



Annual Report 2023



The Honourable Rose Jackson MLC
Minister for Mental Health
Parliament House
Macquarie Street
Sydney NSW 2000

15 October 2023

Dear Minister,

I enclose the Annual Report of the NSW Mental Health Review Tribunal for the period 1 July 2022 through 30 June 2023 as required by section 147 of the Mental Health Act 2007.

Yours sincerely,

Magistrate Carolyn Huntsman

President

Table of Contents

The Values We Bring to Our Work	7
The work that we do	8
President's Report	11
Engagement with stakeholders	11
Emphasising the Tribunal's Role	12
Developments in the Forensic and Civil Divisions and Tribunal trends	12
Changes at the Tribunal	13
Member training	14
Tribunal Hearings Since Lifting of COVID Restrictions	14
Recruitment	14
Staff and members	15
Forensic Division Report	16
Introduction	17
Tribunal reviews	18
Principles for care and treatment	18
Some significant numbers	18
Challenges	19
Older patients	19
Challenges	19
Forensic Division Members	20
Breaches of Tribunal orders	20
Working with our stakeholders	21
Thanks	21
Civil Division Report	22
Introduction	23
Amendments to the Mental Health Act	23
Key Statistics	23

Recruitment and Induction of New Members	24
Continuous Improvement	24
Key Relationships and Liaison	25
Carers and Consumers	26
Performance Appraisals	26
Strategic Priorities 2021-2025	27
Professional Development Events	27
Thank You	27
Civil Case Study	29
Registrar's Report	30
Case Load Summary	31
Previous Year Comparison – Number of Individuals	31
Days Elapsed Between Date Detained and Mental Health Inquiry	34
S147 Mental Health Act 2007 – Prescribed Reports	35
Mental Health Inquiries	37
Involuntary Patient Orders	37
Community Treatment Orders at Mental Health Inquiries	37
Deferred Discharge	37
Summary of Outcomes	37
Days to Mental Health Inquiry from Date Detained	38
Involuntary Patient Reviews	39
Appeals Against a Refusal to Discharge	40
Community Treatment Orders	41
Electro Convulsive Therapy (ECT)	42
Financial Management Hearings	43
Emergency Surgery & Special Medical Treatment	45
Hearing Locations and Types	52
Number of Clients	53
Persons on a CTO at 30 June	55
Representation and Attendance at Hearings	55
Hearings Proceedings in the Absence of the Patient	58
Appeals	58
Multicultural Policies and Services	59

Government Information (Public Access) Act 2009	59
Public Interest Disclosures Act 1994	59
Data Collection – Involuntary Referral to Mental Health Facilities	59
Official Visitors Program	60
Premises	60
Venues	61
Community Education and Liaison	61
Staff	61
Tribunal Members	62
Professional Development	63
Financial Report	64
Thank You	64
Appendix	66
Appendix 1 – Civil Statistics	
Table 1 – Flow Chart Showing Progress of Involuntary Patients Admitted During the Period July 2022 through June 2023	67
Table 2 – Civil Hearings – Total by Gender & Matter Description	68
Table 3 – Civil Matters by Type over 5 years	69
Table 4 – Number of Community Treatment Orders Made by Health Care Agency	70
Table 5 – CTO's made by the Tribunal & by Magistrates since 2009	74
Appendix 2 – Forensic Statistics	75
Table 6 – s78(B): first review following fitness referral from court	75
Table 7 – s78(c) first review following special verdict of act proven but not criminally responsible	75
Table 8 – s78(a) first review following nomination of limiting term	76
Table 9 – s78(D) & 79: review of forensic patients	77
Table 10 – s89: Limited Review of Those Awaiting Transfer to a Mental Health Facility	78
Table 12 – S99: Application for a Forensic CTO	80
Table 13 – MHA – S65 Application to Vary a Forensic CTO	80
Table 14 – SS91(b) & 93: Review of Correctional Patients	81
Table 15 – s100: Review of Person in custody Subject to a CTO	81
Table 16 – s109(4): Review of Person Apprehended Under Breach of Order for Leave or Release	82
Table 17 – s109(1) Orders Made for Apprehension of a Person in Breach of Order for Leave or Release	82
Table 18 – MHCIFPA s146: Application of Registered Victim for Non-Association or Place Restriction	82

Table 19 – Procedural Hearings – MHA s162 Application to Publish or Broadcast Name / BDMA s31d Approval of Change of Name	83
Table 21 – Location of Hearings Held for Forensic Patients, Correctional Patients & FCTOs	84
Table 22 – Category of Forensic Patients, Correctional Patients & FCTOs	85
Table 23 – Number of Forensic & Correctional Patients 2001 – 2023	86
Appendix 3 – The Jurisdiction of the Tribunal as at 30 June 2023	87
Appendix 4 – Organisational Structure at 30 June 2023	89
Appendix 5 – Financial Summary	90
Appendix 6 – Tribunal Members at 30 June 2023	91
Appendix 7 – MHRT Strategic Plan	95



The Values We Bring to Our Work

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

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

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

The work that we do

The Tribunal has 47 heads of jurisdiction covering:

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

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

The Tribunal also has regard to the objects set out in s69 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* which provides, amongst other things, for the protection of the safety of victims and members of the public, and for appropriate care for forensic patients.

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







President's Report

President's Report

This is my first annual report as President of the Tribunal having been appointed in late October 2022. As a Magistrate of the Local Court of NSW for a decade, and most recently as Deputy State Coroner, I am honoured to be able to contribute to the important work of the Tribunal. An impressive feature of this Tribunal is the dedication of Tribunal Members to providing quality hearing processes and outcomes, and the commitment of staff.

Indeed it is the dedication of staff and Members which has allowed the Tribunal to maintain quality, in the face of increasingly outdated technology and resources, while managing increasing workloads.

I first experienced the Tribunal 21 years ago as a part-time legal member, and I now look to current and future needs as Tribunal President. I commenced a review of what is required for a quality decision making body in 2023, and I support Tribunal Registrar, Alisa Kelley, in planning for our technological and software needs.

The Tribunal's ageing software is now at crisis point – the current case management system is over 20 years old, it is no longer able to be supported or maintained, and is facing critical failure. This is an urgent issue.

The antiquated case management system not only faces imminent failure, with all the attendant risks that encompasses, but greatly restricts our efficiency. I have experienced these restrictions myself – when contacted with an after hours inquiry, which can involve public safety, I try to retrieve information from our case management system – yet it is so slow and freezes for several minutes. It is very difficult to obtain the required information, and not possible to do so quickly. Whilst critical failure is the main concern, the Tribunal is not well served by its outdated, and non-functioning software.

The Tribunal has continued to do its work with limited technology, while other courts and tribunals have increasingly adopted software and technology solutions to improve the access and information available to stakeholders, parties, other participants, and to increase efficiency. Our Tribunal is now significantly behind comparable courts and tribunals, in New South Wales and interstate. In trying to assist the Registrar to address the issue, I have been in communication with our interstate counterparts, and the gap between what we can provide (in case management functions, digital resources, information to stakeholders, website access, and training provided to members) and that provided by our interstate counterparts, is stark.

Based on recent meetings and discussions, I am hopeful that we will gain support and funding to urgently address the risks presented by our failing case management system. I will continue my attempts to drive this process of investment and change.

Engagement with stakeholders

Soon after starting as Tribunal President, I embarked upon a process of meeting with stakeholders and to date have visited a number of hospitals/health care facilities, both in metropolitan Sydney and regional areas. I will continue active engagement as it can inform improvements in our practices. It also provides insights to the challenges, and the practical



realities of resourcing and service provision, faced by some stakeholders. I participate in various consultative committees to ensure the Tribunal contributes to debate/new approaches and that we remain connected and informed. Both full time Deputy Presidents participate in various policy development programs. I actively support such engagement by the two full time Deputy Presidents, Maria Bisogni and Michael Antrum.

Emphasising the Tribunal's Role

It became apparent soon after commencing as President, that there was a need to emphasise the role of the Tribunal as an independent, legal decision making body. The Tribunal makes decisions which affect people's rights and indeed their freedoms. It is crucial that the serious nature of the Tribunal's decision making power is recognised and respected. Respect ensures that the rights of patients and consumers, as well as carers, are upheld and promoted. Respect for Tribunal processes and decisions, facilitates the quality of hearings: health facilities with a high level of respect take actions to support positive and productive Tribunal hearings, which benefits all involved.

I have found that engagement with stakeholders has assisted to emphasise the importance of the Tribunal's processes and decisions, and the Tribunal's role within the mental health system. On behalf of the Tribunal, I engage with the responsible Ministers (in particular the Minister for Mental Health and the Attorney General), as well as with the relevant policy branches of the Departments of Health and Justice. Important ongoing engagement occurs with various hospitals and health facilities, and their clinicians and staff. I am committed to actively promoting respect for the role of the Tribunal and the important decisions it makes.

Developments in the Forensic and Civil Divisions and Tribunal trends

The developments in the Tribunal's Forensic Division and Civil Division are detailed in the reports of Deputy President Magistrate Michael Antrum, and Deputy President Maria Bisogni. Statistical trends are set out in the report of Tribunal Registrar, Alisa Kelley. I commend those reports to you.



Changes at the Tribunal

Since my appointment in October 2022, I have worked with the Deputy President of the Civil Division, Ms Maria Bisogni, and new Forensic Division Deputy President, Magistrate Michael Antrum, to review and update a number of Tribunal application forms, practice directions, and processes.

In the Civil Division this has included a review of the Registry process, forms and templates, for applications for community treatment orders, which constitute a significant volume of work at the Tribunal. A new Practice Direction has been developed. It is anticipated that the updated process, which will come into effect later this year, will allow for greater flexibility in meeting the notice requirements placed on community teams, and assist to avoid hearing delays. Updated templates for treatment plans, updated information in relation to community treatment orders, and new forms for notice of application and service of that notice, have been developed and are available on the Tribunal website.

In the Forensic Division it was identified that it was very important to provide clarity to the process by which victims of forensic patients make submissions to the Tribunal, and Deputy President Michael Antrum and team leader of the Forensic Division, Nadia Sweetman, commenced consultations with the Specialist Victim Support Service and the Commissioner for Victims Rights in relation to a draft practice direction which is close to finalisation. It is hoped that in providing clarity about Tribunal procedures the stress that can attend the making of such submissions, and participation in hearings, will be lessened.

Other changes in the Forensic Division include streamlined processes by which the treating team of a forensic patient in the community, can communicate to the Tribunal any increased risks to the patient or others, whether because of deterioration in mental health or other reason. This assists in the issuing of apprehension orders

where required, to allow the patient to be taken to a place for assessment, and detained for treatment. The Report of Deputy President Magistrate Michael Antrum provides detail of developments and changes in the Forensic Division.

Our review of practice directions, forms and processes, continues. We envisage that the review/updating of forms and processes will assist the Tribunal when the time comes to transition to updated software.

We have developed two proposed new roles at the Tribunal – a First Nations Liaison officer, and a Consumer Liaison Officer, and are actively pursuing funding so as to be able to recruit to these positions.

Member training

We have begun a review of the way we provide member training noting the existing system, of provision of four professional development sessions per year, has been the delivery mode for some time. The majority of Members now choose to attend those sessions remotely rather than in person. We are looking at all ways that professional development could be delivered most beneficially for Members. Updated Tribunal software/technology would also provide many additional options for delivery of training to Members.

I am acutely aware that Members receive no paid training, at any time after their initial induction, this issue is under consideration as part of the current review of member training. I acknowledge the commitment of Tribunal Members demonstrated through attendance at unpaid training/professional development sessions.

Tribunal Hearings Since Lifting of COVID Restrictions

Since the last Annual Report there has been a significant effort made by the Tribunal to return to ‘face to face’ hearings at health facilities, and correctional and forensic facilities, wherever possible.

A number of hearings also proceed by way of videoconference, and some parties and witnesses also attend the face to face hearings by audio-visual link. Many consumers choose to attend hearings of applications for community treatment orders by telephone from their homes, although a number of consumers also attend the hearing by video-link from the offices of the community team, with their case manager. The Tribunal appreciates the efforts made by case managers in community teams, as well by Tribunal staff, to facilitate participation in hearings.

Recruitment

When I commenced as President, the Tribunal was critically short of available psychiatrist members – we were regularly unable to find a psychiatrist member to constitute hearing panels. I have made considerable efforts to recruit psychiatrist members, both by visiting facilities and speaking to psychiatrists, and by approaches such as writing an article in a psychiatrist newsletter. I am continuing to explore new avenues to locate psychiatrists who may be interested in appointment. Deputy President Maria Bisogni also consistently makes efforts in this area. These efforts have seen six new psychiatrist members appointed (Dr Nicholas Burns, Dr Tanya Hall, Dr Truls Bratten, Dr Christina Botfield, Dr Elangovan Preeya), and additional proposed psychiatrist member appointments are currently before the Minister.

On commencement I was advised of a significant shortage of judicial Deputy Presidents (some decisions relating to forensic patients may only be made by a judicial Deputy President, or the Tribunal President). It is always difficult to recruit current or former judicial officers from the Supreme or District Courts, however we

continue our efforts to do so. Since the last annual report Her Honour Acting District Court Judge Ann Ainslee-Wallace has been appointed, and from October 2022 we have been able to recruit additional judicial Deputy Presidents to assist us in constituting panels for hearings in the Forensic Division: these include their Honours Judge Joanne Keogh and Judge Garry Still (Drug Court Judges/Acting District Court Judges) and Acting Magistrate Bruce Williams. Two additional part time Deputy Presidents have also joined us, Jonathan Hyde (former Defence Force Magistrate and Barrister) and Jan Redfern (Divisional Head, AAT). Despite this recruitment we still experience some difficulties rostering our forensic hearing panels.

As part of our commitment to face to face hearings in regional NSW, we recruited two legal members who are regionally based, Neil Jones and Peter Ringbauer.

A major recruitment of Tribunal Members will commence later in 2023, given a number of Tribunal Members appointment terms expire and/or are subject to consideration for reappointment in 2024.

Staff and members

As noted above, a new full-time Deputy President of the Forensic Division of the Tribunal, Magistrate Michael Antrum, commenced with the Tribunal in October 2022 – in fact we both started on the same day. I express my appreciation to Michael for the energy and commitment he has demonstrated since his appointment, and the considerable support that he has provided to me, and to staff in the Tribunal and particularly in the forensic team. He actively supports all Members, ready to answer queries or concerns. He has worked with the forensic team to review applications, processes and forms used, leading to new processes that are assisting in management of workload and improving timeliness and effectiveness of Tribunal work in the Forensic Division.

I have been greatly assisted by our experienced Deputy President, Maria Bisogni, who every day strives to place consumers' rights and experiences first and foremost. I thank her for her leadership in this area, and the expertise she shares. Maria is constantly engaged with various stakeholders to improve consumer experiences and Tribunal processes. Maria actively supports Members in their work.

We are fortunate to have Alisa Kelley as our Registrar – her energy, and her ability to complete a multitude of varied tasks in a short time frame, is something to behold. Alisa's commitment to quality outcomes, and to improving and modernising our Tribunal, is invaluable.

Thank you to departing Members – in the last 12 months the following Members have departed: Judge Paul Lakatos, President; Part time Deputy Presidents Hon Patricia Staunton, Hon Stephen Walmsley SC, Prof Hugh Dillion; psychiatrist members Dr Jennifer Bergen, Dr Charles Doutney, Dr Fiona McGregor, Dr Sarah-Jane Spencer, Dr Brent Waters; legal members Ms Pauline David and Ms Jillian Moir, and other suitably qualified member Assoc Prof Francis Merritt. We thank you all for your contributions and service.

A final word of thanks to staff must be said – your courtesy to all, and your ongoing commitment and hard work, are greatly valued.

Magistrate Carolyn Huntsman

President

September 2023



Forensic Division Report



Forensic Division Report

Introduction

Section 148(1) of the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (“the Act”) stipulates that when the Tribunal exercises its functions under that Act they are to be exercised by the Forensic Division of the Tribunal.

With a responsibility to balance the safety of the community with the rights of forensic and correctional patients, The Forensic Division conducted 1548 hearings in a number of locations around the State including via audio-visual means in the reporting year.

In addition, the Forensic Division has played an active part in:

- Community and professional education;
- Providing procedural guidance to treating teams and others;
- Managing patient requests in between reviews;
- Assisting research efforts;
- Managing outcomes from breaches of orders by forensic patients;
- Liaising with other agencies including NSW Health, NSW Police Force, Ministry of Health, and NDIS;
- Participating in stakeholder groups and committees involved in Forensic Health;
- Consulting with victims and victim representative groups;
- Providing professional development to Tribunal Members;
- Providing an after-hours on-call service for persons involved in the care and treatment of forensic patients;
- Reforming Tribunal practice and procedure; and
- Assisting the Civil Division where required.

Tribunal reviews

Perhaps the most visible aspect of the Division's work is the regular review hearings it conducts of forensic and correctional patients. Forensic patients are typically seen at least once in every six months and the review provides an opportunity to monitor the treatment and any progress of the patient. At these reviews the Tribunal may make orders in relation to the detention of the patient, and any leave or release to be granted to the patient.

The Tribunal makes these decisions after hearing evidence from a variety of sources which will include reports from doctors and other health professionals, independent assessments often from the Community Forensic Mental Health Service, and submissions from family members and victims.

When making any decision in relation to leave, conditional release or unconditional release, the Tribunal will not make such an order unless it is satisfied that the safety of the patient or any member of the public will not be seriously endangered as a result.

The Tribunal is also regularly required to determine whether a forensic patient has become fit to be tried after a finding of unfitness by a court. In addition, the Tribunal will make determinations as to whether particular forensic patients on limiting terms imposed by courts have spent "sufficient time in custody" before making any orders for release.

Principles for care and treatment

The Tribunal is guided by the principles for care and treatment that are set out in s68 of the Mental Health Act 2007. While no principle set out there is more important than another one, the first principle is that people with a mental illness or mental disorder should receive the best possible care and treatment in the least restrictive environment enabling the care and treatment to be effectively given.

