



# ANNUAL REPORT 2023/24





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

Dear Minister,

I enclose the Annual Report of the NSW Mental Health Review Tribunal for the period 1 July 2023 through 30 June 2024 as required by section 147 of the *Mental Health Act 2007*.

Yours sincerely,

**Magistrate Carolyn Huntsman**

**President**

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# The values we bring to our work



## Independence

Our independence as a decision maker is paramount and our decisions shall, at all times, be arrived at independently and free from improper influence.



## Dignity, Autonomy, Diversity, Individuality

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.



## Compliance with MHA 2007



## Collaborative Participation



## Procedural Fairness

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.



## Courtesy and Respect

## 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.

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.**

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.

We acknowledge the importance of open justice and also the need to balance this with considerations of individual privacy and confidentiality where appropriate.



## Balance Open Justice with Confidentiality

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.



## Professional Competence

Our work is specialised and requires a high level of professional competence achieved through ongoing training, education and development for members and staff.



## Value 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.



## Transparency

We acknowledge the importance of our procedures being transparent to the public.

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'.



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# PRESIDENT'S REPORT

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## President's Report

**In my second annual report since appointment as President, I am pleased to detail progress in the goals of modernisation and engagement. Given many years of unchanged technology and procedures, there has been considerable work to do. An improved capacity for the Tribunal to achieve respect for the civil rights of those receiving mental health treatment, and to respond to issues in management of forensic patients, through modernisation of procedures and use of appropriate technology, can only benefit the community.**

### New initiatives

In June 2023 the NSW State Government announced a budget enhancement for an upgrade to our software and digitalisation. The Tribunal had highlighted the risks presented by our aged and failing case management system, and inefficiencies occasioned by its lack of functionality. I raised this when giving evidence to the NSW Parliament at an Inquiry, noting that improved software resources would allow the Tribunal to contribute data for research purposes, to highlight areas where improvements can be made. Our Registrar, Alisa Kelley, continues her efforts to progress the acquisition of the software through Health procurement processes. Another initiative planned for the coming year will be a much-needed update of the Tribunal's website.

In the reporting year we were authorised to commence the search for new premises and Property and Development NSW have been assisting us. Accessibility for all parties and functionality of design have been a central focus in our search. The Tribunal is housed in the old Gladesville hospital. While many enjoy visiting the grounds, the buildings are unfit for Tribunal hearings. Wifi cannot permeate the thick walls of the heritage hospital buildings, and we have insufficient space – not enough hearing rooms, no rooms available for victims of forensic patients who are in attendance to have a safe and private space, and no rooms for lawyer/client/ interpreter conferences. Yet our case load is increasing by more than 10 percent a year – for details refer to the report of the Registrar.

Given the limited nature of our hearing rooms we are unable to conduct a hearing with multiple parties and indeed have had to go offsite and use hearing rooms at other NSW Tribunal premises. There are work health and safety concerns presented by the aged buildings, for staff and visitors, and security concerns have been identified.

On commencing as Tribunal President I was told that we had to relocate from our current premises by 2025. A move was always on the agenda but has become urgent given the safety concerns and functional limitations.

What I can announce is that change is coming – while no final decision has been made at the time of writing, we have support within the Mental Health Branch of the Ministry of Health for our relocation to appropriate premises as soon as possible.



## Respect for the Tribunal's role

The Tribunal plays a central role in ensuring that the legal and civil rights of persons with mental health conditions are upheld and respected. There is a necessary focus on access to treatment and services to aid recovery. However the Tribunal's function in the Civil Division includes review of those detained for treatment. The significant majority of cases heard by the Tribunal are for civil patients who have not infringed the criminal law. Civil patients receiving involuntary treatment in hospital are detained because of health and safety concerns, yet viewed outside those concerns the detention represents a major restriction on their civil rights, autonomy and freedom. As a society we must be vigilant to uphold respect for the legal and civil rights of all, and the review powers exercised by the Tribunal are a fundamental protection.

It should not be necessary to emphasise that health facilities have the legal obligation to present detained civil patients to the Tribunal. The attitude of a minority of health agencies/hospitals that they are being inconvenienced by Tribunal process is accordingly misconceived. When the health facility's engagement is a committed one, respect for the legal rights of patients, and the facility's own legal obligations, is communicated.

## Community resources

One observation I should share is the continuing strain on mental health services presented by lack of resources, particularly in the community sector, and the concomitant increased risk that those needing treatment are not able to access clinical and support services. The Tribunal's experience is that community based care assists in maintaining well being, and housing and community support services assist to maintain stability, and this leads to less hospital admissions and better health and quality of life.

The Tribunal joins the voices of many to ask for a significant allocation of resources to community mental health care.

As noted below, resource issues also impact on the Tribunal given an ever increasing case load and static resource allocation over many years.

## Resources

The Tribunal does not have adequate resources to meet its statutory obligation to conduct hearings. Given insufficient staff and lack of hearing rooms we cannot convene sufficient hearing panels to cover daily case loads. As noted in the Registrar's report, and previous Annual Reports, our case load grows annually however our funding and resources do not. This has led to longer and longer daily hearing lists, compromising time allocated to each matter and lengthening each hearing day. This is unsustainable for both the Tribunal and health facilities who rightly

complain about late finishing times. Members and staff bear the load as they remain committed to delivering quality outcomes despite insufficient time and resources.

While new premises will assist with hearing room availability, insufficient staff to support increased hearing numbers, and insufficient funding, will continue to be a constraint. The list sizes and length of sitting days in the Civil Division are now unsustainable. In the coming year I will be trialling some interim measures to improve matters, however meeting our statutory obligation to conduct hearings, given current and increasing workloads, will require budget allocation.

## Engagement

I am committed to increasing the engagement of the Tribunal with all stakeholders, and forging relationships so that the MHRT voice is heard. I communicate with many with whom the Tribunal does business, including various Health and legal agencies. These include the Mental Health Advocacy Service of the Legal Aid Commission of NSW, Heads of jurisdiction of NSW courts, including the Local Court and District Court, Divisional Heads of NCAT, relevant government Ministers, the President of the Law Society, the President of the Bar Association, the Chief Psychiatrist of NSW, the Director of Mental Health Branch, and Clinical Directors of health facilities to name a few. The Tribunal's full time Deputy Presidents similarly maintain a high level of engagement and their reports should be referred to. Our Forensic Division has seen active engagement with Justice Health and the Commissioner of Victims Rights.

As the District Court is the main referring court for the Forensic Division it is important that there is consultation around referral of forensic matters and information exchange. One significant improvement, initiated by the Tribunal, was access to the court records data base, Justice-link, facilitating Tribunal access to court documents for forensic patients referred by courts.

Engagement with the Mental Health Branch of the Ministry of Health has been active and has included consultations on review of the Mental Health Regulation, and various minor amendments to the

*Mental Health Act 2007 and the Mental Health and Cognitive Impairments Forensic Provisions Act 2020.*

In the coming year I will be prioritising our communications with Local Health Districts (LHDs) to improve their understanding of, and respect for, the Tribunal's role. We will also be commencing a health facilities "audit" to ensure that when the Tribunal attends health facilities to conduct hearings certain minimum requirements to ensure a positive hearing experience for patients are met.

It is hoped the audit will lead to greater awareness amongst health facilities of the importance of consulting the Tribunal - in the recent planning and build of new hospital and forensic facilities there has been little or no consultation with the Tribunal about provision for Tribunal hearings, and there was even some confusion expressed during one meeting whether a hearing room had been included in the design. It is hoped that we can inspire consultation and consideration going forward through proactive outreach and visits to LHDs.

## Recruitment

On 31 August 2024 the appointment terms of almost all current part-time members expire. Under applicable policies, if current members were reapplying for further terms as Tribunal members, most were required to compete at external interview. The Tribunal advertised for part-time members and received a large number of applications. Over 150 interviews of new applicants and current members seeking reappointment were conducted in February/March 2024 over several days. Recommendations were made to the Minister for new appointments and reappointments to commence on 1 September 2024. The Tribunal executive provided all paperwork to the Ministry of Health promptly however approval was a slow process. I will be meeting with the Ministry of Health and consulting about how the appointment process can be managed in a more timely manner in future years. Care was also taken in the 2024 recruitment process to ensure that in future years the Tribunal would avoid the situation of having most member terms expire at the same time - by design of overlapping appointment terms going forward.

The Tribunal is excited by the renewal of its membership – the 2024 recruitment is anticipated to achieve retention of a number of experienced Tribunal members at the same time as recruitment of new members. The diversity of our membership will increase. It is always important for there to be members who view Tribunal processes and decision making with “fresh eyes”. New members also bring up-to-date professional and practical experience. The Tribunal benefits from retention of experience through the reappointment of current members. The mixing of “experienced and new members” will benefit patients and carers by enhancing decision-making capacities.

## Education in Health sector

Contribution to education and information in the health sector is important, and the Tribunal is positioned to contribute insights gained in hearings conducted within health facilities across NSW. It is important, given our limited resources, to find efficient and effective ways to contribute to education – the Tribunal has no education or training officer, no policy officer, no research officer – all these roles are performed by the three full time Presidential members in addition to many other roles including legal leadership. With a view to maximising our “reach” given our limited resources in 2023 and 2024 I have had discussions with Health education providers, including HETI, to promote Tribunal engagement in this space, and in particular in training of Psychiatric Registrars in knowledge of the Mental Health Act and how to present at Tribunal hearings. These discussions have progressed and I anticipate further developments in the coming year.

## Participation in conferences/ consultations/reform processes

In the Civil Division ongoing engagement with Health providers is important and I have contributed through participation in regular Health meetings, and conferences, at formal and informal levels. Formal presentations have included at the *NSW Eating disorders, Medical leads day* (State wide meeting of medical leads hosted at Sydney University by Inside out, Institute for Eating Disorders) in March 2024;

and to Solicitors as part of Law Society Continuing Professional Development “*An Introduction to practice, procedure and appearing at the NSW Mental Health Review Tribunal – Part 1 Civil Division*” [Part 2 on Forensic Division was presented by Deputy President Michael Antrum].

I provided a submission and appeared as a witness before the *Legislative Council Portfolio Committee No. 2 – Health: Inquiry into the equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales*. The Inquiry was wide ranging and many stakeholders in the mental health system provided submissions and gave evidence. A useful recommendation made by the Inquiry was that our Tribunal receive funding to upgrade our software.

I represent the MHRT at the Mental Health sector quarterly meetings of the Program Council (now *Mental Health Partnership Network*). This is a meeting of mental health agencies including consumer and carer agencies and the meetings include presentations on new research, policies and programs, as well as allowing in person meetings and discussions and exchange of ideas. Our participation increases our relationships with a number of stakeholders and furthers our “real time” awareness of developments/issues of concern in the mental health sector.

Interaction with NSW and interstate Tribunals is important. In 2023 I was a member of the COAT NSW Committee responsible for organising the COAT NSW Annual conference which was held in November 2023, including organising and chairing a session; and with Deputy President Michael Antrum and Registrar Kelley attended the COAT National conference in June 2024. A number of important inter-Tribunal meetings are held during the National conference which we attended.

As President I respond on behalf of our Tribunal to numerous requests for responses/feedback on legislation and policy issues; coronial recommendations etc. We also respond to Ministerial requests for information. Our full-time Deputy Presidents’ participation and engagement is also significant – refer to the reports of Deputy Presidents Antrum and Bisogni.

## Ongoing review of Tribunal Practice Directions, forms and processes

As part of modernisation and renewal, and in preparation for the improved functionality of a new Tribunal case management system and website, we have continued our review of our processes, forms and Practice Directions. The resources diverted to the 2024 recruitment and member induction/training has meant that we still have work to do, however much progress has been made.

The previous method of no review date on Practice Directions or Tribunal information on the website, is being replaced with review dates for every document, to ensure that all our forms and processes are legally up to date and effective.

## Forensic Processes

As detailed in the report of Deputy President Antrum, the new Practice Direction for Participation of Victims in Tribunal Reviews commenced in the reporting period. In accordance with the Practice Direction, where required procedural hearings may be conducted by the full time Deputy Presidents, or the President. These aim to improve the process for all parties including victims of forensic patients. I commend the report of Deputy President Antrum to those interested in this aspect of the Tribunal's work.

The *Practice Direction – No.4 of 2023 – The Participation of Victims in Tribunal Reviews* specifically implements the 2020/21 legislation passed after the Whealy review of MHRT in 2017. That review included a focus on experiences of victims of forensic patients and their participation in Tribunal reviews.

I commenced as President when the MHRT was coming out of the COVID-19 period of remote hearings due to lockdowns and pandemic concerns (2020 to 2022). This had been a disruptive period for all courts and tribunals, as they strived to deliver hearings despite lockdown difficulties, and particularly so for our Tribunal with hearings located in Health facilities. On commencement as President I decided it was timely to review the Tribunal's implementation of the 2020/2021 legislation (*Mental Health and Cognitive Impairment Forensic Provisions Act 2020* and *Mental Health and Cognitive*

*Impairment Forensic Provisions Regulation 2021*). My review led to a draft Practice Direction which was subject to consultation with groups representing victims. The Tribunal is in the early days of application of the Practice Direction and will review, update and improve as required.

Both Deputy President Antrum and I have concerns that the forensic review process can be distressing for victims, and while the forensic jurisdiction has specific work to do, there is a need to consider the potential support which could be offered to victims of forensic patients through alternative forums where they can access services, compensation, and information.

I commend Deputy President Antrum's report for detail about other improved processes, including that which applies to execution of apprehension orders – these orders to apprehend and detain a forensic patient are issued by the Tribunal when there are concerns about a forensic patient. The Tribunal initiated discussions with police to improve both communications and the apprehension order process, and the new system is a significant improvement to ensure greater safety for the community, forensic patients and police. I echo the thanks expressed by Deputy President Antrum in his report to those who have assisted in the development and implementation of this improved process, and acknowledge his role in driving these changes.

## Civil Processes

Deputy President Bisogni's report provides detail about the Civil Division - during the reporting period Deputy President Bisogni maintained a high level of engagement with clinicians and with community, consumer and carer agencies, and I commend her report. This is the last Annual Report by Maria Bisogni given her retirement from her role in August 2024 - I express thanks to Maria for all she has contributed, as discussed further below.

A new **Practice Direction (PD) Practice Direction No.2 of 2023 - Community Treatment Orders** incorporating legislative changes which had occurred over previous years (eg change to postal notice period) has been in use in the reporting period. The CTO practice direction was developed during a review of the application process by Registrar Kelley and I. The New PD for CTOs aims to provide clarity that the obligation on the treating team - to serve notice of the application and treatment plan - is distinct from any requirement to serve notice of hearing; previous Tribunal processes conflated the two. The previous process provided a notice of application/hearing form to health care agencies to serve on consumers, after allocation of a hearing date. The new PD makes clear that the legal obligation on the team is to serve notice of the application and a copy of the treatment plan and this can occur before allocation of any hearing date.

This clarifies that there is time for consultation and collaboration on a future treatment plan, between treating team and consumer, before the team makes the application to the Tribunal for a community treatment order/hearing date.



## Reports of Deputy Presidents and Registrar

For detail on the functioning of the Forensic Division and the Civil Division, and Tribunal processes, I commend the reports of Deputy President Antrum, Deputy President Bisogni, and Registrar Kelley.

## Thank you

In early 2024 our long serving full time Deputy President (Civil Division) Maria Bisogni, announced her intention to retire in August 2024, and she also took some well earned long service leave.

The Tribunal acknowledges the many years of committed service by full time Deputy President Maria Bisogni – she has given over thirty years to the Tribunal, initially as a part time legal member, and then as a full time Deputy President for over two decades. She provided significant friendship and support to many Tribunal members and staff, and is well loved for her generosity of spirit and humour. She is known as an advocate for consumer rights, and for supporting consumer engagement in recovery. The Tribunal acknowledges and honours her significant contribution to the mental health system as well as the Tribunal, and her commitment to improving the experiences of consumers and carers.

We thank our experienced part time legal member, Barbara Adamovich, who agreed at short notice to act in the Deputy President role for three months while Deputy President Maria Bisogni was on long service leave. We are indebted to Barbara for her support at this time, and staff and members have expressed their appreciation for Barbara's hard work, approachability and effectiveness in the role.

The Tribunal acknowledges that funding for new Tribunal software was strongly supported by Dr Brendan Flynn, Director of the Mental Health Branch in the Ministry of Health, and Deputy Secretary Deb Willcox, and I express my appreciation to both for backing this important project. I also acknowledge their support in promoting the need to relocate premises and to obtain funding for same.

I must thank our Tribunal Registrar Alisa Kelley without whom we could not function. She coaxes our failing software to provide us with the limited functionality it possesses. She adopts creative add-on solutions to address our lack of technological resources. She manages an impossible variety of tasks and responsibilities with grace and courage. I cannot overstate the debt the Tribunal has to her expertise, talent, energy and commitment.

