THIS IS AN OFFICIAL REPORT OF THE MENTAL HEALTH REVIEW TRIBUNAL PROCEEDINGS IN RELATION TO MR FREDERICK WALES AUTHORISED BY THE PRESIDENT OF THE TRIBUNAL ON 9 SEPTEMBER 2016

Mental Health Review Tribunal

This is an edited version of the Tribunal's decision. The forensic patient has been allocated a pseudonym for the purposes of this Official Report

DETERMINATION OF TRIBUNAL

In relation to **Mr Frederick Wales**
held in February 2015 at the J Hospital
Tribunal Members: Helen Morgan, Uldis Bardulis, Meredith Martin

The case of **Mr Frederick Wales** was reviewed under the provisions of section 46(1) of the *Mental Health (Forensic Provisions) Act 1990 (*the Act) in **February 2015.**

The Tribunal considered the documents listed in the Forensic Patient Exhibit List annexed to these reasons. Background information concerning Mr Wales' history, care and treatment as a forensic patient are described in Annexure 'A' to these reasons. That material is maintained by the Tribunal staff.

Having regard to sections 40, 47 and 74(a) – (c) of the Act and section 68 of the *Mental Health Act 2007 (*Mental Health Act*),* the evidence before the Tribunal at this review and, in particular, the circumstances and considerations appearing below:

- the Tribunal is satisfied that there are reasonable grounds for believing that the present arrangements for care, treatment and control of Mr Wales are necessary and sufficient for the protection of Mr Wales from serious harm and/or for the protection of others from serious harm.

AND:

- the Tribunal makes no further or other order in relation to the care, treatment and control of Mr Wales and notes that the present order or orders continue in effect.

ATTENDEES

Mr Wales attended the hearing and was represented by his lawyer, Mr S of the Mental Health Advocacy Service. Also in attendance were:

- Dr P, Psychiatrist
- Dr M, Resident Medical Officer
- Ms N, Registered Nurse

CIRCUMSTANCES AND CONSIDERATIONS

1. Mental State, including the likelihood of any deterioration in mental state:

The treating team report states Mr Wales's history of symptoms are consistent with schizophrenia. He continues to have somatic concerns that are consistent with his previous themes of bodily delusion and prominent negative symptoms of schizophrenia. His mental state has been slow to improve on Clozapine. However, he participates minimally with ward activities.

2. **Any relevant physical condition:**
Mr Wales has a history of hepatitis C.

3. **Current risk assessment for harm or endangerment to self or others:**
Mr Wales has a high loading of static risk factors for violence. He currently has limited insight into his mental illness and need for treatment. He continues to have irritability and delusions despite Clozapine treatment. His engagement around his management plan and ward activities has been minimal. Despite this, he has been adherent with his medications under appropriate supervision. He will likely continue to be adherent with treatment under appropriate supervision in a structured environment in the absence of previous destabilisers such as psychosocial stressors and substance use. Mr Wales will benefit from continued monitoring for response to medication, before being transferred to a less structured and supervised ward to assess if he can tolerate that environment without an exacerbation of his mental illness. He has not displayed any signs of hostility or aggression since the last Tribunal hearing.

4. **Any significant developments since the last review are summarised as follows**:
Mr Wales' progress since the last Tribunal hearing has been slow with ongoing symptoms of psychosis with limited engagement in the ward and preoccupation with somatic complaints.

Mr Wales requested point-to-point internal ground access which was granted in December 2014. He subsequently has been utilising this to attend the Recreation Hall more regularly and continues to exercise.

5. **Future plans in relation to care, treatment or control of the person:**
The treating team's report suggests Mr Wales would benefit from further rehabilitation, support and education within the J Hospital. The solicitor appearing for Mr Wales at the hearing indicated his client's main issue was his lack of freedom in the J Hospital which he finds extremely confining. He would like to go to the Metropolitan Remand and Reception Centre or have escorted day leave or unescorted ground leave at the J Hospital. Dr P indicated that given Mr Wales's current assessment, she would be unable to recommend leave of the type requested.