Some significant numbers

My appointment as Deputy President for the Forensic Division commenced in October of this reporting year. Coming from the Local Court of New South Wales as a magistrate I was familiar with the operation of the Act. What has been a reassuring observation is that the overwhelming majority of the personnel involved in the care and treatment of forensic and correctional patients are consummate professionals who maintain an enduring commitment to optimal treatment outcomes, often in difficult circumstances. The Tribunal is well served by a professional forensic health community who consistently use their best endeavours to meet the objects of the Act while applying the principles for care and treatment of patients. This community includes psychiatrists, nurses, occupational therapists, social workers, psychologists, accommodation providers, and lawyers.

Appendix 2 contains a detailed breakdown of the Forensic Division's work during the 2022/23 reporting year.

As noted earlier, the Forensic Division conducted 1548 hearings in the reporting year. This is a slight decrease on the previous year's total of 1590 hearings. As at 30 June 2023 there were 637 patients in the forensic system – that figure includes 491 forensic patients, 39 correctional patients and 102 patients on a forensic community treatment order. In the previous year the figure was 735 patients.

The Tribunal made 28 new orders for conditional release of forensic patients as opposed to 27 in the previous year. Fourteen unconditional release orders were made which is well down on the 23 in the previous year, however these figures are historically subject to fluctuation.

Challenges

A perennial issue in the NSW forensic system is the gap in service and facility to patients with a cognitive impairment. The NSW Cognitive Impairment Sub-Committee to the Forensic Working Group has been working on a framework document. While that is yet to be formally published its Executive Summary notes:

The needs of forensic patients with cognitive impairment are unique and multi-faceted. The complexity of their needs means that forensic patients with cognitive impairment frequently fall between program boundaries.

The limitations of the Tribunal's ancient data management system in addition to reporting inconsistencies means that obtaining an accurate and verifiable total of patients in the forensic system with a cognitive impairment is impossible. As at 13 April 2023 the system suggests there were 36 forensic patients with a primary diagnosis of cognitive impairment and 50 forensic patients with a diagnosis of both mental health impairment and cognitive impairment. These figures are likely to be an underestimation as secondary diagnoses of cognitive impairment are sometimes not recorded as such. Whatever the number is, patients with a cognitive impairment face significant challenges in the forensic system and the Tribunal joins with other agencies in the sector in calling for a significant increase in funding for facilities and services for forensic patients with a cognitive impairment.

Older patients

Another cohort of forensic patients with special needs are those patients who are 65 years of age and over. At the reporting date there were 52 forensic patients in this age category. Many forensic facilities are not well-suited to the needs of those who have physical infirmity and sometimes further cognitive decline as a result of advancing age. As a result some elderly forensic patients are transferred to aged care facilities which are often inexperienced in managing forensic patients and have a limited understanding of their obligations under forensic orders. There is a need to investigate the possibility of purpose-built facilities and improved supports within existing facilities for elderly forensic patients.

Challenges

One of the obvious issues on my commencing at the Tribunal has been confronting the reality of outdated and now virtually unsupported information technology. The client management system utilised by the Tribunal is decades old, unstable, and incapable of providing real-time reports and the data collection expected by modern agencies. The President, Magistrate Huntsman, and Registrar Kelley are negotiating with the Department to find a solution. Similarly, the Tribunal's website is tired and lacks much of the functionality which would otherwise assist consumers and stakeholders navigate the Tribunal's responsibilities and procedures.

The Tribunal sits in a variety of venues around New South Wales reflecting its commitment to face-to-face hearings where this is possible. Unfortunately, not all venues are fit for this purpose and the Tribunal has struggled with on-site technology and support at some facilities. Where these issues cannot be satisfactorily resolved the Tribunal has no other option other than to conduct those hearings from its Gladesville premises until the issues are addressed.

As the NDIS becomes a permanent feature in the New South Wales forensic landscape the Tribunal has observed many of the same problems that have been identified at the national level, namely the provision of services

(particularly supported independent living accommodation services) by some providers who are ill-trained and under-resourced to provide the required service. The Tribunal has amended its orders on occasion where poor support by a provider is identified and substantiated.

Forensic Division Members

A priority in the last 12 months has been a review of the written reasons provided by Legal Members in the Forensic Division of the Tribunal. Adequate reasons for decisions of the Tribunal must explain why a decision was made and the statutory underpinnings for that decision. I am grateful to our Legal Members for the efforts they have made in formulating reasons which address both the interests of the forensic patient and the legitimate interests of the community in safe outcomes having regard to the legislative guideposts.

I have also been impressed with the dedication of our psychiatrist and community members. Sitting on the Local Court bench for 13 years is a relatively lonely experience and within a very short time I have come to understand and appreciate the very real benefits of a three member panel. The task of decision making is greatly assisted by combining the medical and community experience of panel members with the legal experience of the presiding member. The inevitable result of panel consensus between lawyers, psychiatrists and community colleagues (who are often highly experienced social workers, psychologists, occupational therapists and others), is better decisions for patients and the community.

Participants at forensic hearings will note that many of our community members are now identifying their qualifications and experience at the commencement of proceedings, a change which will further highlight the great depth of skill on our member panels.

Training of our forensic members this reporting year has had a focus on the practical skills of sitting as a member and applying the law when doing so. The Mental Health Review Tribunal seeks to work with other stakeholders in the NSW mental health environment but first and foremost it is an independent decision-making body that must distinguish its role from the therapeutic setting, the clinical practice, the single issue interest group, the policymaker and the social engineer. Parliament has given us our job to do and we should do so fearlessly, impartially and with rigid adherence to the legislation.

The fact that at times, Ministers, patients, treating teams, families or victims may be unhappy about a particular decision of the Tribunal extinguishes any suggestion that the Tribunal process is nothing more than “tick-a-box” acquiescence.

Breaches of Tribunal orders

With nearly 500 forensic patients subject to Tribunal orders at any one time it is unsurprising that there will be breaches of those orders on occasion by some patients. Breaches can range from consuming alcohol or being late back from leave through to abscondment. In the last reporting year the Tribunal has streamlined the manner of reporting potential breaches, or a deterioration in mental state by treating teams and case managers, through the introduction of a single form which can be emailed to the Tribunal. In the last year, the Tribunal has issued 20 s.109 MHCIFPA apprehension orders which result in the forensic patient being detained until further review by the Tribunal. As this represents only 4% of the forensic population, and an insignificant percentage of orders actually made, compliance with Tribunal orders by forensic patients is the overwhelming norm.

Working with our stakeholders

The Forensic Division has also introduced a single and simple form for a variety of applications it regularly receives including applications for reviews requested by a Minister or the Attorney General, requests for transfers to correctional or detention centres, appeals against Secretary decisions regarding leave and extension of mandatory review periods.

Over the reporting period the Tribunal has listened to the concerns of victims and registered victims which often relate to difficulties in meaningful engagement with Tribunal process. While the Tribunal cannot ignore the requirements of the legislation, it is working to clarify Tribunal procedure so that victims have a better understanding of what to expect at Tribunal reviews. The Tribunal began work on a Practice Direction for Victim participation in Tribunal reviews in the current reporting period and this will shortly be published.

A number of factors have combined to place increasing pressure on the ability of the Tribunal to list matters, particularly at short notice. There is a shortage of psychiatrists in NSW generally with the result that the Tribunal has had difficulty in convening a panel for some hearings. Further, the overall trend of an increasing number of forensic patient reviews and applications means that the Tribunal cannot simply list matters for convenience alone. Treating teams are being encouraged to ensure that all relevant evidence is marshalled for a scheduled review and that the Notice of Intent submitted by them accurately identifies the outcome sought.

The Forensic Division continues to contribute to law reform efforts including a revision of its obligation to assess a patient's fitness for trial even in circumstances where a court has determined that the patient will not become fit for trial. The Tribunal's view is that where the court has made that determination it should be unnecessary for the Tribunal to inquire further as to fitness.

There is also a legislative conundrum where a court nominates a limiting term for a patient but makes no order as to their detention which has the effect of, in the first place, requiring a referral to the Tribunal (s65), but then denying the Tribunal jurisdiction as that person will not be a forensic patient as defined in s72 of the Act.

Thanks

As this is my first year of my appointment I would like to thank Deputy President Maria Bisogni, my Civil Division colleague, for her valuable assistance, her corporate memory, and her indefatigable good humour. Registrar Alisa Kelley has also carefully steered us all in the right direction, avoiding obstacles both seen and unseen with her hand firmly on the Tribunal tiller. Finally, I was fortunate to commence my appointment with a colleague from the Local Court, Magistrate Carolyn Huntsman as President. I have been in awe of her energy, innovation and clear-eyed sense of what the Tribunal should be.

It is customary for Annual Report authors to thank their staff however it is difficult to overstate the enormous contribution and dedication to task exhibited by staff of the Forensic Division. I am constantly amazed and impressed by the efforts of the forensic team, headed up by team leader, Ms Nadia Sweetnam. "Diligent" doesn't even come close to describing their work ethic – they are the best team of people I have worked with. I cannot thank them enough for their commitment to ensuring the Tribunal operates effectively for the people of NSW,

Magistrate Michael Antrum

Deputy President

1 September 2023



Civil Division Report

Civil Division Report

Introduction

Fortunately, the easing of pandemic restrictions allowed the Tribunal to return to face-to-face hearings.

Except for mental health inquiries, hearings reverted to the pre-covid schedule. Mental health inquiries continued to be listed 14 to 28 days after a person's admission to a mental health facility, with plans at the time of writing to revert to 7 to 21 days.

Returning to business as usual has been largely due to mental health facilities putting in place Covid safe protocols, with the discretion to switch to AVL hearings, if circumstances required it. In the Civil division there was a staged return to face-to-face hearings commencing with single member mental health inquiries followed by in person 3 member panels, and in some cases hybrid panels to accommodate more vulnerable members with health concerns.

The Tribunal is indebted to staff and Tribunal members for their extraordinary effort, flexibility and good will over this period. The Tribunal also acknowledges the invaluable contribution of the Mental Health Advocacy Service and LHD heads in facilitating hearings.

Last year we surmised that appeals against the authorised medical officer's failure to discharge increased during the lock down phase. This appears to be borne out by the statistics in the reporting year.

Amendments to the Mental Health Act

There were no amendments of note to the Mental Health Act 2007 (MHA) over the reporting period. The Act had been amended at the start of the pandemic to extend statutory review periods and other measures with a sunset clause of 26 March 2021. The amendments that allowed AVL examinations to be undertaken in the same facility and accredited persons to conduct s 27 mental health examinations by AVL (s 203) were made permanent, taking effect on 30 June 2022.

Key Statistics

Statistics over the reporting year indicate that the number of hearings in the Civil Division remained largely stable. There were 17,472 civil hearings, 10 more than the previous year.

There was an increase in mental health inquiries to 6,433 (compared with 5,966 in the previous year) in respect of 5197 individuals representing an increase of 3 %.

There were 76 financial management order hearings involving 57 individuals, down from 94 in the previous year, representing a 16 % increase. Of these 25 were made including 14 interim orders. There were 29 applications to revoke FMOs of which 20 were revoked and 6 were adjourned.

Adjournments may be made to enable applicants to gather further information in support of the revocation and in some instances the Tribunal will adjourn for a period and write to the NSW Trustee requesting that the applicant be allowed responsibility to manage an aspect of their finances. This enables the applicant an opportunity to demonstrate capacity to do so and rely on that evidence in a hearing.

Appeals against the authorised medical officer's refusal to discharge decreased from 1036 in the previous year to 987, that is a 5% decrease from the previous year. Of these, 785 (74%) were dismissed which is comparable

to the previous year, in which 770 (76%) were dismissed. There were 11 orders for discharge, down from 17 in the previous year.

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

The number of Community Treatment Order (CTO) applications increased from 6,556 to 6,737 and exactly 6,737 CTOs were made, representing an increase of 356 (or 6 % from the previous year). Of these, 896 CTOs were made at mental health inquiries. The percentage of CTOs made for more than 6 months decreased by 4 percent and were made in 9% of cases, as compared with 10% in the previous year.

There was an increase of ECT administration hearings from 804 to 867 (of which 3 related to forensic patients) in relation to 524 individuals. This represents an increase of hearings by 2% and an increase of the number of individuals by 78 or 16 %. ECT was approved in 90 % of cases. They were 3 hearings for a person under the age of 16, relating to one individual.

The Tribunal conducted three consent inquiries in relation to three voluntary patients. In a consent inquiry the Tribunal's role is limited to determining if the person has capacity to give informed consent to ECT. If found to be capable ECT may proceed. However, if found to be incapable ECT cannot proceed.

Recruitment and Induction of New Members

As noted in the President's report there was a concerted recruitment drive for psychiatrists which was successful. With the early retirement of several psychiatrists with regular sittings it became evident that more psychiatrists were needed for civil hearings.

We were fortunate in being able to appoint several excellent candidates. We also recruited two new lawyers to sit in Orange to ensure there was a pool of members to preside in face-to-face mental health inquiries.

New Members attended a formal induction session, undertook hearing observations (prior to being allocated to the roster) and were each assigned a mentor – an experienced member of the same category – with whom they could readily contact and communicate with during their induction period.

Continuous Improvement

Tribunal members will from time to time raise with the Executive individual or systemic issues which are not able to be addressed or resolved in hearings.

Previous Annual Reports have noted lack of access to, and the underfunding of NDIS packages as recurring issues. However, this was a less prominent issue in the reporting year. It is likely that greater NDIS literacy and familiarity with the process of applying for and challenging decisions has contributed to this.

We welcomed an important initiative tasked with advocating for appropriate NDIS supports. The Service-Pathway to Community a collaboration of the Mental Health Advocacy Service (MHAS) and the NDIS Specialist Team at Legal Aid NSW provide targeted services to consumers detained in correctional and/or mental health facilities who are unable to progress to, or maintain community release because of an NDIS issue.

Support is provided by way of lay advocacy services and where necessary, legal assistance, to assist clients to ensure their NDIS supports enable them to re-enter the community and stay there with the right level and type of support for them.



In addition, a change of Legal Aid policy extending free legal representation for previously ineligible long-term consumers was also welcomed. Many long-term consumers have complex need and it is anticipated that these twin initiatives will provide essential advocacy and greater access to psychosocial support. They are both examples of practical programs aimed at facilitating transition to less restrictive, safe and effective care in the community.

Tribunal panels are aware of these new resources. Consent to participating in the Pathway to community program is obtained by the consumer's lawyer. Where capacity to consent may be an issue the consumer will require the consent of a guardian.

Key Relationships and Liaison

The Tribunal has continued to build positive relationships with its key stakeholders. We were able to rely on our good working relationships with mental health facilities and the Mental Health Advocacy Service (MHAS) in planning and implementing our return to the pre-covid hearing schedules. We acknowledge the terrific effort of staff in mental health facilities who showed great thoughtfulness and flexibility in accommodating our return, and at the same time, continuing to abide by Covid safe practices to protect against infection. We are also indebted to the good will and co-operation of the Mental Health Advocacy Service in supporting in person hearings.

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

The Tribunal is also able to raise any issues of concern with the Official Visitors Program and vice versa.

As has been the case for many years, the Tribunal continued to participate in NCAT Guardianship Division's Consultative Forum.

The Tribunal participated in the COAT/AI JA focus group in relation to developing resources for a Tribunal member complaint handling project. The project was designed to provide practical assistance to Tribunals in developing and reviewing the manner they deal with complaints made about members. The project resulted in the publication of two excellent resources '*A better complaint handling system for Tribunals*' and '*A guide to the handling of complaints: issues, approaches and examples*'.

The Tribunal also participated in the Mental Health Carers NSW's Project Steering Committee in relation to the Family and Carers Mental Health Information Resources Project with input into the development of a standard resource for families and carers in relation to the Mental Health Act.

Carers and Consumers

Regrettably, plans for establishing a consumer and engagement officer and advisory group have been postponed due to the urgent need to digitise tribunal hearings and update our software. An impact of Covid was to highlight the need for the Tribunal to be more agile and responsive, so as to be ready for any similar emergencies in the future. Our sheer hearing numbers and the need to be able to convene virtual hearing panels to meet demand that the digitations of records and information. The commitment to these positions remains an important priority and we continue to advocate for them.

We have noted in previous reports the concern of carers that they are frequently not privy health information or involved in discharge planning for their loved ones as is required in the Mental Health Act. Our experience is that the duty to notify carers of hearings is improving. It is evident from information sessions to registrars and mental health service providers that the legal obligation to notify carers of hearings is better understood and that efforts are being made to involve them in Tribunal hearings.

In the last few years, the Tribunal has commenced recording the attendance of carers in hearings, as a way of reinforcing the statutory notification obligation and gauging if they are being met. Should a consumer decide they do not want their carers involved, treating teams are wary of notifying them and carers may not attend. There is little the Tribunal can do in, in these circumstances to compel their attendance. The dilemma that treating teams face in dealing with information that carers wish to privately share with the Tribunal and not the consumer is set out in Case Study 1.

Performance Appraisals

The Tribunal finalised its Members Performance Appraisal Policy, after further consultation with its members. This resulted in a decision that peer appraisals would be an open and transparent process with the identity of appraiser known.

Peer appraisals would be used for 3 member panels sitting in the civil division. Full time presidential members would undertake appraisals of single members sitting in mental health inquiries, as performance appraisal by a peer is not an option.

In the forensic division performance appraisals would be conducted by full-time presidential members of the part time presidential members, psychiatrists and other members. The Policy replaced the earlier practice of the full-time presidential members undertaking performance appraisals in the Civil Division. Previously, the part time presidential members sitting in the forensic division were not appraised.

The Peer appraisal system is modelled on the approach used by the Victorian Mental Health Review Tribunal, which had received feedback that this approach produced a balanced and accurate member appraisal.

The appraisals are due to commence in June 2023. When completed there will be a review of member experiences. This will allow members an opportunity to provide feedback and the Executive to review the merits of the current approach.