It is hard to adequately pay tribute to the role played by Deputy President Michael Antrum (Forensic Division) – he is decisive, considered, efficient, hard working and loyal. He has assisted me at every turn, and has tackled complex issues in the Forensic Division with leadership, efficiency and good humour. I have benefited greatly from his advice and support.

I thank our Tribunal members who have remained committed to their roles and quality outcomes despite the uncertainties around the recruitment and reappointment processes. The Tribunal is fortunate to have so many experienced members of high quality. I am appreciative of the readiness of many members to embrace modernisation and change.

And the final thank you (but a most important one) is to staff. The Tribunal is blessed with hardworking and committed staff who keep everything going despite minimal resources. My thanks to you all.

## Magistrate Carolyn Huntsman

### President

### Mental Health Review Tribunal



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# FORENSIC DIVISION REPORT

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## Forensic Division Report

The Forensic Division conducted a total of 1498 hearings in the 2023/24 year. This is a 3% reduction over the number of hearings in the previous year which roughly equates with a similar decrease in forensic patients appearing before the Tribunal.

Available data is set out in Appendix 2 of this Annual Report however some notable results are set out below.

More registered victims are making application for non-association and/or place restriction orders with 14 individuals making such applications this year.

First reviews of a patient by the Tribunal after the nomination of a limiting term by the Court remain relatively steady at 17 individual patients, two more than the previous year. There were 5 fewer patients appearing as persons found unfit to be tried but may become fit to be tried than in the previous year with 16 individuals in the current year.

22 individuals appeared as persons who were the subject of a special verdict of act proven but not criminally responsible, two less than the previous year.

The Tribunal reviewed 482 individual forensic patients across 935 hearings as regular or early reviews pursuant to s78(d) or s79 MHCIFPA. This represented 15 more individuals but approximately the same number of hearings from the previous year. The increase in routine reviews deserves further investigation however, overall, the results are overall consistent with previous years since the commencement of the MHCIFPA.

### Tribunal facilities

The conduct of these hearings continues to be hampered by the physical condition and amenity of our facilities, including at the Tribunal premises at Gladesville Hospital, that are ill-suited to hearing matters at which there are sometimes multiple participants attending in person and via electronic audio-visual means. The safety and security issues alone render the hearing environment totally unsuitable. While Members, Tribunal staff and treating team personnel all do their best to “make do”, the establishment of fit-for-purpose hearing facilities remains an urgent priority.

## The participation of victims in Tribunal reviews

Typical charges for defendants who become forensic patients include murder, manslaughter, wounding and sexual assault.

The acts which sit behind these charges are distressing and traumatic for the survivors. The grief, sadness, confusion and great loss that many victims experience can be magnified by having to become involved in a system that can appear to be indifferent to the trauma suffered by victims.

The forensic system is distinct from the criminal system. The person who commits the offence and is found either to be unfit to stand trial or is not “criminally responsible” as a result of their mental impairment ceases to be a criminal “defendant” and becomes a forensic “patient”.

Criminal sentencing principles include rehabilitation but they also require denunciation of the criminal act and adequate punishment for the offender. The forensic system does not have a punitive aspect. There are two main reasons for this – the Court has already addressed any required criminal considerations in its disposition of the matter before it is referred to the Tribunal, and the person is now a “patient” in the forensic health system. The focus becomes one of care, treatment and control.

There are strong public interest reasons for this focus however for a victim who has lost a loved family member or who has suffered violence as a result of an action by the patient it is often confronting to see that person receiving significant care and treatment without denunciation of the criminal act.

I know that many victims would rather not attend Tribunal reviews however the memory of the hurt caused either to a family member or themselves compels them to attend each review. They do so to honour and respect that family member. When they attend, they see and participate in a process that is designed to treat and care for the forensic patient, an experience that must be jarring with their memory of the act giving rise to the original charges.

It is not always well understood that the Tribunal has no “punitive” function. Once the Court has made its decision, there is no role for the Tribunal to have any

focus on punishment excepting its requirement to consider “sufficient time in custody” where a limiting term has been imposed.

The Act enshrines participation of victims in certain aspects of the Tribunal’s work but the scope of that participation is necessarily limited. To promote meaningful participation by victims in Tribunal reviews and processes, we have worked with the Commissioner of Victims Rights and other advocacy organisations to develop a new victim’s Practice Direction.

That Practice Direction includes guidance around observing proceedings, making submissions to the Tribunal, seeking certain orders including for non-disclosure of submissions, asking questions and getting more assistance. It is hoped that the Direction will provide more certainty for victims as to what to expect at Tribunal reviews and to enable them to give clear notice as to what they are seeking.

It is acknowledged that victims have a legitimate right to be involved in decisions around leave and release for forensic patients. It is however useful to question whether forensic proceedings, where the focus is on care, control and treatment of the patient, is the best place for victims to have their own healing journey.

My own view is that there is a real need to investigate alternative or additional forums for victims of forensic patients where they can access services, compensation, and information. If my reading of correspondence from victims is anything to go by, repeated attendances at forensic reviews (usually every six months) over many years only serves to further distress many victims and fails to address their real needs.

## Limiting terms and “sufficient time in custody”

Surprisingly, there is very little in the way of appellate court guidance in respect of what amounts to “sufficient time in custody”, a matter for consideration by Tribunal panels whenever they are reviewing an application for release of a patient subject to a limiting term – s84(1)(c) MHCIFPA.

In the matter of *Edwin*<sup>1</sup>, an Official Report of the Tribunal, President Huntsman affirmed the approach undertaken by the Tribunal in *Adams*<sup>2</sup> and *Talbingo*<sup>3</sup>. Having to refer to the Tribunal’s own decisions only serves to demonstrate the paucity of judicial review of this phrase as it applies to forensic patients. Her Honour noted that the length of the limiting term set, the sentencing remarks of the court, and the patient’s history and progress as a forensic patient each remained as relevant considerations.

Section 84 also requires that the Tribunal must consider a report from a forensic psychiatrist who is not currently involved in treating the patient as to whether the safety of the patient or any member of the public will be seriously endangered by the patient’s release. These comprehensive reports are routinely prepared by the Community Forensic Mental Health Service and involve a considerable allocation of time, effort and expense by experienced professional mental health clinicians – as they should.

Recognising that the “sufficient time in custody” issue is a threshold question that must be determined before moving to the question of release the Tribunal has amended its Practice Direction: *Procedures for Limiting Term and Extension Orders*. Paragraph 5 makes it clear that the Tribunal may determine to consider any release application where a limiting term is a component over two separate hearings.

The first hearing will consider the ‘sufficient time in custody question’. If the outcome of that hearing is that the patient has served sufficient time in custody, then a further date can be set to review the release

application. The independent forensic psychiatrist report can then be prepared for that second hearing. This approach avoids the preparation of a report where it ultimately has little utility.

## The jurisdiction of the Mental Health Review Tribunal

Section 72 of the Act defines who a forensic patient is. For persons found unfit to be tried there is an additional requirement that they be detained if they are to become a forensic patient under the Act. Section 72(2) emphasises that a person who is found unfit to be tried and is released on bail is not a forensic patient. This sits uneasily with s49 that requires the court to refer the defendant to the Tribunal for review if it is determined the defendant may become fit to be tried within 12 months.

This can lead to a confusing initial engagement where the patient presents as a referred patient from the Court and is then told the Tribunal has no jurisdiction. Amendment to the Act to cure this anomaly would seem to be the most practical way forward.

Some patients who are given a limiting term by the court pursuant to s63 MHCIFPA are not detained because the court exercises its discretion under s65(2) and determines not to detain the defendant, however it must still refer the defendant to the Tribunal (s65(1)). This might occur where the defendant is released to an aged care facility. The Tribunal however has no jurisdiction over the patient as they do not meet the definition of “forensic patient” noted above at the point of referral – it is only if the Tribunal is able to make its own orders that the person becomes a forensic patient (s72(1)(b)).

The “chicken and egg” difficulty could be cured by simply amending s72(1)(b) to include persons who are released under orders made by a court or the Tribunal just as it is for s72(1)(c).

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1. [2024] NSW MHRT 1

2. [2013] NSW MHRT 1

3. [2015] NSW MHRT 6

## Patients with a cognitive impairment

One of the most persistent themes in Forensic Division Annual Reports over the years has been the gap in service provision and treatment access for persons who have a cognitive impairment only. Trying to identify the numbers of persons with only a cognitive impairment is fraught with difficulty and the Tribunal's prehistoric data management system is unlikely to record the full picture of forensic patients with a cognitive impairment. Ultimately, whatever the number of patients and the percentage is, these are real people with real needs.

Section 5 of the Act says that a person has a cognitive impairment if they have an ongoing impairment in adaptive functioning and an ongoing impairment in comprehension, reason, judgment, learning or memory, and, the impairments result from damage to or dysfunction, developmental delay or deterioration of the person's brain or mind.

Cognitive impairments may arise from intellectual disability, borderline intellectual functioning, dementia, an acquired brain injury, drug or alcohol related brain damage which includes foetal alcohol spectrum disorder, autism spectrum disorder or other reason<sup>4</sup>.

This is an issue about equity. Patients with a cognitive impairment are just as vulnerable in the forensic system as those with a mental health impairment. Perhaps even more so. The artificial distinctions which have seen undoubtedly easier access to treatment and clinical intervention for those with a mental health impairment should not exist.

I know that this view is shared by many in the NSW forensic mental health system and a concerted effort by multiple agencies is currently underway to map the issue and address the disparity. It is hoped that this work can conclude within a reasonable period and attract realistic funding so that the gap in service provision can finally be closed.

## Reasons for a decision

My focus on ensuring Tribunal decisions are supported by good reasons has continued into this reporting period. The classic statement on reasons can be extracted from *Markarian v The Queen*<sup>5</sup>:

*The law favours transparency. Accessible reasoning is necessary in the interests of victims, of the parties, appeal courts, and the public.*

While the duty to give reasons is generally less onerous for tribunals than it is for courts, the settled position for the MHRT Forensic Division is that adequate and clear reasons are conducive to the effective operation of the forensic system and are consistent with the principle that people with a mental illness are entitled to be given information in terms they are most likely to understand<sup>6</sup>.

I must again thank our part-time Deputy Presidents in particular, for their effort and the commitment they demonstrate to ensuring that Tribunal written reasons address the statutory criteria, and clearly articulate the basis for the critical decisions they make. In addition to the substantive reasons, the Deputy Presidents also prepare "Reasons for Victims" in certain matters to enhance understanding of the decision process for this important stakeholder group.

The majority of our Deputy Presidents have been active in the past year in embracing change in an effort to frame the Tribunal as a decision-making body that is fiercely independent and can be clearly distinguished from the patients, the treating teams, and the bureaucracy. I am indebted to those Deputy Presidents who have contributed so much in terms of their ideas, their zeal for reform and improvement, and their energy to try new approaches.

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4. s5(2) MHCIFPA

5. (2005) 228 CLR 357

6. s68 Mental Health Act 2007



## Communication of orders to NDIS SIL providers

The National Disability Insurance Scheme is now an integral component of the forensic pathway for many forensic patients. The Tribunal has encountered difficulties with some Supported Independent Living (SIL) providers who have little or no experience of the forensic system. This has resulted in some providers failing to understand their obligations under forensic orders to the extent that some forensic patients have been facilitated to unwittingly breach their orders by, for example, relocating to another residence without approval from the Tribunal.

If SIL providers wish to operate in the forensic space it is critical that their staff and systems acknowledge the importance of compliance with forensic orders. This means that they must have a copy of the Tribunal orders and be familiar with the requirements of seeking Tribunal approval for any material changes to patient circumstance in addition to the requirement to report any suspected breaches of forensic orders to the Tribunal.

## Section 109 apprehension orders

In the 2023/24 reporting period, 33 forensic patients were the subject of a s109 apprehension order. Apprehensions can be ordered where there is credible evidence of a breach of a Tribunal order or where there is a concern with respect to a deterioration in the patient's mental condition. In the previous reporting period there were 25 patients subject to s109 orders.

Set against the number of patients in the forensic population (514 as at 30 June 2024) the incidence of breach and deterioration requiring apprehension

is rare. Nevertheless, Tribunal executive members who review the potential breaches, often after hours, are very aware of the potential for risk in these circumstances.

In years gone by the NSW Police Force had a Mental Health Intervention Unit (MHIU) with which the Tribunal could liaise to manage apprehensions in a sensitive manner. It will be obvious to those working in the sector that the apprehension of a forensic patient who may be unwell requires a degree of understanding and information around the nature of the patient's condition.

There was a period after the change in function of the MHIU in which the Tribunal was directed to local police stations to advise of the issue of apprehension orders. This was a frustrating exercise because many local police were (understandably) unfamiliar with s109 apprehension and it could be difficult, particularly after business hours, to find the correct officer to speak with in any given locality.

During the year, the Tribunal held direct discussions with NSWPF Commissioner Webb and a better way to manage these apprehensions was devised. The orders are now sent directly to the Police State Coordination Unit (SCU) with a follow up phone call. As the person who typically issues these orders, I can say that the new system works efficiently and effectively, with outstanding support from SCU. The Tribunal receives regular updates from SCU and apprehension is, in most cases, executed quickly with rapid transport of the patient to the nominated facility so they can receive the care they need. I would like to thank the SCU officers for their professional and timely response to Tribunal apprehension orders.

## Data management

In last year's Annual Report I referred to the precarious situation of our data management system – a system so old that it can no longer be supported using today's typical technology. It is a system one keystroke from disaster. During the year, the Government responded to the Tribunal's request for urgent funding to build a new system. Hopefully, this is something that can be achieved relatively quickly.

One of the advantages of building a new system is that the Tribunal can include new fields to start capturing data that will better assist researchers, policy officers, law reform initiatives, clinicians, and Tribunal operations. It is our intention to consult with others in the forensic system to find out what information they would like to be able to obtain from the new system.

## Aged forensic patients

I spoke last year of the special needs of older forensic patients. For some, their underlying mental impairment is further complicated by an age-related decline in cognitive ability which can include the onset of dementia. Appropriate aged care facilities are essential for these patients – they must be capable of providing the usual suite of services and care for older persons in addition to being able to manage and supervise the patient's compliance with their forensic orders.

It is an issue that is now receiving some timely attention from policy makers and it well and truly on the forensic system radar. It is hoped that this broad coalition will be able to recommend and effect more suitable pathways for the care, treatment and control of older forensic patients.

## Thanks

I am privileged to work for the Mental Health Review Tribunal in its Forensic Division. The forensic team operates in a challenging environment and yet the staff members achieve so much with so little, and always with a dedication to the task and the Tribunal's various stakeholders. Time and time again, the seemingly impossible is achieved.

We welcomed a new job-share team leader, Ms Alison Mulqueeny to work with Ms Nadia Sweetnam in managing the forensic team, and Alison has quickly adapted to this unique work environment. The extraordinary Forensic Division staff (and our indefatigable executive assistant, Ms Samantha Johnson) know that I value and appreciate their efforts every day – I now record that publicly here.

My fellow Executive Members also deserve a mention. Deputy President Maria Bisogni and I solved many problems over a cup of coffee and maintained a smooth exchange of information between our respective Divisions.

President Carolyn Huntsman's drive and energy did not abate in her second year in the role and she has personally kept the Tribunal's critical needs constantly in the view of decision makers. The President's position is a lonely and unforgiving one, nevertheless she has been a tower of support to me and others as we navigate the complexities inherent in our system. Her Honour's passion to elevate the Tribunal's stature and capability to deliver effectively to its most vulnerable stakeholders is as infectious as it is inspiring.



Finally, it is impossible to overstate the positive contribution of our Registrar, Ms Alisa Kelley, to the Tribunal's functioning. Quite simply, without her exceptional knowledge of "how things work", the MHRT would simply stop. Alisa combines her technical expertise with a keen eye for efficiencies and process to deliver optimal outcomes against a backdrop of failing or inadequate infrastructure and a budget that has been stripped to the bone. The Tribunal is lucky to have Alisa.

The Forensic Division of the Mental Health Review Tribunal performs difficult work. It can only do so with the support and commitment of many others in the forensic health system - I pay tribute to, and acknowledge the efforts of, the lawyers, the clinicians, the nursing staff and the allied health staff who all contribute to a system that is rightly respected around the world.

**Magistrate Michael Antrum**

**Deputy President**

**Mental Health Review Tribunal**

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# CIVIL DIVISION REPORT

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# Civil Division Report

## Introduction

Over the last 12 months the Tribunal has all but returned to its pre-COVID hearing roster. The exception was mental health inquiries, which until early February 2024 continued to be listed within 14 to 28 days after admission to a mental health facility. On 13 February 2024, hearings reverted to the pre-COVID time frames of within 7 to 21 days.

As the Registrar's Report shows, in the 2024 financial year there were 18,673 hearings in the Civil Division representing an increase of 7% from the previous year. This is a notable departure from the average 3% increase in civil hearings in the previous 10 years.