6. **Any other matters that the Tribunal considers should be noted arising from this review:**
N/A

The Tribunal further determined that the next review under section 46 will be held within six months.

The Tribunal requests updated reports be provided at the next review.

SIGNED BY Helen Morgan . **ON**: 12th May 2015

Deputy President *Date*

ANNEXURE A

BACKGROUND

Index Event

In 2004, Mr Wales killed his father after he heard voices telling him that his parents intended to kill him to sell his body organs. The victim died from multiple stab wounds to the chest.

The Supreme Court, Mr Wales was found not guilty by reason of mental illness and ordered that he be detained in custody.

Prior History

Mr Wales migrated to Australia with his parents when he was 12. He has a history of behavioural problems and exhibited bizarre, delusional and aggressive behaviour since 1998. He had expressed paranoid thoughts and developed a pre-occupation with weapons, knives, and cutting instruments which he kept for his own protection. His mother is a nurse and his father was a mechanical engineer. While he was growing up he was often in trouble for stealing, lying, using drugs and getting into fights at school. He left school in Year 9 and had not had long term employment. He was sacked when he was working as a security guard due to habitual substance abuse. The relationship with his family was strained and at the time of the offence they were estranged.

Mr Wales' first contact with community mental health services was at the age of 19 when he requested medication to withdraw from heroin which he had smoked since the age of 15. He was first admitted to Hospital in May 2000, for three weeks and was diagnosed with drug induced psychosis. He was again admitted in July 2000, for six weeks. He became non-compliant with medication and developed a persecutory delusion that people were watching him and following him and he would not leave the house at that time. He was later diagnosed with schizophrenia and was prescribed Olanzapine.

There were further admissions in July 2001, for threats of suicide and between December 2001 and January 2002 he was taken to hospital by police for breaking a car window with a rock. Mr Wales stated that he tried most illicit drugs but preferred heroin and cannabis both of which he had used since age 15. There was one admission to hospital for detoxification in 1998 and two home detoxifications. The longest drug-free period reported prior to the index event was two weeks. Mr Wales continued to use heroin up until the index event. He had been placed on the methadone maintenance treatment program in prison.

Mr Wales had not been incarcerated in the past although he had been charged with drug possession, shoplifting and had unpaid fines.

Forensic Patient History

Mr Wales was initially detained in the prison hospital after having been transferred by order of the delegate of the Director-General. He was moved back to the Metropolitan Remand and Reception Centre but was again transferred to the prison hospital twice. In 2008, the delegate of the Director-General made an order for Mr Wales's transfer to the MRRC although Mr Wales had indicated that he did not want to be transferred there.

Mr Wales was transferred to the J Hospital in November 2009 but he expressed a desire to return to the MRRC and to appeal his forensic status.

April 2010

At the Tribunal review in April 2010 the Tribunal learnt that Mr Wales had two razor blades kept surreptitiously in his room although he denied ideas of harming himself or others with the razor blades. A psychiatric report provided to the Tribunal noted that in March 2010 Mr Wales revealed increasing agitation and pressured speech and he expressed verbal threats to do harm to the Mental Health Review Tribunal if they did not let him go back to the prison. He also made threats to the treating team.

October 2010

At the Tribunal review in October 2010, reports noted that overall Mr Wales's mental state had remained stable but that he had become fixated on appealing his status as a forensic patient. An application to Legal Aid was not accepted but he had been holding discussions with private lawyers about looking into his appeal prospects.

The Tribunal was informed that in May 2010 there had been numerous outbursts and threatening comments towards the treating team and Mr Wales attempted to assault a nursing staff member after his demand to return to gaol had been refused. A detailed management plan included further optimisation of medication in the short term and the possibility of ECT in the longer term.

April 2011

At the Tribunal review in April 2011, Dr J reported that Mr Wales continued to display significant positive and negative symptoms and signs of chronic treatment resistant schizophrenia. Mr Wales continued to display significant problems with motivation, volition, insight and compliance with the overall psychiatric treatment and rehabilitation process including continuing to resist advice that he engage in a trial of Clozapine.

