treatment orders
- to authorise the treatment of forensic patients
- to conduct reviews in relation to certain matters for involuntary and forensic patients
- to authorise special psychiatric treatment
- to determine applications for leave for patients subject to Restriction Orders
- to carry out any further functions given to it under this or any other Act.

Under the *Criminal Justice (Mental Impairment) Act 1999* the Tribunal also has responsibility for the review of Supervision and Restriction Orders.

In some cases an Assessment Order will be the first step towards an application being made to the Tribunal for a Treatment Order.

MENTAL HEALTH TRIBUNAL ORDERS

The Tribunal's primary functions are making and reviewing treatment orders for involuntary¹ patients (civil²) and determining matters for forensic patients.

CIVIL MATTERS

ASSESSMENT ORDER (AO)

An Assessment Order is a short term mechanism for a person to be assessed for mental illness, without informed consent, by an approved medical practitioner to determine whether the assessment and/or treatment criteria are met.

An Approved Medical Practitioner (AMP) may make an assessment order if they believe that a person needs to be assessed against the assessment criteria. The assessment criteria are:

The person has, or appears to have, a mental illness that requires or is likely to require treatment for

- the person's health or safety; or
- the safety of other persons; and
- cannot be properly assessed with regard to the mental illness or the making of a treatment order except under the authority of the assessment order; and
- does not have the capacity to make decisions regarding assessment for themselves.

¹ 'Involuntary patient means a person who is subject to an assessment order or treatment order', s3 *Mental Health Act 2013*. ² The notion of 'civil' is encompassed in section 143(4) of the Act where the responsibilities of the Chief Civil Psychiatrist are held to be in relation to patients other than – (i) forensic patients; or (ii) persons who are subject to supervision orders.

In some cases an Assessment Order will be the first step towards an application being made to the Tribunal for a Treatment Order.

An Assessment Order may authorise a patient's admission to and detention in an approved hospital for and in connection with the assessment that is authorised by the Order.

An assessment order lasts for 24 hours, unless an approved medical practitioner affirms the assessment order, in which case the order may be extended, once, by a period not exceeding 72 hours.

INTERIM TREATMENT ORDER (ITO)

When making an application to the Tribunal for a Treatment Order in respect of a person with a mental illness, the Approved Medical Practitioner (AMP) may request that an Interim Treatment Order be made.

An Interim Treatment Order may be necessary if the Tribunal cannot determine the application before the assessment order expires. It provides the applicant with the authority to treat a person until a treatment order is determined. It also provides authority for a patient's detention in an approved facility.

An application for an Interim Treatment Order may be determined by a single member of the Tribunal and the Order is valid for 10 days.

TREATMENT ORDER (TO)

A Treatment Order is an order, made by the Tribunal, which authorises treatment for a person with mental illness, without the person's informed consent. A Treatment Order can be applied for by any Approved Medical Practitioner.

A Treatment Order may follow directly from an Assessment Order or be initiated for a person who is not, at the time of application, subject to an Assessment Order.

While a Treatment Order is in operation it provides authority for the patient to be given the

treatment, or types of treatment, specified in the Order.

A Treatment Order can operate in the community, or in hospital, or in some combination of treatment settings. An order which operates in the community is authority for any mental health officer or police officer to take the patient under escort to ensure that he or she presents for treatment under the Order.

The Tribunal may also make a Treatment Order which includes a requirement in relation to treatment setting and detention.

The Tribunal may make a treatment order in respect of a person if, and only if it is satisfied that –

An Approved Medical Practitioner has applied for a Treatment Order in respect of the person; and

The requirements of s37 of the Act have been met in respect of the application; and

- The person meets the treatment criteria set out in s40 of the Act:
- the person has a mental illness; and
- without treatment, the mental illness will, or is likely to, seriously harm –
- the person's health or safety; or
- the safety of other persons; and
- the treatment will be appropriate and effective in terms of the outcomes referred to in section 6(1); and
- the treatment cannot be adequately given except under a treatment order; and
- the person does not have decision-making capacity.

A Treatment Order application must be determined within 10 days of being lodged with the Tribunal and must be heard by a panel of three Tribunal Members

See **Appendix C** for a standard Treatment Order workflow.

RENEWAL OF AN ORDER

A Treatment Order will be in effect for the period determined by the Tribunal and can be renewed for up to six months, on first renewal up to twelve months on second renewal. A Treatment Order will automatically expire unless it is renewed through an application by an approved medical practitioner. An application for renewal must be made ten days before the day the current Order will expire. There is no limit to the number of times a Treatment Order may be renewed.