Mental health inquiries increased by 14% which was significantly higher than the mean over the previous 5 years. The higher number might be explained by consumers being presented earlier (7- 21 days) for mental health inquiries, who might have been otherwise discharged under the COVID timetable. This increase in inquiries has contributed to the 7% increase in the Civil Division.

Absorbing more hearings and returning to 'business as usual' presented resource challenges for the Tribunal and mental health facilities. However, through the good will and collaborative effort of Tribunal staff, mental health facilities and the Mental Health Advocacy Service, the right to timely and face to face hearings in a safe and sustainable manner was achieved.

## Amendments to the *Mental Health Act, 2007*

On 24 May 2024, there were a number of amendments to the *Mental Health Act 2007* (MHA) enabling the greater sharing of information with carers. Carers must now be given written notice of CTO applications by the Director of Community Treatment proposing to implement the order. Carers must also be notified of any initial warning given to a consumer for non-compliance with their CTO. If a CTO breach notice or breach order is issued to a consumer, a copy of the notice or order must be

given to carers. The Act was also amended to allow for service of the breach notice or order on the consumer to be provided by mail, or email a method prescribed by the Regulations, in cases where they cannot be served in person.

## Key Statistics

As noted previously, hearings in the Civil Division increased notably. In 2024, there were 18,673 civil hearings, 1208 more than the previous year.

There was an increase in mental health inquiries to 7,003 (compared with 6,157 in the previous year) representing an increase of 14%.

The number of involuntary patient reviews under the MHA increased by 200 or 8%, with 2706 hearings, compared with 2504 in 2023.

There were 73 financial management order (FMO) hearings involving 68 individuals, down from 94 in the previous year. Of these 24 were made, including 11 interim orders. In the previous year 25 orders were made.

There were 16 applications to revoke FMOs of which 8 were revoked and 4 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 applicants an opportunity to demonstrate capacity to do so and applicants may rely on that evidence in a hearing. In the previous year there were 29 applications of which 20 were revoked and 6 were adjourned.

Appeal hearings against the authorised medical officer's refusal to discharge decreased from 987 in the previous year to 973, which is a 2% decrease from the previous year. Of these, 741 (78%) were dismissed which is comparable to the previous year, in which 785 (74%) were dismissed. There were 13 orders for discharge, up from 11 in the previous year. One person was made a voluntary patient compared with none in the previous year.

The number of Community Treatment Order (CTO) applications decreased from 6,737 in 2023 to 6505 in 2024 and exactly 5974 CTOs were made, representing

an increase of 124 (or 5 % from the previous year). Of these, 730 CTOs were made at mental health inquiries, whereas 883 were made in 2023. The percentage of CTOs made for more than 6 months decreased by 6% or by 37. In 2023 such orders were made in 9% of cases.

There was a 7% decrease in the number of ECT applications made from 870 in the previous year to 807. Of these, 735 or 90% were approved, which is consistent with the previous year.

There were no ECT hearings for a person under the age of 16, compared to 3 hearings relating to one individual in the previous year.

The number of ECT applications denied has remained consistent with 14 applications (approximately 1%).

## Continuous Improvement

For many years now, Tribunal members who encounter individual and/or systemic issues that cannot be addressed or resolved in hearings, may contact the Executive, via a Member Feedback Form for possible resolution of the issue.

This system has worked well in achieving outcomes with measurable benefits to consumers. Case Study 1 in this report is an excellent example of the Tribunal exercising its quasi-judicial, informal powers to favourably problem solve an issue with a direct impact on the consumer's health and wellbeing.

As reported last year, past issues of NDIS access continue to be less prominent. This may be due to increased NDIS literacy and familiarity with the application process. We also noted last year that a dedicated service known as Pathway to Community, which combined the Mental Health Advocacy Service (MHAS) and the NDIS Specialist Team at Legal Aid NSW, had commenced. This might also explain why this is less of an issue. The initiative is to be commended as it provides targeted services to consumers detained in correctional and/or mental health facilities who are unable to progress to, or maintain community release, because of a NDIS issue.



The Tribunal also commends the change of Legal Aid policy in 2023 extending free legal representation for previously ineligible long-term consumers. This cohort consists of many long-term consumers with complex needs. It is hoped that the provision of advocacy and greater psychosocial support will facilitate safe, less restrictive, and more 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. Case Study 2 is another example of an intervention by the Tribunal initiated by a Member Feedback Form, and the Program's positive response.

## Key Relationships and Liaison

The Tribunal has continued to build positive relationships with its key stakeholders. Our good working relationships with mental health facilities and the Mental Health Advocacy Service (MHAS) enabled a return to the pre-COVID mental health inquiries hearing schedule.

We are indebted to mental health facilities for continuing to accommodate our return while maintaining Covid safe practices. We are also grateful to the Mental Health Advocacy Service's commitment to supporting in person hearings and providing the necessary resources to do so.

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 continued to maintain contact with consumer and carer groups, Local Health District heads and mental health clinicians. Ms Bisogni was on the of Mental Health Carer Information Resources Steering Committee which developed resources for families and carers in relation to the Mental Health Act.

The Tribunal continues to maintain involvement with the MHRT waiting room volunteers Program at Cumberland Hospital. Ms Danielle White provides regular training to new volunteers in relation to the *Mental Health Act, 2007* and meets with the

committee bi-monthly. The program is an initiative to support carers on the day of Tribunal hearings to understand the process, providing a platform to meet other carers and be provided with resources.

## Carers and Consumers

The Tribunal's 2021- 2025 Strategic Priorities sets out the Tribunal's goal of establishing a consumer and carer advisory group co-ordinated by a Consumer and Carer Engagement Officer.

We noted last year that this priority was regrettably postponed due to the urgent need to digitise Tribunal records and update software to meet emergencies such as Covid in the future. However, the Tribunal's Executive remains committed to bringing the lens of lived experience to the Tribunal to help improve the accessibility to Tribunal hearings.

A long-standing theme of previous reports is the concern of carers that they are frequently not privy to health information or involved in discharge planning for their loved ones. Our experience is that the duty to notify carers of hearings has improved and that mental health service providers better understand their obligations under the MHA to share information and involve carers in hearings.

The Tribunal now records the attendance of carers in hearings, as a way of reinforcing the statutory notification obligation and also gauging if requirements are being met.

## Performance Appraisals

The performance of Tribunal members was assessed utilising the new Members Performance Appraisal Policy. This new system replaced the long-standing practice of the full-time presidential members appraising the members. The new system introduced appraisals of forensic members for the first time by the full-time presidential members. The new system was reviewed at the Executive Planning Meeting and the consensus was that it did not meet the needs of the Tribunal's membership and it is unlikely to be retained.

## Civil Case Study 1

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Ms Y, a young First Nations woman, did not attend her CTO hearing, as she had been admitted to Palliative Care with a terminal illness. At the hearing, Ms Y's case manager stated that the Palliative Care Team had not involved her in any of the case conferences even though she had a very good relationship with Ms Y and felt it important to be involved.

The case manager had been working with Ms Y and was very likely to have a much greater understanding of Ms Y's mental condition and how best to communicate with her than anyone in the Palliative Care Team. It was also felt by the Tribunal panel that the case manager could play a support role in explaining what was

happening to Ms Y in relation to her terminal illness and minimise the negative impact on her mental health. A written request for the case manager to be involved in Ms Y's care had not been successful.

The Tribunal contacted the Palliative Care Consultant and explained the case manager's request to support Ms Y and why it was important. The Consultant readily agreed and contacted the case manager that same day to commence discussions on how she would be involved in Ms Y's care.



## Strategic Priorities 2021–2025

Last year the Tribunal published its inaugural 2021–2025 Strategic Plan. This is 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.

In the financial year, important progress was made in respect of obtaining the support of government to digitise the Tribunal's records. This was a significant step towards achieving the strategic priority of Accountability and Innovation by way of improving the efficiency, accessibility and accuracy of Tribunal hearings by digitising our records, transitioning to electronically available records for hearings and enabling members to conduct hearings remotely.

As noted above, the Tribunal remains committed to carer and consumer engagement within the Tribunal and this remains a key priority.

## Professional Development Event

One professional training event was held for Tribunal members. Ms Vanessa Edwige, psychologist and a Ngarabal woman from Emmanville, NSW, gave an excellent presentation on 'Trauma Informed Practice and Supporting Cultural Resilience for First Nations Consumers in Tribunal Hearings.'

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. Importantly, these sessions increase clinicians' understanding of the Tribunal's practice and procedure. Ms Bisogni also participated in strength-based training of mental health workers hosted by SWSAHD Community Mental Health & Partnerships. Ms Bisogni's focus was on how to harness a strength-based approach in Tribunal hearings.

## Thank You

After 21 and a half years as Deputy President of the Tribunal I have chosen to step down and make way for a new generation. It has been a privilege to have served the public in this important role with its weighty responsibilities for such a long time.

The work of the Tribunal is important and touches on the fundamental human rights of some of the most discriminated and disadvantaged people in the community. The public is well served by the Tribunal which is made up of hard working, dedicated and caring individuals who strive to implement the letter and the spirit of the Mental Health Act, 2007.

This has been an outstanding place to work. My time here has been made easier by the professionalism and commitment of successive Executive teams, Tribunal staff and its members both past and present. All of these colleagues one way or another have contributed to the dynamism, good standing and excellence of the Tribunal. I thank them for their extraordinary contribution and wish them well.

**Maria Bisogni**

**Deputy President**

**Mental Health Review Tribunal**

## Civil Case Study 2

Ms X entered Australia in 2014 on a tourist visa. She had a relapse of her illness (schizophrenia) in 2016 and she has been an involuntary patient since then. Ms X was denied permanent residency even though her estranged immediate family resided in Australia. Ms X was given a medical visa to remain in Australia on medical grounds but is unable to access Medicare or the NDIS.

A Tribunal panel raised concerns at a hearing that Ms X was being detained in circumstances that were more restrictive than necessary. Without Medicare she was also ineligible for the PCLI (Pathway to Community Living Initiative).

The Public Guardian with full functions unfortunately had not undertaken any successful advocacy or attended Tribunal hearings.

The Tribunal contacted the Pathways to Community Program and requested that it seek instructions from Ms X or the Guardian to enable her to live in the community. The treating team considered that Ms X had improved but would require 24 hour Supported Independent Living accommodation.

The Program accepted the referral and later advised that it had visited Ms X with a lawyer who spoke her language, but Ms X refused to engage. The Program outlined a plan of action to try to engage Ms X by contacting her social worker and nurse to enlist their support to encourage Ms X to accept their offer of assistance. Contact would also be made with the guardian. The team would also visit Ms X more regularly with a view to building a relationship with her and persuade her to accept the Mental Health Advocacy Service's offer of representation.



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# REGISTRAR'S REPORT

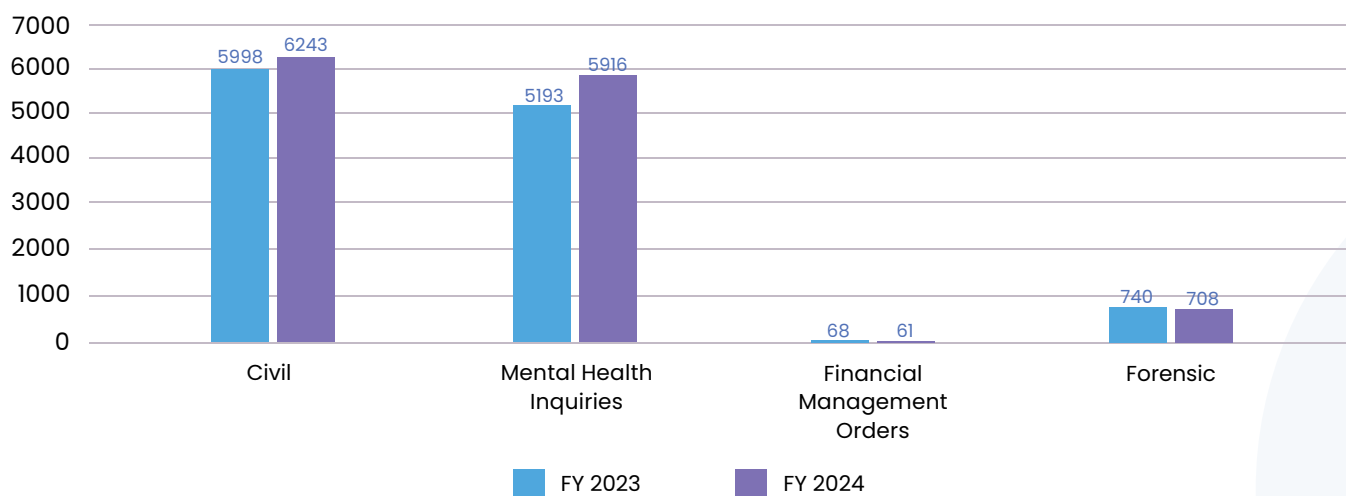
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# Registrar's Report

## Case Load Summary

The Tribunal conducted 20,171 hearings in the financial year 2024 involving 9,641 individuals representing a six percent rise in the number of hearings from 2023 and a seven percent rise in the number of individuals presenting to the Tribunal (2023: 19,008 hearings; 11,999 individuals). The increase in the number of presentations is largely driven by a 14% increase in the number of persons presenting for Mental Health Inquiries under s34 (2023: 5,193; 2024: 5,916).

## Previous Year Comparison - Number of Individuals



The Tribunal saw a three percent increase in the number of Civil hearings and a drop in the number of financial management orders. Inquiries increased by fourteen percent while Forensic hearings decreased by 3%.

Category	Hearings 2023	Hearings 2024	Movement	Individuals 2023	Individuals 2024	Movement
Civil	11219	11597	3%	5998	6243	4%
Mental Health Inquiries	6152	7003	14%	5193	5916	14%
Financial Management Orders	94	73	-22%	68	61	-10%
Forensic	1543	1498	-3%	740	708	-4%
<b>Grand Total</b>	<b>19008</b>	<b>20171</b>	<b>6%</b>	<b>11999</b>	<b>12928</b>	<b>8%</b>
<b>Total Actual Individuals<sup>1</sup>:</b>				<b>9027</b>	<b>9641</b>	<b>7%</b>

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

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

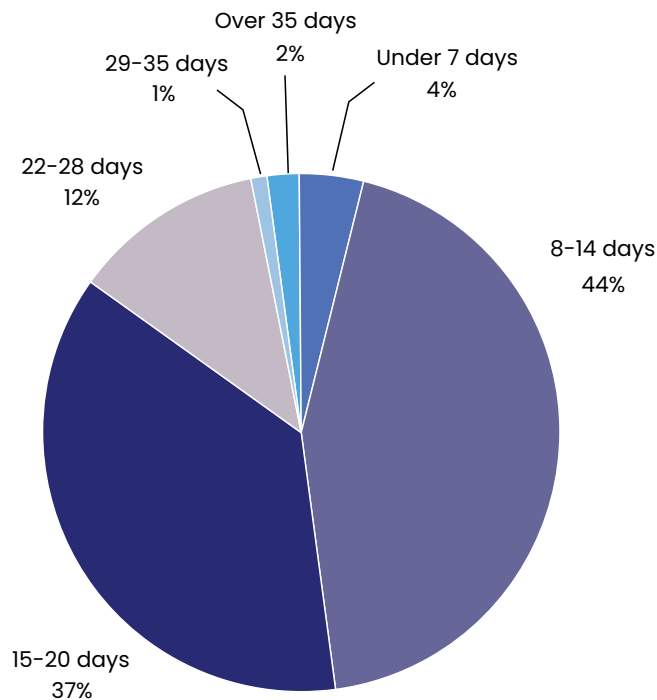
Hearings 1991-2024						
Year	Mental Health Inquiries	Civil Hearings	Financial Management Hearings	Forensic Hearings	Total	% Variation from previous year
1991		1986	61	185	2232	-
1992		2252	104	239	2595	16%
1993		2447	119	278	2844	10%
1994		2872	131	307	3310	16%
1995		3495	129	282	3906	18%
1996		4461	161	294	4916	26%
1997		5484	183	346	6013	22%
1998		4657	250	364	5271	-12%
1999		5187	254	390	5831	11%
2000		5396	219	422	6037	4%
2001		6151	304	481	6936	15%
2002		6857	272	484	7613	10%
2003		7787	309	523	8619	13%
2004		8344	331	514	9189	7%
2005		8594	293	502	9389	2%
2006		9522	361	622	10505	12%
2007		8529	363	723	9615	-
2007-08		8440	313	764	9517	-1%
2008-09		7757	224	771	8752	-8%
2009-10	43	8041	193	824	9101	4%
2010-11	4447	7966	221	870	13504	48%
2011-12	4910	8591	219	928	14648	8%
2012-13	6321	9189	225	943	16678	14%
2013-14	6232	9184	191	972	16579	-1%
2014-15	6633	9402	170	1017	17222	4%
2015-16	6887	9709	168	1186	17950	4%
2016-17	6757	9832	169	1340	18098	1%
2017-18	6806	10098	144	1490	18538	2%
2018-19	6787	10219	121	1541	18668	1%
2019-20	6467	10382	110	1612	18571	-1%
2020-21 <sup>2</sup>	6156	10635	81	1669	18541	0%
2021-22	5966	11402	94	1680	19142	3%
2022-23	6152	11219	94	1543	19008	-1%
2023-24	7003	11597	73	1498	20171	6%
Variation from previous year	14%	3%	-22%	-3%	6%	
Variation from 2010	12%	26%	-62%	54%	22%	