The social worker reported that Mr Wales had engaged the services of a legal firm with the view to having his forensic status overturned. Apparently, after paying a sum of money to the firm Mr Wales decided he did not wish to go ahead with the proceedings as the increasing cost was of some concern to him and he arranged for the social worker to obtain a refund.

October 2011

At the Tribunal review in October 2011, Dr J expressed the view that there had been little significant change in the preceding six months, and although manageable, Mr Wales continued to have a blunted affect with poor insight. He was resistant to a trial of Clozapine. He remained focused on returning to prison rather than engaging in the treatment program. There continued to be no overt change in Mr Wales's condition but he continued to be preoccupied with wanting to return to prison.

When asked at the hearing about his medication Mr Wales said that there was nothing wrong with him, that he had lied to the Court when he said voices had made him take the action and that he was under the impression that he would get out quicker if he pleaded not guilty on the grounds of mental illness.

April 2012

At the Tribunal review in April 2012, the reports before the Tribunal confirmed that there had been little significant change in Mr Wales's mental state or circumstances over the preceding six months and Mr Wales continued to be resistant to a trial of Clozapine. Mr Wales continued to focus on returning to prison rather than engaging in treatment at the J Hospital and was not actively engaged or adequately participating in ward based activities or groups. He had threatened Dr A with a clenched fist when challenged about the importance of a Clozapine trial. The treating team recommended that he remain in the Unit for further care and treatment.

His lawyer queried the treating team as to the benefits to Mr Wales of remaining at the J Hospital, in light of his resistance to treatment. Dr A stated that gaol was a more hostile environment and that he required treatment in a hospital setting for his mental illness. Dr A said that Mr Wales had been seen by a lot of psychiatrists, all of whom had been of the view that he required treatment in a hospital setting. Dr A said it would not be appropriate for him to be referred to a less secure unit other than the J Hospital.

Mrs Wales, Mr Wales' mother, had been participating by videolink told the Tribunal when invited to speak, that she preferred to leave everything to the discretion of the treating team.

September 2012

At the Tribunal review in September 2012, it was noted that Mr Wales expressed delusional beliefs in the past about the theft of his organs. In oral evidence, Dr S said Mr Wales had issued homicidal threats against at least one member of staff. As a result he was returned to his previous Ward.

Mr Wales addressed the Tribunal and said that he did not have a mental illness and that he had only agreed to have the issue raised at his trial because he believed that a finding of "not guilty by reason of mental illness" would see him released earlier than might otherwise have been the case. He said, as he had told other people, that he wished to overturn the verdict and receive a sentence so that he could return to the gaol system and thereby secure his eventual release.

Dr S indicated that Mr Wales steadfastly refused to take Clozapine, medication that she believed would alleviate his symptoms. Mr Wales confirmed that he would continue to refuse to take Clozapine because he "hated needles". Dr S indicated that she would get a second opinion from Dr K as to whether Clozapine was, in fact, necessary and/or desirable.

March 2013

At the Tribunal review held in March 2013, the treating team reported that Mr Wales remained concretely opposed to his treating team's recommendation to trial Clozapine.

It was noted by the Tribunal that Mr Wales had a high historical loading for violence and remained a high risk of future violence. He was reported to have exhibited verbal and physical aggression towards staff and property. He had threatened to kill treating psychiatrist, Dr S.

In February 2013 Mr Wales appeared to have a change of mind and attitude towards commencing Clozapine and he indicated to Dr S he was essentially agreeable pending her having a discussion with his mother on the topic. However later that day, he changed his mind and stated that his depot was enough.

The treating team continued to recommend a trial of Clozapine. A family meeting was hoped for.
The Tribunal noted that Mr Wales continued to maintain he was not mentally unwell so it was not necessary for him to trial Clozapine. He continued to express his wishes to return to gaol and serve his sentence.

The treating team indicated Mr Wales remained a high risk of future violence and was not a suitable candidate for transfer to a less secure environment at that time as his risk necessitated management in a high security setting. His mental illness was not under adequate control and he required further assessment and treatment in the hospital's men's Ward.