There are automatic reviews undertaken by the Tribunal built into the life of every order and also opportunities for a person to request a review.

ADMISSION OF CIVIL PATIENT TO A SECURE MENTAL HEALTH UNIT (SMHU)

An involuntary patient may be admitted to a Secure Mental Health Unit in certain, limited, circumstances. These are not forensic patients.

Admission of an involuntary patient to a Secure Mental Health Unit is only to be in accordance with the requirements of section 63 of the Act and only if the Chief Civil Psychiatrist has made a formal request to the Chief Forensic Psychiatrist. All admissions are reviewed by the Tribunal.

FORENSIC MATTERS

TRIBUNAL REVIEW OF FORENSIC ORDERS

The Supreme Court may make a person subject to a Forensic Order (Restriction or Supervision Order) if that person has been found unfit to stand trial or found not guilty of an offence by reason of insanity. Forensic Orders may apply to those with mental impairment or other condition or disability, including intellectual/cognitive impairment.

A Restriction Order requires the person subject to the Order to be admitted and detained in a Secure Mental Health Unit (SMHU) until the

Order is discharged by that Court. A Supervision Order releases the person subject to the Order to the community under the supervision of the Chief Forensic Psychiatrist and the person is subject to conditions specified in the Order.

Section 37 of the *Criminal Justice (Mental Impairment) Act 1999* mandates that the Tribunal:

- review each Forensic Order under the *Mental Health Act 2013*, within 12 months after the Order was made; and at least once every 12 months after that, until the Order is discharged/revoked by the Supreme Court.
- At each review hearing, the Tribunal must apply the principle set out in the Criminal Justice Mental Impairment Act that restriction on the person's freedom and personal autonomy should be kept to a minimum consistent with the safety of the community. The Tribunal is also to have regard to:
 - the nature of mental impairment or other condition or disability, and
 - whether the person is, or would if released be, likely to endanger another person or persons generally, and
 - whether there are adequate resources available for the treatment and support of the person in the community, and
 - whether the person is likely to comply with conditions of an Order imposed; and
 - any other relevant matters.
- The Tribunal on review, may determine that:
 - The Order is still warranted and the conditions remain appropriate
 - The Order is no longer warranted, or that the conditions of the Order are now inappropriate. If that is the determination, the Tribunal must issue a certificate to that effect. This enables a defendant to apply to the Supreme Court to have the Order discharged, revoked or varied. If a certificate is issued, the Tribunal may recommend to the Supreme Court that another type of Order be made in respect of the defendant and/or conditions on discharge/revocation that may be appropriate.
 - The Supervision Order should be revoked, and instead a Restriction Order should be

made. In that event, the Tribunal is to recommend to the Secretary of the Department of Health to apply to the Supreme Court to have the Supervision Order revoked and a restriction Order be made.

AUTHORISATION FOR DETENTION

Under Section 31 of the *Criminal Justice (Mental Impairment) Act 1999*, a person subject to a Supervision Order may be apprehended and detained at a SMHU. If a person prescribed under that Act believes, on reasonable grounds, that the person has breached or is likely to breach the conditions of their Supervision Order, or there has been or is likely to be a serious deterioration in the person's mental health.

Once a person is apprehended for breach of Supervision Order, he or she is taken to Wilfred Lopes Centre (the only SMHU in Tasmania) and may be detained for up to four days with no oversight of the Tribunal. If the person is required to be held longer than four days, an application for further detention must be made to the Tribunal. One member of the Tribunal can authorise the further detention of the person until the application for extension of detention can be determined by the Tribunal at hearing. If further periods of extension of detention are required, further application must be made to the Tribunal for extension(s) of period of detention. The Tribunal determines all applications for further periods of detention.