<sup>2</sup> Mental Health Forensic Provisions Act 1990 – 1,254 + Mental Health and Cognitive Impairment Forensic Provisions Act 2020 – 415 hearings

## Mental Health Inquiries

During the 2024 financial year assessable persons were seen within 14 to 28 days after admission for the first half of the year, moving to 7 – 14 days in January 2024. 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	261	4%
8 - 14 days	3095	44%
15 - 20 days	2562	37%
22 - 28 days	855	12%
29 - 35 days	110	2%
Over 35 days	120	2%
<b>Total Inquiries:</b>	<b>7003</b>	

Total number of inquiries hearings: 7,003

Number of adjournments relisted: 599 (9% of total inquiries)

## S147 Mental Health Act 2007 – Prescribed Reports

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

S147(2)(a) The Number of Persons Taken to a Mental Health Facility and the Provisions of the Act Under Which They Were So Taken				
MHA	Method of Referral	Admitted	Not Admitted	Total
S19	Certificate of Doctor	7525	92	7617
S20	Ambulance Officer	1736	490	2226
S22	Apprehension by Police	1660	846	2506
S23 VIA S19	Authorised Doctor's Certificate	47	3	50
S24 MHA /S19 MHCIFPA	Order of Court	230	96	326
S25	Transfer from Another Facility	1053	5	1058
S26	Request by Primary Carer/Relative/Friend	581	1	582
S58	Breach of Community Treatment Order	93	15	108
<b>Total</b>		<b>12718</b>	<b>12925</b>	<b>1548</b>
<b>Reclassified from Voluntary to Involuntary</b>		<b>560</b>	<b>836</b>	<b>15</b>
<b>Total</b>		<b>13278</b>	<b>13761</b>	<b>1563</b>

S147(2)(b) Classification of Persons Detained	
Classification	Individuals
Mentally Ill	9476
Mentally Disordered	3105
Voluntary Patients Admitted	1183
<b>Total</b>	<b>13764</b>

S147(2)(c) Mental Health Inquiries	
Number of Inquiries	7003
Number of Individuals	5916

Outcome of Mental Health Inquiries Conducted	Hearings
Involuntary Patient Order	5567
Reclassify from Voluntary to Involuntary	0
Discharge or Deferred Discharge	61
Community Treatment Order	730
Adjourned or Withdrawn	620
Declined to Deal With or No Jurisdiction	25
<b>Total</b>	<b>7003</b>
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	1182
Detained as a Mentally Disordered or Mentally Ill Person	12578
Not Admitted	1560
<b>Total</b>	<b>15320</b>

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 fourteenth 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 2024, the Tribunal held 7,003 inquiries relating to 5,916 individuals (2023: 6,152 inquiries; 6,152 individuals).

### Involuntary Patient Orders

Of the mental health inquiries conducted in financial year 2024, 5,567 (79.5%) resulted in an involuntary patient order being made. This is a three percent increase from 2023 (4,696 – 76.3%).

### Community Treatment Orders at Mental Health Inquiries

The number of Community Treatment Orders made at a mental health inquiry dropped slightly to 730 (2023: 883) and represented 10% of inquiries.

### Deferred Discharge

One hundred and thirty-nine orders were made for a deferred discharge (2%). These orders included three patients discharged into the care of their designated carer and 100 patients discharged to a community treatment order.

## Summary of Outcomes

S34 Outcomes	Female	Male	Total	% of Inquiries
Involuntary Patient Order	2513	3054	5567	79.5%
Discharged	7	6	13	0.2%
Deferred Discharge	18	18	36	0.5%
Discharged to CTO	228	402	630	9.0%
Deferred Discharge to CTO	30	70	100	1.4%
Discharged to Carer	7	2	9	0.1%
Deferred Discharge to Carer	2	1	3	0.0%
Adjourned	278	321	599	8.6%
Declined to Deal With Matter	9	16	25	0.4%
Withdrawn or No Jurisdiction	8	12	20	0.3%
Reclassified to Voluntary	0	1	1	0%
<b>Total Mental Health Inquiries</b>	<b>3100</b>	<b>3903</b>	<b>7003</b>	<b>0.0%</b>
<b>Individuals Affected</b>	<b>2613</b>	<b>3303</b>	<b>5916</b>	<b>-</b>

## Days to Mental Health Inquiry from Date Detained

In the financial year 2024, 3.7% of inquiries were commenced in the first week of a person's detention (2023: 4.7%), 44.2% during the second week (2023: 22.8%), 36.6% in the third week (2023: 47.6%) and 12.2% in week four (2023: 20.2%).

In 3.3% of cases, the inquiry was commenced after four weeks (2021: 4.7%). 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	22	24	17	21	27	25	14	13	24	16	33	25	261	3.7%
8 - 14 Days	131	172	153	158	168	175	133	270	415	431	485	404	3095	44.2%
15 - 21 Days	208	260	228	236	264	175	227	216	184	170	224	170	2562	36.6%
22 - 28 Days	97	112	74	104	104	58	129	85	20	26	29	17	855	12.2%
29 - 35 Days	12	6	11	3	6	10	35	4	4	7	6	6	110	1.6%
Over 35 Days	13	10	11	9	11	4	17	6	7	8	17	7	120	1.7%
<b>Grand Total</b>	<b>483</b>	<b>584</b>	<b>494</b>	<b>531</b>	<b>580</b>	<b>447</b>	<b>555</b>	<b>594</b>	<b>654</b>	<b>658</b>	<b>794</b>	<b>629</b>	<b>7003</b>	<b>-</b>

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 (84.5% of patients during the financial year 2024; 75.2% in 2023).

## Involuntary Patient Reviews

The Tribunal held 2,706 hearings (2,010 individuals) for the review of involuntary patients during the financial year 2024, an 8% increase in the number of hearings (2023: 2,504) and a 9% increase in the number of individuals reviewed (2023: 1,841).

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 2024, the Tribunal held 1,414 initial reviews under s37(1)(a) (affecting 1,295 individuals) demonstrating a 7% increase in hearings from 2023 (1,323 reviews – 1,180 individuals). A jump of 18% was reflected in s 37(1)(b) reviews (2024: 796 / 2023: 673) indicating that an increased number of persons detained under the Act are remaining in hospital for longer than 3 months. A small decrease of 2% was observed for s 37(1)(c) reviews (2024: 496 / 2023: 506).

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	577	634	558	3	2	69	2
		Male	718	780	687	5	5	78	5
		<b>Total</b>	<b>1295</b>	<b>1414</b>	<b>1245</b>	<b>8</b>	<b>7</b>	<b>147</b>	<b>7</b>
s37(1)(b)	Review at least once every 3 months while a person is an involuntary patient during the first 12 months.	Female	179	313	274	5	2	32	0
		Male	268	483	438	4	2	39	0
		<b>Total</b>	<b>447</b>	<b>796</b>	<b>712</b>	<b>9</b>	<b>4</b>	<b>71</b>	<b>0</b>
s37(1)(c)	Review at least once every 6 months while person is an involuntary patient after first 12 months.	Female	100	191	174	3	1	13	0
		Male	168	305	275	3	2	25	0
		<b>Total</b>	<b>268</b>	<b>496</b>	<b>449</b>	<b>6</b>	<b>3</b>	<b>38</b>	<b>0</b>
s37(1A)	Review at any other time.	Female	0	0	0	0	0	0	0
		Male	0	0	0	0	0	0	0
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>S37(1) Total:</b>			<b>2010</b>	<b>2706</b>	<b>2406</b>	<b>23</b>	<b>14</b>	<b>256</b>	<b>7</b>
<b>Percentage of hearings by outcome:</b>					<b>89%</b>	<b>1%</b>	<b>1%</b>	<b>9%</b>	<b>0%</b>

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 2% to 970 (2023: 987) representing 791 individuals. Of these hearings, 741 were dismissed (76%) of which 17 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 / CTO Made Under s51	Adjourn	Withdrawn or with No Jurisdiction
			%	76%	2%	0%	1%	8%	12%
2024	Female	338	407	313	4	0	6	28	56
	Male	453	563	428	13	1	7	49	65
	<b>Total</b>	<b>791</b>	<b>970</b>	<b>741</b>	<b>17</b>	<b>1</b>	<b>13</b>	<b>77</b>	<b>121</b>
2023	Female	330	417	327	4	0	3	32	51
	Male	443	570	442	12	0	10	37	69
	<b>Total</b>	<b>773</b>	<b>987</b>	<b>769</b>	<b>16</b>	<b>0</b>	<b>13</b>	<b>69</b>	<b>120</b>
2022	Female	359	456	334	6	0	11	35	70
	Male	443	580	436	10	1	6	36	91
	<b>Total</b>	<b>802</b>	<b>1036</b>	<b>770</b>	<b>16</b>	<b>1</b>	<b>17</b>	<b>71</b>	<b>161</b>
2021	Female	359	469	329	21	2	10	42	65
	Male	422	522	392	16	0	7	34	73
	<b>Total</b>	<b>781</b>	<b>991</b>	<b>721</b>	<b>37</b>	<b>2</b>	<b>17</b>	<b>76</b>	<b>138</b>
2010	Female	274	367						
	Male	337	430	598	15	0	24	67	93
	<b>Total</b>	<b>611</b>	<b>797</b>						

Regulation 16(3) of *Mental Health Regulation 2019* allows for appeals lodged by persons other than involuntary patients to be heard by the President, a Deputy President or a member qualified for appointment as a Deputy President. This means that an appeal lodged by an assessable person (a person who has not yet had a mental health inquiry) is able to be heard by an experienced single legal member of the Tribunal. During the financial year 2021, 674 appeals were heard by a single member (69% of the total number of appeals held).

See also Appendix 1 – Tables 2 and 3

## Community Treatment Orders

The Tribunal considered 6,124 applications for CTO's under s51 of the Act during the financial year 2024 relating to 4,463 individuals, no significant change from 2023 and but an 11% decrease in the number of individuals (2023: 6,217 hearings – 5,023 individuals).

The number of CTO's made by the tribunal at mental health inquiries decreased by 17% at 730 (2023: 883). Orders made at other hearings dropped by 8% at 5,394 (2023: 5,859).

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	968	1324	1253	3	61	5	2
		Male	1777	2479	2370	3	85	19	2
		<b>Total</b>	<b>2745</b>	<b>3803</b>	<b>3623</b>	<b>6</b>	<b>146</b>	<b>24</b>	<b>4</b>
S51	Application for a CTO for person detained in mental health facility	Female	659	698	604	51	32	9	2
		Male	1037	1098	954	88	44	7	5
		<b>Total</b>	<b>1696</b>	<b>1796</b>	<b>1558</b>	<b>139</b>	<b>76</b>	<b>16</b>	<b>7</b>
S51	Application for a CTO for a person not detained or on a current CTO	Female	290	335	282	1	37	14	1
		Male	508	571	511	4	43	10	3
		<b>Total</b>	<b>798</b>	<b>906</b>	<b>793</b>	<b>5</b>	<b>80</b>	<b>24</b>	<b>4</b>
<b>Total S51 Outcomes</b>			<b>5239</b>	<b>6505</b>	<b>5974</b>	<b>150</b>	<b>302</b>	<b>64</b>	<b>15</b>

\* 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 2024, 8% 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 817 hearings to consider the administration of ECT to involuntary patients, including 9 hearings concerning forensic patients. This is a decrease by 8% from 2023 (878 hearings – 9 forensic).

ECT was approved in 738 hearings (90%) and of these approvals, 26 patients (3%) were found to be capable of consent.

ECT Administration Inquiries Under S96(2)								
Outcome	Individuals		Total Hearings		Civil		Forensic	
	Female	Male	Female	Male	Female	Male	Female	Male
Capable of consent - ECT approved	9	14	9	14	9	14	0	0
Capable of consent - ECT not approved	3	0	2	0	2	0	0	0
Incapable of consent - ECT approved	259	211	382	330	382	323	0	7
Incapable of consent - ECT not approved	6	6	6	6	6	6	0	0
Adjourned	25	23	29	26	29	25	0	1
Withdrawn or no jurisdiction	3	7	3	7	3	7	0	0
<b>Total</b>	<b>305</b>	<b>261</b>	<b>431</b>	<b>383</b>	<b>431</b>	<b>375</b>	<b>0</b>	<b>8</b>

ECT administration hearings were held for 566 individual patients – none 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	0	0
Incapable of consent - ECT not approved	0	0	0	0
Adjourned	0	0	0	0
Withdrawn or no jurisdiction	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

See also Appendix 1 – Tables 1 and 2

The Tribunal was called to conduct one ECT consent inquiry under s96(1) during financial year 2024 (3 during 2023) 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	0	1	0	1	0	0	0	0
Capable but has refused consent	0	0	0	0	0	0	0	0
Incapable of consent	0	0	0	0	0	0	0	0
Adjourned	0	0	0	0	0	0	0	0
Withdrawn or no jurisdiction	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## 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 (s45 of the *TAG Act*), and
3. On application for a patient in a mental health facility (s46 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 2024, the Tribunal conducted 73 hearings (2023: 94 hearings) in relation to financial management and made a total of 24 Financial Management Orders (2023: 26 orders) including 11 Interim Financial Management Orders (2023: 14 interim orders) and revoked 8 orders (2023: 21 revocations). There has been a steady decline in financial orders made by the Tribunal over the past 5 years.

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	3	5	5	0	0	3			2	0
		Male	4	5	4	2	0	0			2	1
		Total	7	10	9	2	0	3			4	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	3	0	0	0	2			1	0
		Total	2	3	0	0	0	2			1	0
S46	On application to the Tribunal for an order (Civil patient)	Female	11	15	14	3	4	4			4	0
		Male	22	24	20	8	7	2			4	3
		Total	33	39	34	11	11	6			8	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	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
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	0				6	1	1	0
		Male	11	12	0				7	1	3	1
		Total	18	20	0	0	0	0	13	2	4	1
Total		Female	21	28	19	3	4	7	6	1	7	0
		Male	40	45	27	10	7	4	8	1	10	5
		Total	61	73	46	13	11	11	14	2	17	5

## 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 <sup>5</sup>	Any Other Non-Surgical Treatment
<b>Voluntary patient</b>	Mental Health or Guardianship <sup>1</sup>	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
<b>Detained patient<sup>2</sup></b>	Mental Health	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
<b>Assessable person<sup>3</sup></b>	Mental Health	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
<b>Mentally disordered patient</b>	Mental Health	Mental Health	Guardianship	Guardianship	Guardianship	Guardianship
<b>Involuntary patient<sup>4</sup></b>	Mental Health	Mental Health	Mental Health	Mental Health (if surgical treatment <sup>2</sup> )	Mental Health	Guardianship (including non-surgical termination of pregnancy)
<b>Forensic or correctional patients</b>	Mental Health	Mental Health	Mental Health	Mental Health (if surgical treatment <sup>2</sup> )	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 2024, the Tribunal held 7 hearings under s101 for the provision of non-urgent surgical procedures (6 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
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
S101(1)	Non-urgent Surgical Procedures	Female	2	2	2	0	0	0
		Male	4	5	4	0	1	0
		<b>Total</b>	<b>6</b>	<b>7</b>	<b>6</b>	<b>0</b>	<b>1</b>	<b>0</b>
S101(3)	Non-urgent Surgical Procedures (Forensic Patients)	Female	0	0	0	0	0	0
		Male	0	0	0	0	0	0
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
S103	Special Medical Treatments	Female	0	0	0	0	0	0
		Male	0	0	0	0	0	0
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
S102	Special Medical Treatments (Forensic Patients)	Female	0	0	0	0	0	0
		Male	0	0	0	0	0	0
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Section	Description	Gender	2023/24	2022/23	2021/22	2020/21	2019/20	2018/19
S99	Emergency Surgery	Female	0	0	0	0	0	2
		Male	0	0	0	0	0	0
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>

## Forensic Hearings

The Tribunal held a total of 1,498 hearings during the financial year 2024, representing 708 individuals. This demonstrates a modest decrease of 3% on previous year activity (2023: 1,543 hearings – 740 individuals). The forensic jurisdiction has seen an average decrease of 1% per year for the past 5 years.

Approximately 13% of hearings in 2024 were for the Tribunal to consider an application for a Forensic Community Treatment Order (FCTO). Applications have averaged at around 180 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 2024 financial year, 95 such hearings were conducted (2023: 115).