Strategic Priorities 2021–2025

Last year the Tribunal published its inaugural Strategic Plan. We see this as a living document that focuses on the current and future needs of the Tribunal. We aim to achieve the highest professional standards, and to be transparent and accountable.

Important progress has been made in realising the strategic priority of Accountability and Innovation, by seeking to improve the efficiency, accessibility and accuracy of Tribunal hearings by digitising our records, working towards transitioning to electronically available records for hearings and enabling members to conduct hearings remotely.

A new case management system is being investigated. As noted above, the Tribunal remains committed to carer and consumer engagement within the Tribunal and this remains a key priority.

Professional Development Events

Four professional training events are held each year for Tribunal members. A diverse range of topics were covered over the reporting year including a session by Emma- May Litchfield, a workplace facilitator who presented on constructive and respectful member feedback.

Dr Jennifer Newman presented an excellent paper on Aboriginal and Torres Strait Islander perspective on mental health settings.

During the year, Ms Maria Bisogni conducted several education sessions on the Mental Health Act and Tribunal hearings at various community and hospital based mental health facilities. Ms Bisogni also presented at the National COAT conference in September 2022 on 'The art of asking questions.'

Thank You

Over the last few years, the Tribunal has had to contend with many challenges related to Covid. The Tribunal is fortunate in having within its ranks, staff and tribunal members who have risen to the challenges with the highest levels of professionalism, integrity, and commitment. The work of the Tribunal is important and touches on fundamental human rights of some of the most vulnerable people in the community and it is a privilege to work with so many dedicated, energetic and caring individuals who strive, daily, to ensure that the Tribunal upholds the all-important principles of care and treatment in the MHA.

Maria Bisogni

Deputy President

14 September 2023



Civil Case Study

A social worker approached the Tribunal advising that the adult children of an inpatient wish to apply for a financial management order relying on confidential evidence. The mother had a long history of admissions to hospital with reasonable function in the community, in between admissions.

The treating team considered that the patient managed quite well in the community and did not believe that she required any support to manage her finances. However, her adult children disclosed that they are obliged to use their own money to support their mother as she spends her pension very quickly.

A consequence of this, they reported, is that they are unable to afford to move out of the family home to live independently. When younger, the patient's children were in and out of State care and were subject to violence from their mother.

They also disclosed that their mother was never well in the community and that the financial issues were chronic and long standing. They wished to provide this information in a letter to the tribunal, as they continued to have concerns for their own safety and did not wish to jeopardise their tenuous relationship.

The Tribunal pointed out that hearings may be closed to parties in a hearing in limited circumstances, for example in cases where it is necessary to prevent serious harm to a consumer of another person. Further, that a breach of procedural fairness would occur if a consumer was not privy to the reasons being given for the need of an order, as they would be unable to make a response.

The social worker indicated that while the children's evidence was crucial that there was another family member who was aware of the mother's circumstances and would likely be able to give independent evidence of the need for a financial management order.



Registrar's Report

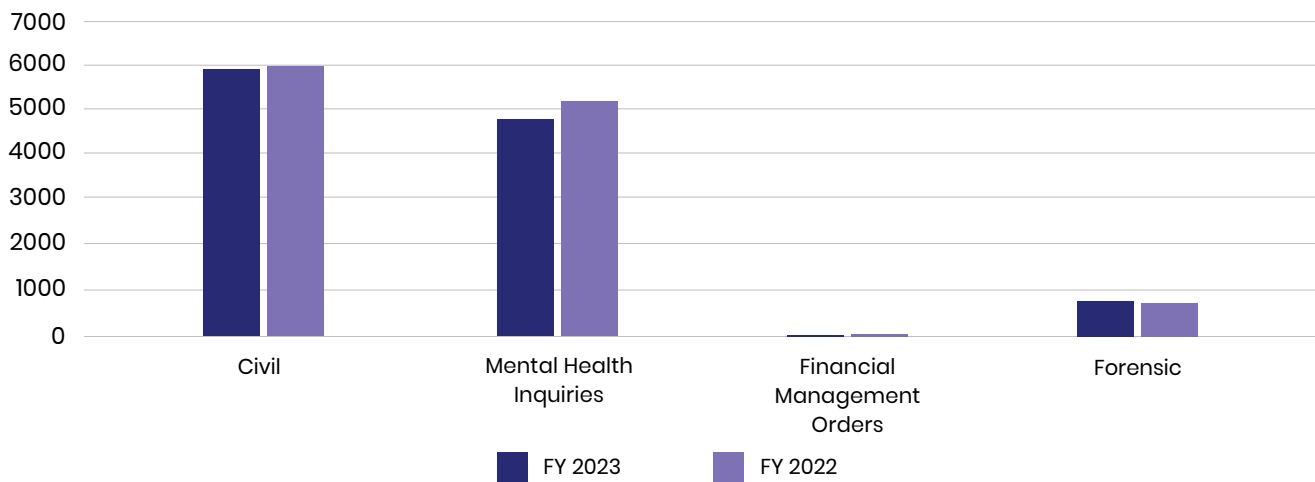
Registrar's Report

The financial year 2023 saw the Tribunal return to ordinary face-to-face hearings across all facilities where onsite hearings were held prior to the Covid pandemic. The Tribunal seeks to provide face-to-face hearings wherever possible in the interests of quality assurance and in offering best possible experience for the consumer. Staff and members were pleased to be able to return to this practice.

Case Load Summary

The Tribunal conducted 19,008 hearings in the financial year 2023 involving 9,027 individuals representing very little change (less than 2%) in the number of hearings from 2022 but a five percent rise in the number of individuals presenting to the Tribunal (2022: 19,142 hearings; 8,711 individuals). The increase in the number of presentations is largely driven by a ten percent increase in the number of persons presenting for Mental Health Inquiries under s34 (2022: 4727; 2023: 5197).

Previous Year Comparison – Number of Individuals



The Tribunal saw no significant change in the number of Civil hearings (less than two percent) and no change to the number of financial management orders. While the number of individuals presenting for Mental Health Inquiries increased by 10 percent, the number of inquiries increased by only 3% reflecting a ten percent decrease in the number of adjournments. Forensic hearings decreased by 8%.

Category	Hearings 2023	Hearings 2022	Movement	Individuals 2023	Individuals 2022	Movement
Civil	11,219	11,402	-2%	5,998	5,929	1%
Mental Health Inquiries	6,152	5,966	3%	5,193	4,727	10%
Financial Management Orders	94	94	0%	68	72	-6%
Forensic	1,543	1,680	-8%	740	735	1%
Grand Total	19,008	19,142	-2%	11,999	11,463	5%
Total Actual Individuals ¹ :				9027	8711	4%

¹ Individuals are counted in each category in which they have appeared. The total number of individuals brought before the Tribunal was 9,027.

Over the past 10 years the number of civil hearings has increased by an average of 2% per year, forensic hearings have increased by an average of 6% per year and inquiries have been largely static. The number of Financial Management orders continues to decline by an average of 5%.

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

Hearings 1991-2022						
Year	Mental Health Inquiries	Civil Hearings	Financial Management Hearings	Forensic Hearings	Total	% Variation from previous year
1991		1986	61	185	2232	-
1992		2252	104	239	2595	16%
1993		2447	119	278	2844	10%
1994		2872	131	307	3310	16%
1995		3495	129	282	3906	18%
1996		4461	161	294	4916	26%
1997		5484	183	346	6013	22%
1998		4657	250	364	5271	-12%
1999		5187	254	390	5831	11%
2000		5396	219	422	6037	4%
2001		6151	304	481	6936	15%
2002		6857	272	484	7613	10%
2003		7787	309	523	8619	13%
2004		8344	331	514	9189	7%
2005		8594	293	502	9389	2%
2006		9522	361	622	10505	12%
2007		8529	363	723	9615	-
2007-08		8440	313	764	9517	-1%
2008-09		7757	224	771	8752	-8%
2009-10	43	8041	193	824	9101	4%
2010-11	4447	7966	221	870	13504	48%
2011-12	4910	8591	219	928	14648	8%
2012-13	6321	9189	225	943	16678	14%
2013-14	6232	9184	191	972	16579	-1%
2014-15	6633	9402	170	1017	17222	4%
2015-16	6887	9709	168	1186	17950	4%

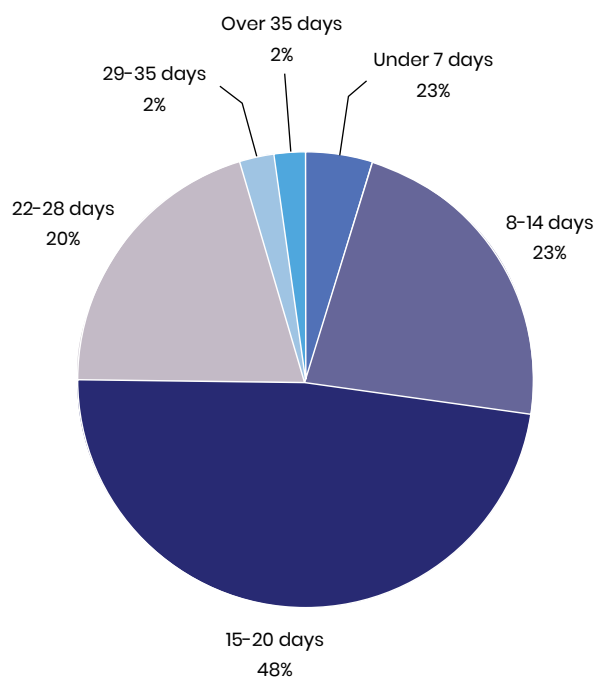
Hearings 1991-2022						
Year	Mental Health Inquiries	Civil Hearings	Financial Management Hearings	Forensic Hearings	Total	% Variation from previous year
2016-17	6757	9832	169	1340	18098	1%
2017-18	6806	10098	144	1490	18538	2%
2018-19	6787	10219	121	1541	18668	1%
2019-20	6467	10382	110	1612	18571	-1%
2020-21 ¹	6156	10635	81	1669	18541	0%
2021-2022	5966	11402	94	1680	19142	3%
2022-2023	6152	11219	94	1543	19008	-1%
Variation from previous year	0%	5%	16%	-8%	3%	
Variation from 2010	38%	34%	-63%	92%	37%	
Average yearly variation for past 10 years	0%	2%	-5%	6%	1%	

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

Mental Health Inquiries

During the 2023 financial year assessable persons were seen within 14 to 28 days after admission (pre-Covid this was 7 – 14 days). Note that assessable persons could still be presented for earlier inquiries if they lodged an appeal (s44) or the treating team was seeking to discharge on a CTO (s35(5)(b)).

Days Elapsed Between Date Detained and Mental Health Inquiry



Days Elapsed Between Date Detained and Mental Health Inquiry		
Elapsed Days	Inquiries	Percentage of Inquiries
Under 7 days	276	5%
8 – 14 days	1329	23%
15 – 20 days	2769	48%
22 – 28 days	1174	20%
29 – 35 days	139	2%
Over 35 days	132	2%
Total Inquiries:	5819	

Total number of inquiries hearings: 6,152

Number of adjournments relisted: 333 (5% of total inquiries)

S147 Mental Health Act 2007 – Prescribed Reports

Certain matters are required to be reported under s147 of the *Mental Health Act 2007* (MHA):

S147(2)(a) The Number of Persons Taken to a Mental Health Facility and the Provisions of the Act Under Which They Were So Taken				
MHA	Method of Referral	Admitted	Not Admitted	Total
S19	Certificate of Doctor	7524	161	7685
S20	Ambulance Officer	1681	494	2175
S22	Apprehension by Police	1696	1119	2815
S23 VIA S19	Authorised Doctor's Certificate	241	6	247
S24 MHA /S19 MHCIFPA	Order of Court	146	69	215
S25	Transfer from Another Facility	217		217
S26	Request by Primary Carer/Relative/Friend	1158	3	1161
S58	Breach of Community Treatment Order	55	10	65
Total		12718	1914	15192
Reclassified from Voluntary to Involuntary		560	52	612
Total		13278	1966	15804

S147(2)(b) Classification of Persons Detained	
Classification	Individuals
Mentally Ill	9089
Mentally Disordered	2781
Voluntary Patients Admitted	1408
Total	13278

S147(2)(c) Mental Health Inquiries	
Number of Inquiries	6152
Number of Individuals	5193

Outcome of Mental Health Inquiries Conducted	Hearings
Involuntary Patient Order	4,696
Reclassify from Voluntary to Involuntary	0
Discharge or Deferred Discharge	47
Community Treatment Order	883
Adjourned or Withdrawn	509
Declined to Deal With or No Jurisdiction	17
Total	6,152
Discharged or Made Voluntary Prior to Hearing	160

S147(2)(d) Persons Taken Involuntarily to a Mental Health Facility Or Reclassified From Voluntary To Involuntary	
Classification	Individuals
Admitted as a Voluntary Patient	1,411
Detained as a Mentally Disordered or Mentally Ill Person	11,876
Not Admitted	1,905
Total	15,192

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

Mental Health Inquiries

This was the thirteenth full year of the Tribunal's jurisdiction to conduct mental health inquiries under s 34 of the Act. Until 21 June 2010, this role had been carried out by Magistrates. During the financial year 2023, the Tribunal held 6,152 inquiries relating to 5,193 individuals (2022: 5,966 inquiries; 4,727 individuals).

Involuntary Patient Orders

Of the mental health inquiries conducted in financial year 2023, 4,696 (76.3%) resulted in an involuntary patient order being made. This is a modest increase from 2022 (4,136 – 72.8%).

Community Treatment Orders at Mental Health Inquiries

The number of Community Treatment Orders made at a mental health inquiry dropped slightly to 883 (2022: 896) and represented 14.4% of inquiries.

Deferred Discharge

One hundred and forty-three orders were made for a deferred discharge (2%). These orders included 2 patients discharged into the care of their designated carer and 66 patients discharged to a community treatment order.

Summary of Outcomes

S34 Outcomes	Female	Male	Total	% of Inquiries
Involuntary Patient Order	2,184	2,512	4,696	76.3%
Discharged	4	6	10	0.2%
Deferred Discharge	12	20	32	0.5%
Discharged to CTO	301	473	774	12.6%
Deferred Discharge to CTO	43	66	109	1.8%
Discharged to Carer	1	2	3	0.0%
Deferred Discharge to Carer	0	2	2	0.0%
Adjourned	226	276	502	8.2%
Declined to Deal With Matter	12	5	17	0.3%
Withdrawn or No Jurisdiction	1	4	5	0.1%
Reclassified to Voluntary	0	2	2	0.0%
Total Mental Health Inquiries	0	0	0	0.0%
Individuals Affected	2,345	2,848	5,193	–

Days to Mental Health Inquiry from Date Detained

In the financial year 2023, 4.7% of inquiries were commenced in the first week of a person's detention (2022: 5.7%), 22.8% during the second week (2022: 28.1%), 47.6% in the third week (2022: 42.6%) and 20.2% in week four (2022: 18.7%).

In 4.7% of cases, the inquiry was commenced after four weeks (2022: 4.8%). Each of these cases is reviewed and, where appropriate, followed up with the facility involved. These cases involved patients who were AWOL or on approved leave or were too unwell to come before the Tribunal at the time they were due.

Days to Hearing from Date Detained	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total	%
Under 7 Days	25	27	24	30	27	28	20	19	23	11	21	21	276	4.7%
8 - 14 Days	104	111	118	100	105	134	84	100	146	79	128	120	1329	22.8%
15 - 21 Days	225	233	237	210	234	185	197	237	269	221	239	282	2769	47.6%
22 - 28 Days	83	92	124	92	91	73	96	104	104	107	105	103	1174	20.2%
29 - 35 Days	10	12	13	6	12	8	30	10	9	10	7	12	139	2.4%
Over 35 Days	13	10	10	7	11	9	24	8	6	7	18	9	132	2.3%
Grand Total	460	485	526	445	480	437	451	478	557	435	518	547	5819	-

Other than for some minor variations these figures have been relatively consistent for the last seven or eight years and reflect the Tribunal's expectation that assessable persons are presented for a mental health inquiry within three weeks of the person being detained in a mental health facility (75.1% of patients during the financial year 2023; 76.4% in 2022).

Involuntary Patient Reviews

The Tribunal held 2,504 hearings (1,841 individuals) for the review of involuntary patients during the financial year 2023 a 7% increase in the number of hearings (2022: 2,335) and a 12% increase in the number of individuals reviewed (2022: 1,641).

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

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

During 2023, the Tribunal held 1,323 initial reviews under s37(1)(a) (affecting 1,180 individuals) demonstrating a 17% increase in hearings from 2022 (1,135 reviews – 969 individuals). No significant change was observed for s 37(1)(b) reviews (2023:673 / 2022: 675) or s 37(1)(c) reviews (2023: 506 / 2022: 518).

Outcomes for Involuntary Patient Reviews									
Section	Description	Gender	Individuals Affected	Total Hearings	Continued Detention as an Involuntary Patient	Discharged or Made Voluntary	Discharged to CTO	Adjourned	Withdrawn or No Jurisdiction
s37(1)(a)	Review prior to expiry order for detention as a result of a mental health inquiry.	Female	538	606	516	0	2	74	5
		Male	642	717	617	0	3	85	6
		Total	1180	1323	1133	0	5	159	11
s37(1)(b)	Review at least once every 3 months while a person is an involuntary patient during the first 12 months.	Female	142	247	210	0	1	31	2
		Male	240	426	379	0	2	41	1
		Total	382	673	589	0	3	72	3
s37(1)(c)	Review at least once every 6 months while person is an involuntary patient after first 12 months.	Female	99	186	177	0	0	8	1
		Male	178	320	303	0	0	17	0
		Total	277	506	480	0	0	25	1
s37(1A)	Review at any other time.	Female	2	2	1	0	1	0	0
		Male	0	0	0	0	0	0	0
		Total	2	2	1	0	1	0	0
s37(1) Total:			1,841	2,504	2,203	0	9	256	15
Percentage of hearings by outcome:					88%	0%	0%	10%	1%

See also Appendix 1 – Tables 1, 2 and 3

Appeals Against a Refusal to Discharge

The number of hearings held under s44 of the Act, to consider an appeal against an authorised medical officer's refusal to discharge a patient, decreased by 5% to 987 (2022: 1,036) representing 773 individuals. Of these hearings, 769 were dismissed (78%) of which 16 were subject to an order of no further right of appeal before the next review. The patient was ordered to be discharged on 13 occasions (1%) and the remaining appeals were either adjourned, withdrawn or the Tribunal had no jurisdiction to deal with the matter.