FORENSIC PATIENTS

In addition to those who have been made subject to Restriction Orders, a forensic patient is defined as any person who has been admitted to a SMHU, and who has not yet been discharged from that unit. This may include:

- persons who have been ordered by a Court to be detained in a SMHU, rather than in

prison, while they are awaiting trial, during a trial or pending a sentencing decision (including where a court has ordered a person to be detained in a SMHU for assessment)

- persons subject to a Supervision Order who have breached or who are considered likely to breach the Order and who have been apprehended and admitted to a SMHU (see above)
- sentenced prisoners and remandees who have been admitted from prison
- sentenced detainees who have been admitted from Ashley Youth Detention Centre

AUTHORISATION OF TREATMENT

- Under Section 88 of the *Mental Health Act 2013*, an application for Authorisation for Treatment must be made in writing to the Tribunal from an Approved Medical Practitioner (AMP) in order for a forensic patient to receive treatment if the forensic patient:
 - Has a mental illness, and
 - Without treatment the mental illness will, or is likely to seriously harm the person's health or safety nor the safety of other persons, and
 - The treatment will be appropriate and effective, and
 - The patient does not have decision making capacity.

A single Tribunal member can authorise treatment on an interim basis for a maximum of 14 days in relation to the application. A three-member panel hearing must be held within that period to determine the application.

LEAVE OF ABSENCE

Section 78 of the Mental Health Act makes provision for leave of absence from a SMHU for a forensic patient subject to a Restriction Order. If leave of absence is granted by the Tribunal, the Tribunal (under section 79) may extend or vary the leave.

The Tribunal must notify the Victim Support Service (VSS) of all leave applications. A search of the Eligible

Persons Register is conducted by VSS and any persons registered in relation to the offence are notified of the application and are able to make submissions in respect of it. The Tribunal is also required to notify any other person who in the Tribunal's opinion should be notified of the application, and advise of their right to make a written submission regarding the application. The Tribunal must consider these submissions prior to granting or refusing the leave.

ADMISSION TO SMHU OF PRISONER OR YOUTH DETAINEE

When a prisoner, a person on remand or youth detainee is transferred to the SMHU the Tribunal must review the admission within seven days of being notified of the admission. At hearing of the review the Tribunal may:

- affirm the admission; or
- recommend consideration be given to returning the patient to prison or detention centre;
- direct the patient be discharged from the SMHU and returned to prison or detention centre.

REVIEWS

The Tribunal has a wide range of review powers in respect to both involuntary civil and forensic patients. The most frequently heard reviews include:

- 60 day review – The Tribunal must undertake a review of a Treatment Order within sixty days of it being made if it has not been discharged or expires.
- 180 day review – The Tribunal must undertake a review of a Treatment Order within one hundred and eighty days of a Treatment Order being further renewed, and every 180 days thereafter until it is discharged or expires.
- 60 day review – The Tribunal must undertake a review of an Authorisation of Treatment within sixty days of it being made if it has not been discharged.

- 180 day review – The Tribunal must undertake a review of an Authorisation of Treatment within one hundred and eighty days of it being made, and every 180 days thereafter until it is discharged.
- 3 day review of detention at an approved hospital - The Tribunal must review a Treatment Order within 3 days after it has been notified of a patient's detention at an approved hospital due to failing to comply with the Treatment Order or an admission to prevent possible harm.
- 3 day review of involuntary admission to the SMHU - the Tribunal must review the admission (or extension of admission) within 3 days after being notified of the admission (or extension)
- the Tribunal also has the power to conduct a review on its own motion at any time where the Act does not expressly provide for a review (see Figure 22 Own motion reviews on page 47)
- reviews can also be undertaken on the application of any person with the necessary standing.

In undertaking a review the general powers of the Tribunal allow it to combine a mandatory review with a discretionary review; refer any matter concerning the review to the relevant Chief Psychiatrist for possible intervention; issue any related or incidental directions it considers appropriate; and issue recommendations to people it considers appropriate.

A full list of review powers can be found at **Appendix B**.

MENTAL HEALTH TRIBUNAL HEARINGS

CONDUCT OF HEARINGS AND PROCEDURE

The Act provides that the Tribunal may sit in divisions. A division consists of one Tribunal member or three or more members to hear and determine matters within the jurisdiction of the Tribunal.

Each three member division is made up of a legal member (the Chair), a psychiatrist member and a general member.

The Act provides a framework for Tribunal hearing procedures but allows discretion in the manner in which hearings are conducted. The Tribunal ensures that the hearings are informal, inclusive and non-adversarial. The Tribunal considers this is the best way to achieve both fairness and efficiency, balancing the need to ensure that questions of liberty are dealt with appropriately and thoroughly, while remaining mindful of not harming the therapeutic relationship between patients and their treating teams.

Hearings are generally conducted in person either at the approved facility where the patient is being treated or in a meeting room, adhering to safety requirements in the community.