The Tribunal ordered the conditional release of 40 forensic patients (2023: 33 patients) and the unconditional release of 12 forensic patients (2023: 14 patients), including 10 patients for whom a CTO was also made to have effect on the date of unconditional release (2023: 9 patients). The Tribunal made five orders revoking the conditional release of a forensic patient (2023: 4).

### Forensic Hearings – Determinations and Reviews

Section	Description	Gender	2023/24	2022/23	2021/22	2020/21	2019/20
<b>Mental Health Act 2007</b>							
S65	Application to vary or revoke a Forensic CTO	Female	1	5	2	0	0
		Male	32	33	16	1	0
		<b>Total</b>	<b>33</b>	<b>38</b>	<b>18</b>	<b>1</b>	<b>0</b>
S96(1)&(2)	Application for ECT	Female	0	2	0	0	0
		Male	8	7	8	4	6
		<b>Total</b>	<b>8</b>	<b>9</b>	<b>8</b>	<b>4</b>	<b>6</b>
S101 & S102	Application for surgical operation	Female	0	0	0	0	0
		Male	0	0	0	1	1
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>
S151(4)	Application for procedural orders	Female	0	0	0	0	0
		Male	0	2	0	0	0
		<b>Total</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>
S162	Application to allow publication of names	Female	0	0	0	0	0
		Male	2	0	0	1	0
		<b>Total</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>
<b>Total Mental Health Act 2007</b>		Female	1	7	0	0	0
		Male	42	42	8	6	7
		<b>Total</b>	<b>43</b>	<b>49</b>	<b>8</b>	<b>6</b>	<b>7</b>
<b>NSW Trustee &amp; Guardian Act 2009</b>							
S88	Application to revoke Financial Management Order	Female	0	0	0	1	1
		Male	1	1	2	1	0
		<b>Total</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>1</b>

Section	Description	Gender	2023/24	2022/23	2021/22	2020/21	2019/20
<b>Births Deaths &amp; Marriages Registration Act 1995</b>							
S31D	Approval of Change of Name	Female	0	0	0	0	0
		Male	4	3	0	3	1
		Total	4	3	0	3	1

Section, Act	Description	Gender	2023/24	2022/23	2021/22	2020/21	2019/20
<b>Fitness referral</b>							
S78(b) MHCIFPA	First Review Following Fitness Referral from Court	Female	1	1	2	3	0
		Male	21	28	-27	12	0
		Total	22	29	29	15	0
S16 MHFPA	First Review Following Fitness Referral from Court	Female	0	0	0	8	11
		Male	0	0	0	54	75
		Total	0	0	0	62	86
Totals		Female	1	1	2	11	11
		Male	21	28	27	66	75
		Total	22	29	29	77	86
<b>First Review after Limiting Term</b>							
S78(a) MHCIFPA	First Review After Limiting Term Imposed	Female	1	2	2	0	0
		Male	16	13	21	3	0
		Total	17	15	23	3	0
S45(1)(b) MHFPA	First Review After Limiting Term Imposed	Female	0	0	0	1	1
		Male	0	0	0	7	5
		Total	0	0	0	-8	6
Totals		Female	1	2	2	1	1
		Male	16	13	21	10	5
		Total	17	15	23	11	6
<b>First Review after Act Proven Not Criminally Responsible/Not Guilty by Reason of Mental Illness</b>							
S78(c) MHCIFPA	First Review Following Special Verdict of Act Proven but Not Criminally Responsible	Female	5	4	7	2	0
		Male	17	21	26	4	0
		Total	22	25	33	6	0
S44 MHFPA	First Review Following Special Verdict of Not Guilty by Reason of Mental Illness	Female	0	0	0	0	5
		Male	0	0	0	26	32
		Total	0	0	0	26	37
Totals		Female	5	4	7	2	5
		Male	17	21	26	30	32
		Total	22	25	33	32	37

Section, Act	Description	Gender	2023/24	2022/23	2021/22	2020/21	2019/20
<b>Forensic Patient Reviews</b>							
S78(d) MHCIFPA	Review of Forensic Patient (6 monthly)	Female	102	103	100	21	0
		Male	723	707	745	181	0
		Total	825	810	845	202	0
S79 MHCIFPA	Forensic Patient Review at Any Time	Female	21	12	17	5	0
		Male	124	113	179	27	0
		Total	145	125	196	32	0
S46(1) MHFPA	Review of Forensic Patient	Female	0	0	0	95	118
		Male	0	0	0	658	843
		Total	0	0	0	753	961
Totals		Female	123	115	117	121	118
		Male	847	820	924	866	843
		Total	970	935	1041	987	961

<sup>1</sup>Mental Health (Forensic Provisions) Act 1990

Section, Act	Description	Gender	2023/24	2022/23	2021/22	2020/21	2019/20
<b>Forensic Patient Review After Apprehension</b>							
S109(4) MHCIFPA	Review of Forensic Patient Apprehended Under S109	Female	14	13	6	0	0
		Male	49	34	47	22	0
		Total	63	47	53	22	0
S68(2) MHFPA	Review of a Forensic Patient Apprehended Under S68	Female	0	0	0	9	11
		Male	0	0	0	34	62
		Total	0	0	0	43	73
Totals		Female	14	13	6	9	11
		Male	49	34	47	56	62
		Total	63	47	53	65	73
<b>Registered Victims - Place restriction and non-association applications</b>							
S146 MHCIFPA	Application by Registered Victim for Non-Association or Place Restriction	Female	2	1	0	0	0
		Male	16	15	7	2	0
		Total	18	16	7	2	0
S76 MHFPA	Application by Registered Victim for Non-Association or Place Restriction	Female	0	0	0	0	2
		Male	0	0	0	2	2
		Total	0	0	0	2	4
Totals		Female	2	1	0	0	2
		Male	16	15	7	4	2
		Total	18	16	7	4	4

Section, Act	Description	Gender	2023/24	2022/23	2021/22	2020/21	2019/20
<b>Reviews of persons awaiting transfer to a mental health facility</b>							
S89 MHCIFPA	Limited Review of a Person Awaiting Transfer from a Correctional Centre to a Mental Health Facility	Female	2	0	0	0	0
		Male	9	1	22	1	0
		Total	11	1	22	1	0
S58 MHFPA	Limited Review of a Person Awaiting Transfer from a Correctional Centre to a Mental Health Facility	Female	0	0	0	0	4
		Male	0	0	0	24	47
		Total	0	0	0	24	51
Totals		Female	2	0	0	0	4
		Male	9	1	22	25	47
		Total	11	1	22	25	51
<b>First Review of Correctional Patients</b>							
S90 MHCIFPA	First Review Following Transfer from a Correctional Centre to a Mental Health Facility	Female	9	9	11	3	0
		Male	58	76	110	35	0
		Total	67	85	121	38	0
S59 MHFPA	First Review Following Transfer from a Correctional Centre to a Mental Health Facility	Female	0	0	0	5	5
		Male	0	0	0	71	69
		Total	0	0	0	76	74
Totals		Female	9	9	11	8	5
		Male	58	76	110	106	69
		Total	67	85	121	114	74
<b>Subsequent Reviews of Correctional Patients</b>							
S91(b) MHCIFPA	Review of Correctional Patient (6 monthly)	Female	10	9	1	1	0
		Male	9	10	9	2	0
		Total	19	19	10	3	0
S93 MHCIFPA	Review of Correctional Patient at Any Time	Female	3	0	1	1	0
		Male	1	0	1	0	0
		Total	4	0	2	1	0
S61(i) MHFPA	Review of Correctional Patient	Male	0	0	0	2	0
		Female	0	0	0	9	16
		Total	0	0	0	11	16
Totals		Female	13	9	2	4	0
		Male	10	10	10	11	16
		Total	23	19	12	15	16

Section, Act	Description	Gender	2023/24	2022/23	2021/22	2020/21	2019/20
<b>FCTO Applications</b>							
S99 MHCIFPA	Application for an FCTO	Female	9	18	10	2	0
		Male	134	176	177	53	0
		<b>Total</b>	<b>143</b>	<b>194</b>	<b>187</b>	<b>55</b>	<b>0</b>
S67 MHFPA	Application for an FCTO	Female	0	0	0	7	17
		Male	0	0	0	161	137
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>168</b>	<b>154</b>
<b>Totals</b>	<b>Totals</b>	Female	9	18	10	9	17
		Male	134	176	177	214	137
		<b>Total</b>	<b>143</b>	<b>194</b>	<b>187</b>	<b>223</b>	<b>154</b>
<b>FCTO Reviews</b>							
S78(e) MHCIFPA	Review of Forensic Patient Subject to FCTO in Correctional Centre	Female	0	0	0	0	0
		Male	4	3	2	2	0
		<b>Total</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>0</b>
S100 MHCIFPA	Review of Person Subject to FCTO in a Correctional Centre (NOT a Forensic Patient)	Female	2	3	3	0	0
		Male	89	118	110	32	0
		<b>Total</b>	<b>91</b>	<b>121</b>	<b>113</b>	<b>32</b>	<b>0</b>
S61(3) MHFPA	Review of Person Subject to FCTO in Correctional Centre	Female	0	0	0	1	8
		Male	0	0	0	64	125
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>65</b>	<b>133</b>
<b>Totals</b>	<b>Totals</b>	Female	2	3	3	1	8
		Male	93	121	112	98	125
		<b>Total</b>	<b>95</b>	<b>124</b>	<b>115</b>	<b>99</b>	<b>133</b>
<b>MHFPA Matters Not Heard Under MHCIFPA</b>							
S24 MHFPA	Review Following Limiting Term	Female	0	0	0	0	1
		Male	0	0	0	7	7
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>8</b>
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	0
		<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Other Matters Under MHCIFPA</b>							
S297 MHCIFPA	Appeal Against Failure or Refusal of Secretary to Consider Granting Leave	Female	0	0	0	0	0
		Male	0	1	0	0	0
		<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Reviews and Determinations</b>	<b>Total Reviews and Determinations</b>	Female	182	175	160	166	183
		Male	1317	1316	1483	1493	1420
		<b>Total</b>	<b>1499</b>	<b>1491</b>	<b>1643</b>	<b>1659</b>	<b>1603</b>

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. 7,493 in-person hearings were conducted at 18 forensic and 42 civil venues across the Sydney metropolitan area and regional New South Wales in the financial year 2024.

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. During 2024, 100 telephone and 12,010 video conference hearings were held for 82 inpatient or community venues across New South Wales.

During the 2024 financial year, 7,493 (37%) hearings and mental health inquiries were conducted in person (2023: 4,586 - 24%), 12,010 (60%) by video (2023: 13,439 - 71%) and 100 (<1%) by telephone (2023: 383 - 2%). There were 568 (3%) hearings completed 'on the papers' (2023: 600 - 3%).

Jurisdiction	Live	Video	Phone	Papers	Total
<b>Civil</b>	2367 (20%)	8673 (75%)	99 (1%)	458 (4%)	11597 (57%)
<b>FMO</b>	20 (27%)	49 (67%)	0 (%)	4 (5%)	73 (%)
<b>Forensic</b>	576 (38%)	816 (54%)	1 (%)	105 (7%)	1498 (7%)
<b>MHI</b>	4530 (65%)	2472 (35%)	0 (%)	1 (%)	7003 (35%)
<b>Grand Total</b>	<b>7493 (37%)</b>	<b>12010 (60%)</b>	<b>100 (%)</b>	<b>568 (3%)</b>	<b>20171 (100%)</b>

The vast majority of civil hearings conducted by telephone or on the papers related to CTOs (98% of telephone hearings and 94% of hearings on the papers). This is commonly for persons in the community on an existing CTO. A significant proportion (76% 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 7,003 mental health inquiries this year, 65% were held in person (2023: 41%) and 35% by video (2023: 59%).

## Number of Clients

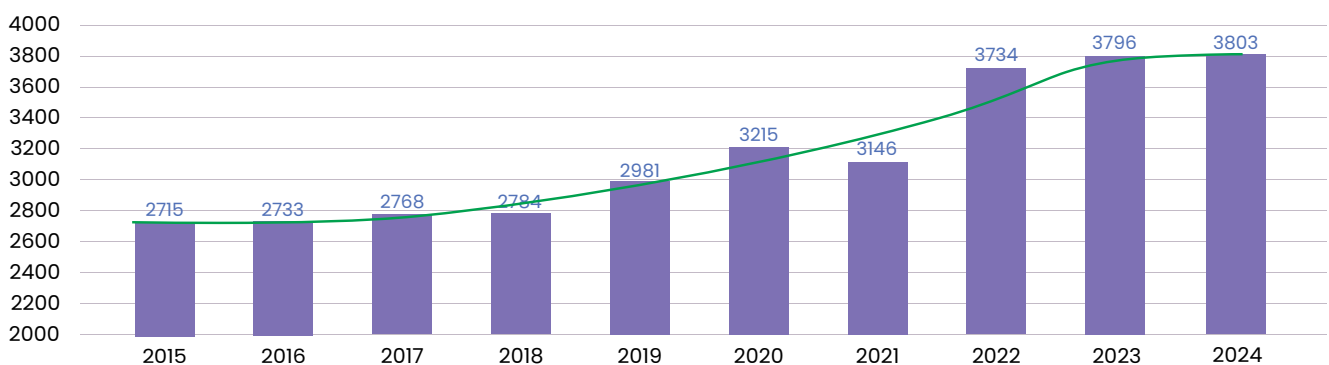
As at 30 June 2024 there were 1,435 people for whom the Tribunal had made an involuntary patient order either at a mental health inquiry or at a subsequent review (2023: 1,177).

There were 199 individuals who had been voluntary patients for more than 12 months and had been reviewed by the Tribunal (2023: 218). A number of these people may have been discharged or reclassified since their last Tribunal review.

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 s20 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 2024, 3,804 individuals were subject to an order made by the Tribunal (2023: 3,796). 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

Forensic patients, correctional patients, and assessable persons appearing before a mental health inquiry must be represented by a legal practitioner unless that person does not want to be represented. Other patients (other than forensic or correctional patients) or persons detained in a mental health facility having any matter before the Tribunal may be represented by a legal practitioner.

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 98% of Mental Health Inquiries (2023: 98%), 62% of hearings in the Tribunal's remaining civil jurisdiction (2023: 58%) and 83% of forensic hearings (2023: 81%).

Matter Type	Represented	Total	%
<b>Civil</b>			
s101(1) Application for a Surgical Operation Involuntary Patient	2	6	33%
s103 Application for Special Medical Treatment	0	0	-
s151(4) Procedural Order	5	5	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	0	1	0%
s162 Application to Publish or Broadcast Name	0	0	0%
s37(1)(a) Initial Review of Involuntary Patient	1255	1414	89%
s37(1)(b) Review of Involuntary Patient	725	796	91%
s37(1)(c) Review of Involuntary Patient	442	496	89%
s37(1A) Review of an Involuntary Patient - at Any Other Time	0	0	0%
s44 Appeal Refusal to Discharge	752	970	78%
s51 Community Treatment Order - Existing CTO	38	3803	1%
s51 Community Treatment Order - Mental Health Facility	480	1796	27%
s51 Community Treatment Order - No current CTO	44	906	5%
s63 Review of Detained Person Under CTO	5	7	71%
s65 Revocation of CTO	1	36	3%
s65 Variation of (Forensic) CTO	0	49	0%
s65 Variation of CTO	1	18	6%
s65 Variation of CTO (on the papers)	1	412	0%
s67(2) Appeal Against a Magistrate's CTO	0	1	0%
s9 Review of Voluntary Patient	21	73	29%
s96(1) ECT Consent Inquiry - Voluntary Patient	1	1	-
s96(2) ECT Administration Inquiry - Involuntary Patient	0	0	0%
s96(2) ECT Administration Inquiry - Involuntary Patient (includes forensic patients)	608	807	0%
s96(3A)(a) ECT for person under 16 - Involuntary Patient	0	0	0%
s96(3A)(b) ECT for person under 16 - Voluntary Patient	0	0	-
<b>Civil Total</b>	<b>4381</b>	<b>11597</b>	<b>38%</b>

Matter Type	Represented	Total	%
<b>Financial Management Orders</b>			
s44 Consideration of Financial Management at a Mental Health Inquiry	9	10	90%
s46 Application for Financial Management Order	37	42	88%
s48 Review of Interim Financial Management Order	0	0	0%
s88 Application for Revocation of a Financial Management Order	1	21	5%
<b>Financial Management Orders Total</b>	<b>47</b>	<b>73</b>	<b>64%</b>
<b>Forensic</b>			
s78(a) First Review Following Nomination of Limiting Term	17	17	100%
s78(b) First Review Following Fitness Referral from Court	19	22	86%
s78(c) First Review Following Special Verdict of Act Proven but Not Criminally Responsible	20	22	91%
s78(d) Review of Forensic Patient (6 monthly)	776	825	94%
s78(e) Review of Forensic Patient Subject to FCTO in Correctional Centre	3	4	75%
s79 Forensic Patient Review at Any Time	135	145	93%
s89 Limited Review of Person Awaiting Transfer to a Mental Health Facility	0	11	0%
s90 First Review Following Transfer from Correctional Centre to a Mental Health Facility	60	67	90%
s91(b) Review of Correctional Patient (6 monthly)	19	19	100%
s93 Review of Correctional Patient at any time	4	4	0%
s97 Appeal Against Failure or Refusal of Secretary to Consider Granting Leave	0	0	0%
s96(2) ECT Administration Inquiry - Involuntary Patient (includes forensic patients)	8	8	100%
s99 Application for a FCTO	85	143	59%
s65 Application to Vary or Revoke a Forensic CTO	0	33	0%
s100 Review of Person Subject to a FCTO in Correctional Centre (not forensic patient)	17	91	19%
s109(4) Review of Person Apprehended Under s109	60	63	95%
s146 Application of Registered Victim for Non Association or Place Restriction	18	18	100%
s151(4) Application for Procedural Order/s	0	0	0%
s162 Application to Publish or Broadcast Name	1	2	0%
s31D Approval of Change of Name	4	4	0%
<b>Forensic Total</b>	<b>1246</b>	<b>1498</b>	<b>83%</b>
<b>Mental Health Inquiries</b>			
s34 Mental Health Inquiry - Review of Assessable Person	6878	7003	98%
<b>Mental Health Inquiries Total</b>	<b>6878</b>	<b>7003</b>	<b>98%</b>
<b>Grand Total</b>	<b>12552</b>	<b>20171</b>	<b>62%</b>

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 2024, the subject of civil hearings attended in 85% of cases (2023: 85%). 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 2024, the rate of client attendance at mental health inquiries was 98% (2023: 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 89% (2023: 84%). Of the hearings where the forensic patient did not attend, 24% 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 2024 financial year, one application was received from an authorised medical officer to proceed in the absence of the patient. This was a s37 review of an involuntary patient during which an inpatient order was made.