Outcomes for Appeals Against Refusal to Discharge									
Fin. Year	Gender	Individuals	Total Appeals	Appeal Dismissed	Dismissed with No Further Appeal	Reclassify to Voluntary	Discharge	Adjourn	Withdrawn or with No Jurisdiction
			%	78%	2%	0%	1%	7%	12%
2023	Female	330	417	327	4	0	3	32	51
	Male	443	570	442	12	0	10	37	69
	Total	773	987	769	16	0	13	69	120
2022	Female	359	456	334	6	0	11	35	70
	Male	443	580	436	10	1	6	36	91
	Total	802	1036	770	16	1	17	71	161
2021	Female	359	469	329	21	2	10	42	65
	Male	422	522	392	16	0	7	34	73
	Total	781	991	721	37	2	17	76	138
2020	Female	274	367						
	Male	337	430	598	15	0	24	67	93
	Total	611	797						
2019	Female		287						
	Male		342	468	18	0	18	53	72
	Total		629						

Regulation 16(3) of Mental Health Regulation 2019 allows for appeals lodged by persons other than involuntary patients to be heard by the President, a Deputy President or a member qualified for appointment as a Deputy President. This means that an appeal lodged by an assessable person (a person who has not yet had a mental health inquiry) is able to be heard by an experienced single legal member of the Tribunal. During the financial year 2023, 687 appeals were heard by a single member (70% of the total number of appeals held).

See also Appendix 1 – Tables 2 and 3

Community Treatment Orders

The Tribunal considered 6,217 applications for CTO's under s51 of the Act during the financial year 2023 relating to 5,023 individuals, a 5% decrease in hearings from 2022 and but no significant change to the number of individual consumers (2022: 6,556 hearings – 4,985 individuals).

The number of CTO's made by the tribunal at mental health inquiries remained similar to the previous year at 883 (2022: 896). Similarly, orders made at other hearings remained static at 5,859 (2022: 5,871).

Section	Application Type	Gender	Individuals Affected*	Hearings	CTO Made	CTO Made Discharge Deferred	Adjourned	Declined or Not Renewed	Withdrawn or No Jurisdiction
S51	Application for a CTO for a person on an existing CTO	Female	947	1,305	1,232	0	58	12	3
		Male	1,652	2,259	2,164	2	74	14	5
		Total	2,599	3,564	3,396	2	132	26	8
S51	Application for a CTO for person detained in mental health facility	Female	571	608	512	59	28	5	4
		Male	850	889	762	87	29	5	6
		Total	1,421	1,497	1,274	146	57	10	10
S51	Application for a CTO for a person not detained or on a current CTO	Female	363	414	362	1	33	14	4
		Male	640	742	666	3	63	5	5
		Total	1,003	1,156	1,028	4	96	19	9
Total S51 Outcomes			5,023	6,217	5,698	152	285	55	27

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

Under s 56(2) of the Act, the maximum duration of a CTO is 12 months. During the financial year 2023, 9% of CTO's were made for 7 – 12 months, 91% for 3 – 6 months and less than 1% for less than 3 months. The majority of orders continue to be made for periods of six months or less.

See also Appendix 1 – Tables 2, 3 and 5

Electro Convulsive Therapy (ECT)

Under s 96 of the Act, the Tribunal held 878 hearings to consider the administration of ECT to involuntary patients, including 9 hearings concerning forensic patients. This is an increase of 9% from 2022 (804 hearings – 8 forensic).

ECT was approved in 791 hearings (90%) and of these approvals, 21 patients (2%) were found to be capable of consent.

ECT Administration Inquiries Under S96(2)								
Outcome	Individuals		Total Hearings		Civil		Forensic	
	Female	Male	Female	Male	Female	Male	Female	Male
Capable of consent – ECT approved	6	8	13	10	13	10	0	0
Capable of consent – ECT not approved	6	1	6	1	6	1	0	0
Incapable of consent – ECT approved	232	170	443	322	441	315	2	7
Incapable of consent – ECT not approved	5	8	5	8	5	8	0	0
Adjourned	32	19	35	19	35	19	0	0
Withdrawn or no jurisdiction	8	4	9	4	9	4	0	0
Total	289	210	511	364	509	357	2	7

ECT administration hearings were held for 499 individual patients – 1 of whom was under the age of 16 years.

ECT Administration Inquiries Under S96(3A) – Persons Under 16 Years				
Outcome	Voluntary Patient		Involuntary Patient	
	Female	Male	Female	Male
Capable of consent – ECT approved	0	0	0	0
Capable of consent – ECT not approved	0	0	0	0
Incapable of consent – ECT approved	0	0	3	0
Incapable of consent – ECT not approved	0	0	0	0
Adjourned	0	0	0	0
Withdrawn or no jurisdiction	0	0	0	0
Total	0	0	3	0

See also Appendix 1 – Tables 1 and 2

The Tribunal was called to conduct three ECT consent inquiries under s96(1) during financial year 2023 (nil during 2022) to consider a voluntary patient's capacity to give informed consent to the administration of ECT.

ECT Consent Inquiries Under S96(1)								
Outcome	Individuals		Total Hearings		Civil Hearings		Forensic Hearings	
	Female	Male	Female	Male	Female	Male	Female	Male
Capable and has consented	1	0	1	0	1	0	0	0
Capable but has refused consent	0	0	0	0	0	0	0	0
Incapable of consent	1	1	1	1	1	1	0	0
Adjourned	0	0	0	0	0	0	0	0
Withdrawn or no jurisdiction	0	0	0	0	0	0	0	0
Total	2	1	2	1	2	1	0	0

Financial Management Hearings

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

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

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

During the financial year 2023, the Tribunal conducted 94 hearings (2022: 94 hearings) in relation to financial management and made a total of 26 Financial Management Orders (2022: 33 orders) including 14 Interim Financial Management Orders (2022: 10 interim orders) and revoked 21 orders (2022: 20 revocations).

Financial Management Hearings												
Section	Description	Gender	Individuals Affected	Total Hearings	Legal Represent Present	Order Made	Interim Order Made	No Order Made	Revocation Approved	Revocation Declined	Adjourned	Withdrawn or No Jurisdiction
S44	Application for order at a mental health inquiry	Female	9	11	10	0	4	3			3	1
		Male	5	8	8	2	2	1			3	0
		Total	14	19	18	2	6	4			6	1
Sh(1) (9)	Referral for order from Magistrate	Female	0	0	0	0	0	0			0	0
		Male	0	0	0	0	0	0			0	0
		Total	0	0	0	0	0	0			0	0
S46	On application to the Tribunal for an order (Forensic patient)	Female	0	0	0	0	0	0			0	0
		Male	2	2	2	1	0	1			0	0
		Total	2	2	2	1	0	1			0	0
S46	On application to the Tribunal for an order (Civil patient)	Female	9	11	10	3	3	2			2	1
		Male	17	21	16	5	3	6			5	2
		Total	26	32	26	8	6	8			7	3
S48	Review of an interim order (Forensic patient)	Female	0	0	0	0	0	0			0	0
		Male	0	0	0	0	0	0			0	0
		Total	0	0	0	0	0	0			0	0
S48	Review of an interim order (Civil patient)	Female	3	4	3	0	0	1			3	0
		Male	2	7	6	1	2	0			4	0
		Total	5	11	9	1	2	1			7	0
S88	Revocation of an order (Forensic patient)	Female	0	0	0				0	0	0	0
		Male	1	1	0				1	0	0	0
		Total	1	1	0				1	0	0	0
S88	Revocation of an order (Civil patient)	Female	7	8	3				7	0	1	0
		Male	16	21	3				13	3	5	0
		Total	23	29	6				20	3	6	0
Total		Female	28	34	26	3	7	6	7	0	9	2
		Male	42	60	35	9	7	8	14	3	17	2
		Total	71	94	61	12	14	14	21	3	26	4

Emergency Surgery & Special Medical Treatment

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

Category	Mental Health Treatments	Electro Convulsive Therapy (ECT)	Sterilisation	Termination of Pregnancy	Surgical Treatment ⁵	Any Other Non-Surgical Treatment
Voluntary patient	Mental Health or Guardianship ¹	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
Detained patient ²	Mental Health	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
Assessable person ³	Mental Health	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
Mentally disordered patient	Mental Health	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
Involuntary patient ⁴	Mental Health	Mental Health	Mental Health	Mental Health (if surgical treatment ²)	Mental Health	Guardianship (including non-surgical termination of pregnancy)
Forensic or correctional patients	Mental Health	Mental Health	Mental Health	Mental Health (if surgical treatment ²)	Mental Health	Guardianship (including non-surgical termination of pregnancy)

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

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

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

⁴ Involuntarily detained after the Mental Health Inquiry

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

During the financial year 2023, the Tribunal held 3 hearings under s 101 for the provision of non-urgent surgical procedures (2 were approved). No special medical treatment hearings or emergency surgery hearings were required.

Section	Description	Gender	Individuals Affected	Total Hearings	Approved	Refused	Adjourned	Withdrawn or No Jurisdiction
S99	Emergency Surgery	Female	0	0	0	0	0	0
		Male	0	0	0	0	0	0
		Total	0	0	0	0	0	0
S101(1)	Non-urgent Surgical Procedures	Female	1	1	1	0	0	0
		Male	2	2	1	0	1	0
		Total	3	3	2	0	1	0
S101(3)	Non-urgent Surgical Procedures (Forensic Patients)	Female	0	0	0	0	0	0
		Male	0	0	0	0	0	0
		Total	0	0	0	0	0	0
S103	Special Medical Treatments	Female	0	0	0	0	0	0
		Male	0	0	0	0	0	0
		Total	0	0	0	0	0	0
S102	Special Medical Treatments (Forensic Patients)	Female	0	0	0	0	0	0
		Male	0	0	0	0	0	0
		Total	0	0	0	0	0	0

Section	Description	Gender	2021/2022	2020/21	2019/20	2018/19	2017/18	2016/17
S99	Emergency Surgery	Female	0	0	0	2	0	2
		Male	0	0	0	0	2	2
		Total	0	0	0	2	2	4

Forensic Hearings

The Tribunal held a total of 1,543 hearings during the financial year 2023, representing 740 individuals. This demonstrates a modest decrease of 8% on previous year activity (2022: 1,680 hearings – 735 individuals). The forensic jurisdiction has seen an average of 6% increase per year for the past 10 years.

Approximately 12% of hearings in 2023 were for the Tribunal to consider an application for a Forensic Community Treatment Order (FCTO). Applications have averaged at around 188 per year for the past five years. The Tribunal is required to conduct three monthly reviews of each person subject to a FCTO who is detained in a correctional centre. During the 2023 financial year, 115 such hearings were conducted (2022: 115).

The Tribunal ordered the conditional release of 33 forensic patients (2022: 29 patients) and the unconditional release of 14 forensic patients (2022: 23 patients), including 9 patients for whom a CTO was also made to have effect on the date of unconditional release (2022: 19 patients). The Tribunal made four orders revoking the conditional release of a forensic patient (2022: 1).

Section	Description	Gender	2022/23	2021/22	2020/21	2019/20	2018/19
Mental Health Act 2007							
S65	Application to vary or revoke a Forensic CTO	Female	5	2	0	0	0
		Male	33	16	1	0	0
		Total	38	18	1	0	0
S96(1)&(2)	Application for ECT	Female	2	0	0	0	2
		Male	7	8	4	6	2
		Total	9	8	4	6	4
S101 & S102	Application for surgical operation	Female	0	0	0	0	0
		Male	0	0	1	1	0
		Total	0	0	1	1	0
S151(4)	Application for procedural orders	Female	0	0	0	0	0
		Male	2	0	0	0	0
		Total	2	0	1	0	4
S162	Application to allow publication of names	Female	0	0	0	0	0
		Male	0	0	1	0	4
		Total	0	0	1	0	4
Total Mental Health Act 2007		Female	7	0	0	0	2
		Male	42	8	6	7	6
		Total	49	8	6	7	8
NSW Trustee & Guardian Act 2009							
S88	Application to revoke Financial Management Order	Female	0	0	1	1	0
		Male	1	2	1	0	1
		Total	1	2	2	1	1

Section	Description	Gender	2022/23	2021/22	2020/21	2019/20	2018/19
Births Deaths & Marriages Registration Act 1995							
S31D	Approval of Change of Name	Female	0	0	0	0	2
		Male	3	0	3	1	2
		Total	3	0	3	1	4

Section, Act	Description	Gender	2022/23	2021/22	2020/21	2019/20	2018/19
Fitness referral							
S78(b) MHCIFPA	First Review Following Fitness Referral from Court	Female	1	2	3	0	0
		Male	28	27	12	0	0
		Total	29	29	15	0	0
S16 MHFPA	First Review Following Fitness Referral from Court	Female	0	0	8	11	3
		Male	0	0	54	75	66
		Total	0	0	62	86	69
Totals		Female	1	2	11	11	3
		Male	28	27	66	75	66
		Total	29	29	77	86	69
First Review after Limiting Term							
S78(a) MHCIFPA	First Review After Limiting Term Imposed	Female	2	2	0	0	0
		Male	13	21	3	0	0
		Total	15	23	3	0	0
S45(1)(b) MHFPA	First Review After Limiting Term Imposed	Female	0	0	1	1	1
		Male	0	0	7	5	9
		Total	0	0	8	6	10
Totals		Female	2	2	1	1	1
		Male	13	21	10	5	9
		Total	15	23	11	6	10
First Review after APNCR							
S78(c) MHCIFPA	First Review Following Special Verdict of Act Proven but Not Criminally Responsible	Female	4	7	2	0	0
		Male	21	26	4	0	0
		Total	25	33	6	0	0
S44 MHFPA	First Review Following Special Verdict of Not Guilty by Reason of Mental Illness	Female	0	0	0	5	3
		Male	0	0	26	32	27
		Total	0	0	26	37	30
Totals		Female	4	7	2	5	3
		Male	21	26	30	32	27
		Total	25	33	32	37	30

Section, Act	Description	Gender	2022/23	2021/22	2020/21	2019/20	2018/19
Forensic Patient Reviews							
S78(d) MHCIFPA	Review of Forensic Patient (6 monthly)	Female	103	100	21	0	0
		Male	707	745	181	0	0
		Total	810	845	202	0	0
S79 MHCIFPA	Forensic Patient Review at Any Time	Female	12	17	5	0	0
		Male	113	179	27	0	0
		Total	125	196	32	0	0
S46(1) MHFPA	Review of Forensic Patient	Female	0	0	95	118	109
		Male	0	0	658	843	804
		Total	0	0	753	961	913
Totals		Female	115	117	121	118	109
		Male	820	924	866	843	804
		Total	935	1041	987	961	913

¹Mental Health (Forensic Provisions) Act 1990

Section, Act	Description	Gender	2022/23	2021/22	2020/21	2019/20	2018/19
Forensic Patient Review After Apprehension							
S109(4) MHCIFPA	Review of Forensic Patient Apprehended Under S109	Female	13	6	0	0	0
		Male	34	47	22	0	0
		Total	47	53	22	0	0
S68(2) MHFPA	Review of a Forensic Patient Apprehended Under S68	Female	0	0	9	11	16
		Male	0	0	34	62	38
		Total	0	0	43	73	54
Totals		Female	13	6	9	11	16
		Male	34	47	56	62	38
		Total	47	53	65	73	54
Registered Victims – Place restriction and non-association applications							
S146 MHCIFPA	Application by Registered Victim for Non-Association or Place Restriction	Female	1	0	0	0	0
		Male	15	7	2	0	0
		Total	16	7	2	0	0
S76 MHFPA	Application by Registered Victim for Non-Association or Place Restriction	Female	0	0	0	2	1
		Male	0	0	2	2	11
		Total	0	0	2	4	12
Totals		Female	1	0	0	2	1
		Male	15	7	4	2	11
		Total	16	7	4	4	12

Section, Act	Description	Gender	2022/23	2021/22	2020/21	2019/20	2018/19
Reviews of persons awaiting transfer to a mental health facility							
S89 MHCIFPA	Limited Review of a Person Awaiting Transfer from a Correctional Centre to a Mental Health Facility	Female	0	0	0	0	0
		Male	1	22	1	0	0
		Total	1	22	1	0	0
S58 MHFPA	Limited Review of a Person Awaiting Transfer from a Correctional Centre to a Mental Health Facility	Female	0	0	0	4	4
		Male	0	0	24	47	25
		Total	0	0	24	51	29
Totals		Female	0	0	0	4	4
		Male	1	22	25	47	25
		Total	1	22	25	51	29
First Review of Correctional Patients							
S90 MHCIFPA	First Review Following Transfer from a Correctional Centre to a Mental Health Facility	Female	9	11	3	0	0
		Male	76	110	35	0	0
		Total	85	121	38	0	0
S59 MHFPA	First Review Following Transfer from a Correctional Centre to a Mental Health Facility	Female	0	0	5	5	11
		Male	0	0	71	69	80
		Total	0	0	76	74	91
Totals		Female	9	11	8	5	11
		Male	76	110	106	69	80
		Total	85	121	114	74	91

Section, Act	Description	Gender	2022/23	2021/22	2020/21	2019/20	2018/19
Subsequent Reviews of Correctional Patients							
S91(b) MHCIFPA	Review of Correctional Patient (6 monthly)	Female	9	1	1	0	0
		Male	10	9	2	0	0
		Total	19	10	3	0	0
S93 MHCIFPA	Review of Correctional Patient at Any Time	Female	0	1	1	0	0
		Male	0	1	0	0	0
		Total	0	2	1	0	0
S61(1) MHFPA	Review of Correctional Patient	Male	0	0	2	0	1
		Female	0	0	9	16	11
		Total	0	0	11	16	12
Totals		Female	9	2	4	0	1
		Male	10	10	11	16	11
		Total	19	12	15	16	12

Section, Act	Description	Gender	2022/23	2021/22	2020/21	2019/20	2018/19
FCTO Applications							
S99 MHCIFPA	Application for an FCTO	Female	18	10	2	0	0
		Male	176	177	53	0	0
		Total	194	187	55	0	0
S67 MHFPA	Application for an FCTO	Female	0	0	7	17	28
		Male	0	0	161	137	154
		Total	0	0	168	154	182
Totals		Female	18	10	9	17	28
		Male	176	177	214	137	154
		Total	194	187	223	154	182
FCTO Reviews							
S78(e) MHCIFPA	Review of Forensic Patient Subject to FCTO in Correctional Centre	Female	0	0	0	0	0
		Male	3	2	2	0	0
		Total	3	2	2	0	0
S100 MHCIFPA	Review of Person Subject to FCTO in a Correctional Centre (NOT a Forensic Patient)	Female	3	3	0	0	0
		Male	118	110	32	0	0
		Total	121	113	32	0	0
S61(3) MHFPA	Review of Person Subject to FCTO in Correctional Centre	Female	0	0	1	8	12
		Male	0	0	64	125	96
		Total	0	0	65	133	108
Totals		Female	3	3	1	8	12
		Male	121	112	98	125	96
		Total	124	115	99	133	108
MHFPA Matters Not Heard Under MHCIFPA							
S24 MHFPA	Review Following Limiting Term	Female	0	0	0	1	3
		Male	0	0	7	7	16
		Total	0	0	7	8	19
S45(1)(a) MHFPA	Review After Detention Imposed Under S17 Following Finding of Unfitness	Female	0	0	0	0	0
		Male	0	0	0	0	1
		Total	0	0	0	0	1
Other Matters Under MHCIFPA							
S297 MHCIFPA	Appeal Against Failure or Refusal of Secretary to Consider Granting Leave	Female	0	0	0	0	0
		Male	1	0	0	0	0
		Total	1	0	0	0	0
Total Reviews and Determinations		Female	175	160	166	183	192
		Male	1316	1483	1493	1420	1337
		Total	1491	1643	1659	1603	1529

See also Appendix 2, Tables 6–23.