Generally present at hearings, other than the Tribunal members, are the patient and the treating medical practitioner and any representatives including relatives or friends of the patient. Patients in the community may also have a case manager in attendance.

The Tribunal has developed resources to assist members with conducting hearings and discharging their responsibilities including a Members resource manual and practice directions.

PRACTICE DIRECTIONS

The President may issue practice directions in relation to the practice and procedure of the Tribunal to complement existing legislation, and to clarify issues that arise in the course of the Tribunal function.

REPRESENTATION

Legal Representative

Some patients may not be able to present their views as well as they would like to due to their illness or reluctance to speak for various reasons. All patients of any proceedings have the right to representation, either by a private solicitor or by the Legal Aid Commission of Tasmania. The Registry provides representation information pamphlets with each hearing notification.

If a patient has requested legal representation, the legal representative may write to the Tribunal to request documentation in relation to a matter that is or has been before it.

The Tribunal may adjourn proceedings if it deems a patient is, or may be unable to make arrangements for representation and is not, or may not be receiving assistance elsewhere. In such cases the Registry will make arrangements for representation on the patient's behalf and the hearing may be rescheduled if necessary to allow adequate time for instructions to be communicated.

Advocate

Advocacy Tasmania runs the Mental Health Tribunal Representation Scheme. It has trained advocates who assist patients in putting their views to the Tribunal. The services provided by Advocacy Tasmania are free of charge and available to any persons requesting its service.

Support Person

People, such as a relative, carer, friend or other support person, can attend a hearing to give support and to assist in putting views to the Tribunal and the treating team.

ADJOURNMENTS

The Tribunal may adjourn proceedings on any particular matter.

On adjourning any proceedings, the Tribunal may make any Interim Orders or determinations it considers appropriate in the circumstances.

Matters can be adjourned for many and varied reasons some of which include: the patient or other necessary party being unavailable; a required report has not been undertaken or the patient has not been assessed; or time is needed for engagement of (or further instructions given to) a legal representative.

DETERMINATIONS AND ORDERS

The Tribunal delivers its determination orally at the conclusion of the hearing and completes a written determination to reflect this decision. A copy of the order determination is provided to the patient at the conclusion of the hearing. A formal Order is also produced and mailed to the patient, the treating medical practitioner and case manager (if applicable) once it has been processed by the Registry and signed by the Registrar.

STATEMENT OF REASONS

Any party to proceedings has a right to request a written statement of reasons within 30 days of the Tribunal's determination. A party to proceedings is defined in Schedule 4, Part 1, Section 1 of the Act.

The Tribunal has 21 days to provide the statement of reasons. The reasons are prepared by the Chair of the Tribunal and approved by the other 2 members sitting on the day.

Any statement that is written is provided to all parties to the proceeding in accordance with the Act. In order to protect the privacy of patients and witnesses, statements of reasons refer to all persons present at the hearing by their initials only.

The Tribunal always provides a statement of reasons for a review of a Restriction Order or Supervision Order on its own initiative where a certificate has been issued to assist a patient to apply to the Supreme Court to discharge, vary or revoke their order.

In 2017-18 there were 57 written statements of reasons for civil hearings and 7 written for forensic matters. (Figure 21)

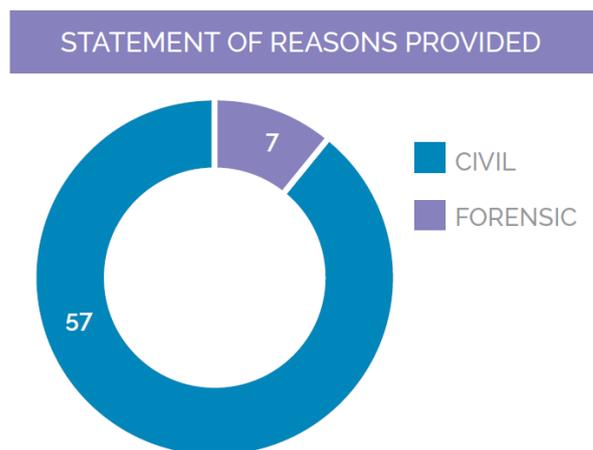


Figure 21. Statement of Reasons Provided

OWN MOTION REVIEWS (INVESTIGATIONS)

The Tribunal has specific review functions under the Act. The Tribunal has the power to review, or investigate, a matter at any time on its own motion or at the request of another person with standing.