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	209	2706	8%	1	1	100%
s63	Review of affected persons detained under a CTO	2	7	29%	0	0	0%
s96	Applications to administer ECT	54	808	7%	0	0	0%
<b>Total</b>		<b>265</b>	<b>3521</b>	<b>8%</b>	<b>1</b>	<b>1</b>	<b>100%</b>

## Appeals

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

No appeal was lodged under s163 in the financial year 2024.

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 no such appeals lodged during 2024.



## 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 2024, interpreters in 55 different languages assisted a total of 562 hearings (2023: 50 languages - 495 hearings). The ten most common languages interpreted were Mandarin (113), Vietnamese (81), Arabic (72), Cantonese (40), Korean (24), Spanish (19), Croat (15), Farsi (13), Bengali (12) and Macedonian (12). Together, these languages constitute 71% 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 2024.

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 2024.

## 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.

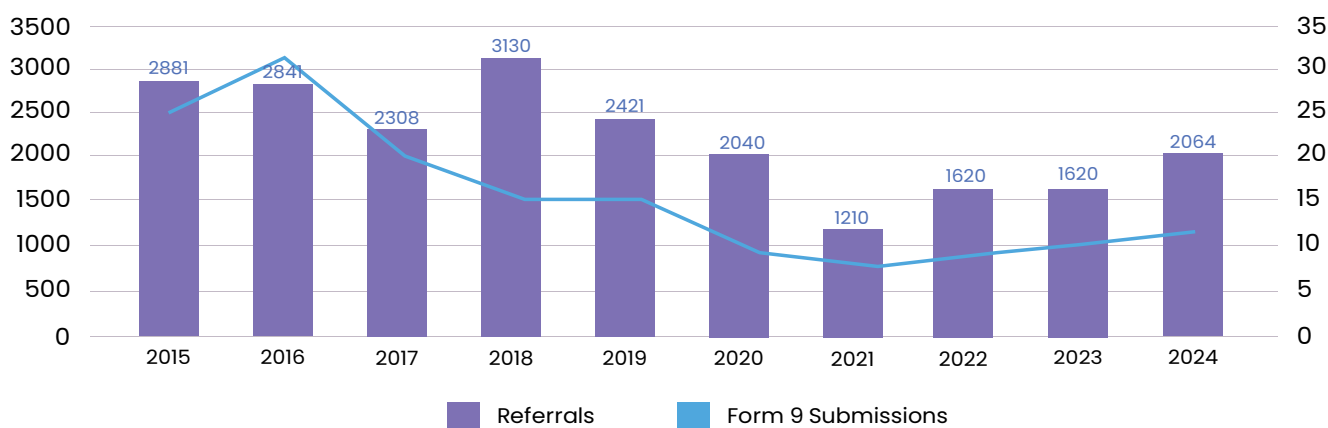
## Data Collection – Involuntary Referral to Mental Health Facilities

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 71% 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 EDs over time, a sufficient level of compliance is yet to be achieved. During the financial year 2024, 6 of the 55 gazetted EDs (11%) returned the Form 9s (2023: 5 of 55 – 9%).

### ED Referrals/Form 9 Submissions



Five EDs made 2,064 involuntary referrals during the financial year 2024, 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.

## 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.

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

## Premises

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

The Tribunal has four large hearing rooms and three small inquiries rooms - all fitted with video conferencing facilities. Video conferencing equipment has also been installed in two 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.
- The hearing room in some facilities is very small, making security difficult and precluding some attendees from being able to participate.

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 2024 the Tribunal conducted a small number of education sessions to inpatient and community staff. These sessions were used to explain the role and jurisdiction of the Tribunal and the application of the MHA and the MHCIFPA. The Tribunal is not currently resourced to provide educative services however a potential partnership with HETI is under review for the delivery of a series of modules for clinicians and Health staff who present to the Tribunal.

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 eightfold 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.

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 2024. 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 2024, the Tribunal had a President, two full time Deputy Presidents, fourteen part time Deputy Presidents and 138 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 2024, including Presidential members, there were 81 female and 73 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 also welcomed five new part-time psychiatrist members in the financial year 2024.

Members	Member Type	Date Appointed
Dr Laurence Power	Psychiatrist	11/10/2023
Dr David Graham	Psychiatrist	11/10/2023
Dr Sean Stanek	Psychiatrist	11/10/2023
Dr Trevor Ma	Psychiatrist	11/10/2023
Dr Guy Windsor	Psychiatrist	11/10/2023

## Resignations

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

Members	Member Type	Date Appointed
Ms Mary Jerram AM	Deputy President	10
Mr Phillip French	Lawyer	15
Mr Richard Gulley AM	Lawyer	18
Ms Julie Hughes	Lawyer	16
Ms Frances Simmons	Lawyer	2
Dr Sadanand Rajkumar	Psychiatrist	10
Mr Ivan Beale	Other Suitably Qualified	19
Mr Mark Coleman	Other Suitably Qualified	7
Ms Maralean McCalman	Other Suitably Qualified	7

## 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 2024, the Tribunal continued its program of professional development for its members. These sessions can include presentations from Tribunal members and staff as well as guest speakers.

Due to resource constraints, one session was delivered during this financial year on the topic of *Trauma Informed Practice & Supporting Cultural Resilience for First Nations Consumers in Tribunal Hearings* – presented by Vanessa Edwige.

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 2023/2024 was \$8,476,144. Total net expenditure for the year was \$8,887,516 – a budget variation of \$411,372 (5%) which reflects the costs associated with increased numbers of hearings.

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 \$1,755,778. 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 2024 financial year and to acknowledge their skill, competence and dedication in conducting more than 20,000 hearings. The successful operation of the Tribunal would not have been possible without their ongoing co-operation and support.

**Alisa Kelley**

Registrar

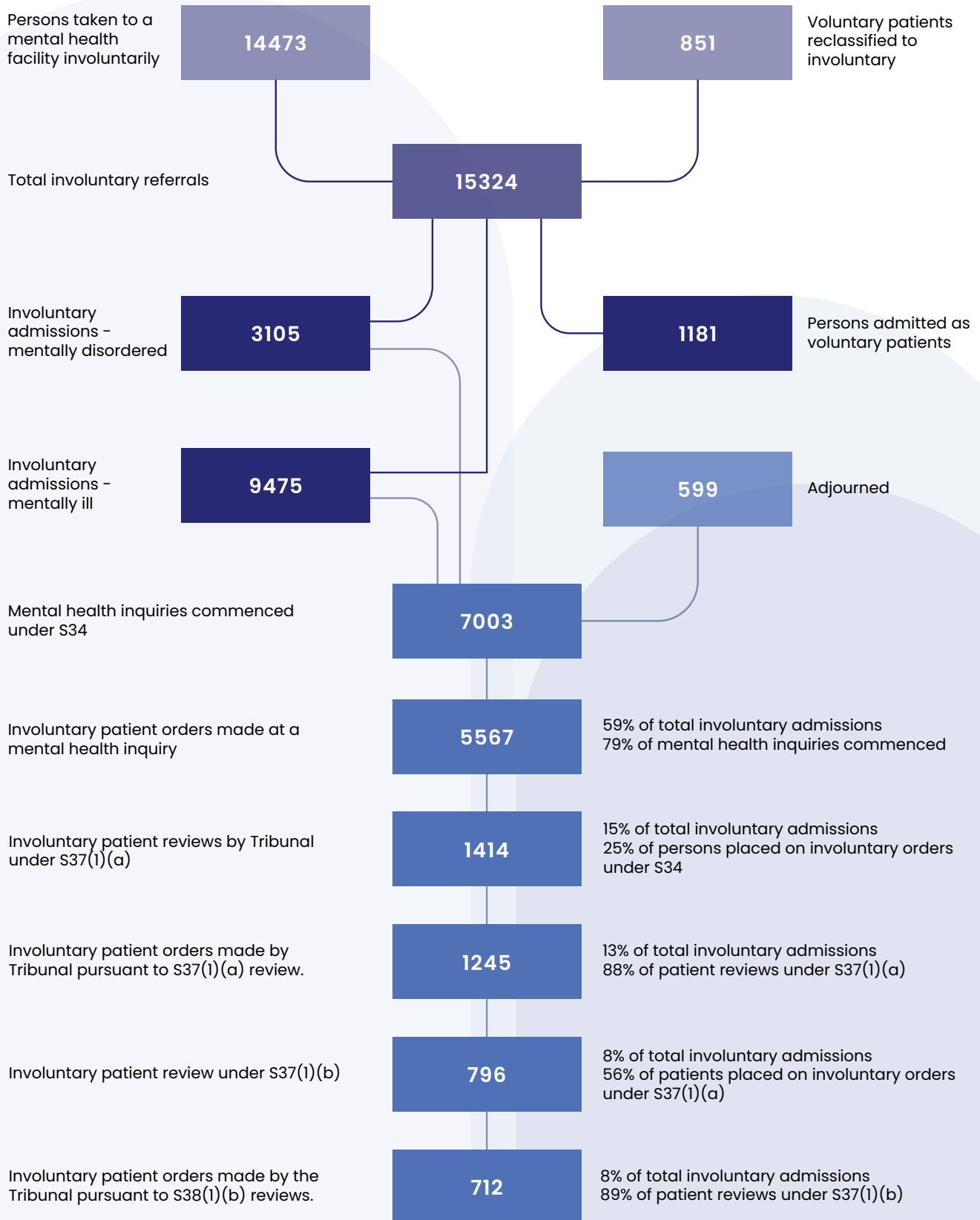
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# APPENDIX

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# Appendix 1 – Civil Statistics

**Table 1 – Flow Chart Showing Progress of Involuntary Patients Admitted During the Period July 2023 through June 2024**



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

Matter	Female		Male		Total
	Hearings	%	Hearings	%	
s34 Mental Health Inquiry – Review of Assessable Person	3100	44%	3903	56%	7003
s9 Review of Voluntary Patient	25	34%	48	66%	73
s37(1)(a) Initial Review of Involuntary Patient	634	45%	780	55%	1414
s37(1)(b) Review of Involuntary Patient	313	39%	483	61%	796
s37(1)(c) Review of Involuntary Patient	191	39%	305	61%	496
s37(1A) Review of an involuntary Patient – at any other time	0	0%	0	0%	0
s44 Appeal Refusal to Discharge	407	42%	563	58%	970
s51 Community Treatment Order – existing CTO	1324	35%	2479	65%	3803
s51 Community Treatment Order – Mental Health Facility	698	39%	1098	61%	1796
s51 Community Treatment Order – no current CTO	335	37%	571	63%	906
s63 Review of detained person under CTO	2	29%	5	71%	7
s65 Revocation of CTO	7	19%	29	81%	36
s65 Variation of (Forensic) CTO	4	8%	45	92%	49
s65 Variation of CTO	3	17%	15	83%	18
s96(1) ECT Consent Inquiry – Voluntary patient	123	30%	289	70%	412
s96(2) ECT Administration Inquiry – Involuntary patient	0	0%	1	100%	1
s96(3A)(a) ECT for person under 16 – Involuntary patient	0	0%	1	100%	1
s96(3A)(b) ECT for person under 16 – Voluntary patient	432	54%	375	46%	807
s101(1) Application for a Surgical Operation Involuntary Patient	0	0%	0	0%	0
s103 Application for special medical treatment	0	0%	0	0%	0
s151(4) Procedural Order	2	33%	4	67%	6
s154(3) Application to be represented by a person other than an Australian legal practitioner	0	0%	0	0%	0
s156 Procedural Hearing: Access to documents	3	60%	2	40%	5
S162 Application to Publish or Broadcast Name	0	0%	0	0%	0
<b>Grand Total</b>	<b>7603</b>	<b>41%</b>	<b>10997</b>	<b>59%</b>	<b>18600</b>

**Table 3 – Civil Matters by Type Over 5 Years**

Act	Matter Description	2023/24	2022/23	2021/22	2020/21	2019/20
S9	Review of those detained in a mental health facility receiving voluntary treatment for more than 12 months	73	68	70	48	64
S34	Mental Health Inquiry – Review of Assessable Person	7003	6152	5966	6156	6467
S37	Reviews of persons detained in a mental health facility for involuntary treatment	2706	2504	2335	2369	2325
S44 m	Appeal against an authorised medical officer’s refusal to discharge	970	987	1037	991	797
S51	Community Treatment Orders	6505	6217	6556	5853	5915
S63	Review of affected persons detained following a breach of a Community Treatment Order	7	6	7	14	13
S65	Variation and revocation of Community Treatment Orders *	515	558	583	536	405
s67(2)	Appeal against a Magistrate’s CTO	1	0	0	0	0
S96(1)	Review of voluntary patient’s capacity to give informed consent to ECT	1	3	0	2	4
S96(2)	Application to administer ECT to an involuntary patient with or without consent	807	866	791	781	822
S96(3A)	Application to administer ECT to a person under 16 years	0	3	5	1	1
S101	Application for a Surgical Operation	6	3	9	6	10
S103	Application for special medical treatment	0	0	0	2	1
S151-S156	Procedural Orders	6	3	9	2	4
S162	Application to publish or broadcast names	0	1	0	0	0
S202(4)	COVID-19 special provisions	-	-	-	4	21
<b>Total</b>		<b>18600</b>	<b>17371</b>	<b>17368</b>	<b>16765</b>	<b>16849</b>

\*Includes forensic

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

Health Care Agency	2023/24	2022/23	2021/22	2020/21	2019/20
Albury Community Mental Health Service	33	35	27	42	29
Auburn Community Mental Health Team	65	44	76	68	42
Bankstown-Lidcombe Mental Health Service	213	174	178	152	140
Bathurst and Region Community Mental Health and Drug and Alcohol Service	23	34	14	-	-
Bega Valley Community Mental Health Service	28	31	33	22	27
Blacktown and Mt. Druitt Psychiatry Service	254	273	299	262	292
Blue Mountains Mental Health Service	54	43	50	52	63
Bondi Junction Community Mental Health Service	7	5	10	11	6
Bowral Community Mental Health Service	30	22	21	20	10
Byron Mental Health Services	33	33	28	29	29
Campbelltown Mental Health Service	240	192	162	166	150
Camperdown Community Mental Health Service	208	187	198	177	169
Canterbury Community Mental Health Service	161	143	151	144	113
Central Coast Area Mental Health Service	414	428	456	449	460
Coffs Harbour District Hospital Outpatient Service	110	113	94	100	77
Cooma Community Mental Health Service	1	6	6	14	19
Cooma and Queanbeyan Community Mental Health Service	23	26	20	-	-
Cootamundra Community Mental Health Service	1	1	1	-	-
Croydon Community Mental Health Service	254	292	259	215	264
Deniliquin Mental Health Service	30	23	20	19	20
Dubbo and Region Community Mental Health and Drug and Alcohol Service	103	91	42	-	-
Dundas Community Mental Health Service	0	0	0	0	3
Eurobodalla Community Mental Health Service	32	31	43	6	44
Fairfield Mental Health Service	148	139	105	100	124