September 2013

At the Tribunal review held in September 2013, Mr Wales had agreed to commence Clozapine with the dose to be increased gradually. Depot medication was to be reduced with a view to discontinuance. Methadone was apparently being reduced. Other medications had been discontinued. There had been improvement in affect in consequence of this regime but Mr Wales's level of apathy had not yet improved.

February 2014

At the Tribunal review in February 2014, Mr Wales continued to show significant negative symptoms of mental illness such as poverty of thought and blunted affect. He also had residual positive symptoms such as laughing for no reason. Mr Wales maintained that he did not have a mental illness. He

believed the index offence was justified, given his father's behaviour. Dr S suggested that Mr Wales's emotional development may have stagnated in adolescence at about the time of his polysubstance/drug use and likely onset of his symptoms of mental illness. There had been an improvement in Mr Wales's behaviour, emotional and cognitive stability in the last six months, with no recent threats of violence or intimidating behaviour.

Mr Wales's history and presentation suggested early onset schizophrenia, chronic substance use and interrupted personality development. He had a high loading of static risk factors and moderate loading of dynamic risk factors for future violence.

Mr Wales commenced Clozapine in May 2013 and his dosage was gradually titrated up.

Dr S said at the hearing that there had been a small but significant change since starting Clozapine. Mr Wales was warmer and more engaged. That was also observed by the Tribunal. Mr Wales complained of fatigue and that it had interfered with his ability to participate in recreation hall and other activities. He had ceased his Methadone, after 20 years of therapy.

Mr Wales had been referred to the next Ward. There remained work to do on the index offence, but he was gradually engaging more with the treating team.

PREVIOUS REVIEW

The previous Tribunal review was held in August 2014. The doctors' report noted that there had been a marked relative improvement in Mr Wales's clinical state while he had been taking Clozapine although he had only partially responded and remained impaired with significant negative and guarded positive symptoms of Schizophrenia. He engaged with staff about superficial topics but not about treatment issues. His judgement was impaired with ongoing refusal to have recommended blood tests.

The doctors' report noted that after his transfer to the Ward in May 2014, there was little change in his presentation. He continued to smile frequently to himself but denied perceptual disturbances when asked. He was generally isolative and uninterested in groups. He remained blunted in affect. He was generally irritable when asked about his psychotic symptoms. He recognised that his thinking has improved on Clozapine but rejects any diagnosis of mental illness.

At the hearing of the review, Dr P told the Tribunal that more work had to be done on Mr Wales's trust and engagement with the treating team. It was too early to extend his leave. He would require a more open engagement and an improvement of his somatic symptoms. Dr P stated that diversional therapies were at present appropriate for Mr Wales.

Mr Wales has a history of Hepatitis C infection which was being investigated and may require more blood tests.

The nursing report noted that Mr Wales's level of suspiciousness was gradually diminishing and he had begun to regularly attend morning patient meetings and was finding some interest in various recreational activities on the ward. He had been showing an initiative to improve and had not displayed any signs of beligerence throughout the review period.

Mr Wales had attended the first six sessions of a cognitive skills group whilst he was on the Unit but did not continue with this after he was transferred to the Unit. Whilst he interacted well with other participants, he showed difficulty with abstract thinking, had attention lapses toward the end of sessions and other difficulties including inability to recall concepts discussed at the end of the group or the content of previous group sessions. A RBANS assessment was administered but there were significant discrepancies in his performance and it had little clinical utility. Nevertheless the report noted that his visuo-spatial/contructional index fell in the borderline range. All other domains fell in the extremly low range including immediate memory, language, attention and delayed memory.

The psychologists' report suggested that Mr Wales would benefit from attending cognitive skills groups in the future. He would benefit from repeating the first six sessions before completing the remaining sessions. Further neurocognitive assessment may be required. He would benefit from further psychological intervention to address his anxiety and somatic pre-occupations. He was likely to require significant encouragement to participate in other group programs. The psychologists make suggestions for strategies to assist him in his concentration and attention and also with his memory. According to the doctors' report, Mr Wales has multiple treatment needs including his mental illness and function combined with his poor insight and his ongoing irritability. These require further assessment, treatment and management in the J Hospital.