The Tribunal receives documentation and/or mandatory reports in relation to matters concerning patients (see Table 7 below). All documentation and reports are analysed. Where discrepancies are found in the actions by other parties in relation to patients the Tribunal corresponds with the relevant party for an explanation as to circumstances leading to that.

The Tribunal may refer any of these matters to the Chief Civil and Forensic Psychiatrist for further investigation. For more serious anomalies, investigation results can be forwarded to the Director of Public Prosecutions (DPP) for advice as to whether prosecution by the DPP is warranted.

Specifically, the Tribunal can review on its own motion (investigate) the matters in Table 7.

In 2017-18, the Tribunal conducted 63 own motion reviews, 20 more than the previous financial year. (Figure 22)

| STATUTORY PROVISION OF THE ACT | AREA OF REVIEW |
|--------------------------------|--|
| S 114 | Rights of forensic patients in SMHU |
| s 180(a) | Assessment Orders (AO) |
| s 181(1)(e) | Treatment Orders (TO) |
| s 182(b) | Involuntary admission to SMHU |
| s 183(a) | Refusal to return forensic patient to external custodian |
| s 184(d) | Status of voluntary inpatient |
| s 185(b) | Admission to SMHU of prisoner or youth detainee |
| s 186(1)(a) | Urgent circumstances treatment (UCT) |
| s 187(a) | Seclusion and restraint |
| s 188(a) | Force |
| s 189(a) | Withholding of information from patient |
| s 190(a) | Involuntary patient or forensic patient transfer within Tasmania |
| s 191(a) | Determinations relating to leave of absence (LOA) |
| s 192(a) | Exercise of visiting, telephone or correspondence right |
| s 194(a) | Other reviews |

Table 7. Matters the Tribunal has the Power to Conduct an Own Motion Review

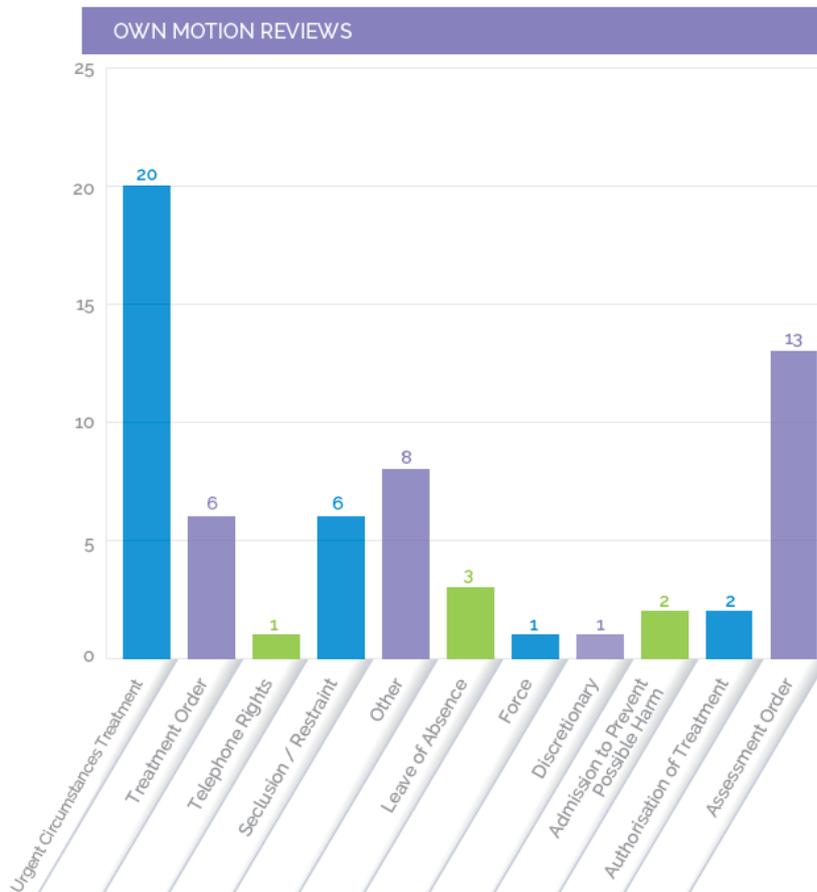


Figure 22. Own Motion Reviews Conducted 2017 - 2018

APPEALS

Under s174 of the Act, a person who is a party to a Tribunal proceeding may appeal to the Supreme Court from a determination made in those proceedings.