Health Care Agency	2023/24	2022/23	2021/22	2020/21	2019/20
Far West Mental Health Service	22	23	20	23	22
Goulburn and Yass Community Mental Health Service	50	28	38	37	35
Grafton Mental Health Service	25	28	41	32	26
Granville Community Rehabilitation Service	79	81	78	78	77
Griffith Community Mental Health Service	58	60	53	46	51
Hawkesbury Mental Health Service	13	15	27	25	11
Hills (The) Community Mental Health Centre	57	57	63	59	54
Hornsby Ku-ring-gai Community Mental Health Service	182	162	157	156	186
Hunter Psychiatric Rehabilitation Service	0	0	0	0	2
Hunter Valley Health Care Agency	1	1	0	0	0
Hunter New England Mehi/McIntyre Mental Health Service	30	33	41	0	36
Hunter New England Tablelands Mental Health Service	28	30	32	18	14
Hunter New England Peel Mental Health Service	34	36	31	29	28
Hunter Valley Adult and Child and Adolescent Community Mental Health Service	99	98	79	71	86
Hunter Valley Child and Adolescent Mental Health Service	10	5	1	0	0
Illawarra Community Mental Health Services	145	143	131	107	114
Inner City Mental Health Service	103	103	93	58	64
Kempsey Mental Health Service	26	30	36	48	43
Lake Illawarra Sector Mental Health Service	1	2	0	0	2
Lake Macquarie Mental Health Service	92	97	94	101	90
Lake Macquarie Child and Adolescent Community Mental Health Service	1	4	4	1	2
Lismore Mental Health Services	74	79	107	85	110
Lithgow Mental Health Service	17	10	11	10	5
Liverpool Mental Health Service	254	241	224	208	178
Macquarie Area Mental Health Services	1	5	58	77	81
Manly Hospital & Community Health Service	0	0	0	1	0
Maroubra Mental Health Service	153	192	199	201	193

Health Care Agency	2023/24	2022/23	2021/22	2020/21	2019/20
Marrickville Community Mental Health Service	95	111	119	102	135
Merrylands Community Health Service	44	45	39	25	15
Mid Western Community Mental Health Service	3	9	60	103	112
Mudgee and Region Community Mental Health and Drug and Alcohol Service	14	17	13	10	13
Newcastle Mental Health Service	255	209	226	219	228
Newcastle Child and Adolescent Community Mental Health Service	2	1	0	3	2
Northern Illawarra Sector Mental Health Service	0	0	0	1	2
Northern Beaches Community Mental Health Service	171	173	155	142	163
Orange Community Health Team Orange Health Centre	1	1	1	-	-
Orange and Region Community Mental Health and Drug and Alcohol Service	88	88	5	7	7
Parramatta Community Health Service	106	87	87	142	151
Penrith Mental Health Service	65	35	36	47	55
Penrith - Child and Youth Mental Health Service	4	2	3	0	1
Port Macquarie Community Mental Health Service	62	86	76	61	53
Queanbeyan Mental Health Service	0	0	0	15	31
Redfern Community Mental Health Service	71	59	67	74	67
Royal North Shore Community Health Centre (Mental Health)	139	125	135	135	135
Royal North Shore Hospital and Community Health Services	30	25	37	41	31
Ryde Community Mental Health Service	169	159	188	156	141
Shoalhaven Community Mental Health Services	46	50	57	54	59
Springwood Mental Health Service	21	11	16	8	9
St George Community Mental Health Centre	259	201	202	200	197
St Marys Mental Health Service	58	59	51	45	43
St George Div. of Psychiatry & Mental Health	0	0	0	0	0

Health Care Agency	2023/24	2022/23	2021/22	2020/21	2019/20
St George Child & Adolescent Mental Health Service	1	0	0	1	1
Sutherland Hospital and Community Mental Health Service	119	120	118	110	93
Tamworth Community Mental Health Service	0	0	0	2	3
Taree Community Mental Health Service	73	60	46	38	54
Temora Community Mental Health	13	16	12	13	15
Tumut Community Mental Health Service	10	7	7	9	11
Tweed Mental Health Service	104	84	88	72	94
Wagga Wagga Community Mental Health Service	64	65	52	53	49
Young Community Mental Health Service	16	16	14	13	7
CTO's made at Mental Health Inquiries & reviews	744	892	903	875	671
<b>Total</b>	<b>6868</b>	<b>6742</b>	<b>6724</b>	<b>6295</b>	<b>6239</b>

## 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
<b>2023/24</b>	<b>18</b>	<b>730</b>	<b>6138</b>	<b>6868</b>
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 - 2024 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	5	5
Person is not fit and will not become fit within 12 months	7	7
Court Order for detention is replaced by Tribunal order	0	0
Transfer to another facility	0	0
Adjourned	9	10
<b>Total</b>	<b>21</b>	<b>22</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for S78(b) reviews:</b>	<b>16</b>	<b>22</b>

**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	4	4
Court order for detention replaced by Tribunal order	5	5
Transfer to another facility	13	13
Grant leave of absence	2	2
Release conditional	0	0
Adjournment	0	0
<b>Total</b>	<b>24</b>	<b>24</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for S78(c) reviews:</b>	<b>22</b>	<b>22</b>

**Table 8 – S78(A) First Review Following Nomination of Limiting Term**

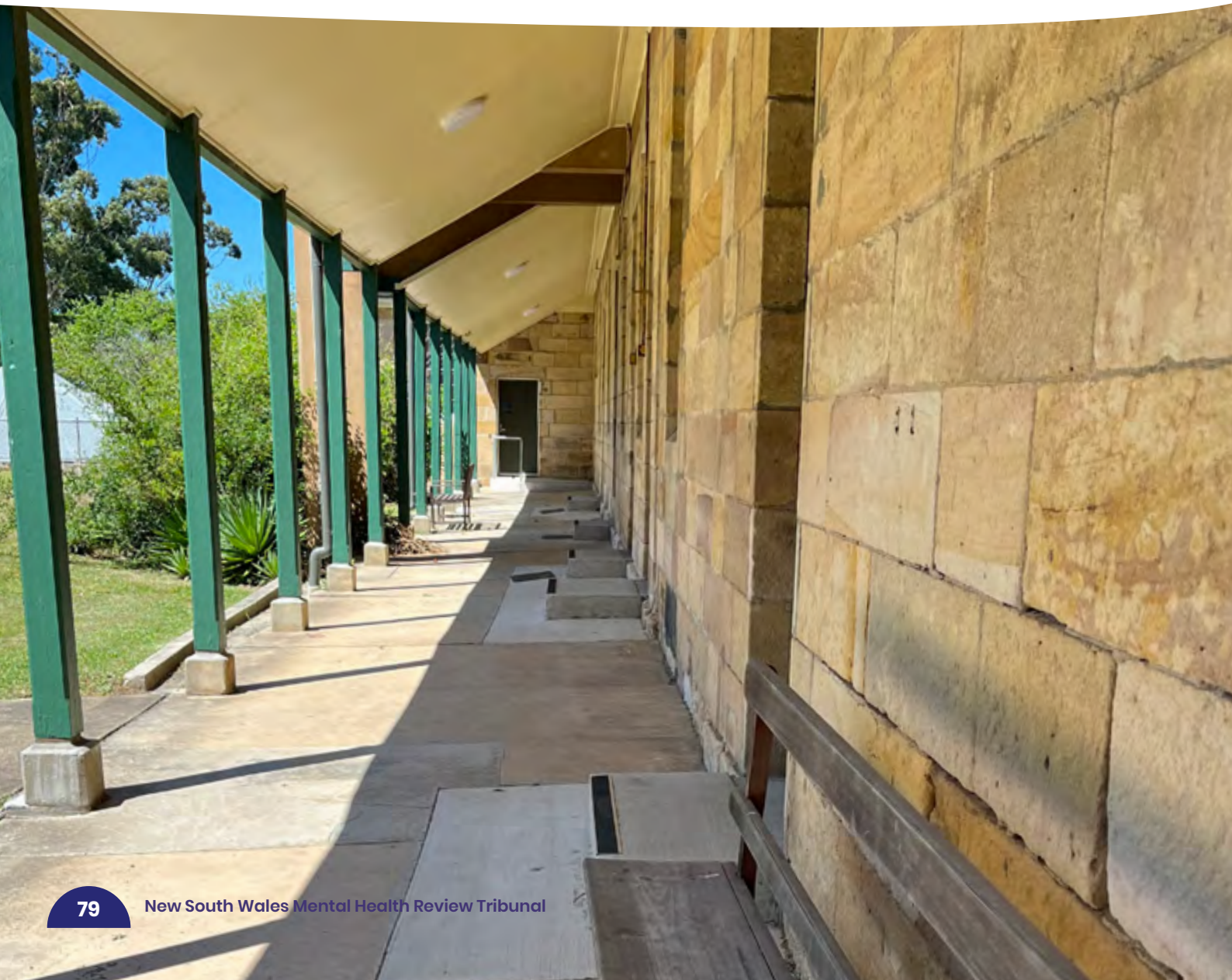
MHCIFPA – S78(a) First Review Following Nomination of Limiting Term	Individuals	Hearings
Person is FIT for trial	1	1
Court order for detention replaced by Tribunal order	14	14
Person is unfit for trial	13	13
Transfer to another facility	1	1
Adjourned	1	1
<b>Total</b>	<b>30</b>	<b>30</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for S78(a) reviews:</b>	<b>17</b>	<b>17</b>

## 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	126	162
Current order for detention to continue	189	294
Current order for transfer and detention to continue	22	30
Variation to current order for detention	13	13
Variation to current order for transfer and detention	1	1
Extension of period of review granted	54	56
Extension of period of review NOT granted	13	14
Person is fit to be tried	1	1
Person is not fit to be tried	44	58
Release conditional	40	40
Release conditions varied	151	202
Release conditions made less restrictive	0	0
Release unconditional under a CTO	10	10
Release – Unconditional	12	12
Revocation of conditional release and order detention	3	3
Forensic patient status expired – reclassified as involuntary patient	0	0
Transfer to another facility	16	16
Transfer to another facility – time limited order	0	0
Leave of absence granted	94	126
Leave of absence revoked	0	0
Financial Management Order made	0	0
Adjourned	65	79
<b>Total</b>	<b>854</b>	<b>1117</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for SS78(d) &amp; 79 reviews:</b>	<b>482</b>	<b>935</b>

**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	9	9
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	2	2
<b>Total</b>	<b>11</b>	<b>11</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for S89 reviews:</b>	<b>11</b>	<b>11</b>



**Table 11 – S90: First Review Following Transfer from a Correctional Centre to a Mental Health Facility**

<b>S90 First Review Following Transfer from a Correctional Centre to a Mental Health Facility</b>	<b>Individuals</b>	<b>Hearings</b>
Person is a mentally ill person – continue in a mental health facility	59	60
Person is a mentally ill person – appropriate care is available in a correctional centre	0	0
Person is a mentally ill person – appropriate care is available in a correctional centre under an FCTO	4	4
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	0	0
Correctional patient status expired – reclassified as an involuntary patient	1	1
Patient released prior to hearing	2	2
Patient transferred prior to hearing	0	0
Transfer to another facility – time limited order	0	0
Financial Management Order made	0	0
No Financial Management Order made	1	1
Decision Reserved	0	0
Tribunal has no jurisdiction	0	0
Adjourned	1	1
<b>Total</b>	<b>69</b>	<b>70</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for S90 reviews:</b>	<b>66</b>	<b>69</b>

**Table 12 – S99: Application for a Forensic CTO**

S99 Application for a Forensic CTO	Individuals	Hearings
Forensic CTO made	123	123
Forensic CTO not made	1	1
CTO made to have effect on date of unconditional release	15	15
CTO revoked by Medical Officer at Justice Health	2	2
Patient released prior to hearing	0	0
Decision Reserved	0	0
Withdrawn or no jurisdiction	1	1
Adjourned	4	4
<b>Total</b>	<b>146</b>	<b>146</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for S67 reviews:</b>	<b>140</b>	<b>144</b>

**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	80	80
Variation not approved	0	0
FCTO revoked	0	0
FCTO not renewed or revoked by Health Care Agency	13	14
Patient discharged prior to hearing	0	0
Withdrawn or no jurisdiction	0	0
Adjournment	2	2
<b>Total</b>	<b>95</b>	<b>96</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for S65 reviews:</b>	<b>80</b>	<b>82</b>

### Table 14 – SS91(B) & 93: Review of Correctional Patients

MHCIFPA - S91(b) & 93 Review of Correctional Patients	Individuals	Hearings
Current order for detention to continue	15	19
Correctional patient status expired – reclassified as involuntary patient	2	2
Transfer to another facility – CTO made	0	0
Adjourned	0	0
<b>Total</b>	<b>17</b>	<b>21</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for S91(b) reviews:</b>	<b>15</b>	<b>21</b>

### 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	66	86
Forensic CTO varied by Civil panel to community HCA	2	2
Forensic CTO Revoked	1	1
Patient release prior to hearing	2	2
Adjourned	3	4
<b>Total</b>	<b>74</b>	<b>95</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for S100 reviews:</b>	<b>69</b>	<b>94</b>

### 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	14	15
Revocation of Conditional Release and Order Detention	2	2
Confirm order for detention and grant leave of absence	4	4
Interim order following breach granting leave of absence	0	0
Transfer to another facility	0	0
Adjourned	28	42
Deceased	0	0
<b>Total</b>	<b>48</b>	<b>63</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
<b>Total number of individuals and hearings for S109(4) reviews:</b>	<b>33</b>	<b>63</b>

**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):	23	29

**Table 18 – MHCIFPA S146: Application of Registered Victim for a Non-Association or Place Restriction**

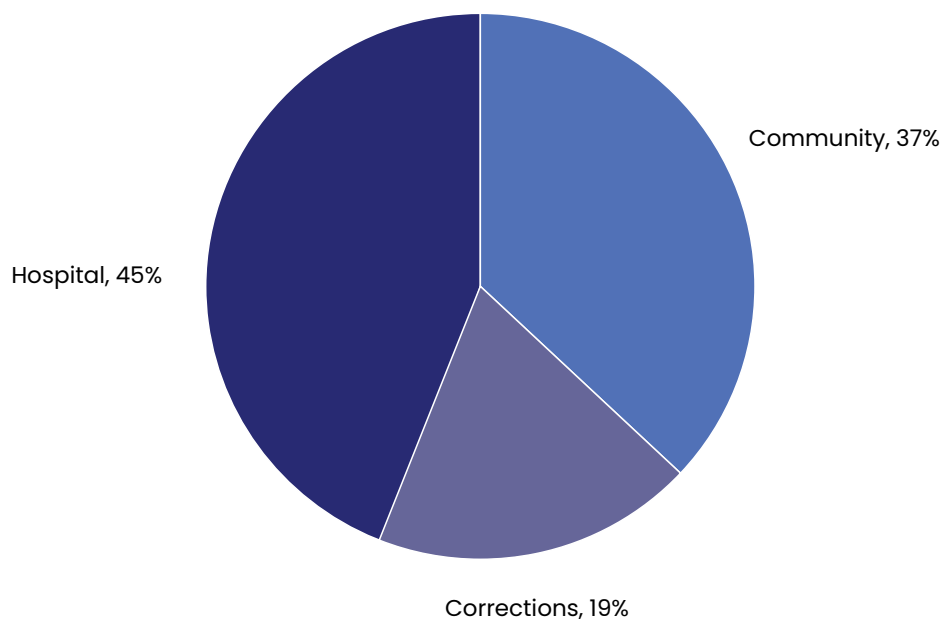
MHCIFPA – S146 Application of Registered Victim for Non-Association or Place Restriction	Individuals	Hearings
Impose non-association and/or place restriction condition	9	10
Vary non-association and/or place restriction condition	0	0
Decline to make a non-association and/or place restriction condition	4	4
Withdrawn or no jurisdiction	2	2
Adjournment	2	2
<b>Total</b>	<b>17</b>	<b>18</b>
NOTE: Hearings may have multiple outcomes; individuals may appear in multiple categories.		
Total number of individuals and hearings for S146 reviews:	14	18

**Table 19 – Procedural Hearings – MHA S162 Application to Publish or Broadcast BDMA S31D Approval of Change of Name**

Procedural Hearings	Individuals	Hearings
<b>S162 Application to Publish or Broadcast Name</b>		
Application granted	1	2
<b>Total</b>	<b>1</b>	<b>2</b>
<b>S31D Approval of Change of Name</b>		
Application granted	3	3
Withdrawn or no jurisdiction	1	1
Adjournment	1	1
<b>Total</b>	<b>5</b>	<b>5</b>
<b>S151(4) Application for a Procedural Order</b>		
Application granted	4	5
Application denied	1	1
<b>Total</b>	<b>5</b>	<b>6</b>
<b>Total Procedural Hearings</b>	<b>11</b>	<b>13</b>