Hearing Locations and Types

The Tribunal has regular rosters for its mental health inquiries and civil and forensic hearing panels. No in-person hearings were held at the Tribunal's premises in Gladesville. 4,586 in-person hearings were conducted at 18 venues across the Sydney metropolitan area and regional New South Wales in the financial year 2023.

While the preference for conducting hearings is always in-person at a mental health facility, or other venue convenient to the patient and other parties, this is not always practical or possible. The Tribunal also holds telephone and video-conference hearings where necessary. Covid-19 restrictions necessitated the use of video more broadly than ordinary practice for part of the financial year. During 2023, 383 telephone and 13,439 video conference hearings were held for 67 inpatient or community venues across New South Wales.

During the 2023 financial year, 4,586 (24%) hearings and mental health inquiries were conducted in person (2022: 250 - 1%), 13,439 (71%) by video (2022: 16,957 - 89%) and 383 (2%) by telephone. There were 600 (3%) hearings completed 'on the papers' (2022: 1,935 - 10% by phone and papers combined). During a short period of this financial year, 100% of hearings were held by video, telephone or on the papers.

Jurisdiction	Live	Video	Phone	Papers	Total
Civil	1574 (14%)	8819 (79%)	375 (3%)	451 (4%)	11219 (59%)
FMO	21 (22%)	70 (74%)	0 (0%)	3 (3%)	94 (%)
Forensic	473 (31%)	916 (59%)	8 (1%)	146 (9%)	1543 (8%)
MHI	2518 (41%)	3634 (59%)	0 (0%)	0 (%)	6152 (32%)
Grand Total	4586 (24%)	13439 (71%)	383 (2%)	600 (3%)	19008 (100%)

The vast majority of civil hearings conducted by telephone or on the papers related to CTOs (98% of telephone hearings and 95% of hearings on the papers). This is commonly for persons in the community on an existing CTO. A significant proportion (74% of CTO related hearings on the papers) were to vary the conditions of existing CTOs. The majority of these hearings involved varying the order to reflect a change in treatment team following a change of address by the client. All forensic hearings conducted 'on the papers' were adjournments, procedural matters or variations of forensic CTOs.

Mental health inquiries are conducted 'in person' at most metropolitan and a number of rural mental health facilities. Under ordinary Tribunal conditions, video conferencing is only used at those facilities where in person inquiries are not practical. Of the 6,152 mental health inquiries this year, 41% were held in person (2022: 2%) and 59% by video (2022: 98%). The variation from 2022 reflects the easing of the Covid-19 pandemic restrictions.

Number of Clients

As at 30 June 2023 there were 1,165 people for whom the Tribunal had made an involuntary patient order either at a mental health inquiry or at a subsequent review (2022: 1,050).

There were 57 individuals who had been voluntary patients for more than 12 months and had been reviewed by the Tribunal (2022: 64). A number of these people may have been discharged or reclassified since their last Tribunal review.

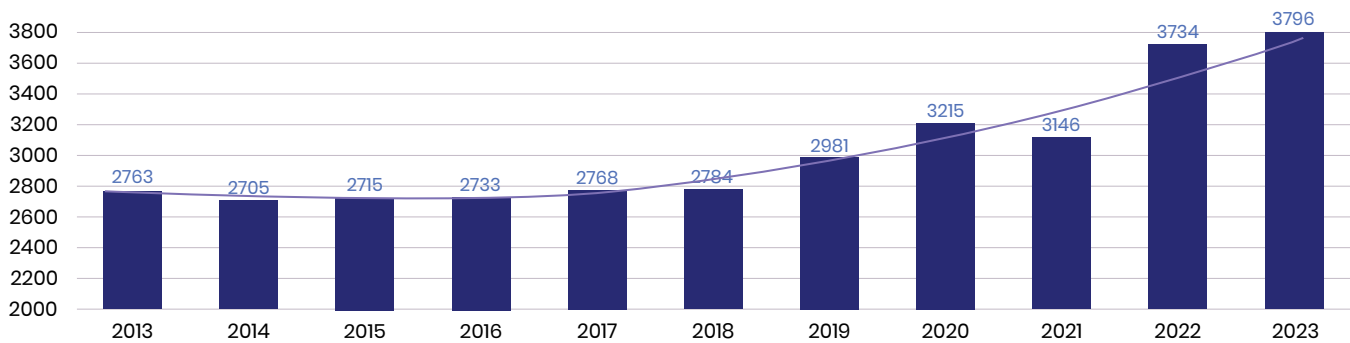
Hospital	Involuntary					Voluntary		Grand Total
	SEC034	SEC037(1) (a)	SEC037(1) (b)	SEC037(1) (c)	SEC037(1A)	Total	SEC009	
Albury	6	1	1	0	0	8	0	8
Bankstown	4	3	1	0	0	8	0	8
Blacktown	10	13	6	0	0	29	0	29
Bloomfield	15	11	20	13	0	59	1	60
Blue Mountains	5	2	0	0	0	7	0	7
Braeside	2	4	0	0	0	6	0	6
Broken Hill	1	0	0	0	0	1	0	1
Byron Bay	1	4	0	0	0	5	0	5
Campbelltown	19	6	0	0	0	25	0	25
Coffs Harbour	11	2	2	0	0	15	0	15
Community	5	2	1	0	0	8	1	9
Concord	53	30	10	37	0	130	7	137
Cumberland	38	16	22	35	0	111	14	125
Dubbo	2	0	0	0	0	2	0	2
Forensic	5	0	0	7	0	12	0	12
Gosford	6	4	1	0	0	11	0	11
Goulburn	5	1	3	0	0	9	0	9
Greenwich	7	3	4	0	0	14	0	14
Hornsby	27	15	2	2	0	46	0	46
James Fletcher	0	3	0	0	0	3	0	3
John Hunter	2	1	0	0	0	3	0	3
Kenmore	1	2	0	0	0	3	0	3
Lismore	15	1	2	0	0	18	0	18
Liverpool	19	15	11	1	0	46	3	49
Macquarie	7	14	25	59	0	105	27	132
Maitland	8	2	1	0	0	11	0	11
Mater	36	18	6	14	0	74	2	76
Morisset	2	4	7	37	0	50	1	51
Nepean	14	7	1	0	0	22	0	22

Hospital	Involuntary					Voluntary		Grand Total
	SEC034	SEC037(1) (a)	SEC037(1) (b)	SEC037(1) (c)	SEC037(1A)	Total	SEC009	
Northern Beaches	8	1	0	1	0	10	0	10
Port Macquarie	2	1	1	0	0	4	0	4
Princes of Wales	26	6	7	3	0	42	0	42
Professor Marie Bashir	28	13	3	1	0	45	0	45
Royal North Shore	7	7	2	0	0	16	0	16
Shellharbour	9	7	4	1	0	21	0	21
South East Regional	2	0	1	0	0	3	0	3
St George	23	8	3	0	0	34	1	35
St. Joseph's	2	2	1	0	0	5	0	5
St. Vincent's	14	2	1	0	0	17	0	17
Sutherland	8	7	3	0	0	18	0	18
Sydney Children's	3	0	0	0	0	3	0	3
Tallowood	1	0	2	0	0	3	0	3
Tamworth	10	1	2	2	0	15	0	15
Taree	3	2	0	1	0	6	0	6
The Tweed	11	0	1	0	0	12	0	12
Tweed Valley	0	0	0	0	0	0	0	0
Wagga Wagga	12	0	0	0	0	12	0	12
Westmead	1	3	0	0	0	4	0	4
Westmead Adult	10	3	1	0	0	14	0	14
Westmead Child/ Adolescent	3	0	0	0	0	3	0	3
Wollongong	15	3	0	0	0	18	0	18
Wyong	11	7	1	0	0	19	0	19
Total for FY2023	535	257	159	214	0	1165	57	1222
Total for FY2022	475	224	117	234	0	1050	64	1114
Variation	13%	15%	36%	-9%	0%	11%	-11%	10%

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

At 30 June 2023, 3,796 individuals were subject to an order made by the Tribunal (2022: 3,734). While a small number of these orders may have been revoked by the Director of the declared community mental health facility responsible for implementing the order, this should be a fairly accurate count of the number of people subject to a CTO at that point in time.

Persons on a CTO at 30 June



Representation and Attendance at Hearings

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

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

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

- All matters involving a patient under the age of 16 years
- Mental health inquiries
- Reviews of involuntary patients during the first 12 months of detention
- Reviews of involuntary patients after a CTO breach
- Application for ECT for an assessable person
- Initial applications for a Community Treatment Order
- Appeals against an authorised medical officer's refusal to discharge an assessable person
- Applications for Financial Management Orders

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

Representation was provided in 58% of hearings in the Tribunal's civil jurisdiction (2022: 52%) and 81% of forensic hearings (2022: 81%).

Matter Type	Represented	Total	%
Civil			
s101(1) Application for a Surgical Operation Involuntary Patient	2	3	67%
s103 Application for Special Medical Treatment	0	0	-
s151(4) Procedural Order	2	2	100%
s154(3) Application to be Represented by a Person Other than an Australian Legal Practitioner	0	0	0%
s156 Procedural Hearing: Access to Documents	1	1	100%
s162 Application to Publish or Broadcast Name	0	1	0%
s37(1)(a) Initial Review of Involuntary Patient	1181	1323	89%
s37(1)(b) Review of Involuntary Patient	606	673	90%
s37(1)(c) Review of Involuntary Patient	345	506	68%
s37(1A) Review of an Involuntary Patient - at Any Other Time	2	2	100%
s44 Appeal Refusal to Discharge	798	987	81%
s51 Community Treatment Order - Existing CTO	44	3564	1%
s51 Community Treatment Order - Mental Health Facility	432	1497	29%
s51 Community Treatment Order - No current CTO	52	1156	4%
s63 Review of Detained Person Under CTO	6	6	100%
s65 Revocation of CTO	2	33	6%
s65 Variation of (Forensic) CTO	0	81	0%
s65 Variation of CTO	1	29	3%
s65 Variation of CTO (on the papers)	0	415	0%
s9 Review of Voluntary Patient	9	68	13%
s96(1) ECT Consent Inquiry - Voluntary Patient	1	3	33%
s96(2) ECT Administration Inquiry - Involuntary Patient	0	0	0%
s96(2) ECT Administration Inquiry - Involuntary Patient (includes forensic patients)	655	866	75%
s96(3A)(a) ECT for person under 16 - Involuntary Patient	3	3	100%
s96(3A)(b) ECT for person under 16 - Voluntary Patient	0	0	-
Civil Total	4142	11219	37%
Financial Management Orders			
s44 Consideration of Financial Management at a Mental Health Inquiry	18	19	95%
s46 Application for Financial Management Order	28	34	82%
s48 Review of Interim Financial Management Order	9	11	82%
s88 Application for Revocation of a Financial Management Order	7	30	23%
Financial Management Orders Total	62	94	66%
Forensic			
-s78(a) First Review Following Nomination of Limiting Term	15	15	100%
s78(b) First Review Following Fitness Referral from Court	28	29	97%

Matter Type	Represented	Total	%
s78(c) First Review Following Special Verdict of Act Proven but Not Criminally Responsible	25	25	100%
s78(d) Review of Forensic Patient (6 monthly)	780	810	96%
s78(e) Review of Forensic Patient Subject to FCTO in Correctional Centre	3	3	100%
s79 Forensic Patient Review at Any Time	118	125	94%
s89 Limited Review of Person Awaiting Transfer to a Mental Health Facility	0	1	0%
s90 First Review Following Transfer from Correctional Centre to a Mental Health Facility	71	85	84%
s91(b) Review of Correctional Patient (6 monthly)	17	19	89%
s93 Review of Correctional Patient at any time	0	0	0%
s97 Appeal Against Failure or Refusal of Secretary to Consider Granting Leave	1	1	100%
s96(2) ECT Administration Inquiry - Involuntary Patient (includes forensic patients)	8	9	89%
s99 Application for a FCTO	105	194	54%
s65 Application to Vary or Revoke a Forensic CTO	0	38	0%
s100 Review of Person Subject to a FCTO in Correctional Centre (not forensic patient)	16	121	13%
s109(4) Review of Person Apprehended Under s109	46	47	98%
s146 Application of Registered Victim for Non Association or Place Restriction	16	16	100%
s151(4) Application for Procedural Order/s	2	2	0%
s31D Approval of Change of Name	3	3	100%
Forensic Total	1254	1543	81%
Mental Health Inquiries			
s34 Mental Health Inquiry - Review of Assessable Person	6006	6152	98%
Mental Health Inquiries Total	6006	6152	98%
Grand Total	11464	19008	60%

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

This attendance and participation in hearings can be in person or by way of video or telephone. During the financial year 2023, the subject of civil hearings attended in 85% of cases (2022: 81%). Included in this figure are mental health inquiries which under ordinary conditions require the patient to attend in order for the inquiry to proceed. During the financial year 2023, the rate of client attendance at mental health inquiries was 98% (2022: 98%). The mental health inquiry is ordinarily adjourned if the patient is not able to attend.

In forensic matters, where there is a general requirement that the person attend unless excused from doing so by the Tribunal, attendance was 84% (2022: 86%). Of the hearings where the forensic patient did not attend, 58% were reviews of FCTOs which, with the agreement of the forensic patient, were often conducted 'on the papers'.

Hearings Proceedings in the Absence of the Patient

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

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

The Tribunal may conduct hearings in the absence of the patient only if it is satisfied that the patient is too unwell to attend the hearing or they refuse to attend the hearing within a reasonable period and that it is desirable for the safety and welfare of the patient that the hearing proceed. In making its determination the Tribunal is required to consider the views (if known) of the patient, any representative, the designated carer and the principal care provider.

During the 2023 financial year, three applications were received from authorised medical officers to proceed in the absence of the patient. Of these one was a s37 review of an involuntary patient during which the patient was detained. The other two were s 96 ECT hearings at which the application to proceed was approved.

Hearings Held in the Absence of the Patient							
Act	Matter Description	Patient did not attend	Total Hearings	% of Hearings in Absence	Approvals	Applications	% Approved in Absence
s37	Reviews of involuntary patients	183	2504	7%	1	1	100%
s63	Review of affected persons detained under a CTO	1	6	17%	0	0	0%
s96	Applications to administer ECT	56	872	6%	2	2	100%
Total		240	3382	7%	3	3	100%

Appeals

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

One appeal was lodged under s163 in the financial year 2023.

Section 50 of the NSW TAG Act 2009 provides for appeals to be made to NCAT against estate management orders made by the Tribunal. There was one such appeal lodged during 2023.

Multicultural Policies and Services

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

Persons appearing before the Tribunal have a right under s 158 of the Act to be assisted by an interpreter if they are unable to communicate adequately in English. During 2023, interpreters in 50 different languages assisted a total of 495 hearings (2022: 45 languages – 448 hearings). The ten most common languages interpreted were Mandarin (98), Arabic (58), Vietnamese (58), Cantonese (56), Serbo-Croat (33), Greek (22), Korean (17), Spanish (14), Farsi (14) and Italian (11). Together, these languages constitute 74% of the hearings in which an interpreter was required.

In August 2009 the Tribunal entered into a Memorandum of Understanding with Multicultural NSW on the provision of translation services concerning the Tribunal's official forensic orders. There were no forensic orders translated in the financial year 2023.

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

Government Information (Public Access) Act 2009

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

There were no GIPA requests for disclosure of information from the Tribunal's client files during the financial year 2023.