An appeal must be lodged within 30 days after a determination is given by the Tribunal, or within 30 days after the person is provided with a statement of reasons.

No appeals were lodged with the Supreme Court of Tasmania during the 2017-18 financial year.

REGISTRY AND ADMINISTRATIVE PROCEDURES

SCHEDULING OF HEARINGS

The Registry is responsible for scheduling the Tribunal's hearings. Hearings are held four days a week, fifty two weeks a year, in three regions, with a morning and afternoon session of up to five matters each. Further unscheduled sessions are required from time to time, which run simultaneously with other regular sessions. Scheduling of hearings is undertaken via the Tribunal's case management system.

NOTIFICATION

Under the Act the Tribunal is required to provide reasonable notice in writing of hearings. Notice is provided to each patient and any other relevant parties, which may include:

- members of the treating team
- responsible person - nominated on the application
- case manager
- relevant Chief Civil and Forensic Psychiatrists
- other persons determined by the Tribunal to be necessary to proceedings.

The Registry also contacts all parties prior to a hearing by email or telephone to determine their attendance and hearing contact sheets are provided to sitting members for each hearing.

PROCESSING OF DETERMINATIONS AND ORDERS

The Registry is responsible for receiving all applications and correspondence in relation to patients. This information is vetted, entered into the case management system and prepared into files, along with the preparation of decision/determination documentation and draft order information for the relevant hearing. Subsequent to a matter being heard, the Registry staff process the draft documents, entering into the case management system or other manual system and producing the formal order and any other required correspondence, which is then distributed to the relevant parties.

CASE MANAGEMENT SYSTEM

The Tribunal currently uses the McGirrs Court Management System (MCMS) product to support its civil and forensic functions and processes. The Registry is responsible for entering and maintaining the data in the system

to ensure information provided to hearings is accurate. These staff are also responsible for identifying system issues and liaising with account managers to rectify and initiate improvements.

RECORDINGS

It is the policy of the Tribunal that all proceedings are recorded. The Registry maintains an historical record of the hearing recordings.

The recordings are used for the purposes of:

- assisting Tribunal members in writing statement of reasons when a request is made to the Tribunal, or
- producing a transcript when an appeal in the Supreme Court is initiated; or
- to be listened to by a legal representative or other relevant person upon request.

VENUES AND VIDEO CONFERENCE

The Tribunal sits at 12 different venues around the state:

| HEARING SESSION TYPE | FACILITY/VENUE |
|---------------------------|---|
| Inpatient hearings | Royal Hobart Hospital, Hobart |
| | Launceston General Hospital, Launceston |
| | North West Regional Hospital, Burnie |
| | Millbrook Rise Centre, New Norfolk |
| | Roy Fagan Centre, Lenah Valley |
| | Wilfred Lopes Centre, Risdon |
| In the community hearings | Level 4/144 Macquarie Street, Hobart |
| | 52 Frankland Street, Launceston (ACMHS) |
| | 1 Strahan Street, Burnie (BACMHS) |
| | 34 Oldaker Street, Devonport (DACMHS) |
| | St Marys District Hospital, St Marys |
| | Flinders Island Community Centre, Flinders Island |

Table 8. Hearing Venues Statewide

Wherever possible the Tribunal conducts in-person hearings with all parties in attendance. Where all parties cannot be present in person video conference and teleconference facilities are used. All venues attended by the Tribunal have video conference capability. The video conference facilities belong to and are managed by the Department of Health and Human Services.

ROSTERING MEMBERS

Availability of the Tribunal members to sit at hearings is requested every three months and a roster is produced by the Registry for each region, i.e. South, North and Northwest Tasmania. The

Registry have the responsibility of amending the roster when changes occur to a members availability due to circumstances such as conflict of interest, other employment priorities, illness, personal matters and leave.

INTERPRETERS

The Tribunal provides the services of an interpreter whenever requested by the patient or the Tribunal considers an interpreter is required, to ensure that the patient is given every opportunity to understand and participate in the hearing process. In 2017-18 there were 4 requests made for an interpreter.