**Table 20 – Forensic Patients, Correction Patients & FCTOs by Location at 30 June 2024**

Location	Number of Patients at 30 June						
	2024	2023	2022	2021	2020	2019	2018
Bloomfield Hospital	19	24	27	23	24	23	18
Community	188	250	265	230	216	193	182
Concord Hospital	5	8	7	6	6	8	8
Cumberland Hospital	24	29	33	32	30	31	31
Forensic Hospital	106	112	110	108	116	110	109
Juvenile Justice Centre	0	0	0	0	0	0	4
Long Bay Hospital	44	79	77	45	51	51	57
Macquarie Hospital	4	7	4	3	5	5	9
Metropolitan Remand and Reception Centre	50	30	37	91	89	79	83
Metropolitan Special Programs Centre	16	15	20	15	15	14	18
Morisset Hospital	26	28	28	30	29	28	31
Silverwater Women’s Correctional Centre	4	0	7	6	8	15	7
Other Community Hospitals	2	9	9	11	11	10	13
Other Correctional Centres	26	47	32	35	34	51	48
<b>Total</b>	<b>514</b>	<b>638</b>	<b>656</b>	<b>635</b>	<b>634</b>	<b>618</b>	<b>618</b>



**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	2023/24	2022/23 <sup>1</sup>	2021/22 <sup>2</sup>	2020/21 <sup>3</sup>	2019/20 <sup>4</sup>	2018/19
Bloomfield Hospital	30	36	0	0	22	44
Concord Hospital	9	9	0	0	0	14
Cumberland Hospital	67	68	0	0	86	117
Forensic Hospital	262	211	0	0	182	269
Long Bay Hospital	189	112	0	0	180	253
Macquarie Hospital	13	11	0	0	0	14
Metropolitan Remand and Reception Centre	31	24	0	0	98	119
Morisset Hospital	25	41	0	0	46	62
Tribunal Premises Gladesville	883	1032	1515	1671	998	651
<b>Total</b>	<b>1509</b>	<b>1544</b>	<b>1515</b>	<b>1671</b>	<b>1612</b>	<b>1543</b>

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

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

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

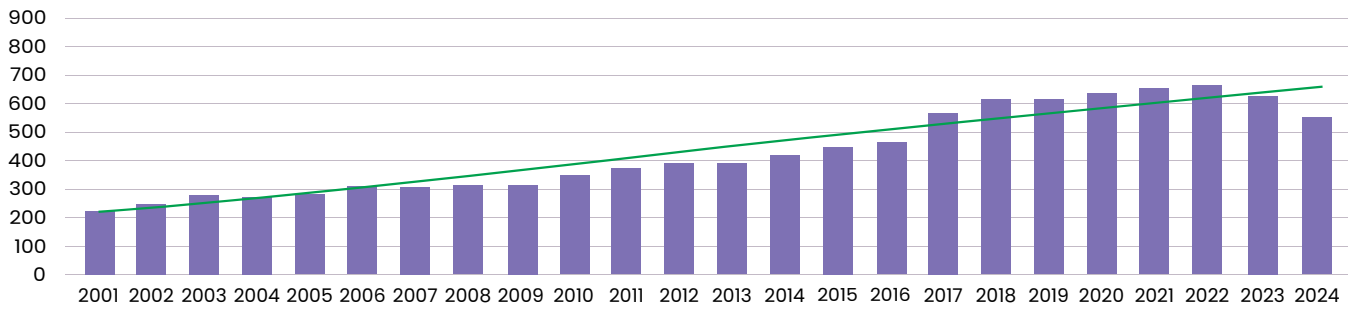
<sup>4</sup> Hearings were held entirely on site at Gladesville during the period April–June 2020 due to COVID-19 restrictions.

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

Category of Forensic and Correctional Patients over 6 Years by Gender							
Category	Gender	2023/24	2022/23	2021/22	2020/21	2019/20	2018/19
Act Proven Not Criminally Responsible	Female	58	55	50	47	0	0
	Male	344	367	362	361	0	0
	<b>Total</b>	<b>402</b>	<b>422</b>	<b>412</b>	<b>408</b>	<b>0</b>	<b>0</b>
Not Guilty by Reason of Mental Illness	Female	0	0	0	0	50	48
	Male	0	0	0	0	349	350
	<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>399</b>	<b>398</b>
Fitness/Fitness Bail	Female	2	0	1	3	8	3
	Male	17	25	25	21	55	34
	<b>Total</b>	<b>19</b>	<b>25</b>	<b>26</b>	<b>24</b>	<b>63</b>	<b>37</b>
Limiting Term	Female	1	3	1	0	2	3
	Male	33	32	26	22	21	28
	<b>Total</b>	<b>34</b>	<b>35</b>	<b>27</b>	<b>22</b>	<b>23</b>	<b>31</b>
Extension/Interim Extension Orders	Female	1	1	1	1	1	1
	Male	13	14	16	13	10	10
	<b>Total</b>	<b>14</b>	<b>15</b>	<b>17</b>	<b>14</b>	<b>11</b>	<b>11</b>
Correctional Patients	Female	3	9	6	3	5	3
	Male	14	30	33	52	42	45
	<b>Total</b>	<b>7</b>	<b>39</b>	<b>39</b>	<b>55</b>	<b>47</b>	<b>48</b>
Forensic Community Treatment Orders	Female	8	8	7	7	6	12
	Male	61	94	128	115	85	81
	<b>Total</b>	<b>69</b>	<b>102</b>	<b>135</b>	<b>122</b>	<b>91</b>	<b>93</b>
<b>Total</b>	Female	73	76	66	61	72	70
	Male	482	562	590	584	562	548
	<b>Total</b>	<b>555</b>	<b>638</b>	<b>656</b>	<b>645</b>	<b>634</b>	<b>618</b>

**Table 23 – Number of Forensic & Correctional Patients 2001–2024**

Number of Forensic and Correctional Patients 2001–2024											
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	2024
393	422	448	468	566	616	618	634	645	656	638	555



**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 2024

The Jurisdiction of the Tribunal as at 30 June 2024	
<b>Mental Health Act 2007</b>	
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)
<b>Mental Health &amp; Cognitive Impairment Forensic Provisions Act 2020</b>	
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)

## The Jurisdiction of the Tribunal as at 30 June 2024

First review following fitness referral from court	s78(b)
First review following special verdict of act proven but not criminally responsible	s78(c)
Review of forensic patient (6 monthly)	s78(d)
Review of forensic patient subject to FCTO in correctional centre	s78(e)
Forensic patient review at any time	s79
Request to transfer back to correctional centre	s88
Limited review of person awaiting transfer to a mental health facility	s89
First review following transfer from correctional centre to a mental health facility	s90
Review of correctional patient (6 monthly)	s91(b)
Review of correctional patient at any time	s93
Appeal against failure or refusal of Secretary to consider granting leave	s97
Application for a FCTO	s99

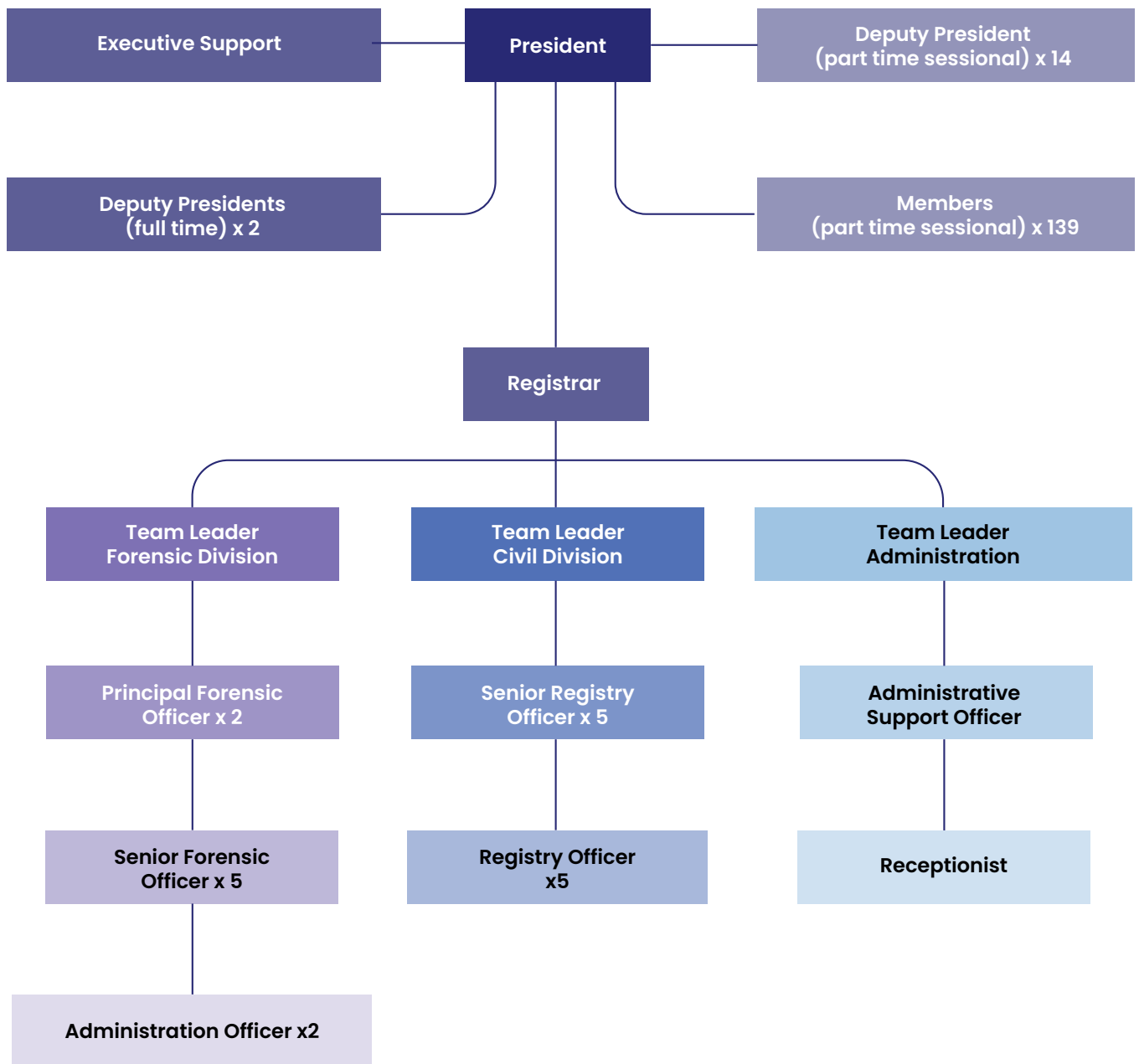
## NSW Trustee & Guardian Act 2009

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

## Births, Deaths and Marriages Registration Act 1995

Approval of change of name	S31D
Appeal against refusal to change name	S31K

# Appendix 4 – Organisational Structure at 30 June 2024



## Appendix 5 – Financial Summary

Description	Net
<b>Income</b>	<b>-\$215.00</b>
Subpoena Fees	-\$215.00
<b>Expense</b>	<b>\$8,887,731.26</b>
Salaries & Wages	\$3,591,150.10
Member Payments	\$4,907,037.12
HR	\$22,444.38
Training & Education	\$12,325.28
Travel	\$119,135.06
IT	\$27,400.49
Consumables	\$9487.22
Postage & Freight	\$15,205.92
Printing & Stationery	\$22,555.51
Records Management	\$23,971.25
Telephony & Internet	\$5634.12
Utilities & Services	\$88,997.06
Subscriptions & Memberships	\$3117.04
Functions	\$9382.18
Legal Services	\$0.00
Sundries	\$700.17
Maintenance	\$29,188.36
<b>Grand Total</b>	<b>\$8,887,516.26</b>
<b>Budget</b>	<b>\$8,476,144</b>
<b>Net movement from budget</b>	<b>\$411,372</b>
<b>Percentage movement from budget</b>	<b>5%</b>

The full year overspend of \$411,372 is a direct reflection of the increase in costs associated with increased numbers of hearings.

# Appendix 6 – Tribunal Members at 30 June 2024

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	The Hon. Terry Sheahan AO	Mr Bruce Williams
Ms Angela Karpin AM	The Hon. John Roger Dive	The Hon. Ann Ainslie-Wallace
Mr Jonathan Hyde	Ms Jan Redfern PSM	The Hon. Jennifer Boland AM
Acting Judge Joanne Keogh		

Part Time Members		
Lawyers	Psychiatrists	Other
Ms Jenny D'Arcy	Dr Andrew Campbell	Ms Lynn Houlahan
Mr Robert Green	Professor James Greenwood	Dr Meredith Martin
Mr Bill Tearle	Dr Janelle Miller	Mr Rob Ramjan
Ms Catherine Carney	Dr Paul Thiering	Dr Margaret Smith OAM
Mr Anthony Giurissevich	Dr Rosalie Wilcox	Ms Diana Bell
Ms Hans Heilpern	Dr Lisa Lampe	Ms Pamela Verrall
Mr John Hislop	Dr John Spencer	Mr Peter Bazzana
Mr David Hartstein	Dr Rasiah Yuvarajan	Ms Sunny Hong
Mr Peter Braine	Dr Clive Allcock	Ms Rosemary Kusuma
Mr Dean Letcher KC	Dr Jean Hollis	Ms Jenny Learmont AM
Ms Yvonne Grant	Professor Christopher Tennant	Ms Alice Shires
Ms Barbara Adamovich	Dr Victor Storm	Mr Michael Gerondis
Ms Michelle Gardner	Dr Susan Thompson	Ms Lyn Anthony
Ms Rhonda Booby	Dr Robert Gordon	Ms Christine Bishop
Ms Jennifer Conley	Dr Uldis Bardulis	Ms Bernadette Townsend
Ms Janice Connelly	Associate Professor John Basson	Ms Corinne Henderson
Mr Michael Marshall	Dr Raphael Chan	Ms Felicity Cox
Mr Shane Cunningham	Dr Adrienne Gould	Mr John Hageman

Lawyers	Psychiatrists	Other
Ms Elaine Connor	Dr Satya Vir Singh	Ms Robyn Lewis
Mr Martin Culleton	Dr Gregory Steele	Dr Sally McSwiggan
Mr William de Mars	Dr Yvonne White	Ms Jacqueline Salmons
Mr Bruno Gelonesi	Dr Josephine Anderson	Dr Peter Santangelo
Ms Athena Harris Ingall	Dr Enrico Parmegiani	Ms Sarah Crosby
Mr Brian Kelly	Dr Daniel Pellen	Ms Irene Gallagher
Ms Karen McMahon	Dr Martyn Patfield	Mr John Laycock
Mr Mark Oakman	Dr Vanessa Rogers	Mr John Le Breton
Ms Lynne Organ	Dr Mary Jurek	Ms Ann MacLochlainn
Mr Gregory West	Dr Greg Hugh	Dr Elizabeth McEntyre
Dr Adam Booker	Dr Kristin Kerr	Associate Professor Katherine Mills
Mr Paul Dixon	Dr Jennifer Torr	Dr Susan Pulman
Ms Mary-Beth McFarlane	Dr Toloupe Fajumi	Ms Vanessa Robb
Professor Jenni Millbank	Dr Frances Joy Herron	Ms Pamela Rutledge AM
Ms Jean-Anne Searson	Dr Susil Stephen	Ms Kathryn Worne
Mr Mark Turnbull	Dr Karen Arnold	Dr Angela Argent
Mr John Weir	Professor Alan Rosen AO	Dr Ameer Baird
Mr Neil Jones	Emeritus Professor Philip Boyce AM	Ms Susan Daly
Mr Peter Ringbauer	Associate Professor Jagmohan Gilhotra	Mr Wayne Hunt
	Dr Gerald Chew	Ms Katherine McKernan
	Dr Neelya Agalawatta	Ms Kimia Randall
	Dr Megan Alle	Ms Marjorie Anne Rauch
	Dr Deidre Horne	Dr Hannah Rose
	Dr Varun Kumar	Mr Peter Shmigel
	Dr Adam Martin	Ms Melinda Smith
	Dr Ganapathi Murugesan OAM	
	Dr Stephanie Oak	
	Dr Peter O'Brien	
	Dr Peter Vaux	
	Dr Megan Kalucy	
	Dr Nicholas Burns	
	Dr Christina Botfield	
	Dr Truls Bratten	

Lawyers	Psychiatrists	Other
	Dr Preeyadarsini Vetha Elangovan	
	Dr Tanya Hall	
	Dr Laurence Power	
	Dr David Graham	
	Dr Sean Stanek	
	Dr Guy Windsor	
	Dr Trevor Ma	

**The Tribunal offers its appreciation to the following members whose appointments ended during 2023/2024**

Ms Mary Jerram AM	Mr Phillip French	Mr Mark Coleman
Mr Richard Gulley AM	Ms Frances Simmons	Ms Maz McCalman
Ms Julie Hughes	Dr Ivan Beale	Professor Sadanand Rajkumar

# NSW Mental Health Review Tribunal

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