Public Interest Disclosures Act 1994

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

Data Collection – Involuntary Referral to Mental Health Facilities

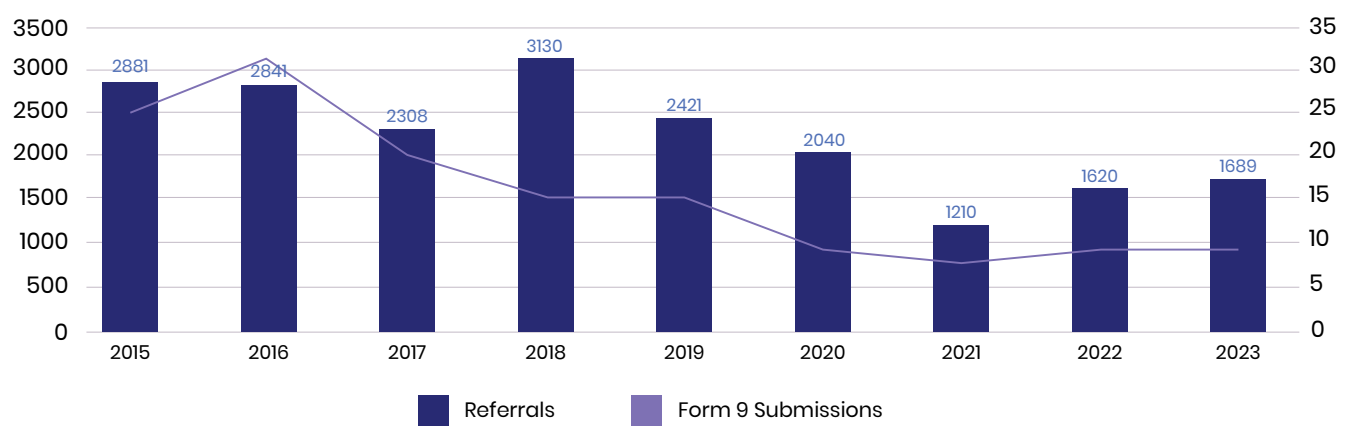
The Tribunal is required under the Act to collect information concerning the number of involuntary referrals and the provisions of the Act under which the patients were taken to hospital and admitted or released. The Regulations to the Act provide that these details are collected by means of a form which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

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

Despite some improvement in reporting from ED's over time , a sufficient level of compliance is yet to be achieved. During the financial year 2023, 5 of the 55 gazetted EDs (9%) returned the Form 9s (2022: 5 of 55 -9%).

Five EDs made 1,689 involuntary referrals during the financial year 2023, indicating that there remains a significant number of persons taken to emergency assessment mental health facilities who are not being recorded through this process. It is likely that some are being recorded on Form 9s submitted by the mental health facilities within the same hospital, however this is not quantifiable.

ED Referrals/Form 9 Submissions



Official Visitors Program

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

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

A Memorandum of Understanding was entered into by the Tribunal and the Official Visitors Program in 2009 setting out the agreed systems for raising issues identified by the Tribunal or the Official Visitors Program in relation to the other body. Two matters were referred to the Official Visitors Program by the Tribunal during financial year 2023 for follow up by Official Visitors.

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

Premises

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

The Tribunal has three full size and two smaller hearing rooms as well as three single occupant inquiries rooms. These are all fitted with video conferencing facilities. Video conferencing equipment has also been installed in two meeting rooms.

Venues

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

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

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

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

These issues are monitored and particular concerns or incidents discussed with venues and members as they arise.

Community Education and Liaison

During the financial year 2023 the Tribunal conducted a number of education sessions to inpatient and community staff at various facilities across the State. These sessions were used to explain the role and jurisdiction of the Tribunal and the application of the MHA and the MHCIFPA.

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

Staff

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

The Tribunal has very stable staffing with many staff having worked here for a number of years. Almost all of the Tribunal's staffing positions are occupied by permanent staff. This is a very positive position and provides stability for our staff and recognises their ongoing commitment to the work of the Tribunal.

Appendix 4 shows the organisational structure and staffing of the Tribunal as at 30 June 2023. Including the President and two full time Deputy President positions, the Tribunal's permanent establishment totals 30.4 positions, all of which are filled.

See also Appendix 4.

Tribunal Members

As at 30 June 2023, the Tribunal had a President, two full time Deputy Presidents, fourteen part time Deputy Presidents and 139 part time members. Members of the Tribunal sit on hearings in accordance with a roster drawn up to reflect members' availability, preferences and the need for hearings. Most members sit between two and four times per month at regular venues.

The Tribunal's membership reflects an equitable gender balance. As at 30 June 2023, including Presidential members, there were 85 female and 71 male members. Several members have indigenous or culturally diverse backgrounds as well as a number who have a lived experience of mental illness, bringing a valuable consumer or carer's focus to the Tribunal's hearings and general operations.

Part time Tribunal members are generally appointed for four-year terms with the next recruitment scheduled for 2024.

New Members

The Tribunal was delighted to welcome a new President and a new Deputy President – Forensic.

Magistrate Carolyn Huntsman was appointed as President in October 2022, being the Tribunal's first female appointment to this role. Carolyn brings a wealth of experience from the Local Court and the Coronor's Court. Her energy and her commitment to the Tribunal's work and its position in the Health landscape has already had positive effect.

Magistrate Michael Antrum took up the role of Deputy President – Forensic in October 2022, being the Tribunal's first Judicial Officer to hold this role. Michael also brings a wealth of knowledge and experience from the Local Court and he has hit the ground running with our Forensic team. He has been active in reviewing process and procedure and has quickly become a valued member of the executive team.

The Tribunal also welcomed 13 new part-time members in the financial year 2023.

Members	Member Type	Date Appointed
Acting Judge Ann Ainslie-Wallace	Deputy President – Part Time	1/09/2022
Mr Jonathan Hyde	Deputy President – Part Time	1/01/2023
Acting Judge Joanne Keogh	Deputy President – Part Time	1/01/2023
Ms Jan Redfern PSM	Deputy President – Part Time	7/06/2023
Acting Judge Garry Still	Deputy President – Part Time	1/01/2023
Acting Magistrate Bruce Williams	Deputy President – Part Time	7/06/2023
Mr Neil Jones	Lawyer	7/06/2023

Members	Member Type	Date Appointed
Mr Peter Ringbauer	Lawyer	7/06/2023
Dr Christina Botfield	Psychiatrist	7/06/2023
Dr Truls Bratten	Psychiatrist	7/06/2023
Dr Nicholas Burns	Psychiatrist	1/01/2023
Dr Preeyadarsini Vetha Elangovan	Psychiatrist	7/06/2023
Dr Tanya Hall	Psychiatrist	21/06/2023

Resignations

During the financial year 2023 we said farewell to President Judge Paul Lakatos. Coming to the Tribunal from the District Court, Judge Lakatos brought significant practical experience to his role with us. His humour and quiet authority with regard to the more challenging legal issues faced by the Tribunal was much valued and will be missed.

The Tribunal would also like to acknowledge the extraordinary contributions made by the following members who retired during the past year.

Members	Member Type	Years Appointed
Judge Paul Lakatos SC	President	4
Professor Hugh Dillon	Deputy President – Part time	5
The Hon. Patricia Staunton AM	Deputy President – Part time	10
The Hon. Stephen Walmsley SC	Deputy President – Part time	4
Ms Pauline David	Lawyer	6
Ms Jillian Moir	Lawyer	2
Dr Charles Doutney	Psychiatrist	27
Dr Jennifer Bergen	Psychiatrist	15
Dr Fiona McGregor	Psychiatrist	3
Dr Sarah-Jane Spencer	Psychiatrist	9
Dr Brent Waters	Psychiatrist	2
Associate Professor Francis Merritt	Other Suitably Qualified	21

Professional Development

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

During the financial year 2023, the Tribunal continued its program of regular professional development sessions

for its members. These sessions involve presentations from Tribunal members and staff as well as guest speakers.

Topics covered during the reporting period included:

- Aboriginal and Torres Strait Islander People's Perspectives in Mental Health Care Settings with Ms Jenny Newman
- Providing Effective Feedback with Ms Emma-May Litchfield, Resolution Resources
- Electroconvulsive Therapy: Safety, Side Effects and the State of the Evidence with Dr Brett Simpson
- NDIS & MHRT: Common Threads but Distinctive Colours with Ms Rhiannon Brodie
- Tribunal Benchcraft with Her Honor Ann Ainslie-Wallace
- A History of Forensic Mental Health Legislation with Deputy President Magistrate Michael Antrum

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

Financial Report

The Tribunal is funded directly from the Finance Branch of the Ministry. The budget allocation for 2022/2023 was \$8,324,650. Total net expenditure for the year was \$8,007,086 – a budget variation of \$303,987 (4%) which is primarily driven by a number of staff vacancies for parts of the financial year.

A Treasury adjustment of \$800,000 was provided to the Ministry of Health being the agreed amount transferred for the Department of Attorney General and Justice to fund the Mental Health Inquiries role. The actual expenditure related to this role for the financial year was \$1,932,117. This included the cost of additional three-member Tribunal panels required for the increased number of appeals lodged by patients against an authorised medical officer's refusal to discharge.

See also Appendix 5.

Thank You

We are very fortunate at the Tribunal in the high calibre of our staff and our members. I would like to take this opportunity to thank the many people who have worked both for and with the Tribunal during the 2023 financial year and to acknowledge their skill, competence and dedication in conducting more than 19,000 hearings. The successful operation of the Tribunal would not have been possible without their ongoing co-operation and support.

Alisa Kelley

Registrar





Appendix

Appendix 1 – Civil Statistics

Table 1 – Flow Chart Showing Progress of Involuntary Patients Admitted During the Period July 2022 through June 2023

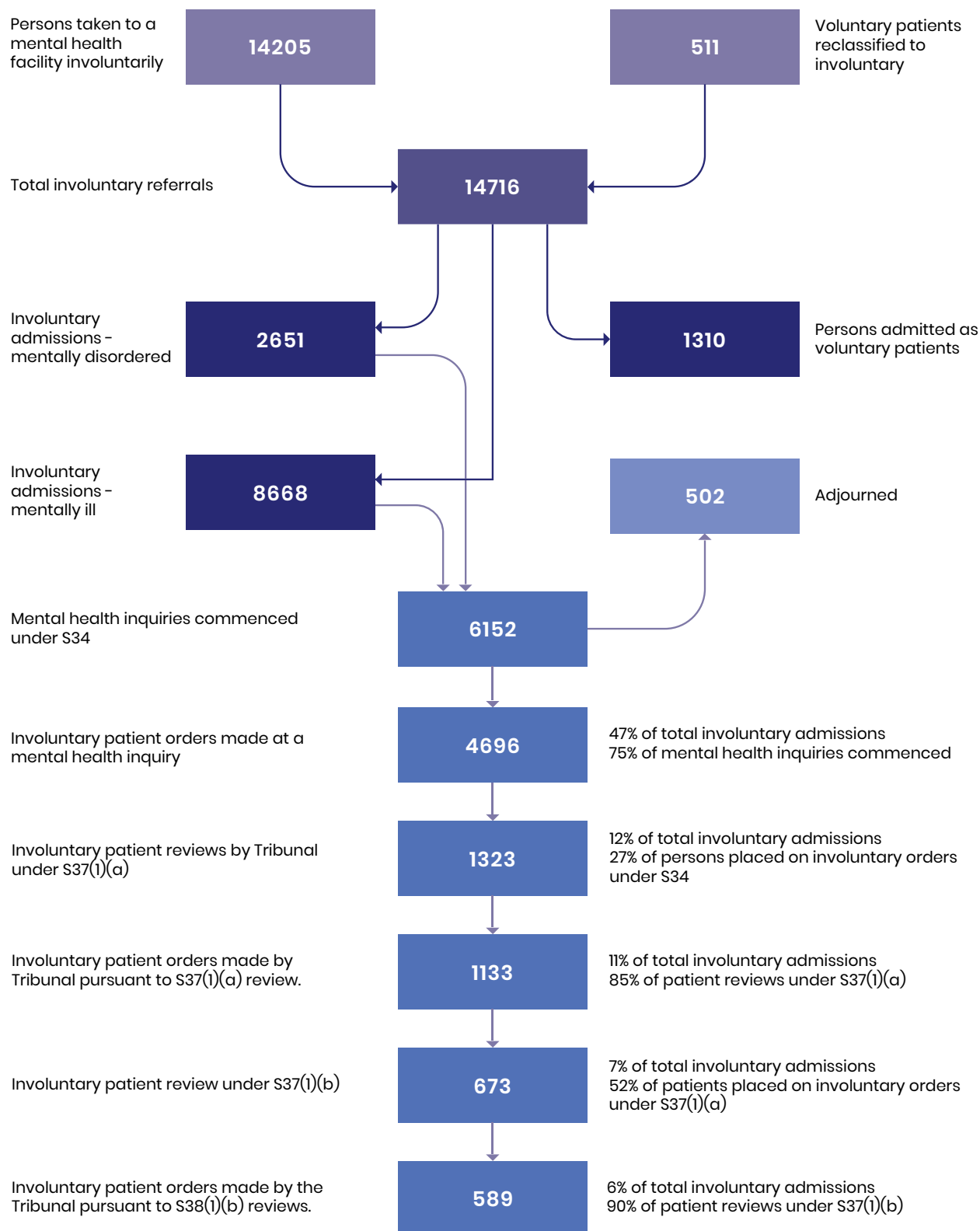


Table 2 – Civil Hearings – Total by Gender & Matter Description

Matter	Female		Male		Total
	Hearings	%	Hearings	%	
s34 Mental Health Inquiry – Review of Assessable Person	2784	45%	3368	55%	6152
s9 Review of Voluntary Patient	26	38%	42	62%	68
s37(1)(a) Initial Review of Involuntary Patient	606	46%	717	54%	1323
s37(1)(b) Review of Involuntary Patient	247	37%	426	63%	673
s37(1)(c) Review of Involuntary Patient	186	37%	320	63%	506
s37(1A) Review of an involuntary Patient – at any other time	2	100%	0	0%	2
s44 Appeal Refusal to Discharge	417	42%	570	58%	987
s51 Community Treatment Order – existing CTO	1305	37%	2259	63%	3564
s51 Community Treatment Order – Mental Health Facility	608	41%	889	59%	1497
s51 Community Treatment Order – no current CTO	414	36%	742	64%	1156
s63 Review of detained person under CTO	4	67%	2	33%	6
s65 Revocation of CTO	18	55%	15	45%	33
s65 Variation of (Forensic) CTO	6	7%	75	93%	81
s65 Variation of CTO	157	35%	287	65%	444
s96(1) ECT Consent Inquiry – Voluntary patient	2	67%	1	33%	3
s96(2) ECT Administration Inquiry – Involuntary patient	509	59%	357	41%	866
s96(3A)(a) ECT for person under 16 – Involuntary patient	3	100%	0	0%	3
s96(3A)(b) ECT for person under 16 – Voluntary patient	0	–	0	–	0
s101(1) Application for a Surgical Operation Involuntary Patient	1	33%	2	67%	3
s103 Application for special medical treatment	0	–	0	–	0
s151(4) Procedural Order	0	0%	2	100%	2
s154(3) Application to be represented by a person other than an Australian legal practitioner	0	–	0	–	0
s156 Procedural Hearing: Access to documents	1	100%	0	0%	1
S162 Application to Publish or Broadcast Name	1	100%	0	0%	1
Grand Total	7297	42%	10074	58%	17371

Table 3 – Civil Matters by Type over 5 years

Act	Matter Description	2022/23	2021/22	2020/21	2019/20	2018/19
S9	Review of those detained in a mental health facility receiving voluntary treatment for more than 12 months	68	70	48	64	79
S34	Mental Health Inquiry – Review of Assessable Person	6152	5966	6156	6467	6787
S37	Reviews of persons detained in a mental health facility for involuntary treatment	2504	2335	2369	2325	2727
S44 m	Appeal against an authorised medical officer's refusal to discharge	987	1037	991	797	629
S51	Community Treatment Orders	6217	6556	5853	5915	5519
S63	Review of affected persons detained following a breach of a Community Treatment Order	6	7	14	13	8
S65	Variation and revocation of Community Treatment Orders *	558	583	536	405	432
S96(1)	Review of voluntary patient's capacity to give informed consent to ECT	3	0	2	4	2
S96(2)	Application to administer ECT to an involuntary patient with or without consent	866	791	781	822	810
S96(3A)	Application to administer ECT to a person under 16 years	3	5	1	1	0
S101	Application for a Surgical Operation	3	9	6	10	7
S103	Application for special medical treatment	0	0	2	1	0
S151-S156	Procedural Orders	3	9	2	4	5
S162	Application to publish or broadcast names	1	0	0	0	1
S202(4)	COVID-19 special provisions	-	-	4	21	0
Total		17371	17368	16765	16849	17006

*includes forensic

Table 4 – Number of Community Treatment Orders Made by Health Care Agency

Health Care Agency	2022/23	2021/22	2020/21	2019/20	2018/19
Albury Community Mental Health Service	35	27	42	29	38
Auburn Community Mental Health Team	44	76	68	42	65
Bankstown-Lidcombe Mental Health Service	174	178	152	140	133
Bathurst and Region Community Mental Health and Drug and Alcohol Service	34	14	-	-	-
Bega Valley Community Mental Health Service	31	33	22	27	28
Blacktown and Mt. Druitt Psychiatry Service	273	299	262	292	292
Blue Mountains Mental Health Service	43	50	52	63	50
Bondi Junction Community Mental Health Service	5	10	11	6	9
Bowral Community Mental Health Service	22	21	20	10	15
Byron Mental Health Services	33	28	29	29	21
Campbelltown Mental Health Service	192	162	166	150	133
Camperdown Community Mental Health Service	187	198	177	169	169
Canterbury Community Mental Health Service	143	151	144	113	119
Central Coast Area Mental Health Service	428	456	449	460	441
Coffs Harbour District Hospital Outpatient Service	113	94	100	77	99
Cooma Community Mental Health Service	6	6	14	19	13
Cooma and Queanbeyan Community Mental Health Service	26	20	-	-	-
Cootamundra Community Mental Health Service	1	1	-	-	-
Croydon Community Mental Health Service	292	259	215	264	241
Deniliquin Mental Health Service	23	20	19	20	31
Dubbo and Region Community Mental Health and Drug and Alcohol Service	91	42	-	-	-
Dundas Community Mental Health Service	0	0	0	3	2
Eurobodalla Community Mental Health Service	31	43	6	44	25
Fairfield Mental Health Service	139	105	100	124	147