APPENDIX A

MEMBERSHIP LIST

All members with expiration of appointments at 31 May 2018 have had appointment dates extended whilst the recruitment process is underway.

| Full Time Members | Expiration of Appointment |
|---|---------------------------|
| President Ms Yvonne Chaperon | 17 Feb 2019 |
| Deputy President Mr Richard Grueber | 15 Dec 2018 |
| Investigation Officers | |
| Thomas Saltmarsh | 31 May 2018 |
| Merrilyn Williams | 31 May 2018 |

| Legal | Expiration of Appointment |
|--------------------------------------|---------------------------|
| Steve Bishop | 14 Feb 2020 |
| Sanchia Chadwick¹ | 20 Apr 2018 |
| Isabelle Crompton² | 31 May 2018 |
| Kate Cuthbertson | 14 Feb 2020 |
| Kim Hambly | 31 May 2018 |
| Jackie Hartnett | 31 May 2018 |
| Sarah House | 14 Feb 2020 |
| Anna Jordan | 14 Feb 2020 |
| Elizabeth Maclaine-Cross | 14 Feb 2020 |
| Kate Mooney | 14 Feb 2020 |
| Stuart Roberts | 14 Feb 2020 |
| Michael Stoddart | 16 Feb 2020 |
| Matthew Verney | 31 May 2018 |
| Peter Wise | 14 Feb 2020 |

| General | Expiration of Appointment |
|---------------------------|---------------------------|
| Sue Aylett | 31 May 18 |
| Charlotte Brown | 31 May 18 |
| Kym Child | 14 Feb 20 |
| Elizabeth Dagleish | 14 Feb 20 |
| Caroline Dodson | 14 Feb 20 |
| Frank Ederle | 31 May 18 |
| Marion Hale | 14 Feb 20 |
| Rowena Holder | 14 Feb 20 |
| Kylie McShane | 31 May 18 |
| Alison Merridew | 14 Feb 20 |
| David Parsons | 14 Feb 20 |
| Leon Peck | 31 May 18 |
| Kim Steven | 14 Feb 20 |
| Geoff Storr | 14 Feb 20 |
| Amy Washington | 14 Feb 20 |

| Psychiatrist | Expiration of Appointment |
|-----------------------------------|---------------------------|
| Joanna Bakas | 31 May 18 |
| Nicky Beamish | 31 May 18 |
| Julian Davis | 31 May 18 |
| Mike Jordan | 6 May 18 |
| Fiona Judd | 14 Feb 20 |
| Milford McArthur | 14 Feb 20 |
| Rita Kronstorfer | 01 Jun 18 |
| Martin Morrissey | 14 Feb 20 |
| Anil Reddy | 22 May 20 |
| Ian Sale | 14 Feb 20 |
| Matthew Warden³ | 29 Aug 17 |