Health Care Agency	2022/23	2021/22	2020/21	2019/20	2018/19
Far West Mental Health Service	23	20	23	22	17
Goulburn and Yass Community Mental Health Service	28	38	37	35	56
Grafton Mental Health Service	28	41	32	26	37
Granville Community Rehabilitation Service	81	78	78	77	49
Griffith Community Mental Health Service	60	53	46	51	53
Hawkesbury Mental Health Service	15	27	25	11	25
Hills (The) Community Mental Health Centre	57	63	59	54	55
Hornsby Ku-ring-gai Community Mental Health Service	162	157	156	186	152
Hunter Psychiatric Rehabilitation Service	0	0	0	2	0
Hunter Valley Health Care Agency	1	0	0	0	104
Hunter New England Mehi/McIntyre Mental Health Service	33	41	0	36	38
Hunter New England Tablelands Mental Health Service	30	32	18	14	24
Hunter New England Peel Mental Health Service	36	31	29	28	32
Hunter Valley Adult and Child and Adolescent Community Mental Health Service	98	79	71	86	0
Hunter Valley Child and Adolescent Mental Health Service	5	1	0	0	0
Illawarra Community Mental Health Services	143	131	107	114	120
Inner City Mental Health Service	103	93	58	64	81
Kempsey Mental Health Service	30	36	48	43	49
Lake Illawarra Sector Mental Health Service	2	0	0	2	1
Lake Macquarie Mental Health Service	97	94	101	90	77
Lake Macquarie Child and Adolescent Community Mental Health Service	4	4	1	2	0
Lismore Mental Health Services	79	107	85	110	114
Lithgow Mental Health Service	10	11	10	5	7
Liverpool Mental Health Service	241	224	208	178	147
Macquarie Area Mental Health Services	5	58	77	81	88
Manly Hospital & Community Health Service	0	0	1	0	68
Maroubra Mental Health Service	192	199	201	193	183

Health Care Agency	2022/23	2021/22	2020/21	2019/20	2018/19
Marrickville Community Mental Health Service	111	119	102	135	114
Merrylands Community Health Service	45	39	25	15	28
Mid Western Community Mental Health Service	9	60	103	112	118
Mudgee and Region Community Mental Health and Drug and Alcohol Service	17	13	10	13	17
Newcastle Mental Health Service	209	226	219	228	183
Newcastle Child and Adolescent Community Mental Health Service	1	0	3	2	0
Northern Illawarra Sector Mental Health Service	0	0	1	2	0
Northern Beaches Community Mental Health Service	173	155	142	163	144
Orange Community Health Team Orange Health Centre	1	1	-	-	-
Orange and Region Community Mental Health and Drug and Alcohol Service	88	5	7	7	6
Parramatta Community Health Service	87	87	142	151	134
Penrith Mental Health Service	35	36	47	55	73
Penrith – Child and Youth Mental Health Service	2	3	0	1	0
Port Macquarie Community Mental Health Service	86	76	61	53	47
Queanbeyan Mental Health Service	0	0	15	31	36
Redfern Community Mental Health Service	59	67	74	67	55
Royal North Shore Community Health Centre (Mental Health)	125	135	135	135	0
Royal North Shore Hospital and Community Health Services	25	37	41	31	199
Ryde Community Mental Health Service	159	188	156	141	139
Shoalhaven Community Mental Health Services	50	57	54	59	77
Springwood Mental Health Service	11	16	8	9	17
St George Community Mental Health Centre	201	202	200	197	0
St Marys Mental Health Service	59	51	45	43	59
St George Div. of Psychiatry & Mental Health	0	0	0	0	208

Health Care Agency	2022/23	2021/22	2020/21	2019/20	2018/19
St George Child & Adolescent Mental Health Service	0	0	1	1	0
Sutherland Hospital and Community Mental Health Service	120	118	110	93	85
Tamworth Community Mental Health Service	0	0	2	3	6
Taree Community Mental Health Service	60	46	38	54	65
Temora Community Mental Health	16	12	13	15	11
Tumut Community Mental Health Service	7	7	9	11	12
Tweed Mental Health Service	84	88	72	94	108
Wagga Wagga Community Mental Health Service	65	52	53	49	47
Young Community Mental Health Service	16	14	13	7	11
CTO's made at Mental Health Inquiries & reviews	892	903	875	671	416
Total	6742	6724	6295	6239	6063

Table 5 – CTO's made by the Tribunal & by Magistrates since 2009

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

Year	Magistrate ~	Mental Health Inquiries	Tribunal Hearings	Total Orders Made
2022/23	10	883	5,859	6742
2021/22	4	896	5,863	6759
2020/21	3	875	5423	6298
2019/20	12	671	5586	6239
2018/19	13	416	5647	6063
2017/18	0	335	5367	5702
2016/17	0	362	5406	5768
2015/16	0	336	5050	5386
2014/15	0	336	4806	5142
2013/14	0	360	4824	5184
2012/13	0	339	4882	5221
2011/12	0	581	4426	5007
2010/11	2	566	4128	4696
2009/10	806	10	3956	4772
2008/09	997	0	4058	5055

~ 2018 – 2023 figures represent number of Tribunal orders revoked as order made by Magistrate. The Tribunal is not notified of all orders made under s20 *Mental Health Cognitive Impairment Forensic Provisions Act 2020*. These figures therefore represent orders made for existing Tribunal clients where the Local Court has provided the order.

Appendix 2 – Forensic Statistics

Table 6 – s78(B): First Review Following Fitness Referral from Court

MHCIFPA – S78(b) First Review Following Fitness Referral from Court	Individuals	Hearings
Person is fit for trial	4	4
Person is not fit and will not become fit within 12 months	13	13
Court Order for detention is replaced by Tribunal order	0	0
Transfer to another facility	0	0
Adjourned	11	13
Total	28	30
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
Total number of individuals and hearings for S78(b) reviews:	21	29

Table 7 – s78(c) First Review Following Special Verdict of Act Proven but Not Criminally Responsible

MHCIFPA – S78(c) First Review Following Special Verdict of Act Proven but Not Criminally Responsible	Individuals	Hearings
Court order for conditional release replaced by Tribunal order	3	3
Court order for detention replaced by Tribunal order	4	4
Transfer to another facility	12	12
Grant leave of absence	1	1
Release conditional	5	5
Adjournment	1	1
Total	26	26
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
Total number of individuals and hearings for S78(c) reviews:	24	25

Table 8 – s78(a) First Review Following Nomination of Limiting Term

MHCIFPA – S78(a) First Review Following Nomination of Limiting Term	Individuals	Hearings
Person is FIT for trial	0	0
Court order for detention replaced by Tribunal order	10	10
Person is unfit for trial	11	11
Transfer to another facility	0	0
Adjourned	1	1
Total		
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.	22	22
Total number of individuals and hearings for S78(a) reviews:	15	15

Table 9 – s78(D) & 79: Review of Forensic Patients

MHCIFPA – S78(d) & 79 Review of Forensic Patients	Individuals	Hearings
Current order for apprehension to continue	0	0
Current order for conditional release to continue	131	172
Current order for detention to continue	174	274
Current order for transfer and detention to continue	29	39
Variation to current order for detention	13	14
Variation to current order for transfer and detention	7	7
Extension of period of review granted	52	53
Extension of period of review NOT granted	9	9
Person is fit to be tried	1	1
Person is not fit to be tried	39	56
Release conditional	28	28
Release conditions varied	144	187
Release conditions made less restrictive	1	1
Release unconditional under a CTO	9	9
Release – Unconditional	5	5
Revocation of conditional release and order detention	2	2
Forensic patient status expired – reclassified as involuntary patient	1	1
Transfer to another facility	15	15
Transfer to another facility – time limited order	0	0
Leave of absence granted	91	140
Leave of absence revoked	1	1
Financial Management Order made	0	0
Adjourned	48	60
Total	800	1074
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
Total number of individuals and hearings for SS78(d) & 79 reviews:	467	935

Table 10 –s89: Limited Review of Those Awaiting Transfer to a Mental Health Facility

MHCIFPA – S89 Limited Review of Those Awaiting Transfer to a Mental Health Facility	Individuals	Hearings
Transfer to another facility	1	1
Revoke order for transfer to a mental health facility	0	0
Patient transferred prior to hearing	0	0
Patient released prior to hearing	0	0
Hearing not required	0	0
Adjournment	0	0
Total	1	1
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
Total number of individuals and hearings for S89 reviews:	1	1

Table 11 –s90: First Review Following Transfer from a Correctional Centre to a Mental Health Facility

S90 First Review Following Transfer from a Correctional Centre to a Mental Health Facility	Individuals	Hearings
Person is a mentally ill person – continue in a mental health facility	60	62
Person is a mentally ill person – appropriate care is available in a correctional centre	1	1
Person is a mentally ill person – appropriate care is available in a correctional centre under an FCTO	11	11
Person is not a mentally ill person – should not continue in a mental health facility	1	1
Person has a treatable condition, continue in mental health facility	0	0
Person has a treatable condition, appropriate care available in correctional centre	1	1
Correctional patient status expired – reclassified as an involuntary patient	0	0
Patient released prior to hearing	0	0
Patient transferred prior to hearing	1	1
Transfer to another facility – time limited order	1	1
Financial Management Order made	0	0
No Financial Management Order made	0	0
Decision Reserved	1	1
Tribunal has no jurisdiction	1	1
Adjourned	7	7
Total	85	87
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
Total number of individuals and hearings for S90 reviews:	80	85

Table 12 – S99: Application for a Forensic CTO

S99 Application for a Forensic CTO	Individuals	Hearings
Forensic CTO made	173	175
Forensic CTO not made	0	0
CTO made to have effect on date of unconditional release	10	10
Patient released prior to hearing	1	1
Decision Reserved	1	1
Withdrawn or no jurisdiction	2	2
Adjourned	8	8
Total		
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.	195	197
Total number of individuals and hearings for S67 reviews:	187	195

Table 13 – MHA – S65 Application to Vary a Forensic CTO

MHA – S65 Application to Vary or Revoke a Forensic CTO	Individuals	Hearings
Variation approved to order	107	107
Variation not approved	1	1
FCTO revoked	3	3
FCTO not renewed or revoked by Health Care Agency	5	7
Patient discharged prior to hearing	0	0
Withdrawn or no jurisdiction	2	2
Adjournment	7	8
Total		
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.	125	128
Total number of individuals and hearings for S65 reviews:	114	119

Table 14 – S91(b) & 93: Review of Correctional Patients

MHCIFPA - S91(b) & 93 Review of Correctional Patients	Individuals	Hearings
Current order for detention to continue	12	17
Correctional patient status expired - reclassified as involuntary patient	0	0
Transfer to another facility - CTO made	0	0
Adjourned	2	2
Total	14	19
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
Total number of individuals and hearings for S91(b) reviews:	13	19

Table 15 – s100: Review of Person in Custody Subject to a CTO

MHCIFPA - S100 Review of Person in Custody Subject to a CTO	Individuals	Hearings
Forensic CTO to Continue	81	104
Forensic CTO varied by Civil panel to community HCA	0	0
Forensic CTO Revoked	4	5
Adjourned	11	12
Total	96	121
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
Total number of individuals and hearings for S100 reviews:	84	121

Table 16 – S109(4): Review of Person Apprehended Under Breach of Order for Leave or Release

MHCIFPA – S109(4) Review of Person Apprehended Under Breach of Order for Leave or Release	Individuals	Hearings
Confirm order for conditional release	9	10
Revocation of Conditional Release and Order Detention	2	2
Confirm order for detention and grant leave of absence	1	1
Interim order following breach granting leave of absence	0	0
Transfer to another facility	0	0
Adjourned	20	24
Deceased	0	0
Total	32	37
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
Total number of individuals and hearings for S109(4) reviews:	25	47

Table 17 – s109(1) Orders Made for Apprehension of a Person in Breach of Order for Leave or Release

MHCIFPA – S109(1) Orders Made for Apprehension of a Person in Breach of Order for Leave or Release	Individuals	Orders
Total number of individuals and orders made under S109(1):	19	20

Table 18 –MHCIFPA s146: Application of Registered Victim for Non-Association or Place Restriction

MHCIFPA – S146 Application of Registered Victim for Non-Association or Place Restriction	Individuals	Hearings
Impose non-association and/or place restriction condition	9	10
Vary non-association and/or place restriction condition	0	0
Decline to make a non-association and/or place restriction condition	2	2
Withdrawn or no jurisdiction	1	1
Adjournment	3	3
Total	15	16
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
Total number of individuals and hearings for S146 reviews:	13	16

Table 19 Procedural Hearings – MHA s162 Application to Publish or Broadcast Name / BDMA s31D Approval of Change of Name

Procedural Hearings	Individuals	Hearings
S162 Application to Publish or Broadcast Name		
Application granted	0	0
Total	0	0
S31D Approval of Change of Name		
Application granted	1	1
Withdrawn or no jurisdiction	1	1
Adjournment	1	1
Total	3	3
S151(4) Application for a Procedural Order		
Application granted	2	2
Total	2	2
Total Procedural Hearings	5	5

Table 20 Forensic Patients, Correction Patients & FCTOs by Location at 30 June 2023

Location	Number of Patients at 30 June						
	2023	2022	2021	2020	2019	2018	2017
Bloomfield Hospital	24	27	23	24	23	18	21
Community	250	265	230	216	193	182	186
Concord Hospital	8	7	6	6	8	8	7
Cumberland Hospital	29	33	32	30	31	31	32
Forensic Hospital	112	110	108	116	110	109	119
Juvenile Justice Centre	0	0	0	0	0	4	0
Long Bay Hospital	79	77	45	51	51	57	46
Macquarie Hospital	7	4	3	5	5	9	9
Metropolitan Remand and Reception Centre	30	37	91	89	79	83	70
Metropolitan Special Programs Centre	15	20	15	15	14	18	16
Morisset Hospital	28	28	30	29	28	31	27
Silverwater Women's Correctional Centre	0	7	6	8	15	7	5

Location	Number of Patients at 30 June						
	2023	2022	2021	2020	2019	2018	2017
Other Community Hospitals	9	9	11	11	10	13	9
Other Correctional Centres	47	32	35	34	51	48	19
Total	638	656	635	634	618	618	566

Table 21 – Location of Hearings Held for Forensic Patients, Correctional Patients & FCTOs

Location of Hearings Held for Forensic and Correctional Patients Over 6 Years						
Location	2022/23 ¹	2021/22 ²	2020/21 ³	2019/20 ⁴	2018/19	2017/18
Bloomfield Hospital	36	0	0	22	44	46
Concord Hospital	9	0	0	0	14	15
Cumberland Hospital	68	0	0	86	117	95
Forensic Hospital	211	0	0	182	269	281
Long Bay Hospital	112	0	0	180	253	251
Macquarie Hospital	11	0	0	0	14	19
Metropolitan Remand and Reception Centre	24	0	0	98	119	133
Morriset Hospital	41	0	0	46	62	54
Tribunal Premises Gladesville	1032	1515	1671	998	651	599
Total	1544	1515	1671	1612	1543	1493

¹ Hearings were held entirely on site at Gladesville during the period July–October 2023 due to COVID-19 restrictions.

² Hearings were held entirely on site at Gladesville during the financial year 2022 due to COVID-19 restrictions.

³ Hearings were held entirely on site at Gladesville during the financial year 2021 due to COVID-19 restrictions.

⁴ Hearings were held entirely on site at Gladesville during the period April–June 2020 due to COVID-19 restrictions.