¹ Employed for the period 23 February to 20 April 2018

² Resigned 31 May 2018

³ Resigned 29 August 2017

APPENDIX B

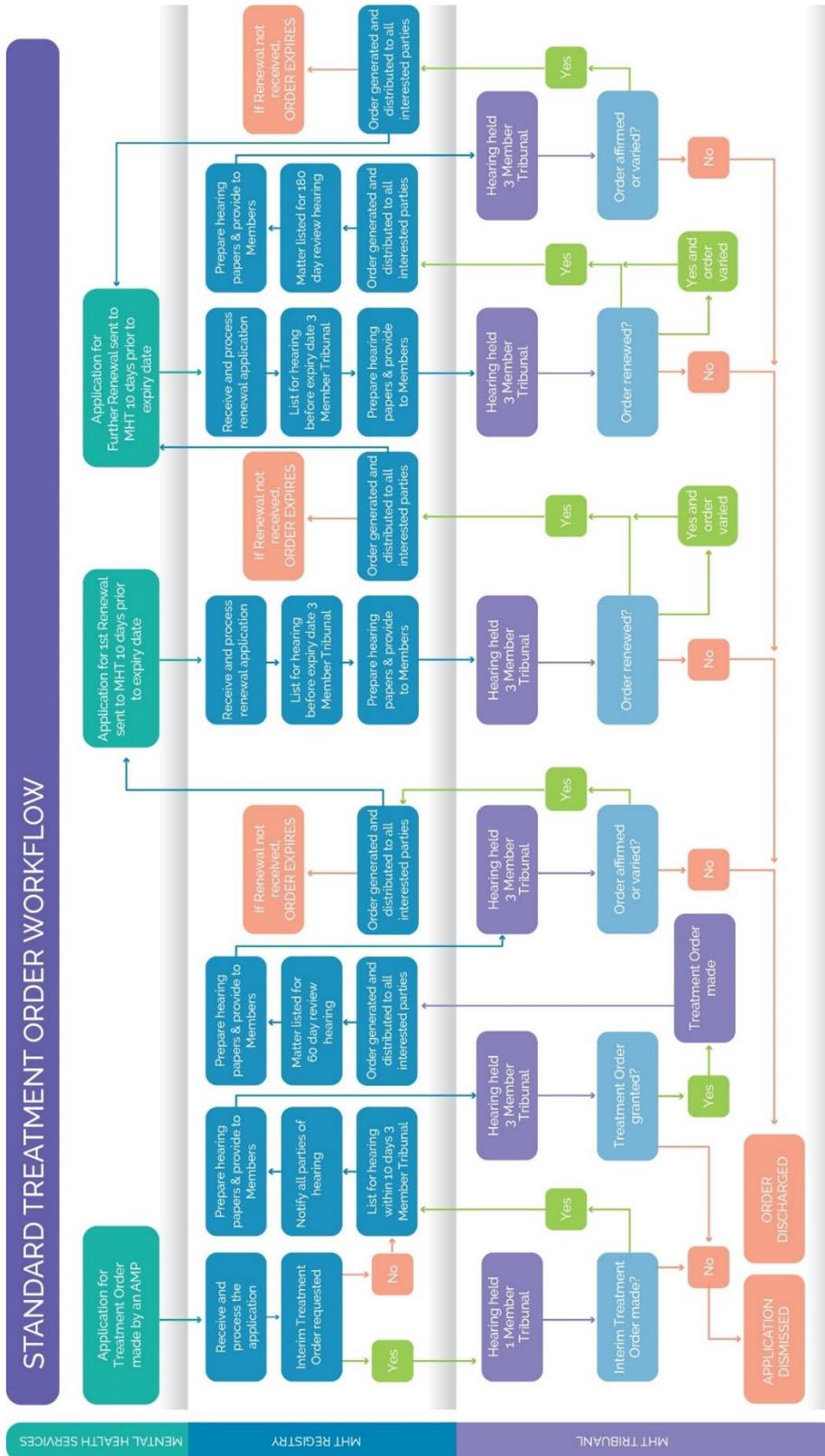
MENTAL HEALTH TRIBUNAL REVIEW FUNCTIONS

| <i>Mental Health Act 2013</i> | |
|-------------------------------|---|
| Section | Review |
| 180 | Review of Assessment Order |
| 181 | Review of Treatment Order |
| 181(1)(a) | 60 day review of Treatment Order |
| 181(1)(b) | 180 day review of Treatment Order |
| 181 (1)(c) | Further 180 day review of Treatment Order |
| 181 (1) (d) | Failure to comply (s.47) & Admission to Prevent Possible Harm (s.47a) |
| 181 (1)(e) | Own motion review / Application to Review TO |
| 181 (2) | Review of Application to vary Treatment Order |
| 182 | Review of involuntary admission to SMHU |
| 183 | Review of refusal to return forensic patient to external custodian |
| 184 | Review of status of voluntary inpatient |
| 185 | Review of admission to SMHU of prisoner or youth detainee |
| 186 | Review of urgent circumstances treatment |
| 187 | Review of seclusion and restraint |
| 188 | Review of force |
| 189 | Review of withholding of information from patient |

| <i>Mental Health Act 2013</i> | |
|--|---|
| 190 | Review of involuntary patient or forensic patient transfer within Tasmania |
| 191 | Review of determination relating of leave of absence |
| 192 | Review of exercise of visiting, telephone or correspondence right |
| 192(a)(1)(a) | Review of forensic patient's treatment authorisations – 60 day review |
| 192(a) (1)(b) | Review of forensic patient's treatment authorisations – 180 day review |
| 192(a) (1)(c) | Review of forensic patient's treatment authorisations – further 180 day review |
| 192(a) (1)(d) | Review of forensic patient's treatment authorisations – own motion review / application to review |
| 193 | Other reviews |
| 197 | On paper reviews by Registrar |
| <i>Criminal Justice (Mental Impairment) Act 1990</i> | |
| Section | Review |
| 31 | Application of defendant on supervision order |
| 36B (4) | Appeal against direction under section 36A |
| 37 | Restriction orders and supervision orders made under the Act |

APPENDIX C

Standard Treatment Order Workflow



APPENDIX D

Restriction and Supervision Order Workflow