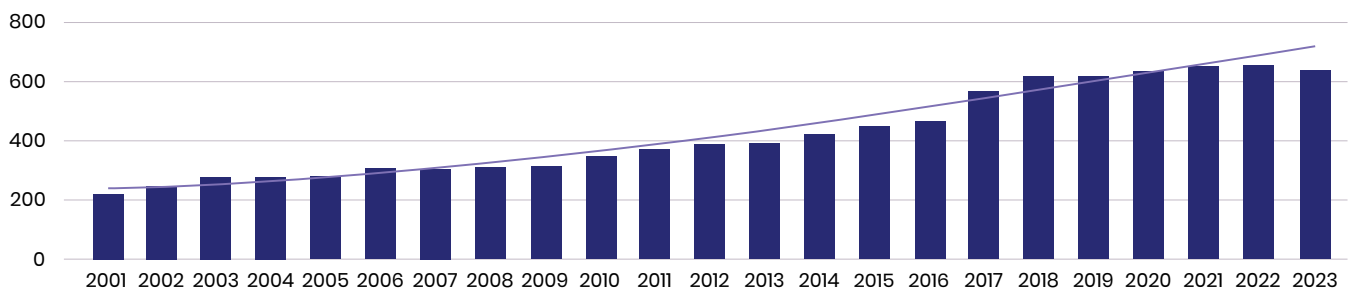
Table 22 – Category of Forensic Patients, Correctional Patients & FCTOs

Category of Forensic and Correctional Patients over 6 Years by Gender							
Category	Gender	2022/23	2021/22	2020/21	2019/20	2018/19	2017/18
Act Proven Not Criminally Responsible	Female	55	50	47	0	0	0
	Male	367	362	361	0	0	0
	Total	422	412	408	0	0	0
Not Guilty by Reason of Mental Illness	Female	0	0	0	50	48	47
	Male	0	0	0	349	350	339
	Total	0	0	0	399	398	386
Fitness/Fitness Bail	Female	0	1	3	8	3	1
	Male	25	25	21	55	34	39
	Total	25	26	24	63	37	40
Limiting Term	Female	3	1	0	2	3	3
	Male	32	26	22	21	28	22
	Total	35	27	22	23	31	25
Extension/Interim Extension Orders	Female	1	1	1	1	1	0
	Male	14	16	13	10	10	10
	Total	15	17	14	11	11	10
Correctional Patients	Female	9	6	3	5	3	1
	Male	30	33	52	42	45	29
	Total	39	39	55	47	48	30
Forensic Community Treatment Orders	Female	8	7	7	6	12	10
	Male	94	128	115	85	81	115
	Total	102	135	122	91	93	125
Total	Female	76	66	61	72	70	62
	Male	562	590	584	562	548	554
	Total	638	656	645	634	618	616

Table 23 – Number of Forensic & Correctional Patients 2001 – 2023

Number of Forensic and Correctional Patients 2001-2023											
2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
223	247	279	277	284	310	309	315	319	348	374	387
2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
393	422	448	468	566	616	618	634	645	656	638	

Number of Forensic & Correctional Patients 2001 – 2023



Notes

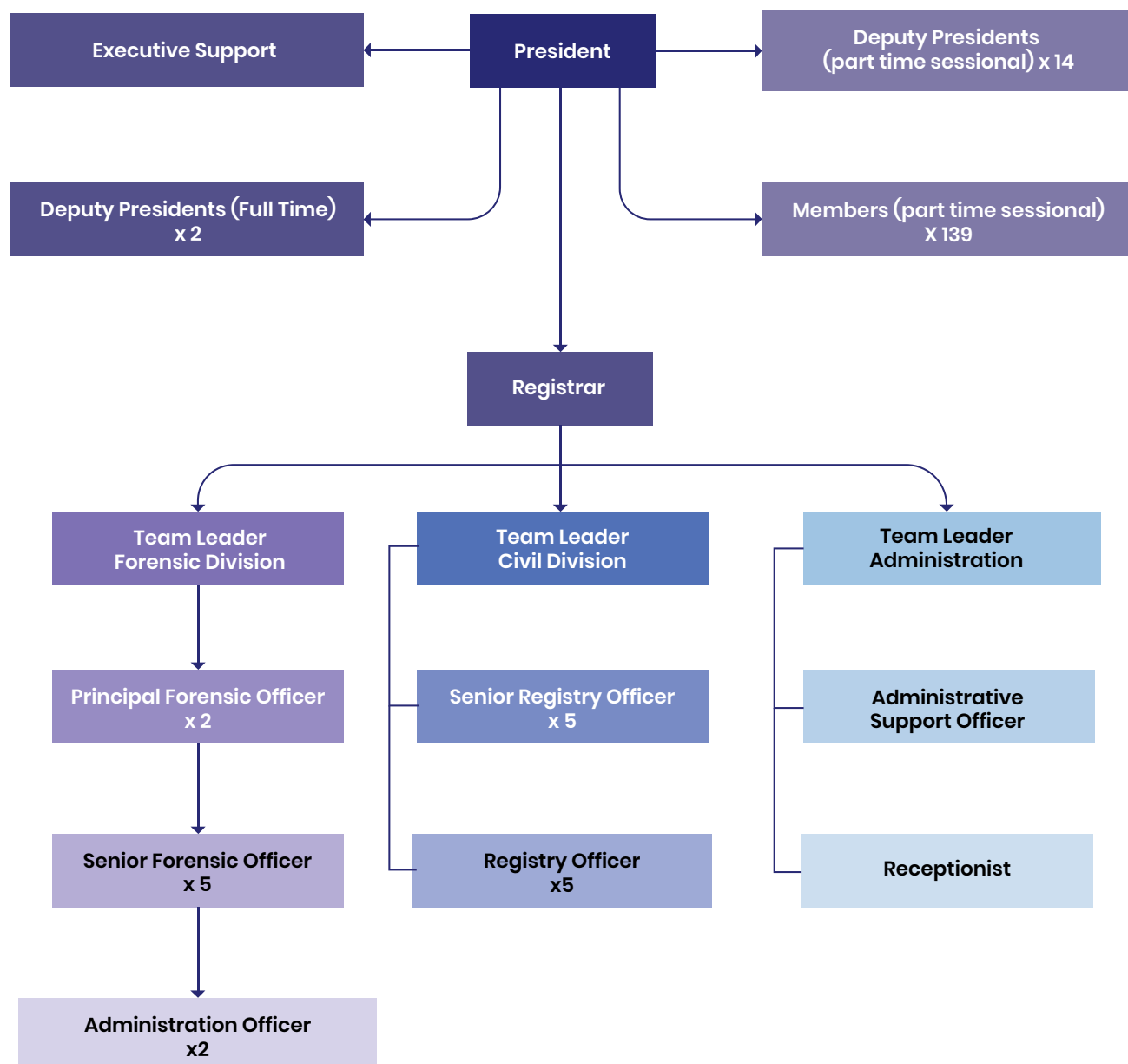
1. Figures for 2001 taken as at 31 December 2000.
2. Figures from 2009 forward include correctional patients
3. Figures from 2011 forward include Forensic CTOs
4. Years 2011-2016 include 1 Norfolk Island forensic patient

Appendix 3 – The Jurisdiction of the Tribunal as at 30 June 2023

The Jurisdiction of the Tribunal as at 30 June 2023	
Mental Health Act 2007	
Review of voluntary patients	S9
Reviews of assessable persons – mental health inquiries	S34
Initial review of involuntary patients	S37(1)(a)
Review of involuntary patients during first year	S37(1)(b)
Continued review of involuntary patients	S37(1)(c)
Appeal against medical superintendent's refusal to discharge	S44
Making of community treatment orders	S51
Review of affected persons detained under a community treatment order	S63
Variation or revocation of a community treatment order	S65
Appeal against a magistrate's community treatment order	S67
Review of voluntary patient's capacity to give informed consent to ECT	S96(1)
Application to administer ECT to an involuntary patient (including forensic patients) with or without consent	S96(2)
Inspect ECT register	S97
Review report of emergency surgery for an involuntary patient	S99(1)
Review report of emergency surgery for a forensic patient	S99(2)
Application to perform a surgical operation on an involuntary patient	S101(1)
Application to perform a surgical operation on a voluntary patient or a forensic patient not suffering from a mental illness	S101(4)
Application to carry out special medical treatment on an involuntary patient	S103(1)
Application to carry out prescribed special medical treatment	S103(3)
Application for procedural order/s	S151(4)
Mental Health & Cognitive Impairment Forensic Provisions Act 2020	
Review of person subject to a FCTO in correctional centre (not forensic patient)	s100
Review of person apprehended under s109	s109(4)
Review on request of person apprehended under s109	s112
Application of Registered Victim for non association or place restriction	s146
Request to suspend the operation of an order pending determination of an appeal	s153
Application to extend mandatory review period	s77
First review following nomination of limiting term	s78(a)
First review following fitness referral from court	s78(b)

The Jurisdiction of the Tribunal as at 30 June 2023	
Mental Health & Cognitive Impairment Forensic Provisions Act 2020	
First review following special verdict of act proven but not criminally responsible	s78(c)
Review of forensic patient (6 monthly)	s78(d)
Review of forensic patient subject to FCTO in correctional centre	s78(e)
Forensic patient review at any time	s79
Request to transfer back to correctional centre	s88
Limited review of person awaiting transfer to a mental health facility	s89
First review following transfer from correctional centre to a mental health facility	s90
Review of correctional patient (6 monthly)	s91(b)
Review of correctional patient at any time	s93
Appeal against failure or refusal of Secretary to consider granting leave	s97
Application for a FCTO	s99
NSW Trustee & Guardian Act 2009	
Consideration of capability to manage affairs at mental health inquiries	S44
Consideration of capability of forensic or correctional patients to manage affairs	S45
Orders for management	S46
Interim order for management	S47
Review of interim orders for management	S48
Revocation of order for management	S86
Births, Deaths and Marriages Registration Act 1995	
Approval of change of name	S31D
Appeal against refusal to change name	S31K

Appendix 4 – Organisational Structure at 30 June 2023



Appendix 5 – Financial Summary

Description	Value
Income	-\$260.00
Sundries	-\$260.00
Expense	\$8,007,346.20
Salaries & Wages	\$7,676,873.67
Consultants	\$2,272.73
HR	\$6,079.84
Training & Education	\$7,890.45
Travel	\$87,850.46
IT	\$31,074.86
Consumables	\$11,124.83
Catering	\$5,217.02
Legal Services	\$1,266.16
Maintenance	\$28,589.12
Postage & Freight	\$12,215.74
Printing & Stationery	\$22,335.15
Records Management	\$21,992.83
Telephony & Internet	\$3,718.34
Utilities & Services	\$86,221.33
Subscriptions & Memberships	\$2,554.13
Sundries	\$69.54
Grand Total	\$8,007,086.20
Budget	\$8,311,073
Net movement from budget	-\$303,987
Percentage movement from budget	-4%

The full year underspend of \$303,987 is driven primarily by a decrease in staff salaries as a result of vacancies throughout the year.

Appendix 6 – Tribunal Members at 30 June 2023

President		
Magistrate Carolyn Huntsman		

Full Time Deputy Presidents		
Ms Maria Bisogni	Magistrate Michael Antrum	

Part Time Deputy Presidents		
The Hon. Peter Hidden AM QC	Acting Judge Garry Still	The Hon. Judith Walker
Mr John Feneley	Ms Mary Jerram AM	Acting Magistrate Bruce Williams
Ms Angela Karpin AM	The Hon. Terry Sheahan AO	Acting Judge Ann Ainslie-Wallace
Mr Jonathan Hyde	Ms Jan Redfern PSM	The Hon. Jennifer Boland AM
Acting Judge Joanne Keogh	The Hon. John Roger Dive	

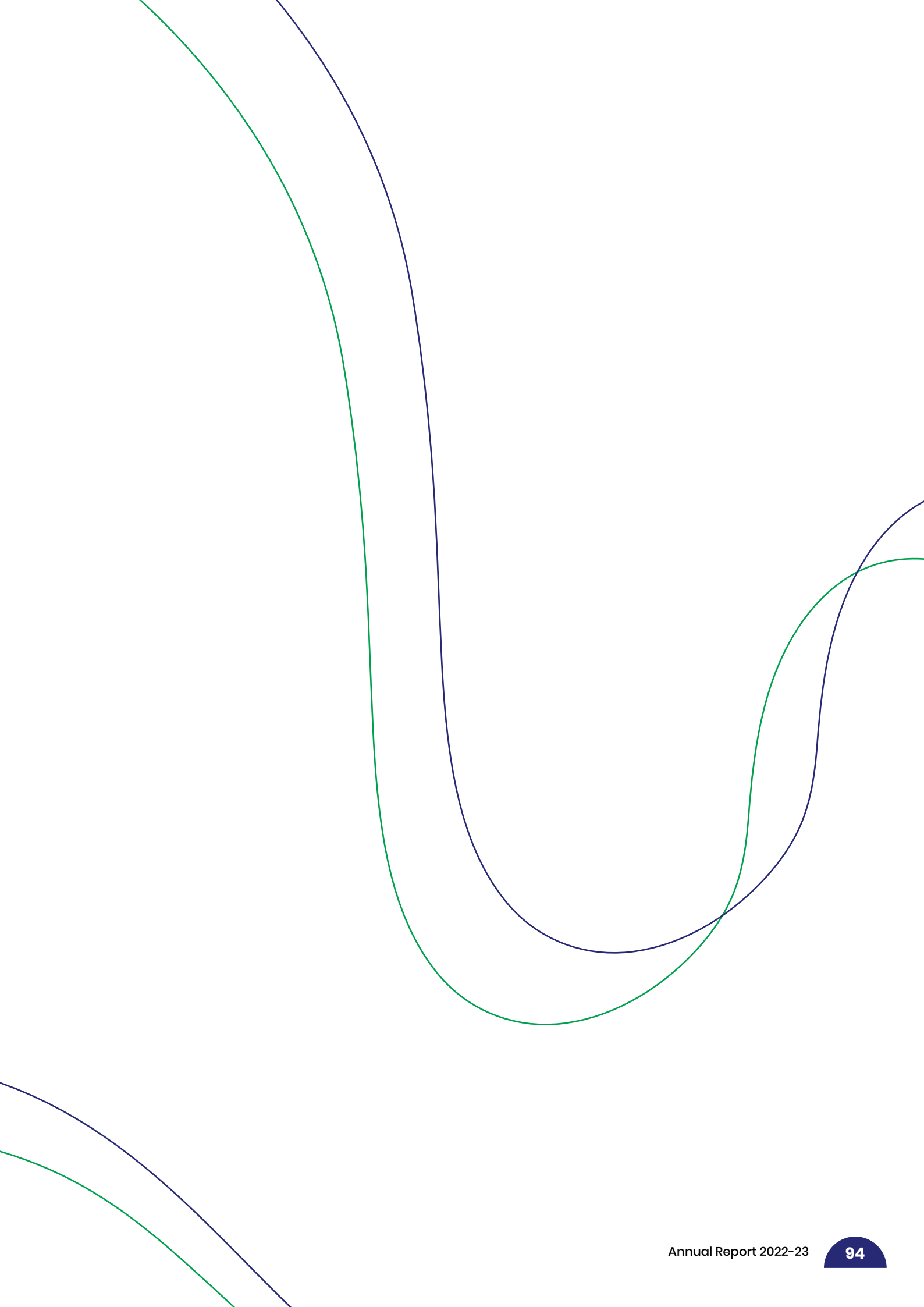
Part Time Members		
Lawyers	Psychiatrists	Other
Mr Adam Booker	Assoc. Professor Jagmohan Gilhotra	Assoc. Professor Katherine Mills
Mr Anthony Giurissevich	Assoc. Professor John Basson	Dr Angela Argent
Mr Bill Tearle	Dr Adam Martin	Dr Elizabeth McEntyre
Mr Brian Kelly	Dr Adrienne Gould	Dr Hannah Rose
Mr Bruno Gelonesi	Dr Andrew Campbell	Dr Meredith Martin
Mr David Hartstein	Dr Christina Botfield	Dr Peter Santangelo
Mr Dean Letcher KC	Dr Clive Allcock	Mr Ivan Beale
Mr Gregory West	Dr Daniel Pellen	Mr John Hageman
Mr Hans Heilpern	Dr Deidre Horne	Mr John Laycock
Mr John Hislop	Dr Enrico Parmegiani	Mr John Le Breton
Mr John Weir	Dr Frances Joy Herron	Mr Mark Coleman
Mr Mark Oakman	Dr Ganapathi Murugesan OAM	Mr Michael Gerondis
Mr Mark Turnbull	Dr Gerald Chew	Mr Peter Bazzana
Mr Martin Culleton	Dr Greg Hugh	Mr Peter Shmigel
Mr Michael Marshall	Dr Gregory Steele	Mr Rob Ramjan
Mr Neil Jones	Dr Janelle Miller	Mr Wayne Hunt
Mr Paul Dixon	Dr Jean Hollis	Ms Ann MacLochlainn
Mr Peter Braine	Dr Jennifer Torr	Ms Bernadette Townsend

Lawyers	Psychiatrists	Other
Mr Peter Ringbauer	Dr John Spencer	Ms Christine Bishop
Mr Robert Green	Dr Josephine Anderson	Ms Corinne Henderson
Mr Shane Cunningham	Dr Karen Arnold	Ms Diana Bell
Mr William de Mars	Dr Kristin Kerr	Ms Felicity Cox
Ms Athena Harris Ingall	Dr Lisa Lampe	Ms Irene Gallagher
Ms Barbara Adamovich	Dr Martyn Patfield	Ms Jacqueline Salmons
Ms Catherine Carney	Dr Mary Jurek	Ms Jenny Learmont AM
Ms Elaine Connor	Dr Megan Alle	Ms Katherine McKernan
Ms Frances Simmons	Dr Megan Kalucy	Ms Kathryn Worne
Ms Janice Connelly	Dr Neelya Agalawatta	Ms Kimia Randall
Ms Jean-Anne Searson	Dr Nicholas Burns	Ms Lyn Anthony
Ms Jennifer Conley	Dr Paul Thiering	Ms Lynn Houlahan
Ms Jenny D'Arcy	Dr Peter O'Brien	Ms Marjorie Anne Rauch
Ms Julie Hughes	Dr Peter Vaux	Ms Maz McCalman
Ms Karen McMahon	Dr Preeyadarsini Vetha Elangovan	Ms Melinda Smith
Ms Lynne Organ	Dr Raphael Chan	Ms Pamela Rutledge
Ms Mary-Beth McFarlane	Dr Rasiah Yuvarajan	Ms Pamela Verrall
Ms Michelle Gardner	Dr Robert Gordon	Ms Robyn Lewis
Ms Rhonda Booby	Dr Rosalie Wilcox	Ms Rosemary Kusuma
Ms Yvonne Grant	Dr Satya Vir Singh	Ms Sarah Crosby
Professor Jenni Millbank	Dr Stephanie Oak	Ms Sunny Hong
	Dr Susan Thompson	Ms Susan Daly
	Dr Susil Stephen	Ms Vanessa Robb
	Dr Tanya Hall	Assoc. Professor Meg Smith OAM
	Dr Tolulope Fajumi	Dr Ameer Baird
	Dr Truls Bratten	Dr Sally McSwiggan
	Dr Uldis Bardulis	Dr Susan Pulman
	Dr Vanessa Rogers	Ms Alice Shires
	Dr Varun Kumar	
	Dr Victor Storm	
	Dr Yvonne White	
	Emeritus Professor Philip Boyce AM	
	Professor Alan Rosen	

Lawyers	Psychiatrists	Other
	Professor Christopher Tennant	
	Professor James Greenwood	
	Professor Sadanand Rajkumar	

The Tribunal offers its appreciation to the following members whose appointments ended during 2022/2023

Judge Paul Lakatos SC	Professor Hugh Dillon	The Hon. Patricia Staunton AM
The Hon. Stephen Walmsley SC	Ms Pauline David	Ms Jillian Moir
Dr Charles Doutney	Dr Jennifer Bergen	Dr Fiona McGregor
Dr Sarah-Jane Spencer	Dr Brent Waters	Associate Professor Francis Merrit



Strategic Plan

Our Strategic Priorities

1. Ensure Fair and Legal Hearing Outcomes

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

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

2. Positive Relationships

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

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

3. Accountability and Innovation

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

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

2022 – 2025

Our Vision

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

Our Mission

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

Our Values

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



NSW Mental Health Review Tribunal

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